

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

**RECORD PACKET COPY****F5b**

January 29, 2004

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director *C.L. 1/27/04*
Liz Fuchs, Project Manager
Steve Monowitz, Coastal Planner

SUBJECT: **SAN LUIS OBISPO COUNTY: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-03 (Phase 1 Periodic Review Implementation).** For public hearing and Commission action at its meeting of February 20, 2004 in San Diego.

SYNOPSIS

The County of San Luis Obispo is proposing to amend the Local Coastal Program as follows:

1. Amend portions of Title 23 of the Implementation Plan regarding Affordable Housing to recognize "owner builder" units as a type of affordable housing.
2. Supplement and revise the Land Use Plan (LUP) and Implementation Plan (IP) to carry out the County's Phase 1 response to the Coastal Commission Periodic Review of the San Luis Obispo County Local Coastal Program.
3. Update permitting, appeals, and noticing procedures by resubmitting amendments previously considered by the Commission in August 2002 (SLO LCPA 1-01 Part B, Procedures and Miscellaneous changes).

The submitted amendment, showing the proposed additions and deletions to the currently certified LCP using underlines and strikethroughs, is attached to this report as Exhibit 1. The Periodic Review Executive Summary and Final Recommendations (adopted by the Coastal Commission on July 1, 2001) are attached as Exhibit 2.

The proposed changes to the affordable housing ordinance contained in the LCP (see Exhibit 1a) do not raise Coastal Act issues and therefore can be approved as submitted. In contrast, the Phase 1 Periodic Review Implementation amendments, as well as the re-submittal of previously proposed procedural changes, involve significant coastal resource and public access issues. These amendments partially respond to 30 of 167 recommended LCP implementation changes identified by the Periodic Review as necessary to carry out Coastal Act policies. Preliminary evaluations of these changes were presented to the Commission at public hearings regarding the status of Periodic Review implementation efforts, conducted on March 5, June 12, and September 10 of this year.

**California Coastal Commission**

G:\Central Coast\STAFF REPORTS\2. CCC Meeting Packet\2004\02\SLO-MAJ-1-03 (Phase 1 PR Implementation).doc

As discussed at those hearings, the Phase 1 amendments contain beneficial improvements to the LCP, including updated drainage standards, expanded requirements for biological evaluations and alternatives analyses, stronger limits on streambed alterations and uses within ESHA setbacks, enhanced public access policies, and more specific standards for shoreline protection. A significant weakness, however, is that in many instances the amendment merely establishes voluntary programs to address Periodic Review recommendations during future LCP updates. For example, new policies for public access planning, greenbelt formation, shoreline hazards, and concentrating development in urban areas are all dependent upon future LCP updates for implementation. Moreover, critical components of the Phase 1 amendment package needed to effectively protect environmentally sensitive habitat areas and scenic viewsheds were deleted during the local review, and will be revisited during Phase 2 implementation efforts.

Similarly, the re-submittal of procedural and miscellaneous ordinance changes previously modified by the Commission in August 20, 2002¹ provides beneficial changes that will improve the IP's ability to carry out the coastal resource protection and public participation provisions of the LUP, but only partially implements the Periodic Review. The re-submittal incorporates all the modifications previously suggested by the Commission other than those intended to clarify that Environmentally Sensitive Habitat Areas and other Sensitive Coastal Resource Areas include, but are not limited to, those shown by LCP maps. To address this important outstanding issue as well as other priority recommendations, the Commission proposed a collaborative process and timeline for Periodic Review Implementation in a letter to the County dated September 29, 2003 (attached as Exhibit 3).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the amendments **with suggested modifications** that are needed to bring the proposed LUP changes into conformance with Chapter 3 of the Coastal Act, and ensure that the IP amendments will effectively carry out the certified LUP. In accordance with the Periodic Review implementation process outlined in the Commission's September 29, 2003 letter, the suggested modifications **do not** include changes to implement outstanding coastal access and resource issues that are to be addressed in subsequent phases of the County's Periodic Review implementation efforts (e.g., the ESHA mapping issue noted above). The limited suggested modifications that are essential to achieve Coastal Act/LUP conformance include:

- Deleting the statement that comprehensive access planning is not required in agricultural areas.
- Qualifying the statement that hard ocean bottom configurations are conducive to laying trans-Pacific cable lines with an acknowledgement that although such geography may be preferred by the industry, hard ocean bottom configurations are sensitive habitat areas to be avoided.
- Clarifying that the range of project alternatives to be considered when new development is proposed within or adjacent to environmentally sensitive habitat areas is not limited to those identified by the applicant.

¹ San Luis Obispo County Local Coastal Program Amendment No. 1-01 Part C



- Requiring implementation of project alternatives that avoid impacts to ESHA, and minimize such impacts when avoidance is not possible.
- Removing the proposed exemption of new agricultural roads from the requirement to avoid sensitive habitat areas.
- Restoring language from the initial Phase 1 package that requires new or improved roads to avoid ESHA where less-environmentally damaging alternatives are available, and to mitigate the impacts of such crossing where they cannot be avoided.
- Limiting the proposed exemption of agricultural activities from riparian setback standards to nonstructural agricultural developments that incorporate best management practices².
- Requiring all development (not just residential and commercial) to implement Best Management Practices to protect coastal water quality.
- Clarifying the timing of the proposed changes to the existing drainage ordinance in relationship to the more comprehensive update of ordinance that is currently pending as LCP Amendment 1-01 Part C.

ANALYSIS CRITERIA

Generally, the relationship between the Coastal Act and a local government's Local Coastal Program (LCP) is a three-tiered hierarchy. The Coastal Act sets broad statewide policies; the Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development; and the Implementation Plan (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The proposed amendment affects the LUP and IP components of the County of San Luis Obispo LCP. The standard of review for land use plan amendments is that they must be consistent with the Chapter 3 policies of the Coastal Act. The standard of review for implementation plan amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Steve Monowitz at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

² This exemption is currently provided by LUP ESHA Policy 26



Staff Report Contents

page

SYNOPSIS	1
I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS	5
II. SUGGESTED MODIFICATIONS	7
A. Suggested Modifications to Submitted Coastal Plan Policies Amendments	7
B. Suggested Modifications to Submitted Title 23 Amendments	8
III. FINDINGS AND DECLARATIONS	10
A. Analysis of Land Use Plan Amendments	10
1. New Development	10
a. Coastal Act Policies	10
b. Analysis	10
c. Conclusion	11
2. Environmentally Sensitive Habitat Areas	11
a. Coastal Act Policies	11
b. Analysis	11
c. Conclusion	12
3. Public Access and Recreation	12
a. Coastal Act Policies	12
b. Analysis	13
c. Conclusion	14
4. Coastal Hazards	14
a. Coastal Act Policies	14
b. Analysis	15
c. Conclusion	15
5. Energy and Industrial Development	15
a. Coastal Act Policies	15
b. Analysis	16
c. Conclusion	17
7. Implementation Procedures	17
a. Coastal Act Policies	17
b. Analysis	18
c. Conclusion	18
8. Miscellaneous	18
B. Analysis of Implementation Plan Amendments	20
1. Water Quality and Marine Resources	20
a. LUP Provisions	20
b. Analysis	21
c. Conclusion	22
2. Environmentally Sensitive Habitat Areas	22
a. LUP ESHA Policies	22
b. Analysis	26
c. Conclusion	30
3. Public Access and Recreation	30
a. LUP Provisions	30
b. Analysis	31



4. Coastal Hazards	31
a. LUP Provisions	31
b. Analysis	31
c. Conclusion	32
5. Implementation Procedures	32
a. LUP Provisions and Minimum Requirements of the California Code of Regulations	32
b. Analysis	35
c. Conclusion	38
III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)	38

- Exhibit 1: Amendment Submittal
- Exhibit 2: Periodic Review Executive Summary and Final Recommendations
- Exhibit 3: September 29, 2003 letter to San Luis Obispo County from the Coastal Commission regarding Periodic Review implementation
- Exhibit 4: Adopted Summary and Findings for SLO LCPA 1-01 Part B

I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. Denial of Land Use Plan Amendment as Submitted

MOTION: *I move that the Commission certify Land Use Plan Amendment 1-03 as submitted by San Luis Obispo County.*

STAFF RECOMMENDATION TO DENY:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY:

The Commission hereby denies certification of the Land Use Plan Amendment 1-03 as submitted by San Luis Obispo County and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

Resolution II: Approval of the Land Use Plan Amendment with Suggested Modifications

MOTION: *I move that the Commission certify Land Use Plan Amendment 1-03 for San Luis Obispo County if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:



Staff recommends a YES vote. Passage of the motion will result in the certification of the land use plan amendment 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 the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment 1-03 for San Luis Obispo County if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with 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 amendment 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 or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

Resolution III: Denial of Implementation Plan Amendment as Submitted

MOTION: *I move that the Commission reject Implementation Program Amendment 1-03 for San Luis Obispo County as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a YES vote. Passage of this motion will result in rejection of Implementation Program amendment 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 Implementation Program Amendment 1-03 as submitted by San Luis Obispo County and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. 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.

Resolution IV: Approval of Implementation Plan Amendment with Suggested Modifications

MOTION: *I move that the Commission certify Implementation Program Amendment 1-03 for San Luis Obispo County 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 AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Implementation Program Amendment 1-03 for San Luis Obispo County 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. 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.

II. SUGGESTED MODIFICATIONS**A. Suggested Modifications to Submitted Coastal Plan Policies Amendments**

1. Modification to Coastal Plan Policies Amendment No. 1 (please see page 2 of Exhibit 1). Delete statement that program for Comprehensive Public Access Planning does not apply to Agricultural Areas as follows:

Policy 12: Comprehensive Public Access Planning

As part of the periodic update of an area plan, the draft plan shall include development of a Comprehensive Public Access Component consistent with Section 30500 of the California Coastal Act ~~(the following shall not apply to agricultural areas): ...~~

2. Modification to Coastal Plan Policies Amendment No. 2 (page 4 of Exhibit 1). Supplement second paragraph of section J regarding the use of hard ocean bottoms for laying trans-Pacific cables as follows:

San Luis Obispo has been in the unique geographical position of being located in the middle of a state that has major population bases, and also has the offshore geography (hard ocean bottom configurations) conducive to laying trans-Pacific telecommunications cable lines to places like Japan, China and Australia. While conducive to the interests of the cable industry, the hard ocean bottom configurations are sensitive habitat areas to be avoided. Cable lines installed on



underwater rocky outcroppings also have the potential to cause conflicts with fishing by snagging fishing gear. Accordingly, Policy 42 below requires the routing of cable lines to avoid recreation areas and sensitive habitats, among other sensitive resource areas. Within county jurisdiction, Montana de Oro State Park is a major landing site for several telecommunications companies' trans-Pacific cable systems. The City of Morro Bay and Grover Beach also have landing site facilities.

B. Suggested Modifications to Submitted Title 23 Amendments

1. Modification to Section 12 of Title 23 Amendments (please see pages 11-12 of Exhibit 1):

- a. Address relationship between various pending amendments to Section 23.05.050. The submitted amendment does not correspond with the update to the same ordinance approved by the Commission in March 2002 as SLO LCP Amendment No.1-01 Part C. Since the County has not yet acted to accept or reject the Commission's suggested modifications to LCP Amendment 1-01 Part C³, it is premature to propose alternative changes to this section. Therefore, the currently proposed amendment to Section 23.05.050 shall only take effect after September 5, 2004, if the County declines to accept the Coastal Commission suggested modifications to LCP Amendment 1-01 Part C.
- b. Require that all new development implement Best Management Practices to protect coastal water quality and aquatic habitats as follows:
 - ...(2) Best Management Practices – Commercial Non-Residential Development. All new ~~commereial (excluding agricultural)~~ non-residential development subject to discretionary review shall use Best Management Practices (BMPs) to control and prevent pollutants from entering the storm drain system. ...

2. Modification to Section 14 of Title 23 amendments (see pages 12-13 of Exhibit 1). Incorporate standards regarding the application of information regarding project alternatives that avoid and minimize impacts to ESHA to the development review process, and delete exemption for new agricultural roads within environmentally sensitive habitats or their setbacks, as follows:

- a. (4) Identifies the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. These identified constraints will be used by the County during the evaluation to evaluate, and require implementation of, project design alternatives prepared by the applicant that result in impacts to ESHA being avoided, or and unavoidable impacts minimized. This ~~evaluation~~ shall also include an assessment of impacts that may result from the application of fire safety requirements.

³ The deadline for action on these modifications has been extended until September 5, 2004. The County has indicated and the Commission has recognized that the County's acceptance of these modifications is contingent upon addressing issues related to how the updated grading and drainage standards apply to agricultural related development, through the Categorical Exclusion process



d. (6) Alternatives analysis required. Proposed Construction of new, improved, or expanded roads, bridges and other crossings except for those that support existing agricultural operations will only be allowed within required setbacks after an alternatives analysis has been completed. The alternatives analysis shall examine at least two other feasible locations with the goal of locating the least environmentally damaging alternative. If, after completion of the alternatives analysis, the approval authority determines that another less environmentally damaging alternative exists, that alternative shall be utilized and any existing bridge or road within the setback shall be removed and the area of disturbance restored to natural topography and vegetation. If after completion of the alternatives analysis, staff determines that another less-environmentally damaging alternative does not exist, the bridge or road may be allowed only if accompanied by all feasible mitigation measures to avoid and minimize adverse impacts.

3. Modification to Section 16 of Title 23 amendments (see pages 14-15 of Exhibit 1). Delete the proposed exemption of agricultural activities from riparian setback standards as follows:

d. Riparian Setbacks: New development shall be setback from the upland edge of riparian vegetation the maximum amount feasible. In urban areas (inside the URL) this setback shall be a minimum of 50 feet. In the rural areas (outside the URL) this setback shall be a minimum of 100 feet. A larger setback will be preferable in both the urban and rural areas depending on parcel configuration, slope, vegetation types, habitat quality, water quality, and any other environmental consideration. These setback requirements do not apply to non-structural agricultural developments that incorporate adopted best management practices in accordance with LUP Policy 26 for Environmentally Sensitive Habitats ~~activities under Section 23.05.026.~~

All permitted development in or adjacent to streams, wetlands, and other aquatic habitats ~~should~~ shall be designed and/or conditioned to prevent loss or disruption of the habitat, protect water quality, and maintain or enhance (when feasible) biological productivity. Design measures ~~should~~ to be provided include, but are not be limited to: ...



III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Analysis of Land Use Plan Amendments

1. New Development

a. Coastal Act Policies

Section 30250 (in part): (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

b. Analysis

Coastal Plan Policies Amendment No. 8 (pages 6-7 of Exhibit 1):

Periodic Review Recommendation 2.1 is intended to address issues related to the extension of urban services beyond urban services lines (USL). As called for by this recommendation, Coastal Plan Policies Amendment 8 supplements existing Public Works Policy 1 by referencing existing ordinances requiring adequate water and sewer services as implementation measures. The amendment also adds an additional requirement that permitted development outside the USL be the environmentally preferable alternative. These changes will help concentrate development where there are adequate public facilities to accommodate it, and where it will not have cumulative adverse affects on coastal resources, in accordance with Coastal Act Section 30250. Effective implementation of Periodic Review Recommendation 2.1, however, necessitates supplemental ordinances to clarify required information and findings to support Public Works Policy 1.

Coastal Plan Policies Amendment No. 6 (page 6 of Exhibit 1):

This amendment adds a new LCP policy supporting greenbelt formation and maintenance, and the potential use of mitigation banks as an implementation measure, as recommended by Periodic Review Recommendation 2.5. This policy will facilitate efforts to concentrate development, and maximize protection of significant wildland and scenic areas, consistent with Coastal Act Section 30250 and the coastal resource protection policies contained in Chapter 3. While this policy approach is consistent with Coastal Act, effective implementation of the Periodic Review will be dependent upon the future development of area specific standards that maximize opportunities for the establishment and preservation of greenbelt areas, such as those currently being pursued by the Estero Area Plan Update.



Coastal Plan Policies Amendment No. 9 (page 7 of Exhibit 1):

This amendment has been submitted in response to Periodic Review Recommendation 2.6, which seeks to encourage urban infill through amendments to the LCP that provide incentives for development within the USL, such as redevelopment strategies and planning and regulatory mechanisms to transfer development potential from outside the USL to inside the USL. Rather than instituting such changes, the submitted amendment merely adds a new Public Works Policy, to be implemented as a program, that calls on future LCP updates to require new or expanded urban development to be located the urban services line (USL).

Public Works Policies 1 and 4, Section 23.04.021c of the Coastal Zone Land Use Ordinance, and the urban boundaries established in the various area plans currently provide the primary LCP means for implementing Coast At Section 30250, which requires new development to be concentrated within urban areas that have adequate public facilities to accommodate it. The purpose of Periodic Review Recommendation 2.6 and the submitted amendment is to supplement these existing standards with additional tools available to improve implementation of Coastal Act Section 30250. The proposed new Public Works program provides programmatic support for such changes, but relies on future updates to develop specific implementation mechanisms.

c. Conclusion

The amendments supplement the LUP in a manner that provides programmatic support for the establishment of greenbelts, and the pursuit of future LCP amendments that provide additional tools for concentrating development in urban areas with adequate public services, consistent with Coastal Act Section 30250. Effective implementation of the corresponding Periodic Review Recommendations, however, will necessitate subsequent amendments that provide specific development standards and carry out the objectives identified in the voluntary programs established by the amendment.

2. Environmentally Sensitive Habitat Areas

a. Coastal Act Policies

Section 30240: (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

b. Analysis

Coastal Policies Amendment No. 7 (page 6 of Exhibit 1):

Periodic Review recommendation 4.45 encourages the use of comprehensive off-site mitigations programs to mitigate impacts to fragmented sensitive habitats within urban areas. In response, Phase 1



includes a new policy calling for the County to create such mitigation programs during the update of general plans. Similar to amendment 6 discussed above, this program is intended to concentrate development in a manner that maximizes protection of significant sensitive habitat areas.

One concern about such an approach is the loss of habitat, albeit degraded, within certain urban areas, which raises potential conflicts with Coastal Act Section 30240. It is therefore essential that future use of off-site mitigation programs be limited to regions where impacts to remaining sensitive areas cannot be avoided. In these instances, the pooling of mitigation efforts into a comprehensive program, rather than pursuing individual mitigation projects on a lot-by-lot basis, can serve to concentrate development in a manner that is most protective of coastal resources, as well as maximize the environmental benefits of the mitigation measures required to compensate for the unavoidable loss of habitat, by applying such mitigation to the implementation of a regional habitat protection program. For example, the establishment of off-site mitigation programs in Los Osos could provide an effective means of offsetting unavoidable impacts to the remaining dune habitat areas within the urban core. A similar program in Oceano could be used to facilitate the restoration and enhancement of remnant wetland areas within the historic Arroyo Grande floodplain.

Effective implementation of Periodic Review recommendation 4.45 will be dependent upon how and when the County applies this new policy during future area plan updates. The Commission will have the opportunity to evaluate the specifics of any proposed off-site mitigation program at that time, including how the program may square with Coastal Act requirements to protect ESHA. With this in mind, the programmatic support of off-site mitigation programs contained in the submitted amendment can be approved as being consistent with Section 30240 and other Chapter 3 policies of the Coastal Act.

c. Conclusion

The new ESHA policy does not provide an adequate response to Periodic Review Recommendation 4.45, but does provide an opportunity for its future implementation. This will facilitate the establishment of improved ESHA protection standards during future LCP updates, and is therefore consistent with Coastal Act Section 30240.

3. Public Access and Recreation

a. Coastal Act Policies

Section 30500 (in part): *(a) Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any local government may request, in writing, the commission to prepare a local coastal program, or a portion thereof, for the local government. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.*

Section 30210: *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.

Section 30212 (in part): *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: ... (3) Agriculture would be adversely affected. ...*

Section 30213 (in part): *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30222: *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 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

b. Analysis

Coastal Policies Amendment No. 1 (see page 2 of Exhibit 1):

In response to Periodic Review Recommendation 6.1, Coastal Policies Amendment No. 1 adds a new Shoreline Access Policy encouraging comprehensive public access planning during the update of area plans. The intent of Recommendation 6.1 is to bring the LCP into conformance with Coastal Act Section 30500(a), which requires all LCPs to include a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

This amendment is inconsistent with this requirement, as well as with Coastal Act policies for public access calling for the protection and enhancement of coastal access opportunities (e.g., Sections 30210, 30211, and 30212) because the proposed program exempts agricultural areas from access planning requirements. While the Commission recognizes the need to avoid conflicts with agriculture when requiring new access (Coastal Act Section 30212 and LCP Policy 2 for Shoreline Access), the Coastal Act also requires coastal access to be protected, planned for, and pursued in all coastal areas, including agricultural.

Agricultural areas provide important public coastal access opportunities throughout the state, and such accessways can be designed and managed to avoid adverse impacts to agricultural production. For example, agricultural areas provide critical links for the California Coastal Trail. Providing these connections, in a manner that is compatible with agricultural production, necessitates that agricultural areas be included within the proposed public access planning program. Accordingly, the amendment can only be found consistent with Coastal Act Sections 302500(a), 30210, 30211, and 30212 if the exception for agricultural areas is deleted.

Also of concern is that the amendment does not effectively carry out Periodic Review Recommendation



6.1, or achieve consistency with Coastal Act Section 30500(a), because it relies on future updates to provide the required public access component. Progress is being made on such an update for the Estero planning area, and the County has initiated efforts to update sections of the North Coast Area Plan regarding the Cambria and San Simeon Acres urban areas. However, there is no current plan to update the portion of the North Coast Area Plan addressing rural areas, or to update the San Luis Bay and South County Urban Areas. The Coastal Commission's September 29, 2003 letter to the County regarding Periodic Review Implementation identifies the completion of public access components for the Estero and North Coast Urban Areas as a priority for Phase 2, with their submittal to the Commission in 2004. The letter also calls on the County to submit a Phase 3 workplan by January 1, 2005 that includes completion of access plans for the remaining coastal planning areas.

Coastal Policies Amendment No. 2 (see page 3 of Exhibit 1):

This amendment partially responds to Periodic Review Recommendation 6.7 by establishing a program to consider future LCP amendments that may be needed to address the demand for low-cost visitor serving coastal recreation opportunities. Although this program does not provide a complete response to the recommendation, it provides an initial step towards enhancing low-cost visitor and recreational facilities consistent with Coastal Act Section 30213 and other coastal resource protection provisions of the Coastal Act and LCP.

c. Conclusion

The proposed amendments do not effectively implement the Periodic Review access recommendations they are intended to address, because they merely establish voluntary programs to address issues regarding coastal access needs and visitor-serving uses during future LCP updates. Nevertheless, the policies provide an initial step towards improving access and recreation opportunities, with one exception: the statement that public access planning is not required in agricultural areas. As discussed above, agricultural areas provide are an integral part of California's coastal access trail network, and planning for such access is essential to both the protection of agriculture and the enhancement of access and recreation opportunities. As a result, the amendment can be found consistent with the Chapter 3 of the Coastal Act only if it is modified to remove this exemption.

4. Coastal Hazards

a. Coastal Act Policies

Section 30235: Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 (in part): 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. ...

b. Analysis

Coastal Plan Policies Amendment No. 11 (see Page 7 of Exhibit 1):

This amendment proposes a new Hazards policy that will establish a program to develop areawide shoreline management plans that avoid shoreline armoring where feasible, and minimize the impacts of armoring projects that cannot be avoided. According to Phase 1 documents, this policy is intended to address Periodic Review Recommendation 7.2, which calls for a revision to Hazards Policy 6 that would require shoreline setbacks to be based on a 100-year rather than 75-year economic life. The proposed amendment does not provide a response to this recommendation but, instead, represents a preliminary step towards implementing Recommendation 7.8 calling for the development of areawide shoreline management plans.

Coastal Plan Policies Amendment No. 12 (see Page 8 of Exhibit 1):

The proposed new Hazards Policy encourages the County to develop a dynamic Geologic Hazards Map consistent with the Safety Element of the County's General Plan and updated geologic information. The Phase 1 document indicates that this amendment responds to Periodic Review Recommendation 7.17, which calls for the modifications to the LCP to better identify seismically hazardous areas and restrict development in such areas. The proposed amendment provides an initial step towards implementing this recommendation that is consistent with the Coastal Act hazards policies cited above. Providing an effective response to Recommendation 7.17, however, will be dependent upon the County's ability to implement the proposed dynamic mapping program, and to effectively apply such a program to the development review process.

c. Conclusion

The new hazards policies provide an initial response to Periodic Review recommendations 7.8 and 7.17 that will facilitate improved implementation of Coastal Act Sections 30235 and 30253, if these programs are carried out during future area plan updates. As a priority, the Commission's September 29, 2003 letter to the County regarding Periodic Review implementation looks to the Estero and North Coast Area Plan updates to provide the additional details necessary to address shoreline development in the towns of Cambria and Cayucos, where seawall issues are most prevalent.

5. Energy and Industrial Development

a. Coastal Act Policies

Section 30230 states:



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 30234.5 states:

The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

Section 30260 states:

Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.

Also see Section 30250, cited on page 10 of this report, requiring new development to be sited in areas with adequate public services.

b. Analysis

Coastal Policies Amendments No. 3 and 4 (see pages 3-4 of Exhibit 1):

In response to Periodic Review Recommendation 10.2, Coastal Policies Amendment 3 supplements Energy Policy 1 by requiring that energy demands, and the need for additional energy facilities, be considered during the update of Area Plans. The purpose of such review is "to ensure that existing policies and standards provide adequate guidance for mitigating the impacts of any potential energy



facilities consistent with LCP and Coastal Act policies". Amendment 4 similarly establishes a policy that relies on future Area Plan updates to provide standards for the abandonment and clean-up of energy and oil facilities called for by Periodic Review recommendation 10.3. While these amendments do not sufficiently carry out recommendations 10.2 and 10.3, they do not conflict with the Coastal Act, and represent a positive step towards updating the LCP in a manner that will better address the impacts to coastal resources associated with available energy supplies and future expansion of energy facilities. As a result, they are approved as submitted.

Coastal Policies Amendment No. 5 (see pages 4-5 of Exhibit 1):

This amendment provides updated LCP standards to address coastal resource impacts associated with Fiber Optic Cable projects, as suggested by Periodic Review Recommendation 10.1. The new policies are consistent with Coastal Act resource protection requirements because they require cables to be located outside of sensitive resource and recreation areas when feasible, as well as the minimization and mitigation of all unavoidable impacts.

A concern with the proposed language, however, is that it states that hard ocean bottom configurations are conducive to laying cable lines. Such areas are not preferred from a resource protection standpoint, as rock outcroppings support important marine habitat areas, and the installation of cables in such areas can adversely impact marine resources and biological productivity inconsistent with Coastal Act Sections 30230 and 30231. Cable lines on rocky outcrops can also interfere with fishing by snagging fishing gear, in conflict with Coastal Act Section 30234.5. In order to address these issues and bring the amendment into conformance with the Coastal Act, the Commission has proposed modifications that emphasize the need to for cable projects to avoid rocky benthic environments.

c. Conclusion

The proposed standards for fiber optic cable projects will enable better protection of coastal resources during the installation of fiber optics cables, as recommended by Periodic Review Recommendation 10.1 and consistent with the Chapter 3 policies of the Coastal Act. In contrast, the proposed new energy policies rely on future updates to address the coastal resource issues associated with Periodic Review recommendations 10.2 and 10.3. Nevertheless, as a positive step towards addressing these issues, these amendments do not raise a conflict with Chapter 3 of the Coastal Act and can be certified as submitted.

7. Implementation Procedures

a. Coastal Act Policies

Section 30611: When immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency, the requirements of obtaining any permit under this division may be waived upon notification of the executive director of the commission of the type and location of the work within three days of the disaster or discovery of the danger, whichever occurs first. Nothing in this section



authorizes permanent erection of structures valued at more than twenty-five thousand dollars (\$25,000).

Section 30624 (in part): (a) The commission shall provide, by regulation, for the issuance of coastal development permits by the executive director of the commission or, where the coastal development permit authority has been delegated to a local government pursuant to Section 30600.5, by an appropriate local official designated by resolution of the local government without compliance with the procedures specified in this chapter in cases of emergency, other than an emergency provided for under Section 30611...

Section 13309 of Title 14, Division 5.5 of the California Code of Regulations: “Emergency”, as used in Public Resources Code Section 30624, and these regulations means: a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

b. Analysis

Coastal Plan Policies Amendment No. 10 (p. 7 of Exhibit 1):

Periodic Review Recommendation 12.14 requests the County to coordinate with the Commission regarding alleged emergencies when time allows, particularly, when a proposed emergency action may involve development on lands within the permit jurisdiction of the Commission. In response, the proposed amendment incorporates a program to develop improved coordination and emergency permit processing, including preparation of an Emergency Permit Procedure Manual, as well as Emergency Prevention Implementation Plans for areas susceptible to emergencies such as flood plain areas. Again, this is an amendment that does not adequately implement the Periodic Review recommendation because relies on future amendments to make the needed improvements. Nevertheless, the amendment represents an initial step that is consistent with Coastal Act policies and can therefore be approved as submitted

c. Conclusion

The proposed policy will facilitate interagency coordination on avoiding and responding to emergency situations, consistent with the emergency permitting procedures established by the Coastal Act. While this amendment can be approved as being consistent with the Coastal Act, its future implementation by the County will determine whether it adequately responds to Periodic Review Recommendation 12.14.

8. Miscellaneous

Framework Amendment No. 1 (see page 1 of Exhibit 1):

This section of amendment is not Periodic Review related, and was added to the Phase 1 amendment package during Board of Supervisors hearings. The amendment proposes to add the following new “General Objective” to the description of the Sensitive Resource Areas (SRA) Combining Designation⁴

⁴ The LCP uses Combining Designations to identify areas where special features, resources, and hazards create the need for more careful project review. These include, but are not limited to, environmentally sensitive habitat areas.



contained within the Framework for Planning:

General Objectives: The Coastal Zone Land Use Ordinance provides detailed criteria for the review of projects proposed in the Sensitive Resource Area combining designation to achieve the following objectives:

1. Environmentally Sensitive Habitats should be identified and protected by construction setbacks, use limitations, and other appropriate regulations.

...

8. The preservation of resources shall be balanced with the implementation of safety-related improvement projects.

The section of the LUP proposed for amendment provides background only, and states that the detailed criteria of the Coastal Zone Land Use Ordinance shall be used to achieve Sensitive Resource Area (SRA) objectives. The new SRA objective proposed by the amendment appropriately recognizes that there may be instances where essential public safety improvements cannot avoid sensitive resource areas. In such instances, proposed public safety improvements must still comply with the more specific development standards contained in the LCP. These include LCP provisions that limit development within environmentally sensitive habitats to resource dependent uses (e.g., CZLUO Section 23.07.170.d.), and that require grading and vegetation removal to be minimized (Visual and Scenic Resources Policies 5 and 7). In accordance with the proposed amendments to Section 23.07.170.d, the development of safety related improvements within ESHA or their setbacks would also be subject to a rigorous alternatives analysis.

For example, limited safety related modifications to Highway One, such as accommodating a turning lane into the town of Harmony, *may* be needed if analysis shows a significant public safety concern. Such modifications could involve construction in the Sensitive Resource Area between Cayucos and Cambria, and must be sited and designed in a manner that complies with the specific resource protection standards of the LCP. In accordance with the proposed objective, such development may be permitted only where it is absolutely essential to public safety, and where all applicable development standards of the LCP have been satisfied. In contrast, projects intended to increase levels of service in this area, such as expanding Highway One beyond a two-lane road, or to address non-essential roadway enhancements to facilitate traffic flow, would be inconsistent with the proposed objective and the more specific development standards of the LCP, including those mentioned above. In addition, Chapter 4 of the North Coast Area Plan precludes any expansion of Highway 1 in this area, beyond minor safety improvements, by stating:

In order to maintain the scenic quality of the highway, only minor safety improvements are proposed in rural areas such as removing excessive curves in the Piedras Blancas area.



B. Analysis of Implementation Plan Amendments

1. Water Quality and Marine Resources

a. LUP Provisions

Chapter 9 of the Coastal Plan Policies document of the San Luis Obispo County certified Land Use Plan (LUP) contains the following policies related to the protection of water quality and coastal watersheds:

Policy 8: Timing of Construction and Grading. Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Policy 9: Techniques for Minimizing Sedimentation. Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Policy 10: Drainage Provisions. Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHOULD BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

Policy 11: Preserving Groundwater Recharge. In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats. [THIS POLICY SHOULD BE IMPLEMENTED AS A STANDARD.]



b. Analysis

Section 12 of CZLUO Amendments (pages 11 - 12 of Exhibit 1):

The submitted amendment to the Drainage Standards contained CZLUO Section 23.05.050 requires new development to use Best Management Practices to control and prevent polluted runoff. The proposed standards are generally consistent with the standards that have been recently established in the Avila beach and Cambria Commercial Area Specific Plans, and would apply these standards County wide. The currently proposed version, however, has been revised by the County to require BMP's only for residential and commercial development (as opposed to residential and non-residential), and to specifically exempt agriculture. Other types of development that are exempted from using BMP's by this change include public works, cultural, educational, and recreation.

The proposed exemptions do not effectively implement LUP Water Quality Policies cited above, or the Environmentally Sensitive Habitats policies cited later in this report, because they do not require *all* new development protect of coastal waters and aquatic habitats. For example, public works projects including road maintenance and construction, and grading/land clearing associated with new agricultural development, can result in erosion, sedimentation, and changes to natural drainage patterns that diminish water quality and the biological productivity of coastal waters. These and other impacts to coastal water quality posed by all types of new development must be addressed in order to carry out LUP Coastal Watersheds Policies 8, 9, and 10. Accordingly, Suggested Modification B.1.b revises the amendment to apply BMP requirements to all new residential and non-residential development.

To address concerns regarding the impacts of such requirements on agricultural productivity, the Commission is currently working with the County and the County's Agricultural Liaison Board on a categorical exemption that would both ensure water quality protection and minimize permitting requirements for agriculturally related development.

Another problem with the proposed amendment is that it does not correspond with the update to the same IP drainage standards approved by the Commission in March 2002 as SLO LCP Amendment No.1-01 Part C. Since the County has not yet acted to accept or reject the Commission's suggested modifications to LCP Amendment 1-01 Part C⁵, it is premature to propose alternative changes to this section. To address this issue, Suggested Modification B.1.a establishes an effective date of September 5, 2004, if and only if the County declines to accept the Coastal Commission suggested modifications to LCP Amendment 1-01 Part C. Such a modification is necessary to clarify which version of the drainage ordinance will be used to implement LUP Coastal Watershed Policies cited above.

⁵ The deadline for action on these modifications has been extended until September 5, 2004. The County has indicated that acceptance of these modifications is contingent upon resolving issues regarding the application of the updated grading and drainage standards to agricultural related development through a Categorical Exclusion currently being developed by the County. The Commission's September 29, 2003 letter calls for submittal of the proposed exclusion for Commission approval prior to March 1, 2004, in order to enable certification of both the exclusion and the grading and drainage ordinance update by August 31, 2004.



c. Conclusion

The proposed amendment of the IP Drainage Ordinance will not carry out LUP Policies 8,9, and 10 for Coastal Watersheds, or other LUP Policies protecting sensitive aquatic habitats, unless the requirement to control and prevent polluted runoff is applied to all new development that has the potential cause erosion and sedimentation. Clarifying the relationship of two pending amendments to the current drainage ordinance is also necessary to effectively implement Coastal Watershed Policies. The submitted amendment must therefore be modified to address these issues.

2. Environmentally Sensitive Habitat Areas

a. LUP ESHA Policies

LUP Policies regarding the protection of ESHA that are applicable to the proposed IP amendments include but are not limited to the following:

Policy1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. (THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]

Policy 2: Permit Requirement

As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]

Policy 3: Habitat Restoration

The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170 OF THE CZLUO.]

Policy 5: Protection of Environmentally Sensitive Habitats



Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved, and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]

Policy 6: Principally Permitted Use

Principally permitted uses in wetlands are as follows: hunting, fishing and wildlife management; education and research projects. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-172 OF THE CZLUO.]

Policy 13: Vehicle Traffic in Wetlands

No vehicle traffic shall be permitted in wetlands. This shall not restrict local and state agencies or the property owner from completing the actions necessary to accomplish a permitted use within the wetland. Pedestrian traffic shall be regulated and incidental to the permitted uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 14: Adjacent Development

Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat values on the site. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]

Policy 15: Wetland Buffer

In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measures from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose on existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.

The minimum buffer strip may be adjusted by the county if the minimum setback



standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard set-back, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principal permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

Policy 18: Coastal Streams and Riparian Vegetation

Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological functioning of coastal streams shall be protected and preserved. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 23: Streambed Alterations

Channelizations, dams or other substantial alterations of rivers and streams shall be limited to: a) necessary water supply projects, b) flood control projects when there are no other feasible methods of protecting existing structures in the flood plain and where such protection is necessary for public safety or to protect existing development, and c) development where the purpose is to improve fish and wildlife habitat. All projects must employ the best feasible mitigation measures. Maintenance and flood control facilities shall require a coastal development permit. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 24: Riparian Vegetation

Cutting or alteration of naturally occurring vegetation that protects riparian habitat is not permitted except for permitted streambed alterations (defined in Policy 23) and where no feasible alternative exists or an issue of public safety exists. This policy does not apply to agricultural use of land where expanding vegetation is encroaching on established agricultural uses. Minor incidental public works project[s] may also be permitted where no feasible alternative exists including but not limited to utility lines, pipelines, driveways and roads. Riparian vegetation shall not be removed to increase agricultural acreage unless it is determined that no impairment of the functional capacity of the habitat will occur. Where permitted, such actions must not cause significant stream bank erosion, have a detrimental effect on water quality or quantity, or impair the wildlife habitat values of the area. This must be in accordance with the necessary permits required by Section 1601 and 1603 of the California Fish and Game Code. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174



OF THE CZLUO.]

Policy 26: Buffer Zone for Riparian Habitats

In rural areas (outside the USL) a buffer setback zone of 100 feet shall be established between any new development (including new agricultural development) and the upland edge of riparian habitats. In urban areas this minimum standard shall be 50 feet except where a lesser buffer is specifically permitted. The buffer zone shall be maintained in natural condition along the periphery of all streams. Permitted uses within the buffer strip shall be limited to passive recreational, education or existing nonstructural agricultural developments in accordance with adopted best management practices. Other uses that may be found appropriate are limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads where it can be demonstrated that: 1) alternative routes are infeasible or more environmentally damaging and 2) adverse environmental effects are mitigated to the maximum extent feasible. Lesser setbacks on existing parcels may be permitted if application of the minimum setback standard would render the parcel physically unusable for the principal permitted use. In allowing a reduction in the minimum setbacks, they shall be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) can be accommodated. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Policy 27: Protection of Terrestrial Habitats

Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis on protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.

Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]

Policy 33: Protection of Vegetation

Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disturbance of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]



b. Analysis

Section 14 of CZLUO Amendments (pages 12-13 of Exhibit 1):

This section of the amendment has two components. The first supplements the application requirements for development within or adjacent to ESHA contained in Section 23.07.170a of the CZLUO. This partly responds to Periodic Review Recommendation 4.7, which calls for LCP biological report standards to be updated. In accordance with the recommendation, the amendment requires biological reports to identify biological constraints, and to assess the impacts of implementing fire safety requirements.

A notable difference between the amendment and Periodic Review Recommendation 4.7 is the way in which this information will be applied to the development review process. Recommendation 4.7 states that in addition to identifying constraints, biological reports should identify where revisions to the project are available to avoid and minimize impacts on ESHA, and that the County should apply this information to its evaluation of project alternatives. The intent of the recommendation is to ensure that the process for identifying and evaluating project alternatives effectively addresses the particular needs and biological characteristics of the habitat area that may be impacted. For example, if the sensitive habitat type at issue is a Monarch butterfly over-wintering area, the biological report should address siting and design options that would prevent changes to the unique microclimates upon which over-wintering habitats depend.

In comparison, the submitted amendment does not require biological reports to address alternatives. Rather, the amendment states that the information regarding biological constraints “will be used by the County during the evaluation of project alternatives **prepared by the applicant** that result in impacts to ESHA being avoided or minimized” (emphasis added). This proposal does not effectively implement LUP Policy 1 because it implies that the only alternatives that may be considered are those submitted by the applicant. Such an approach does not ensure that the full range of alternatives available to avoid non-resource dependent development within ESHA will be considered and pursued. The amendment is additionally ineffective at implementing Policy 1 because it states that impacts to ESHA should be avoided or minimized. The LUP does not provide such an option; non-resource dependent development within ESHA must be avoided. Finally, the amendment fails to effectively implement the full range of LUP ESHA policies cited above because it merely calls on the information regarding biological constraints to be applied to an evaluation of project alternatives, without specifically requiring implementation of the least environmentally damaging option.

To resolve these issues, the suggested modifications clarify that information regarding biological constraints shall be used by the County to evaluate and implement project alternatives that avoid impacts to ESHA (including but not limited to the alternatives submitted by the applicant). In order to emphasize the need to avoid impacts to ESHA, and at the same time recognize that impacts to ESHA cannot always be prevented consistent with the constitutional rights granted to private property owners, the suggested modifications clarify that impacts to ESHA shall be minimized only when such impacts cannot be avoided. These modifications are necessary to implement LUP ESHA Policies as follows:

- Requiring avoidance of non-resource dependent development in ESHA is required to implement LUP ESHA Policies 1, 6, and 27.



- Requiring the implementation of the least environmentally damaging feasible alternative is necessary to provide maximum feasible mitigation as required by LUP ESHA Policy 2.
- Expanding alternatives analyses to consider options other than those submitted by the applicant is necessary to implement LUP ESHA Policy 2 requiring mitigation measures to be developed by a qualified professional, and to effectively limit exceptions to setback standards to instances where such setbacks would prevent the development of a principally permitted use, as required by Policies 15 and 26. Requiring consideration of a full range of alternatives is also necessary to ensure that development is sited and designed to prevent significant disruption of ESHA, as required by LUP ESHA Policies 1, 5, 18, and 27.
- Emphasizing the need to avoid ESHA impacts is similarly necessary to limit the exceptions to ESHA setback standards to instances where compliance with such standards would prohibit the development of a principally permitted use, consistent with LUP ESHA Policies 15 and 26. It is also necessary to ensure that new development disturbs the minimum amount possible of rare or endangered plant or wildlife habitat, as required by Policy 33.

The second component of the amendment partially responds to Recommendation 4.24, calling for improvements to ESHA setback standards when new or improved roadways are proposed within and adjacent to riparian and wetland habitats. This is achieved by supplementing standards for development within and adjacent to environmentally sensitive habitats in a manner that requires thorough consideration of alternative alignments. The amendment implements an additional section of Recommendation 4.24 by requiring "after-the-fact" permit applications for development that has illegally occurred in sensitive habitats or their setbacks to assess all options of restoring and enhancing the pre-existing on-site habitat values, and to provide off-site mitigation that both offsets the temporary impacts of the violation and addresses the potential for restoration efforts to fail. These changes will improve implementation of LUP ESHA Policies including but not limited to Policies 1, 2, 3, 13, 14, 15, 23, and 26.

Notwithstanding these beneficial improvements, three changes made during the local review to this section prevent the amendment from effectively implementing LUP ESHA protection standards and Periodic Review Recommendation 4.24. First, the County limited the requirement to evaluate less environmentally damaging road alignments to new roads only. This change inappropriately restricts the consideration of alternatives where improvements or expansion of existing roads are proposed. Title 14 of the California Code of Regulations, at Sections 13252 and 13253, specifically requires a coastal development permit for repairs or improvements to existing development, including roads, within ESHA. The purpose of this requirement is to ensure that potential adverse impacts to ESHA associated with such repairs and improvements are avoided and minimized consistent with the ESHA protection provisions contained in Chapter 3 of the Coastal Act and certified LCP's.

In this case, the proposal to exempt the improvement or expansion of existing roads within ESHA from the requirement to consider alternative alignments exemption fails to implement LUP ESHA Policies 1 and 2, which prohibit non-resource dependent development within ESHA and prevent significant disruption of ESHA. Roadways are not dependent upon habitat resources, and their construction or expansion can adversely impact sensitive habitat areas by causing erosion, sedimentation, diminished



water quality, and habitat removal and fragmentation. Eliminating the need to consider alternative alignments also conflicts with LUP ESHA Policies 3 and 5 calling for restoration of damaged habitats; Policy 14, requiring new development to be located as far way from wetland habitats as feasible; Policy 13, prohibiting vehicle traffic in wetlands; and, Policy 23 restricting streambed alterations to specified uses that do not include roadways. The proposed amendment will not effectively implement these LUP Policies unless it is modified to apply to the improvement/expansion of existing roads in ESHA as well as new roads.

The second change to the amendment that prevents effective implementation of LUP ESHA protection policies is the proposal to exempt new or expanded roads within ESHA that support existing agricultural operations from the need to consider alternative alignments. This proposal does not adequately carry out LUP ESHA protections for the same reasons discussed above. Accordingly, effective implementation of LUP ESHA Policies necessitates the deletion of this exemption. It should be noted that efforts to develop a categorical exclusion for agricultural development activities that do not pose adverse impacts on coastal resources are currently underway, and provides the appropriate opportunity to ensure that such regulatory requirements do not unnecessarily interfere with agricultural operations.

Finally, the amendment was revised at the local level to delete language regarding that application of alternative analyses. As originally proposed by County staff, the Phase 1 amendments required implementation of the least environmentally damaging alignment where new or expanded roadways encroach within sensitive habitat areas and their setbacks. As discussed above, requiring an evaluation of alternative to avoid and minimize impacts on ESHA without requiring their implementation will not adequately implement LUP ESHA standards. As a result, the amendment must be modified to restore this requirement.

Other outstanding components of Periodic Review Recommendations 4.7 and 4.24 that are to be addressed as Phase 2 priorities pursuant to the Commission's September 29, 2003 letter include the need for specific LCP standards for mitigating unavoidable impacts, as detailed in Periodic Review Recommendations 4.15, 4.16, and 4.17.

Section 15 of CZLUO Amendments (pages 13-14 of Exhibit 1):

The proposed amendment to CZLUO Section 23.07.174b partially responds to Periodic Review Recommendations 4.17 and 4.27(a) by limiting streambed alterations in accordance with LUP Policy 23, and by requiring measures to avoid and mitigate impacts to sensitive habitats and water quality. As noted above, the Commission has identified the outstanding components of Recommendation 4.17, calling for specific mitigation standards to address unavoidable impacts of allowable streambed alterations, to be addressed as a Phase 2 priority.

Section 16 of CZLUO Amendments (pages 14-15 of Exhibit 1):

The submitted change to Section 23.07.174 of the CZLUO is intended to respond to Periodic Review Recommendation 4.23 calling for greater riparian setbacks, but is not successful in this regard. Recommendation 4.23 calls for a 100-foot riparian setback standard in urban areas where feasible, and where such a setback would better protection of stream resources. Contrary to this recommendation, the



amendment retains the existing 50-foot setback standard for urban areas.

Recommendation 4.23 further suggests that the LCP be amended to require both urban and rural development to provide that maximum feasible setback from riparian vegetation, as determined through a site-specific constraints analysis. In contrast, the amendment states that more than the minimum setback distance is “preferable” (not required), depending on parcel configuration, slopes (topography), and other environmental considerations.

Although the amendment does not effectively implement recommendation 4.23, the standard of review is whether it is adequate to carry out the certified LUP. In this respect, the amendment implements the riparian setback requirements contained in LUP ESHA Policy 26 with one exception - the statement that riparian setback standards do not apply to agricultural activities under Section 23.05.026 of the CZLUO.⁶ ESHA Policy 26 limits agricultural development within riparian setbacks to “existing nonstructural agricultural developments in accordance with adopted best management practices”. In comparison, the referenced grading permit exemption is not limited to existing agricultural operations, and is not contingent upon the implementation of best management practices. Thus, the proposed amendment does not effectively implement Policy 26, which expressly requires new agricultural development to comply with LCP riparian setback standards.

The pending grading and drainage ordinance update previously discussed in this report poses another problem for the proposed reference to CZLUO Section 23.05.026. If the County accepts the Commission’s suggested modifications to the grading and drainage ordinance update, the proposed cross-reference will no longer be applicable. To address this issue and provide effective implementation of LUP ESHA policies, the amendment can only be approved if it is modified in a manner that limits riparian setback exemptions for agricultural development to those that are provided in LUP Policy 26. (Agricultural exceptions to limits on the alteration of riparian vegetation provided by LUP Policy 24 are currently contained in CZLUO Section 23.07.174e, and will not be changed by this amendment.)

An additional concern regarding Section 16 of the CZLUO amendments is the use of the word “should”. Rather than *requiring* permitted uses within riparian setback areas to include measures to protect aquatic habitats, water quality, and biological productivity, the proposed ordinance states that such measures *should* be provided. This implies that the incorporation of measures to protect riparian resources is optional. The amendment therefore fails to carry out LUP ESHA Policies 23 and 26, which state that development within streams and riparian setbacks *must* provide maximum mitigation. Therefore, the amendment will only carry out the LUP if it is modified to require implementation of measures to protect riparian habitats and water quality.

Finally, Section 16 of the amendment partially responds to Recommendation 4.27(a) by updating standards for permitted uses within riparian, wetland, and aquatic habitat setbacks to requiring such development to prevent loss or disruption of habitat values and maintain and enhance biological productivity. This is to be achieved, among other ways, by incorporating design measures that protect water quality, minimize disturbance of natural drainage courses, and minimize vegetation removal.

⁶ Section 23.05.026 exempts “agricultural cultivation activities including preparation of land for cultivation, other than grading for roadwork or pads for structures” from the requirement to obtain a grading permit.



Outstanding portions of recommendation 4.27a that are to be addressed in Phase 2 implementation efforts include the incorporation of specific drainage control standards (e.g., through acceptance of the Commission's modifications to the Grading and Drainage Ordinance Update), and establishing standards for the artificial breaching of beach berms that support coastal lagoons. Finally, the amendment responds to Recommendation 4.29 by providing clarifications subsection (e) of 23.07.174. These changes will improve the IP's ability to carry out both the general and riparian specific ESHA Policies cited above.

c. Conclusion

The proposed amendment will generally enhance implementation of LUP ESHA policies, and provides an initial step towards implementing Periodic Review Recommendations 4.7, 4.17, 4.21, 4.24, 4.27(a), and 4.29. However, the amendment includes changes that do not effectively carry out the LUP. As detailed above, these include:

- limiting consideration of the full range of alternatives to development within and adjacent to ESHA to those that have been identified by the applicant;
- requiring the evaluation, but not implementation, of the least environmentally damaging alternative when development is proposed within or adjacent to ESHA;
- providing the option of minimizing, rather than avoiding, impacts to ESHA;
- exempting new agricultural roads from the requirement to avoid sensitive habitat areas;
- exempting agricultural development from the need to comply with riparian setbacks; and
- establishing the need to protect aquatic habitats, water quality, and biological productivity as an optional requirement.

Therefore, the implementation amendments can only be approved as being adequate to carry out the LUP if they are modified as suggested.

3. Public Access and Recreation

a. LUP Provisions

LUP Shoreline Access Policy 2 states in part:

Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur 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. Such access can be lateral and/or vertical. ...



b. Analysis**Section 10 of the CZLUO Amendments (page 11 of Exhibit 1):**

This section of the amendment has been submitted in response to Periodic Review Recommendation 6.02, which calls for LCP amendments to require bluff-top lateral access where lateral access seaward of the bluff is not available or adequate. In accordance with this recommendation, the amendment requires consideration of alternative lateral access routes, in light of public safety and other constraints, where there are obstacles to lateral access between the Mean High Tide Line and the toe of the bluff. This will improve implementation of LUP Shoreline Access Policy 2.

4. Coastal Hazards**a. LUP Provisions**

LUP Hazard Policy 1 states:

All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD].

LUP Hazard Policy 4 establishes limitations on the construction of shoreline structures as follows:

Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for:

- a. protection of existing development ...

Where shoreline structures are necessary ... , siting shall not preclude public access to and along the shore ...

b. Analysis**Section 7 of the CZLUO Amendments (pages 10 of Exhibit 1):**

These sections of the amendment partially implement Periodic Review Recommendations 7.03 by eliminating the IP's use of a "stringline" method of determining setbacks. Elimination of this method



will enhance the IP's ability to carry out the requirements of LUP Hazard Policy 1. The amendment does not address portions of the recommendation that call for using a 100 year rather than 75 year timeframe as the "life of a structure", and supplementing bluff setbacks with a safety factor developed through an Areawide Shoreline Management Plan. As outlined in the Commission's September 29, 2003 letter to the County, these outstanding issues should be addressed by the upcoming update of the Estero and North Coast Area Plan Updates, which are expected to address shoreline armoring issues in Cayucos and Cambria, where they are most prevalent.

Section 11 of the CZLUO Amendments (page 11 of Exhibit 1):

This amendment implements Periodic Review recommendation 7.9 by requiring public access easements or record offers to dedicate to include mapped locations of the easement area. This change will help prevent shoreline development that interferes with public access, as called for LUP Policy 4 for hazards.

Sections 8 and 9 of the CZLUO Amendments (pages 10-11 of Exhibit 1):

These sections of the amendment implements Periodic Review Recommendation 7.15 by updating the required contents of geologic evaluation reports for development within geologically hazardous areas. Specifically, the amendment requires such reports to be prepared according to County established standards, and consistent with the guidelines developed by the State Department of Conservation and other relevant agencies. These changes will enhance implementation of LUP Hazard Policy 1.

Section 13 of the CZLUO Amendments (page 12 of Exhibit 1):

The proposed change to Section 23.05.090a.1 incorporates the language recommended by Periodic Review recommendation 7.01 to limit shoreline structures to those that are necessary for the protection of *principle* structures only. This will enable better implementation of LUP limits on shoreline structures established by Hazards Policy 4.

c. Conclusion

The proposed ordinance amendments will generally enhance implementation of LUP Hazards Policies 1 and 4, as well as LUP access policies previously cited, by establishing better application standards, a more consistent method of determining setbacks, improved recordation of access easements, and more stringent limits on shoreline structures. Additional work is required to respond to Periodic Review recommendations calling for areawide shoreline management plans, greater shoreline setbacks, and restrictions against future seawalls for new development.

5. Implementation Procedures

a. LUP Provisions and Minimum Requirements of the California Code of Regulations

A fundamental goal of the San Luis Obispo County certified LUP is to provide maximum opportunity for public participation in the planning process. The Coastal Zone Framework for Planning (Framework) includes 15 general goals that describe the purpose of the LCP and are to be furthered by LCP



amendments and updates (page 1-3 of the Framework).

General Goal 11.d on page 1-8 of the Framework states: Encourage maximum public participation in the decision making process when new plans are developed and when development is being reviewed.

In order to carry out this LUP goal and meet the minimum state requirements for LCP implementation, the propose implementation amendments must conform to Sections 13560-13572 of the California Code of Regulations, cited (in part) below:

Article 17. Local Coastal Program Implementation Regulations

§ 13560. Scope of Article.

The provisions of this Article shall constitute minimum standards of notice and hearing requirements for local governments and for the Commission in reviewing development projects after certification of a local coastal program.

§ 13563. Existing Local Procedures.

Existing local government notice and hearing procedures which are in substantial compliance with the provisions of these regulations may be reviewed and certified by the Commission as part of the local coastal program.

§ 13565. Notice of Appealable Developments.

Within ten (10) calendar days of accepting an application for an appealable coastal development permit (or local government equivalent) or at least seven (7) calendar days prior to the first public hearing on the development proposal, the local government shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed and to the Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;*
- (2) the date of filing of the application and the name of the applicant;*
- (3) the number assigned to the application;*
- (4) a description of the development and its proposed location;*
- (5) the date, time and place at which the application will be heard by the local governing body or hearing officer;*
- (6) a brief description of the general procedure of local government concerning the*



conduct of hearing and local actions;

(7) the system for local and Coastal Commission appeals, including any local fees required.

§ 13566. Public Hearing on Appealable Developments.

At least one public hearing shall be held on each application for an appealable development, thereby affording any persons the opportunity to appear at the hearing and inform the local government of the nature of their concerns regarding the project. Such hearing shall occur no earlier than seven (7) calendar days following the mailing of the notice required in Section 13565. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

...

§ 13570. Finality of Local Government Action.

A local decision on an application for a development shall not be deemed complete until (1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act, and (2) when all local rights of appeal have been exhausted as defined in Section 13573.

§ 13571. Final Local Government Action-Notice.

(a) Notice After Final Local Decision. (This section shall not apply to categorically excluded developments.) Within seven (7) calendar days of a local government completing its review and meeting the requirements of Section 13570, the local government shall notify by first class mail the Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the local government (or, where required, who paid a reasonable fee to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.

....

§ 13573. Exhaustion of Local Appeals.

(a) An appellant shall be deemed to have exhausted local appeals for purposes of Section 13111 and shall be qualified as an aggrieved person where the appellant has pursued his



or her appeal to the local appellate body (bodies) as required by the local government appeal procedures; except that exhaustion of all local appeals shall not be required if any of the following occur:

(1) The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for permits in the coastal zone, in the implementation section of the Local Coastal Program.

(2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.

(3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.

(4) The local government jurisdiction charges an appeal fee for the filing or processing of appeals.

(b) Where a project is appealed by any two (2) members of the Commission, there shall be no requirement of exhaustion of local appeals. Provided, however, that a local government may provide, by ordinance, that notice of commissioner appeals may be transmitted to the local appellate body (which considers appeals from the local body that rendered the final decision), and the appeal to the Commission may be suspended pending a decision on the merits by that local appellate body. If the decision of the local appellate body modifies or reverses the previous decision, the commissioners shall be required to file a new appeal from that decision.

b. Analysis

Section 1 of the CZLUO Amendments (page 9 of Exhibit 1):

The proposed amendment revises the description of appealable development contained in Section 23.01.043c of the Coastal Zone Land Use Ordinance (CZLUO) by clarifying that County action on permit applications including any Variance, Exception, or Adjustment, can be appealed to the Coastal Commission for the specific types of development listed by the ordinance. This amendment is intended to implement Periodic Review Recommendation 12.18, which recommends that the ordinance be revised to recognize all variances as conditionally permitted development that is appealable to the Coastal Commission pursuant to Coastal Act Section 30603⁷. The proposed amendment falls short of implementing the recommendation because, as amended, the appealability of variances remains dependent upon the other criteria established by Section 23.01.043c of the CZLUO.

⁷ Coastal Act Section 30603(a) states in part: (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments: ... (4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500)..



Although the amendment is inadequate to respond to the recommendation, it does not raise any new conflicts with the certified LUP or the California Code of Regulations. The Commission has identified the appealability of variances as a priority issue to be addressed by Phase 2. Accordingly, the Commission approves this portion of the Phase 1 amendment as submitted.

Section 2 of the CZLUO Amendments (page 9 of Exhibit 1):

This amendment has been submitted in response to Periodic Review recommendation 12.11, which calls for revisions to CZLUO Section 23.01.043c4 to recognize that when any portion of a proposed development involves a conditional use, the entire project is appealable to the Coastal Commission⁸. The proposed amendment does not implement this change, but merely corrects an existing reference to the LUP's "Table O"⁹. Although the change does not adequately carry out the Periodic Review Recommendation, it provides a clarification that will benefit LUP implementation and therefore can be approved as submitted.

Sections 5 and 6 of the CZLUO Amendments (pages 9-10 of Exhibit 1):

This amendment implements Periodic Review Recommendation 12.14 by calling on the Planning Director to consult with the California Coastal Commission regarding emergency development activities. This change will facilitate improved interagency coordination, consistent with the LCP administration provisions set forth on page 8-7 of the LUP's framework for planning that specifically calls for coordination of land use decisions with other agencies.

Title 21 Amendments (Pages 20-21 of Exhibit 1):

The proposed amendments to Title 21 have been submitted in response to Periodic Review Recommendation 12.16, which calls for LCP amendments to both Title 23 standards for non-conforming uses and structures, as well as Title 21 standards regarding the adjustment of non-conforming parcels of land. The amendment implements the latter by identifying that lot-line adjustments are limited to 4 or fewer adjoining parcels, and must conform to the County's General Plan, Specific Plan, Local Coastal Program and zoning and building ordinances. The amendment thereby enhances the IP's ability to carry out the range of LUP resource protection policies cited by this report in response to applications for lot line adjustments.

Re-submittal of Miscellaneous and Procedural Changes (Pages 23-48 of Exhibit 1):

An important component of the amendment package that implements Periodic Review Recommendation 12.7 calling for improvements to permit processing procedures is the re-submittal of procedural and miscellaneous changes previously acted on by the Commission as San Luis Obispo County Local Coastal Program Amendment No. 1-01 Part B. The re-submittal includes all but one of the previously adopted suggested modifications. These changes:

⁸ Coastal Act Section 30603(a)(4)

⁹ Table O, contained in the LUP's Framework for Planning, lists designates allowable uses per land use designation as either principally permitted or special (i.e., conditional).



- Clarify public hearing, noticing, and appeal procedures;
- Clarify the circumstances under which the exhaustion of local appeals is not required in order to file an appeal with the Coastal Commission;
- Change the timeframe in which a public hearing on a Minor Use Permit may be requested so that a minimum 7 day notice period is provided for appealable development;
- Modify the procedures for Final Local Action Notices to ensure that such notices are not sent prior to the expiration of local appeal periods; include a description of appeal procedures; and, are sent for County actions on both appealable and non-appealable development.
- Replace the reference to LCP maps with a reference to the LCP's Rules of Interpretation for determining whether a project is within a Sensitive Resource Area. This clarifies that the location of development in relationship to sensitive resource areas must be determined in accordance with the actual location of the resource, rather than a depiction on a map. For example, if there is a dispute about the location of Monterey pine forest habitat, which is generally mapped in the LCP as sensitive "terrestrial habitat" ESHA (TH), the rules of interpretation would dictate that the actual presence of pine habitat on the ground would be determinative, not the existing LCP map of TH.
- Update the standards for animal raising and keeping facilities to require all such facilities to include water quality protection measures and clarify that a coastal development permit is required for commercial horse keeping facilities.

The one modification that was not accepted by the County was the suggested deletion of the IP's reference to post-certification maps in the ordinance describing appealable development. The intent of this modification was to ensure that the determination of appealability be made according to actual site as opposed to maps with limited accuracy.

The County has not carried forth this modification in its re-submittal. However, the submittal does incorporate the suggested modification that references the existing CZLUO Rules of Interpretation for resolving questions regarding the location of development within a Sensitive Resource Area. According to Section 23.01.041c(3) of these Rules identifies that where a Sensitive Resource Area boundary is indicated as approximately following a physical feature such as a stream, the boundary location is to be determined in accordance with the actual character and extent of the feature. This is a minor improvement that merely provides a cross reference to existing provisions of the CZLUO, and fails to address the problem that existing LCP SRA designations (as certified in 1988) do not accurately cover the full range of ESHA that currently exists in the San Luis Obispo County coastal zone. For example, significant areas coastal dune scrub habitat that provides habitat for the federally threatened Morro shoulderband snail, as well as important coastal grassland habitats that support rare plants and animal, are not currently designated as ESHA by the LCP. The proposed cross-reference to the rules of interpretation does not address these deficiencies, and therefore does not effectively respond to Periodic Review



Recommendations 4.1 or 12.7. Resolution of this issue is identified as high priority for Phase 2 by the Commission's September 29, 2003 letter to the County regarding Periodic Review Implementation.

c. Conclusion

In sum, the re-submittal provides important corrections to various procedural components of the IP that partly respond to Periodic Review Recommendation 12.7, help bring implementation procedures into conformance with the California Code of Regulations, and will enhance the County and the Coastal Commission's ability to carry out the resource protection policies of the certified LUP. Detailed findings for the specific changes included in this component of the amendment are provided in the findings adopted by the Commission on August 8, 2002, which are incorporated by reference and attached to this report as Exhibit 4. However, a critical procedural clarification omitted from this amendment submittal is one that requires ESHA delineations to be based on the actual presence and locations of biological resources, as opposed to a location shown by a map. Addressing this issue will be a critical component of Phase 2 implementation efforts.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. In this case, the County of San Luis Obispo certified Negative Declarations that found the amendments would not have significant environmental effects. However, as detailed in the findings of this report, the Commission has identified certain components of the amendment that pose adverse impacts on coastal resources, and has suggested modifications to address these concerns. Therefore, only if the amendment is modified as suggested will significant adverse environmental effects be avoided consistent with the California Environmental Quality Act.



MODIFICATIONS TO COASTAL FRAMEWORK FOR PLANNING

Redline/Strikeout version to show additions and ~~deletions~~:

1. **Revise Chapter 7, Combining Designations, Coastal Zone Framework for Planning, that defines the types of SRA's, Page 7-10, by modifying the text as follows by adding a new number 8 to the general objectives:**

8. The preservation of scenic resources shall be balanced with the implementation of safety-related improvement projects.

MODIFICATIONS TO THE COASTAL POLICY DOCUMENT

Redline/Strikeout version to show additions and deletions:

1. **Revise Chapter 2, Shoreline Access, Coastal Plan Policies document, by adding new Policy 12 - Comprehensive Public Access Planning, Page 2-20, as follows:**

Policy 12: Comprehensive Public Access Planning

As part of the periodic update of an area plan, the draft plan shall include development of a Comprehensive Public Access Component consistent with Section 30500 of the California Coastal Act (the following shall not apply to agricultural areas):

1. Contents. The update of the area plan shall include the following information:
 - a. Goals and Objectives. Statements of the public access goals, objectives, policies, ordinances, standards, programs, and other management objectives relevant to each planning area; and
 - b. Access Inventory. A comprehensive inventory of existing and potential public shoreline access, including a map or maps indicating the specific locations of such access resources.
2. California Coastal Trail. The Access Component shall include a Public Trails Plan to facilitate future implementation of the California Coastal Trail. Development of the Trails Plan should consider guidance outlined in the 2002 Periodic Review for development of:
 - a. Planning objectives;
 - b. Siting and Design policies and standards, subject to thorough and specific environmental review; and
 - c. Acquisition and management policies and standards.
3. Protection of Access Opportunities during Road Realignments. The Access Component shall consider realignment alternatives for Highway One and other roads critical to coastal access, and ensure that any impacts to access from highway/road realignment are mitigated such that no public access is lost and new access opportunities are maximized. Further, consider alternatives for the realignment of Highway One to avoid further placement of shoreline protection while protecting the public access and scenic and visual resources of the highway.

[THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM]

2. **Revise Chapter 3 - Recreation and Visitor-Serving Facilities, Coastal Plan Policies, adding a new Policy 8 - Comprehensive Public Recreation Planning, Page 3-11, as follows:**

Policy 8: **Comprehensive Public Recreation Planning.** As part of the periodic update of the area plans, long-term supply and demand and opportunities for low-cost visitor-serving recreation shall be analyzed. The area plan shall be evaluated for potential amendments to provide for such uses consistent with other policies in the Local Coastal Plan and the Coastal Act that balance development with the protection of coastal and other important community resources. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor- serving uses, including that which may be needed in the future. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

3. **Revise Chapter 4, Coastal Plan Policies, Policy 1 - New Facilities and Expansion of Existing Sites; Page 4-8, by modifying the text as follows:**

Policy 1: New Facilities and Expansion of Existing Sites

When new sites are needed for industrial or energy-related development, expansion of facilities on existing sites or on land adjacent to existing sites shall take priority over opening up additional areas or the construction of new facilities unless it can be shown that 1) alternative locations are infeasible and that the environmental impacts of opening up a new site are less than the impacts of expansion on or adjacent to existing sites; 2) to do otherwise would adversely affect the public welfare; and 3) adverse environmental impacts are mitigated to the maximum extent feasible. Priority shall be given to coastal-dependent industrial uses. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support. Cogeneration methods utilizing existing facilities should have priority. Review shall determine that the location will ensure public safety.

As part of the update of coastal Area Plans, information on current energy demand should be considered in order to anticipate the need for additional energy facilities and ensure that existing policies and standards provide adequate guidance for mitigating the impacts of any potential energy facilities consistent with LCP and Coastal Act policies. Adverse environmental impacts from the siting or expansion of coastal-dependent industrial or energy developments shall be mitigated to the maximum extent feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

4. **Revise Chapter 4, Coastal Plan Policies, A. General Policies; Page 4-9, by adding the text as follows:**

Policy 1B: Abandonment of Energy and Oil Facilities

As part of the Area Plan update process, the County should update and revise standards and requirements governing abandonment and clean up of major sites in the EX Combining Designation. Updating of standards should consider including revised requirements that operators submit an Abandonment and Restoration Plan within 60 days of permanently ceasing operations and require bonding or other financial securities to ensure that abandonment and clean up procedures are carried out in an appropriate and timely manner.

5. **Revise Chapter 4, Coastal Plan Policies, under Policies for Energy and Industrial Development, starting on Page 4-28, by modifying the text to add new Section J. as follows:**

J. TELECOMMUNICATIONS FIBER OPTIC CABLE PROJECTS

The use of fiber optic technology has emerged as a major component of telecommunications systems. With the enactment of the Telecommunications Act of 1996 there has been a dramatic increase in the competition and proliferation of new companies in the telecommunications industry with the rapid deployment of advanced technologies. The development of very fine and pure glass strands known as fiber optics that carry large quantities of digital information, combined with the massive expansion of use of the world wide web Internet system, and the potential for use of these fiberoptic cables to carry movies, television, and most other types of communications, has changed the way that traditional telephone companies operate.

San Luis Obispo County has been in the unique geographical position of being located in the middle of a state that has major urban population bases, and also has the offshore geography (hard ocean bottom configurations) conducive to laying trans-Pacific telecommunications cable lines to places like Japan, China and Australia. Within county jurisdiction, Montana de Oro State Park is a major landing site for several telecommunication companies' trans-Pacific cable systems. The cities of Morro Bay and Grover Beach also have landing site facilities.

Fiber optic cable projects have impacts that are different from pipeline projects. For example, borings under stream crossings or in the nearshore areas use a drilling fluid product called bentonite that can accidentally be released into surface waters. Construction activities can impact public access if staging areas need to be located in public parking areas or along the shoreline. The following policies address the development of onshore fiber optic cable projects.

Policy 41: Cable Line Routes in Sensitive Habitats

Except for work on cable lines exempted from coastal development permits under Section 30610 (d) and (f) of the Coastal Act and Section 23.03.040 of the CZLUO, a field survey funded by the applicant shall be conducted along the proposed cable line route in all sensitive resource areas. The survey shall identify the type and extent of impacts from the construction and operation of the proposed cable line on important coastal resources, including sensitive habitat and sensitive or endangered flora species, visual resources and archaeological resources. Measures to mitigate these impacts shall also be evaluated and where appropriate required. Examples are cable line route

relocation, measures to enhance the revegetation of temporarily disturbed areas (e.g., separation of topsoil and vegetative materials from excavation spoils for subsequent spreading over excavation spoils) and archaeological investigations or excavation programs. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.08.284 OF THE COASTAL ZONE LAND USE ORDINANCE.]

Policy 42: Cable Line Route Selection

When feasible, cable lines shall be routed to avoid important coastal resources including recreation areas, sensitive habitats, and archaeological areas. Unavoidable routing through recreation areas, habitat, or archaeological areas, or other areas of significant coastal resources, shall be done in a manner that minimizes the extent of disturbance, erosion potential and the impacts of a spill, should it occur (by considering drilling fluid spill volumes, durations, and projected path in a Drilling Fluid Monitoring Plan). [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.08.284 OF THE COASTAL ZONE LAND USE ORDINANCE.]

Policy 43: Construction Requirements

In sensitive resource areas the extent of cable line construction and ground surface disturbance shall be reduced to a minimum by restricting construction activities and equipment within narrow, limited and staked work corridors and storage areas. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.08.284 OF THE COASTAL ZONE LAND USE ORDINANCE.]

Policy 44: Site Restoration

Upon completion of cable line construction the site shall be restored to the approximate pre-construction condition. Measures shall be taken during the restoration effort to protect and enhance wetland habitats in accordance with the habitat protection, erosion, and revegetation policies of the Plan. A revegetation program shall be required where it is determined that a disturbed area would not naturally revegetate sufficiently quickly to prevent substantial erosion or disruption of adjacent habitat. If necessary, required revegetation techniques would be determined based upon an investigation conducted by a qualified biologist. Additional measures necessary to prevent erosion until the vegetation is established may also be required. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.08.284 OF THE COASTAL ZONE LAND USE ORDINANCE.]

Policy 45: Consolidation of Cable Line Corridors/Reuse of other Utilities

New onshore cable line corridors are encouraged to be consolidated within existing cable line corridors or placed in existing abandoned gas/oil pipelines where feasible unless there are overriding technical constraints or significant social, aesthetic, environmental, or economic concerns. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

6. **Revise Chapter 6 - Environmentally Sensitive Habitats, Coastal Plan Policies, by adding new Policy 5 -Supporting Greenbelt Formation and Maintenance, Page 6-8, and renumbering the following policies:**

Policy 5: Supporting Greenbelt Formation and Maintenance.

The county shall continue programs and policies that support greenbelt and open space areas on the urban fringe of coastal communities. In conjunction with the development of Habitat Conservation Plans (HCP's), certain greenbelt areas may be suitable as habitat mitigation banks to help offset impacts from development in adjacent urban areas. Other areas may be best utilized for open space, agriculture, or public recreation. Mitigation banking shall be further evaluated as a potential implementation mechanism. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

7. **Revise Chapter 6, Coastal Plan Policies, Environmentally Sensitive Habitats; Page 6-8, by adding a new Environmentally Sensitive Habitat Policy 6 - Off-site Mitigation Bank for Urban Development, and renumbering the remaining policies as follows:**

Policy 6: Off-Site Mitigation Bank for Urban Development

The county shall participate in creating a program (e.g. through the update of area plans) that would allow development to occur on sites in urban areas that contain sensitive species habitat but do not represent long-term viable habitat in exchange for participation in an off-site mitigation program. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

8. **Revise Chapter 8 - Public Works, Coastal Plan Policies, Policy 1 - Availability of Service Capacity, Page 8-6, by modifying the text as follows:**

Policy 1: Availability of Service Capacity

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

- a. It can be serviced by adequate private on-site water and waste disposal systems; and
- b. The proposed development reflects that it is an environmentally preferable alternative.

The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the applicable service district or other providers of services for costs of service

extensions or improvements that are required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of the project or reduction of the density that could otherwise be approved consistent with available resources. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.021c, (Divisions of Land), 23.04.430 and 23.04.432 (Other Development) OF THE CZLUO.]

9. **Revise Chapter 8 - Public Works, Coastal Plan Policies, by adding new Policy 10-Encouraging development within the Urban Services Line, Page 8-9:**

Policy 10: Encouraging development within the Urban Services Line.

During the periodic update of the Local Coastal Program, including area plan updates, the County and California Coastal Commission should require new or expanded urban development to be located within the Urban Services Line (USL) of coastal communities. The USL defines areas where the capital improvement program and community plans should schedule extensions of public services and utilities needed for urban development. Proposals to increase urban density or intensity of urban land uses outside of the USL should be discouraged. Other non-regulatory methods to encourage infilling of development within communities may include greenbelt programs, transfer of development credits programs, agricultural conservation easements, and open space initiatives. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

10. **Revise Chapter 10, Coastal Plan Policies, Hazards Policy 10, Page 11-5, by modifying the text as follows:**

Policy 10: Emergency Provisions

The requirements for obtaining a Land Use Permit may be waived in case of emergency as provided for in the Coastal Zone Land Use Ordinance.

The County shall seek grant funding and develop a program to facilitate improved coordination and emergency permit processing, including preparation of an Emergency Permit Procedure Manual. The County shall also initiate a process to identify areas that are susceptible to emergency situations (e.g., the flood plain along Arroyo Grande Creek), and to prepare Emergency Prevention Implementation Plans for these areas focusing on methods for avoiding emergencies. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM AND PURSUANT TO CHAPTER 23.03 OF THE COASTAL ZONE LAND USE ORDINANCE.]

11. **Revise Chapter 11, Coastal Plan Policies, Hazards, Page 11 - 05, by adding a new Coastal Hazards Policy 11 - Areawide Shoreline Management Plan as follows:**

Policy 11: Areawide Shoreline Erosion and Bluff Retreat Management Plan

The County should seek grant funding and develop a program with a long-term comprehensive approach to avoid the permanent armoring of the shoreline or to minimize impacts to shoreline in existing developed areas. The program should also offer a means to address some area specific constraints. This includes the preparation of an Areawide Shoreline Erosion and Bluff Retreat

Management Plan focusing on annual bluff erosion rates, bluff setbacks, emergency armoring procedures, shoreline protection standards, structural design, engineering, monitoring and maintenance. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

- 12. Revise Chapter 11, Coastal Plan Policies, Hazards, Page 11-05, by adding a new Coastal Hazards Policy 12 - Geologic Hazards Mapping as follows:**

Policy 12: Geologic Hazards Mapping

As part of the periodic update of an area plan, the draft plan shall include development of a dynamic Geologic Hazards Map consistent with the Safety Element and updated geologic information. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 23 OF THE
SAN LUIS OBISPO COUNTY CODE, THE COASTAL ZONE LAND USE ORDINANCE
RELATIVE TO APPEALABLE DEVELOPMENT, PUBLIC ACCESS,
EMERGENCY PERMITS, BLUFF RETREAT,
LATERAL ACCESS, DRAINAGE STANDARDS, AND SENSITIVE RESOURCE AREA

Redline/Strikeout version to show additions and deletions:

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Section 23.01.043c. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- c. Appealable development. As set forth in Public Resources Code Section 30603(a) and this title, a decision by the County on a permit application, including any Variance, Exception, or Adjustment granted, for any of the following projects may be appealed to the California Coastal Commission:

SECTION 2. Section 23.01.043c(4) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (4) Any approved development not listed in Coastal Table O, Part I of the Land Use Element as a Principal Permitted (PP) Use.

SECTION 3. Section 23.02.033(a)(8) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

SECTION 4. Section 23.02.033(a)(8) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (8) **Public access locations.** Applications for projects between the ocean and the nearest public road shall include the mapped locations of nearest public access points to the project. Applications shall also show the mapped locations of any existing public access easements or recorded offers to dedicate public access easements on the subject property.

SECTION 5. Section 23.03.045 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

23.03.045 - Emergency Permits.

The purpose of this Section is to establish procedures for the issuance of emergency permits in situations that constitute an emergency as defined by this Section. Emergency permits may be granted by the Planning Director as provided by this Section, in accordance with Section 30624 of the Coastal Act and Sections 13329 of Title 14 of the California Administrative Code of Regulations.

SECTION 6. Section 23.03.045b(3) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (3) The Planning Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows. When reasonable, the Director shall also consult with the California Coastal Commission regarding claims of emergencies. This is critically important when a proposed emergency action may result in development on lands that are within the permit jurisdiction of the California Coastal Commission.

SECTION 7. Section 23.04.118 a. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby deleted and remainder of Section is renumbered as follows:

- ~~a. **Stringline setback method:** Where 50 percent of the lots adjacent to the coastline within 300 feet of the site are developed at the time of application, no part of a proposed new structure, including decks, shall be located closer to the seaward property line of the site than the greatest distance determined by either of the following:~~
- ~~—— (1) A line between the most seaward portions of the structures on the adjacent lots; or~~
- ~~—— (2) Where there is substantial variation of land from between adjacent lots, the average setback of structures on the adjoining lots shall be used.~~

SECTION 8. Section 23.04.118 b. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- b. **Bluff retreat setback method:** New development or expansion of existing uses on bluffs shall be designed and set back from the bluff edge a distance sufficient to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures that would in the opinion of the Planning Director require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period according to County established standards. The report shall accompany the land use permit application, and shall contain the following information:

SECTION 9. Section 23.04.118 b. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection b(12) to read as follows:

- (12) Additional information consistent with guidelines developed by the State Department of Conservation and other relevant agencies.

SECTION 10. Section 23.04.420 d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

d. Type of access required:

- (3) Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety and other constraints and whether alternative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act.

SECTION 11 Section 23.04.420 g. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- G. **Access title and guarantee:** Where public coastal accessways are required by this Section, approval of a land division, or land use permit for new development shall require guarantee of such access through deed restriction, or dedication of right-of-way or easement. Before approval of a land use permit or land division, the method and form of such access guarantee shall be approved by County Counsel, and shall be recorded in the office of the County Recorder, identifying the precise location and area to be set aside for public access. The recorded document shall include the mapped location of the easement prepared by a licensed professional. The method of access guarantee shall be chosen according to the following criteria:

SECTION 12. Section 23.05.050 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to add a new subsection (e) as follows:

23.05.050 - Drainage Standards:

c. Water Runoff.

(1) Best Management Practices - Residential Development. All new residential development subject to discretionary review shall use Best Management Practices (BMPs) to address polluted runoff. BMPs shall be consistent with the guidance found in documents such as the California Storm Water Best Management Practices Handbook (Municipal). Such measures shall include, but not be limited to: minimizing the use of

impervious surfaces (e.g., installing pervious driveways and walkways); directing runoff from roofs and drives to vegetative strips before it leaves the site; and/or managing runoff on the site (e.g., percolation basins). The installation of vegetated roadside drainage swales shall be encouraged and, if used, calculated into BMP requirements. The combined set of BMPs shall be designed to treat and infiltrate storm water runoff up to and including the 85th percentile (or equivalent) storm event. The Best Management Practices shall include measures to minimize post-development loadings of total suspended solids.

(2) Best Management Practices - Commercial Development. All new commercial (excluding agricultural) development subject to discretionary review shall use Best Management Practices (BMPs) to control and prevent pollutants from entering the storm drain system. BMPs shall be consistent with the guidance found in documents such as the California Storm Water Best Management Practices Handbook (Industrial/Commercial). Such measures shall include both source control and treatment control practices to ensure that contaminants do not leave the site. Stormwater runoff from commercial development shall be filtered through BMPs that treat storm water runoff up to and including the 85th percentile (or equivalent) storm event. Restaurant and other commercial cleaning practices that can impact water quality (such as floor mat rinsing and vehicle cleaning) by introducing chemicals to storm drain systems (detergents, oils and grease and corrosive chemicals) shall provide designated areas that collect and dispose of this runoff through the sanitary septic system. Street sweeping and cleaning shall use best management practices outlined in the above referenced handbook or the Model Urban Runoff Program to keep contaminants and cleaning products from entering the storm drain system. The Best Management Practices shall include measures to minimize post-development loadings of total suspended solids.

SECTION 13. Section 23.05.090 a. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. **Where allowed:** Construction of shoreline structures that would substantially alter existing landforms shall be designed by a registered civil engineer or other qualified professional and shall be limited to projects necessary for:
- (1) Protection of existing coastal development, consisting only of the principal structure and not including accessory structures such as garages, decks, steps, eaves, landscaping, etc. No shoreline protection device shall be allowed for the sole purpose of protecting accessory structure(s); or

SECTION 14. Section 23.07.170 a., (Application content) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (4) Identifies the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. These identified constraints will be used by the County during the evaluation of project

design alternatives prepared by the applicant that result in impacts to ESHA being avoided or minimized. This evaluation shall also include assessment of impacts that may result from the application of fire safety requirements.

(5) Verifies that applicable setbacks...

d. (6) Alternatives analysis required. Proposed roads, bridges and other crossings not directly related to agricultural operations will only be allowed within required setbacks after an alternatives analysis has been completed. The alternatives analysis shall examine at least two other feasible locations with the goal of locating the least environmentally damaging alternative.

(7) Critically evaluate "after-the-fact" permit applications where unpermitted development has illegally encroached into setback areas before off-site mitigation is considered. Evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation should be an additional requirement where necessary to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.

SECTION 15. Section 23.07.174 b (1) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

23.07.174 b. - Streams and Riparian Vegetation:

b. **Limitation on streambed alteration:** Channelization, dams or other substantial alteration of stream channels are limited to:

(1) Necessary water supply projects, provided that quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries, and lakes. (A "necessary" water project is a project that is essential to protecting and/or maintaining public drinking water supplies, or to accommodate a principally permitted use as shown on Coastal Table 'O' where there are no feasible alternatives).

(2) Flood control projects, including maintenance of existing flood control channels, where such protection is necessary for public safety or to protect existing commercial or residential structures, when no feasible alternative to streambed alteration is available;

(3) Construction of improvements to fish and wildlife habitat;

(4) ~~Maintenance of existing flood control channels;~~

Streambed alterations shall not be conducted unless all applicable provisions of this title are met and if applicable, permit approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the

California State Water Resources Control Board.

In addition, every streambed alteration conducted pursuant to this title shall employ the best mitigation measures where feasible, including but not limited to:

- a. Avoiding the construction of hard bottoms;
- b. Using box culverts with natural beds rather than closed culverts to provide for better wildlife movement; and
- c. Pursuing directional drilling for pipes, cables, and conduits to avoid surface streambed disturbance.

SECTION 16 Section 23.07.174 d. of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

23.07.174 - Streams and Riparian Vegetation.

- d. **Riparian Setbacks:** New development shall be setback from the upland edge of riparian vegetation the maximum amount feasible. a minimum of 50 feet within urban areas (inside the URL) and 100 feet in rural areas (outside the URL) except as provided in subsection b. of this Section, and as follows: In the urban areas (inside the URL) this setback shall be a minimum of 50 feet. In the rural areas (outside the URL) this setback shall be a minimum of 100 feet. A larger setback will be preferable in both the urban and rural areas depending on parcel configuration, slope, vegetation types, habitat quality, water quality, and any other environmental considerations. These setback requirements do not apply to agricultural activities under Section 23.05.026.

- (1) **Permitted uses within the setback:** Permitted uses are limited to those specified in Section 23.07.172(d)(1)-(for wetland setbacks), provided that the findings required by that Section can be made. Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses.

All permitted development in or adjacent to streams, wetlands, and other aquatic habitats should be designed and/or conditioned to prevent loss or disruption of the habitat, protect water quality, and maintain or enhance (when feasible) biological productivity. Design measures should include, but not limited to:

- (i) Flood control and other necessary instream work should be implemented in a manner that minimizes disturbance of natural drainage courses and vegetation.
- (ii) Drainage control methods should be incorporated into projects in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction.

e. **Alteration of riparian vegetation:** Cutting or alteration of natural riparian vegetation that functions as a portion of, or protects, a riparian habitat shall not be permitted except:

- (1) For streambed alterations allowed by subsections a and b above;
- (2) ~~Where no feasible alternative exists;~~
- (7) To locate a principally permitted use on an existing lot of record where no feasible alternative exists and the findings of Section 23.07.174 d. 2 can be made.

SECTION 17. Section 23.11.030 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

Coastal Streams and Riparian Vegetation. A stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation. Streams and adjacent riparian vegetation appearing as dotted or dashed blue lines on the 7.5 minute USGS topographic quadrangle maps, and shown on the Combining Designation maps of the Land Use Element.

SECTION 22. That the Board of Supervisors has considered the initial study prepared and conducted with respect to the matter described above. The Board of Supervisors has, as a result of its consideration, and the evidence presented at the hearings on said matter, determined that the proposed negative declaration as heretofore prepared and filed as a result of the said initial study, is appropriate, and has been prepared and is hereby approved in accordance with the California Environmental Quality Act and the County's regulations implementing said Act. The Board of Supervisors, in adopting this ordinance, has taken into account and reviewed and considered the information contained in the negative declaration approved for this project and all comments that were received during the public hearing process. On the basis of the Initial Study and any comments received, there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment.

SECTION 23. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 24. This ordinance shall become operative only upon approval without any modifications by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 25. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance,

it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 6th day of May, 2003, and **PASSED AND ADOPTED** by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 20th day of May, 2003, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

**ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:**

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 21 OF THE SAN LUIS OBISPO COUNTY CODE
RELATING TO LOT LINE ADJUSTMENTS

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

Redline/Strikeout version to show additions and deletions:

SECTION 1: Section 21.02.010(a)(4) of Title 21 of the San Luis Obispo County Code is hereby amended to read as follows:

- (4) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, processed in compliance with Section 21.02.030;

SECTION 2. Section 21.02.030a of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (a) General. Lot line adjustments between ~~two or more~~ four or fewer existing adjoining parcels, adjacent parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, shall be processed pursuant to this Section.

SECTION 3. Section 21.02.030c and d of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended to read as follows:

(c) **Criteria to be considered.**

- (1) **Lot line adjustments.** Lot line adjustments are limited to 4 or fewer parcels. A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform ~~with~~ to the County's General Plan, Specific Plan, Local Coastal Program, and zoning and building ordinances. The criteria to be considered includes, but is not limited to, standards relating to parcel design and minimum lot area. These criteria may be considered satisfied if the resulting parcels maintain a position with respect to said criteria which is equal to or better than such position prior to approval or conditional approval of the lot line adjustment.

- (d) **Action on lot line adjustments.** The County shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the General Plan, Local Coastal Program, and zoning and building ordinances.

The authority to approve, conditionally approve, or disapprove lot line adjustment applications is delegated as follows:

SECTION 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage hereof. Before the expiration of fifteen (15) days after the adoption of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Telegram-Tribune, a newspaper of general circulation published in the County of San Luis Obispo, State of California.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 6th day of May, 2003, and PASSED and ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 20th day of May, 2003, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo,
State of California

[SEAL]

**ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:**

JAMES B. LINDHOLM, JR.
County Counsel.

By: _____
Deputy County Counsel

Dated: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 21 OF THE SAN LUIS OBISPO COUNTY CODE
RELATING TO LOT LINE ADJUSTMENTS

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

Redline/Strikeout version to show additions and deletions:

SECTION 1: Section 21.02.010(a)(4) of Title 21 of the San Luis Obispo County Code is hereby amended to read as follows:

- (4) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, processed in compliance with Section 21.02.030;

SECTION 2. Section 21.02.030a of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (a) General. Lot line adjustments between ~~two or more~~ four or fewer existing adjoining parcels, adjacent parcels, where the land taken from one parcel is added to an adjacent adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, shall be processed pursuant to this Section.

SECTION 3. Section 21.02.030c and d of the Real Property Division Ordinance, Title 21 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (c) **Criteria to be considered.**

- (1) **Lot line adjustments.** Lot line adjustments are limited to 4 or fewer parcels. A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform ~~with~~ to the County's General Plan, Specific Plan, Local Coastal Program, and zoning and building ordinances. The criteria to be considered includes, but is not limited to, standards relating to parcel design and minimum lot area. These criteria may be considered satisfied if the resulting parcels maintain a position with respect to said criteria which is equal to or better than such position prior to approval or conditional approval of the lot line adjustment.

- (d) **Action on lot line adjustments.** The County shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the General Plan, Local Coastal Program, and zoning and building ordinances.

The authority to approve, conditionally approve, or disapprove lot line adjustment applications is delegated as follows:

SECTION 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage hereof. Before the expiration of fifteen (15) days after the adoption of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Telegram-Tribune, a newspaper of general circulation published in the County of San Luis Obispo, State of California.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 6th day of May, 2003, and PASSED and ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 20th day of May, 2003, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo,
State of California

[SEAL]

**ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:**

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, THE COASTAL ZONE LAND USE ORDINANCE, CHAPTERS 1, 2, 4, 5, 7, 8, AND 11 RELATING TO APPEALS TO COASTAL COMMISSION, APPEAL WITHDRAWAL, MUP PROCESSING, TIME EXTENSIONS, SITE AREA MEASUREMENT AND SETBACKS BASED ON SUBDIVISION DESIGN, PORCHES, LIGHTING, UNDERGROUNDING OF UTILITIES, MINIMUM PARCEL SIZE FOR HISTORIC STRUCTURES, HOME OCCUPATIONS, DETACHED HOME OFFICES, 4-H PROJECTS, ROADSIDE STANDS, CARETAKER RESIDENCES, TEMPORARY DWELLINGS, AND DEFINITION OF WILDLAND FIRE HAZARD FUEL POTENTIAL.

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Section 23.01.042a(4) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (4) **Withdrawal of appeal - land use permits.** After an appeal to a decision on a land use permit has been filed, the appeal shall not only be withdrawn ~~except~~ with the consent of the appropriate ~~hearing body~~ Review Authority or by written request of the individual or group that generated the appeal. The date on which the appeal is withdrawn shall constitute the effective date of the permit and initiate the final action notice period established by Section 23.02.036. (Mod 1)

SECTION 2. Section 23.01.043 b and c of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- b. **Exhaustion of local appeals required.** For an action on coastal developments permit applications that may be appealed to the Coastal Commission as set forth in subsection c of this section, an applicant or aggrieved party may appeal a county action decision on a coastal development application ~~land use permit~~ to the Coastal Commission only after all possible local appeals pursuant to Section 23.01.042 have been exhausted. This limitation shall not apply to any circumstance identified in Section 13573 of Title 14 of the California Code of Regulations. ~~Administrative Code~~, including: (Mod 2)

- (1) A situation where an appellant was denied the right of appeal pursuant to Section 23.01.042 because county notice and hearing procedures for the action on the development did not comply with the provisions of Title 14, Division 5.5, Chapter 8, Subchapter 2 of the California Code of Regulations. ~~Administrative Code~~; or (Mod 2)

(2) An appeal of a county decision by two members of the Coastal Commission pursuant to Public Resources Code Section 30625. Provided, however, that notice of Commissioners appeals shall be transmitted to the Board of Supervisors pursuant to Title 14 of the California ~~Code of Regulations~~ Administrative Code Section 13573(b) and the appeal to the Commission may be suspended pending a decision on the merits of the appeal by the Board of Supervisors. If the decision of the Board modifies or reverses the previous decision, the Commissioners shall be required to file a new appeal from that decision.

(3) Developments approved in areas not ~~identified~~ included in subsections c(1) or c(2) ~~above~~ that are located in a Sensitive Coastal Resource Area, ~~as defined in Chapter 23.11 of this title~~, which includes: (Mod 3)

c. Appealable development. As set forth in Public Resources Code Section 30603(a) and this title, an action a decision by the County on a permit application, including any Variance, Exception, or Adjustment granted, for any of the following projects may be appealed to the California Coastal Commission: (T23, Mod 3 & Rec12.18)

(1) Developments approved between the ~~sea~~ ocean and the first public road paralleling to the ~~sea~~ ocean, or within 300 feet of the inland extent of any beach (or of the mean high tide line of the ocean where there is no beach), whichever is the greater distance, as shown on the adopted post-certification appeals maps. (Mod 3)

(2) Approved developments not included in subsection c(1) of this section that are proposed to be located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff as shown on the adopted post-certification appeals maps. (Mod 3)

(3) Developments approved in areas not ~~identified~~ included in subsections c(1) or c(2) ~~above~~ that are located in a Sensitive Coastal Resource Area, ~~as defined in Chapter 23.11 of this title~~, which includes: (Mod 3)

The procedures established by Section 23.01.041 c. (Rules of Interpretation) shall be used to resolve any questions regarding the location of development within a Sensitive Coastal Resource Area. (Mod 3)

SECTION 3. Section 23.01.043 c. (5) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

(5) Any development that constitutes a Major Public Works Project or Major Energy Facility. "Major Public Works Project" or "Major Energy Facility" shall mean any proposed public works project or energy facility exceeding \$100,000 in estimated construction cost, pursuant to Section 13012, Title 14 of the California Code of Regulations. ~~Administrative Code~~.

SECTION 4. Section 23.01.043d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- d. Grounds for appeal.** As required by Section 30603 of the Public Resources Code, the grounds for appeal pursuant to this section shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in the California Coastal Act (Section 30210 et seq. of the Public Resources Code).

The grounds for appeal of a denial of a permit pursuant to section c(5) (Major Public Works or Major Energy Facility) shall be limited to an allegation that the development conforms to the standards set forth in the certified Local Coastal Program and the public access policies set forth in the California Coastal Act (Section 30210 et seq. of the Public Resources Code). ~~appeals to the Coastal Commission shall use only the following grounds for appeal: and no others:~~

- ~~(1) The grounds for appeal of any development listed in subsections c(1) of this section shall be limited to one or more of the following allegations:~~
 - ~~(i) The development fails to provide adequate physical access to and along the coast, or the development fails to provide adequate public or private commercial use in an area designated by the Land Use Element for such use; or interferes with such uses;~~
 - ~~(ii) The development fails to protect public views from any public road or from a recreational area to, and along the coast;~~
 - ~~(iii) The development is not compatible with the established physical scale of the area. For the purposes of this section, "established physical scale of the area" shall include but is not limited to existing natural and manmade landforms and structures in the area, and includes consideration of height, massing and character of the proposed development with its surroundings;~~
 - ~~(iv) The development may significantly alter existing natural landforms;~~
 - ~~(v) The development does not comply with shoreline erosion and geologic setback requirements;~~
- ~~(2) The grounds for appeal of any development listed in subsections c(2), c(3), c(4) or c(5) of this section shall be limited to an allegation that the development does not conform to the certified local coastal program;~~

The grounds for appeal of a denial of a permit pursuant to section c(5) (Major Public Works or Major Energy Facility) shall be limited to an allegation that the development conforms to the standards set forth in the certified Local Coastal Program and the public access policies set forth in the California Coastal Act (Section 30210 et seq. of the Public Resources Code).

SECTION 5. Section 23.01.043 f of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- f. Notice to county of appeal to Coastal Commission.** An appellant shall notify the county when appealing to the Coastal Commission by providing the county a copy of the information required in Section 13111 of Title 14 of the California Code of Regulations Administrative Code.

SECTION 6. Section 23.01.045 a (1) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by deleting the reference to Chapter 6.

23.01.045 - Variance:

A variance from the strict application of the requirements of this title may be requested as provided by this section. For the purposes of this title, a variance is a land use permit.

- a. Limitations on the use of a variance.** A variance shall not be used to:

- (1) Reduce the minimum parcel size required for a new land division by Chapters 23.04 or 23.08 of this title below the range of parcel sizes specified by ~~Chapter 6~~, Part I of the Land Use Element for the land use category in which the subject site is located; or
- (2) Authorize land uses other than those normally identified as allowable in a particular land use category by Coastal Table O, Part I of the Land Use Element, planning area standards of the Land Use Element, Chapter 22.08 or other chapter of this title, pursuant to Government Code Section 65906.

SECTION 7. Section 23.02.033 b(4)(ii) and (5) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (ii) **Public hearing.** A public hearing on a Minor Use Permit shall occur only when a hearing is requested by the applicant or other interested person(s). Such request shall be made in writing to the Planning Director no later than ~~10~~ 7 days ~~after~~ before the date of the meeting specified in the public notice provided pursuant to subsections (i)(a) and (b) of this section or within 10 days from the date of the notice, whichever comes later. In the event a public hearing is requested ~~required~~, the Minor Use Permit shall be scheduled for a hearing on the date and time as defined in the public notice. The Director has the authority to continue an item to the next meeting date where there is a conflict with existing plans and ordinances, even where no public hearing has been requested. The applicant and any interested parties shall be notified of the continuance, and notice of the continued hearing shall be provided in accordance with Section 23.01.060 c. (Mod 4)
- (5) **Final decisions on Minor Use Permits.** Immediately after the conclusion of public testimony in the case of a public hearing, or no sooner than ~~10 days after~~ the date of the meeting specified in the public notice provided pursuant to subsections b(4)(i)(a) and (b),

the Planning Director shall:

SECTION 8. Section 23.02.033d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

d. Notice of Final Action. Within seven days of the administrative hearing, ~~or no sooner than 10 days after the date of the public notice provided pursuant to subsections b(4)(i)(a) and (b), and the expiration of the time period for appeals to the Planning Commission or Board of Supervisors,~~ the Director shall prepare a written Notice of Final Action. The Notice of Final Action shall include the Tentative Notice of Action described in subsection b(3) of this section and shall also describe any changes to the tentative action as a result of the administrative hearing (if held), including the final action itself. The notice of final action shall also include the findings or conditions of approval resulting from the hearing, a determination if the decision is appealable to the Coastal Commission, the procedures for appealing the local decision to the Coastal Commission (if applicable), and as well as noting the effective date of the Minor Use Permit. The notice shall be mailed to the applicant and to the Coastal Commission. ~~For projects that may be appealed to the Coastal Commission,~~ The notice shall be prepared and mailed so as to also satisfy all applicable provisions of Section 23.02.036, and: (Mod 5)

- (1) **Regular items.** The notice shall also include the Tentative Notice of Action described in subsection b(3) of this section.
- (2) **Consent items.** The notice shall state that the Minor Use Permit was heard as a consent agenda item.
- (3) **Other items.** The notice shall state that the Minor Use Permit was approved by the Director no sooner than 10 days after the date of the public notice provided pursuant to subsections b(4)(i)(a) and (b).

SECTION 9. Section 23.02.036 a and c of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by changing the reference to subsection b. to subsection c.

23.02.036 - Final County Action on Development Land-Use Permits.

After the Review Authority ~~hearing body~~ has acted on an application for development ~~Minor Use Permit or Development Plan~~, the requirements of this section apply. (Mod 6)

a. Notice of Final County Action. Within seven calendar days of county completing its review and meeting the requirements of subsection c. ~~b.~~ of this section, the county shall notify by first class mail the Coastal Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the county (or, where required, who paid the fee established by the County Fee Ordinance to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the county decision to the Coastal Commission.

b. Notice of Failure to Act:

- (1) Notification by Applicant.** If the county has failed to act on an application within the time limits set forth in Government Code Sections 65950-65957.1, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Sections 65950-65957.1 shall notify, in writing, the county and the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.
- (2) Notification by county.** When county determines that the time limits established pursuant to Government Code Sections 65950-65937.1 have expired, the county shall, within seven (7) calendar days of such determination, notify any person entitled to receive notice pursuant to subsection b(1) of this section that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and the application may be appealed to the Coastal Commission pursuant to Section 13110 et seq. of Title 14 of the California Administrative Regulations. (This section shall apply equally to county determination that the project has been approved by operation of law and to a judicial determination that the project has been approved by operation of law.)

c. Finality of county action. A county decision on an application for a development shall not be deemed final until:

- (1)** The county decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act (these can be found in Section 23.04.420 of this title and Sections 30210 through 30224 of the California Coastal Act); and (Mod 6)
- (2)** When all county rights of appeal have been exhausted as set forth in Section 23.01.043b (Exhaustion of county appeals); and
- (3)** For actions on Land Use Permits that are not appealable to the Coastal Commission under the standards of Section 23.01.043c, the Coastal Commission has received notice of Final County Action as required by parts a and b of this Section; and (Mod 6)
- (4)** For actions on Land Use Permits that are appealable to the Coastal Commission pursuant to Section 23.01.043c, the standards set forth in Section 23.02.039 have been satisfied. (Mod 6)

[Amended 1995, Ord. 2740]

SECTION 10. Section 23.02.042 a of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

This amendment clarifies that the reference to date of approval should be the final local action, reflecting the correct decision by the county.

23.02.042 - Substantial Site Work Defined:

When all required construction permits have been obtained and construction of an approved use has begun, substantial site work toward establishing the authorized use shall be deemed to have been performed, and project construction may be completed subject to Section 23.02.052 (Lapse of Land Use Permit) when:

- a. Building construction projects:** Site work has progressed beyond grading and completion of structural foundations, and construction is occurring above grade within: 18 months of Plot Plan or Site Plan approval; 24 months of Minor Use Permit or Development Plan approval; or within 12 months of the date of approval final local action (including an appeal to the Board of Supervisors) on of an extension of land use permit, and construction continues with reasonable progress and no interruption greater than 180 consecutive days, provided that:
 - (1) Single construction period projects.** When no extended project phasing schedule has been authorized through Development Plan approval (Section 23.02.034c(1)(ii)), substantial work shall be performed for all proposed buildings.
 - (2) Phased projects.** Where a project phasing schedule has been approved, construction permits shall be obtained and substantial work shall be performed on at least one approved building.
- b. Non-building projects:** The project is completed as set forth in Section 23.02.044 within: 18 months of Plot Plan or Site Plan approval; 24 months of Minor Use Permit or Development Plan approval; or within 12 months of the date of approval of an extension of land use permit (Section 23.02.050).
- c. Surface mining operations:** In the case of a surface mining operation approved under Sections 23.08.180 through 23.08.187 (Surface Mining and Reclamation), when surface mining operations have been commenced.

SECTION 11. Section 23.02.050 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended and renumbered:

This change is to make the land use permit and land division time extensions the same where the land use permit was necessary in order to receive approval of a land division. A number of changes to the Subdivision Map Act now allow local governments to extend the time limits on tentative maps for five years.

23.02.050 - Extensions of Time for Land Use Permits. (Mod 7)

When substantial site work (Section 23.02.042) on a project authorized by an approved land use permit has not occurred within the time limits set by Section 23.02.040, a maximum of three, 12-month extensions (except as provided by Section 23.02.042 a of this Title) to the initial time limit may be granted as provided by this section. Extension requests shall be in writing and shall be filed with the Planning Department on or before the date of expiration of the land use permit or previous extension, together with the required filing fee. When an extension request has been filed, the permit shall be automatically extended until such time as the Review Authority has acted upon the extension request, provided that no construction shall take place and no construction permits shall be issued for a proposed project pursuant to Title 19 of this code until the extension has been approved. Notice of the application for extension shall be provided to the California Coastal Commission. (Mod 7)

a. Initial extensions: The Planning Director may grant two 12-month extensions to the time limit for any land use permit. The Planning Director shall grant an extension only after finding that the land use permit does not contain conditions prohibiting extension, and that:

- (1) There have been no changes to the provisions of the Land Use Element or Land Use Ordinance applicable to the project since the approval of the land use permit; or
- (2) There have been no changes in the character of the site or its surroundings that affect how the standards of the Land Use Element or Land Use Ordinance apply to the project; or
- (3) There have been no changes to the capacities of community resources, including but not limited to water supply, sewage treatment or disposal facilities, roads or schools such that there is no longer sufficient remaining capacity to serve the project.

If the Review Authority determines that changed circumstances exist that may affect the consistency of the development with the Local Coastal Program, then the extension request shall be denied. Notice of the Review Authority's action on an extension shall be provided to the California Coastal Commission. Action on ~~Disapproval~~ of a requested extension by the Planning Director may be appealed to the Planning Commission as set forth in Section 23.01.042 (Appeal) and to the California Coastal Commission as set forth in Section 23.01.043 (Appeals to the Coastal Commission). (Mod 7)

b. Third and final extension: The Planning Commission (or Board of Supervisors on appeal) may grant one additional 12-month extension to an approved land use permit after the two initial extensions in accordance with the notice, hearing, and appeal procedures required for a new development application, subject to the same findings and standards required by Section 23.02.050 a. provided that the Planning Commission makes the following additional findings: (Mod 7)

- (1) That substantial site work could not be completed as set forth in Section 23.02.042 because of circumstances beyond the control of the applicant; and

- (2) The findings specified in Sections 23.02.050a(1), (2) and (3) above; and
- (3) The findings that were required by Section 23.02.034c(4) to enable initial approval of the permit.

An approved land use permit shall become void after the expiration of the third extension (or after the expiration of any previous extension when a request for further extension has not been filed before expiration) where substantial site work has not first occurred pursuant to Section 23.02.042. No more than three extensions pursuant to this section shall be granted.

- c. Land use permit required with a land division. For land use permits that are required in conjunction with a land division application, the advisory agency (the Planning Commission or Subdivision Review Board) may grant five 12-month time extensions to the time limit in accordance with the standards and procedures established by this Section. The planning department shall make a written recommendation in its staff report to the advisory agency concerning the extension request.
- d. Time extensions on permits issued by the Coastal Commission. A time extension on a coastal development permit issued by the Coastal Commission shall only be granted by the Coastal Commission.
- e. Notice of Final County Action. After all county rights of appeal have been exhausted as set forth in Section 23.01.043 b (Exhaustion of Local Appeals Required), the County shall provide notice of its action on the third and final extension request in accordance with Section 23.02.036. (Mod 7)

SECTION 12. Section 23.04.021b of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection (2) and renumber (2) to (3) to read as follows:

- (2) Lots where 10 additional feet on each side of the street is dedicated in order to incorporate detached sidewalks with fixed width parkways between the curb and sidewalk, or meandering sidewalks which vary the separation between the curb and sidewalk, where the parkway between the curb and sidewalk is landscaped and includes one or more street tree per 50 feet of frontage and turf or low maintenance plants, may include that 10 feet in the calculation of net site area. Equestrian trail facilities may also be included in the calculation of net site area.

The proposed change will allow the additional dedication to count toward the site's net site area (minimum parcel size) instead of being excluded.

SECTION 13. Section 23.04.082b of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection (5) to read as follows:

- (5) Detached Guesthouse/Home Office. A detached guesthouse/home office may be established accessory to the unit authorized by this section, in compliance with Section 23.08.032e (guesthouse/home office).

SECTION 14. Section 23.04.092c(1) and (2) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by changing the subsection reference from d(2) to c(2).

SECTION 15. Section 23.04.108a of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection (5) to read as follows:

- (5) Where a lot is located in an area which incorporates detached sidewalks with fixed parkways between the curb and sidewalk, or meandering sidewalks which vary the separation between the curb and sidewalk, where the parkway between the curb and sidewalk is landscaped and includes one or more street tree per 50 feet of frontage and turf or low maintenance plants, front setbacks may be a minimum of 15 feet (for all portions of the residence except the garage). The garage shall have a minimum front setback of 25 feet.

SECTION 16. Section 23.04.110b of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- b. Corner Lots. The side setback on the street side of a corner lot within urban and village areas and on sites of less than one acre in net area is to be a minimum of 10 feet, except that:

SECTION 17. Section 23.04.110b of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection (4) to read as follows:

- (4) In rural areas and on sites one acre or larger in net area, Section 23.04.110 a(2) shall apply.

SECTION 18. Section 23.04.116d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- d. Porches. Porches are defined as covered outdoor steps, stairs, and/or a raised platform, less than 100 square feet in area and with open sides, not exceeding 30 inches in height above grade at any point, or no higher than the ground floor of the building, located immediately adjacent to any entry of a building for the purpose of providing pedestrian access from the outdoor ground elevation to a building interior and not to be used as habitable living space. If the porch is enclosed, it will be considered habitable living space and shall not project into a required setback. Open is defined as being at least 60% open to the elements on three sides (no screening or glass). Porches may project into required setbacks as provided by this subsection. If the platform portion of a porch ~~(not including steps)~~ is more than 100 square feet or is higher than 30 inches, it is considered a deck, and shall not project into a required setback.

- (1) Front porch. ~~(i) A covered front porch and/or stairs may project up to six feet into a required front setback, provided that the floor level of the porch is to be no higher than the ground floor of the building.~~
- (2) Side porch. A porch and/or outside stairway may be located in a required side setback provided the porch ~~is not roofed or enclosed below the steps, and does not~~

extend into the side setback more than allowed by Sections 1206, 1710 and 3305(n) of the Uniform Building Code

SECTION 19. Section 23.04.166c(8) [Parking Requirements for Public Safety Facilities & Waste Disposal Sites] of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

Public Safety Facilities	As determined by Planning Commission the Review Authority
Waste Disposal Sites	As determined by Planning Commission the Review Authority

SECTION 20. Section 23.04.182b(5) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (5) Small areas of landscape. Landscaping ~~in accordance with~~ meeting the water efficient provisions of Sections 23.04.180 et. seq. is not required for any project with a potential total irrigated landscape area of less than 2,500 square feet in size with a proposed turf area of less than ~~twenty~~ 20 percent of the irrigated landscape area. Landscaping located in the areas specified in Section 23.04.186b is required and landscape plans meeting Section 23.04.186d(1), (3) and (4) shall be submitted for review and approval. Landscaping shall be installed or bonded for prior to occupancy.

SECTION 21. Section 23.04.190a(6) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (6) Swimming Pools. ~~Within urban and village reserve lines and in Residential Suburban land use categories, yard areas with private swimming pools are to be fenced to discourage unsupervised access and use by small children. Such fencing is to be a minimum of four feet high, and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of four feet. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool areas is secured.~~ Yard areas with private swimming pools shall provide fencing as set forth in the Uniform Building Code.

SECTION 22. Section 23.04.320e of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- e. Height of light fixtures. Free-standing outdoor lighting fixtures are not to exceed the ~~allowed height of the tallest building on the site, pursuant to Section 23.04.120 (Heights).~~

SECTION 23. Section 23.04.320 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection 23.04.320f to read as follows:

- f. Street Lighting. Street lighting shall be designed to minimize light pollution by preventing the light from going beyond the horizontal plane at which the fixture is directed.

SECTION 24. Section 23.05.039 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

Section 23.05.039 - Nuisance and Hazard Abatement. Existing grading that has become hazardous to life or property is subject to Sections ~~7004~~ 3304 through 3318 of the Uniform Building Code. Any grading performed in violation of this section shall be deemed a nuisance, and full abatement and restoration may be required and an assessment of cost may be levied in accordance with Chapter 23.10 (Enforcement).

SECTION 25. Section 23.05.106 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. Where required: Curb, gutter and sidewalk is required to be installed as set forth in this section when such improvements do not already exist, and:
- (1) The value of any new structures or changes to existing structures, items or equipment (that add value to the property but would be exempt from a construction permit or would not be subject to "valuation" by the department) proposed during a period of 12 months (as indicated by all building permits issued for the site during the 12-month period) exceed 25% of the total of all improvements existing on the site as determined by the assessment roll or a current appraisal. The appraisal shall be completed by an appraiser with a "Certified General License" issued by the State Office of Real Estate Appraisal and shall determine full market value of the parcel, allocating for land and existing site improvements based on the Uniform Standards of the Professional Appraisal Practices as published by the Appraisers Standards Board of the Appraisal Foundation. Both of these shall be determined at the time; at the time the first building permit (within the 12-month period) is applied for.

SECTION 26. Section 23.05.120 b of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- b. Public utility distribution service to the edge of the lot, except in an underground utility district or where 75 percent of the lots on the street within 1,000 feet of the site are already developed, and have overhead service from the utility company distribution source to the residences.

SECTION 27. Section 23.05.120 (last paragraph - unnumbered) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

This section may require an applicant to underground utilities from the utility company distribution source to the site, as well as on the site itself. The utility service provider should be contacted for information on the Public Utility Commission's rules and regulations regarding the undergrounding of utilities. Poles and overhead lines other than those allowed by this section are allowable subject to Development Plan Minor Use Permit approval, provided that the Planning Commission Review Authority first finds that either topographical, soil or similar physical conditions or the distance to the utility company distribution source make the use of underground utilities unreasonable or impractical

SECTION 28. Chapter 23.06.126 d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- d. Setbacks: Aboveground storage facilities for flammable or combustible liquids are to be set back ~~a minimum of 50 feet~~ from any property line or residential use or as otherwise set forth in the Uniform Fire or Building Code where a smaller setback is allowed by those codes.

SECTION 29. Chapter 23.07.100 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding a reference to new subsection 23.07.101.

SECTION 30. Chapter 23.07 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection 23.07.101 to read as follows:

23.07.101 - Minimum Parcel Size: The minimum size for a new parcel with an established structure and Historic Site combining designation shall be determined by Development Plan. Any parcel where the historic structure is located that is less than the minimum or what would otherwise be required for the applicable land use category can only be transferred to a valid tax-exempt charity under Internal Revenue code section 501(c)(3) or a public agency.

- a. Application content. The Development Plan application shall be accompanied by a statement from the applicant explaining why it is necessary to separate the existing historic structure from the surrounding ownership, and how such separation will support the restoration or continuation of the historic structure.
- b. Residential use prohibited. No residential use shall be established on the parcel where the historic structure is located if that parcel is smaller than the minimum parcel size or what would otherwise be required by Sections 23.04.020 et seq. for the applicable land use category.
- c. Non-profit organization. If the parcel where the historic structure is located is smaller than the minimum parcel size or what would otherwise be required by Sections 23.04.020 et seq. for the applicable land use category, that parcel shall only be transferred to a valid tax-exempt charity under Internal Revenue code section 501(c)(3) or a public agency. Evidence shall be submitted in the form of a letter from the Internal Revenue Service verifying the organization is a valid non-profit organization prior to recordation of a final or parcel map. In addition, a letter of intent to accept title from the valid non-profit organization or public agency shall be submitted prior to recordation.
- d. Declaration of restrictions required. Prior to, or concurrent with, recordation of a final or parcel map, the applicant shall execute and record a declaration of restrictions in a form approved by County Counsel, wherein the applicant agrees on their own behalf and all successors in interest to the parcel that, they will not request approval of or establish any residential use on the parcel. In addition, the declaration of restrictions shall specify that any parcel smaller than the minimum parcel size or what would otherwise be required by Sections 23.04.020 et seq. shall not be sold except to a valid non-profit organization or public agency. The declaration of restrictions shall not be amended or terminated without the prior approval of the Board of Supervisors.
- e. Required findings. No parcel smaller than the minimum parcel size or what would otherwise be required by Sections 23.04.020 et seq. for the applicable land use category shall be approved pursuant to this section unless the Review Authority first finds that the parcel

meets the minimum site area provisions in Section 23.04.044, that the proposed parcel being smaller than the surrounding holdings will have no adverse effect on the continuing use of parcels adjacent to and in the vicinity of the site, and that the applicant has demonstrated the division will support the restoration or continuation of the historic structure.

SECTION 31. Section 23.08.030 b(4) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (4) Use of garage or accessory structure. The use of a garage or accessory structure is allowed subject to the size limitations of Section 23.08.032c and Section 23.08.032g (Residential Accessory Uses - garages and workshops, respectively), except that the conduct of the home occupation shall not preclude the use of the garage for vehicle parking on a daily basis. On sites of less than one acre, if a garage is used for a home occupation, the garage door shall not be left open in order to conduct the home occupation business.

SECTION 32. Section 23.08.030 f of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (1) Office type or personal services (including personal instruction such as music lessons, and counseling services) that do not include the presence of more than one client vehicle at any time; and other services (e.g. repair, maintenance, etc.) that are performed on the premises of a client.

SECTION 33. Section 23.08.032 e of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- e. Guesthouses/Home Office: A guesthouse/home office (sleeping/home office facilities without indoor connection to the living area of a principal residence) may be established as a use accessory to a residence as follows:

(1) Limitation on use:

- (i) A guesthouse may contain living area, a maximum of two bedrooms and one bathroom. A living area may include a wet bar, but such facility shall be limited to a single sink and an under-counter refrigerator, and shall not be located in a separate room. A guesthouse shall not be designed to contain or accommodate cooking or laundry facilities, and shall not be used for residential occupancy independent from the principal residence or as a dwelling unit for rental.

A home office may contain the same facilities as a guesthouse. This includes the restriction on containing or designing to accommodate cooking or laundry facilities separate from the principal residence. The home office shall not be used for residential occupation independent from the principal residence or as a dwelling unit for rental.

- (ii) A guesthouse/home office shall not be allowed on any site containing a secondary dwelling established pursuant to Section 23.08.169 of this title.

- (iii) A Guesthouses/home office in the Residential Multi-Family land use category shall satisfy the residential density provisions of Section 23.04.084 (Multi-Family Dwellings).
- (iv) A guesthouse/home office shall not be provided an electric meter separate from the principal residence.

SECTION 34. Sections 23.08.046 c, e, and f of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

23.08.046 - Animal Raising and Keeping (S-3): The raising or keeping of animals as either an incidental or principal use shall comply with the requirements of this section, except for pet stores (which are included under the Land Use Element definition of General Merchandise Stores and are instead subject to the provisions of Chapters 23.03 (Permit Requirements) and 23.04 (Site Design Standards) of this title). Certain specialized structures and facilities for animals (including animal hospitals, kennels, feed lots, fowl, poultry, hog or horse ranches) may also be subject to the requirements of Sections 23.08.041 (Agricultural Accessory Structures) or 23.08.052 (Specialized Animal Facilities), as applicable.

[Amended 1992, Ord. 2591]

- a. **Purpose.** It is the purpose of these regulations to limit under specified circumstances the number of animals allowed and the methods by which domestic, farm and exotic animals are kept on private property. It is the intent of this section to minimize potential adverse effects on adjoining property, the neighborhood and persons in the vicinity from the improper management of such animals. Such adverse effects include but are not limited to the propagation of flies and other disease vectors, dust, noise, offensive odors, soil erosion and sedimentation.
- b. **Limitation on use.** Animal raising or keeping is not allowed in the Residential Multi-Family, Office and Professional and Commercial land use categories except for:
 - (1) The keeping of household pets in conjunction with an approved residential use; and
 - (2) Specialized Animal Facilities allowed pursuant to Section 23.08.052; and
 - (3) Interim Agricultural Uses pursuant to Section 23.08.050.
- c. **Permits and applications.**
 - (1) **Permit requirements.** None, except as otherwise set forth in subsection f. of this section for specific types of animals, or as required by other provisions of this code for structures used to enclose or house animals; however, a Minor Use Permit shall be required for development within Sensitive Resource Areas for all new animal raising and keeping activities or facilities, except where such activities or facilities are associated with the production of agricultural products (as defined by Section 23.11.030 of this title). All animal raising activities in the unincorporated areas of San Luis Obispo County are subject to the requirements of this section regardless of

whether a permit is required. (Mod 8)

The Coastal Commission recommended this and the following modifications to update the standards for animal raising and keeping facilities to require all such facilities to include water quality protection measures and clarify that a coastal development permit is required for commercial horse keeping facilities.

(2) **Application content.** Where this section requires land use permit approval for a specific animal raising activity, the permit application shall include the following, in addition to all information required by Sections 23.02.030 (Plot Plan) et seq. of this title: [Amended 1992, Ord. 2591]

- (i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.
- (ii) The applicant's plans for animal waste disposal including plans showing measures to confine runoff, adequate capacities to allow for proper wastewater disposal, and measures to prevent seepage to groundwater. (Mod 8)
- (iii) Where the site is located within or adjacent to a Residential or Recreation category, a statement of other measures proposed by the applicant for the management of the site and proposed animals to insure that the animals will not become a nuisance to other residents in the vicinity of the site.

d. **Site requirements.** Animal raising and keeping pursuant to this section shall occur only on sites which satisfy the following standards, except for the keeping of household pets as set forth in subsection f(10) of this section:

(1) **Minimum site area.** One acre, unless otherwise provided in subsection f. of this section for a specific animal raising activity.

(2) **Setbacks required.**

- (i) **Buildings.** Livestock and poultry buildings, barns, stables or other accessory buildings related to the animal raising activity are subject to the setback and other applicable provisions of Section 23.08.041 (Agricultural Accessory Structures), except as otherwise provided in subsection f. of this section.
- (ii) **Outdoor animal enclosures.** Corrals, paddocks, pens and other outdoor animal enclosures shall be located as required by the following setbacks:

(a) **Setback from adjoining residential use.** Animal enclosures shall be located at least 50 feet from any previously existing dwelling, swimming pool, patio or other living area on property other than the site.

(b) **Setback from streets.** As required by Sections 23.04.108 and 23.04.110, animal enclosures shall be located a minimum of 25 feet

from a front property line and 10 feet from a street side property line; except that no such set-backs are required in the Agriculture, Rural Lands and Open Space categories, or in the Residential Rural or Suburban categories outside of urban or village areas.

- (c) **Setback for specific animals.** Where subsection f. of this section requires a specific setback for a particular animal species, the subsection f. setback shall prevail.

e. Maintenance and operational standards.

- (1) **Odor and vector control.** All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.
- (2) **Erosion and sedimentation control.** In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel. In the event such sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to abatement as set forth in Chapter 23.10 of this title (Enforcement). (Mod 8)
- (3) **Noise control.** Animal keeping within urban or village areas or in Residential land use categories shall comply with the noise standards established by Section 23.06.040c et seq. of this title. ~~for the Residential Suburban category.~~ (Org County Proposal)

This change will update this section to meet the noise standards that were adopted as part of the update to the Noise Element in 1992.

- f. Specific animal standards.** The following requirements apply to the keeping or raising of specific types of animals, in addition to all other applicable standards of this section. More than one type of animal may be kept on a single site, subject also to the provisions of subsection g. of this section. Where this subsection limits the number of animals allowed on a site, such limitations shall not apply to unweaned offspring.

- (1) **Animal husbandry projects.** Notwithstanding the other provisions of this section except the limitations on use in subsection b. and the maintenance and operational standards of subsection e., the keeping or raising of a calf, horse, goat, sheep, hog, chickens, rabbits, birds or other animals as a current and certified (or otherwise documented) 4-H or Future Farmers of America (FFA) official project is subject to the following standards; ~~unless the site is of one acre or larger, in which case the animal project may be authorized subject to the provisions of subsections f(3) through f(11) for the specific type of animal;~~ (Mod 8)

This change would eliminate the difference in standards for 4-H or FFA projects on sites less than one acre and greater than one acre. In general, this eases the standards for establishment of 4-H projects. It would also clarify that the 4-H or FFA project must be current and certified.

- (i) **Minimum site area:** 6,000 square feet for small animals (rabbits, chickens, etc.); 12,000 square feet for small hoofed animals; one acre for horses or cattle.
 - (ii) **Enclosure required.** On any parcel less than one acre, project animals shall be confined in a pen or fenced area that is located no closer than 25 feet to any residence other than that on the project site. Hogs shall not be located closer than 100 feet from any dwelling other than those on the project site.
- (2) **Bee raising.** Permit requirements and standards for bee raising activities shall be as specified by Chapter 5.04 of this code (Bees).
- (3) **Birds.** The following standards apply to the keeping of domestic or exotic birds other than poultry or game fowl, which are instead subject to subsection f(5) of this section:
 - (i) **Permit requirement.** None for 20 or fewer birds; Minor Use Permit approval for more than 20 birds, or in any case where birds are being kept for commercial purposes. Applicants should be advised that the keeping of imported birds may also require approval by the U.S. Department of Agriculture, Fish and Wildlife Service, U.S. Department of Public Health, California Department of Fish and Game, and/or California Department of Food and Agriculture, in addition to any approval required by this title.
 - (ii) **Minimum site area.** None for 20 or fewer birds, 6,000 square feet for more than 20.
- (4) **Cattle.**
 - (i) **Animal density.** The maximum number of animals allowed is one per acre of site area in the Residential Single Family category; two per acre in the Residential Suburban category; and three per acre in other categories; except as provided by subsection f(4)(ii) below. The keeping of cattle at four or more per acre for more than 45 days is considered a feedlot and is subject to Section 23.08.052b.
 - (ii) **Uses not regulated.** Cattle operations in the Agriculture, Rural Lands and Open Space categories on parcels larger than 20 acres are not regulated by this title, except to the extent that land use or construction permits may be required for buildings and structures, and except for feedlots, which are subject to the requirements of Section 23.08.052c.
- (5) **Fowl and poultry.** The following standards apply to the keeping of fowl or poultry

for personal domestic use and the keeping of 20 or fewer fowl or poultry for commercial purposes. The keeping of more than 20 fowl or poultry for commercial purposes is instead subject to Section 23.08.052d (Fowl and Poultry Ranches).

- (i) **Limitation on use.** No male fowl or poultry shall be kept or raised in a Residential Single Family category except on parcels of two acres or larger, where all adjacent parcels are of equivalent size or larger.
 - (ii) **Permit requirement.** No permit required for 20 or fewer birds; Plot Plan approval for 21 to 99; Minor Use Permit for 100 or more.
 - (iii) **Minimum site area.** Except as provided in subsection f(5)(i) above, no minimum site area is required where 20 or fewer fowl or poultry are kept; a minimum of one acre is required for more than 20.
 - (iv) **Enclosure required.** All mature fowl and poultry shall be contained in coops or pens and not allowed free run of a site.
 - (v) **Animal density.** Except where greater numbers are authorized through Minor Use Permit, the number of fowl or poultry allowed on a site shall be limited to a ratio of one mature animal for each 500 square feet of site area, except that 3,000 square feet per mature animal is required for turkeys.
- (6) **Fur-bearing animals.** The raising of mink, chinchillas or other animals of similar size are subject to the same standards as those required for rabbits by subsection f(11) of this section, and the following:
- (i) **Setbacks.** Enclosures for the keeping of animals shall be located no closer than 200 feet from any dwelling other than those on the site.
 - (ii) **Enclosure required.** All carnivorous animals shall be contained in cages or pens, and not allowed free run of a site.
- (7) **Goats and sheep (and animals of similar size at maturity).** The maximum number of animals allowed in a land use category other than Agriculture and Rural Lands is four per acre of site area, unless Minor Use Permit approval is first obtained. Raising goats or sheep in the Agriculture or Rural Lands categories is not subject to the provisions of this title.
- (8) **Hogs and swine.**
- (i) **Limitation on use.** The raising or keeping of hogs and swine is prohibited in the Residential Single Family category, except as otherwise provided by subsection f(1) of this section.
 - (ii) **Permit requirement.** None on sites of five acres or larger; Plot Plan approval on sites less than five acres.

- (iii) **Minimum site area.** 2-1/2 acres.
 - (iv) **Animal density.** The maximum number of hogs or swine allowed is three sows, one boar and their unweaned litter. More animals constitute a hog ranch, and are subject to Section 23.08.052e (Hog Ranches).
 - (v) **Setbacks.** Animal enclosures shall be located no closer than 100 feet from any dwelling other than those on the site.
- (9) **Horses.** The provisions of this subsection apply to the keeping of less than 30 of any member of the horse family, including but not limited to donkeys and mules. The keeping of 30 or more animals horses, or the establishment of equestrian facilities including boarding stables, riding schools and academies, and horse exhibition facilities, constitutes a horse ranch, and is instead are subject to Section 23.08.052f. The keeping of horses for commercial purposes is also subject to the provisions of Title 9 of the County Code. (Mod 8)
- (i) **Permit requirement.**
 - (a) **Agriculture or Rural Lands.** No permit required for the keeping of less than 30 horses in the Agriculture or Rural Lands categories on sites of 20 acres or larger.
 - (b) **Other land use categories, smaller sites.** In other than the Agriculture and Rural Lands categories (and in those categories on parcels less than 20 acres), no permit required for one to 14 horses; Plot Plan approval for 15 to 29.
 - (ii) **Animal density - Residential Single Family.** The maximum number of horses allowed is one per acre of site area in the Residential Single Family category.
 - (iii) **Animal density in other than Residential Single Family.**
 - (a) **Residential Suburban category.** Three horses per acre are allowed in the Residential Suburban category.
 - (b) **Parcels less than five acres.** Three horses per acre may be kept on parcels less than five acres in allowed land use categories.
 - (c) **Other categories, larger parcels.** Four horses per acre may be kept in allowed land use categories on parcels of five acres or larger.
- The keeping of horses at greater densities or the keeping of more than 30 horses on a single site constitutes a horse ranch and is instead subject to Section 23.08.052f of this title.

- (10) **Household pets.** The keeping of common household pets, including but not limited to cats, dogs, and birds (when kept within the house), is not regulated by this title except when four or more dogs four months of age or older are kept, or four or more cats are kept for commercial purposes, in which case such animal raising or keeping is subject to Section 23.08.052g (Kennels) and any applicable provisions of Title 9 of this code (Animals).
- (11) **Rabbits and rabbit farms.** The raising or keeping of 20 or more rabbits or the raising and keeping of rabbits for commercial purposes is subject to the following standards. The raising or keeping of fewer than 20 rabbits not for commercial purposes is subject only to the requirements of subsections b. through e. of this section.
- (i) **Permit requirement.** No permit requirement in the Agriculture or Rural Lands land use categories or on parcels of five acres or larger; Plot Plan approval elsewhere or where the raising and keeping is for commercial purposes. (Mod 8)
 - (ii) **Minimum site area.** None required for fewer than 20 animals; one acre for 20 or more.
 - (iii) **Animal density.** No more than 50 mature animals per acre; no limitation when pens are entirely within a building; no limitation in the Agriculture or Rural Lands categories on parcels of 20 acres or larger, or in the Industrial category.

These proposed changes brings these sections of the Coastal Zone Land Use Ordinance into compliance with the requirements of Title 9.

- (12) **Worm farms.** The raising of worms is allowed on parcels of 20,000 square feet or more, without permit approval.
- (13) **Zoo animals.** The raising or keeping of animals other than those specified in subsections f(1) through f(12) of this section that are common to zoos, are carnivorous, poisonous or are not native to North America are subject to the provisions of Section 23.08.052h, except that:
- (i) Where the subject animals have satisfied all applicable requirements of the U.S. Department of Agriculture, Fish and Wildlife Service, U.S. Department of Public Health, California Department of Fish and Game and the California Department of Food and Agriculture, the Planning Director may determine after consultation with appropriate zoological experts that a particular non-carnivorous, non-poisonous animal is substantially similar in its physical characteristics and/or potential effects on a site and persons in the vicinity to one of the animals listed in subsections f(2) through f(12) of this section.
 - (ii) In such case, the raising or keeping of the particular exotic animal may be allowed subject to the specific provisions of subsections f(2) through f(12)

identified by the Planning Director.

g. Multiple animal types. More than one species of the animals listed in subsection f. of this section may be kept on a single site provided that:

- (1) The requirements of subsection f. and all other applicable provisions of this section are satisfied for each species, except as provided in following subsections g(2) and g(3).
- (2) Where subsection f. of this section establishes a minimum site area for specific species, the largest minimum site area applicable to any of the proposed animals shall apply.
- (3) Where multiple proposed animal species have equivalent animal density requirements established by subsection f., the total number of animals shall not exceed the density requirement. (e.g. Cattle and horses are both limited to a density of two per acre of site area in the Residential Rural land use category. A site with two acres of pasture could have as many as four horses or cows, or any combination of horses and cows, as long as the total did not exceed four.)

[Amended 1992, Ord. 2591]

SECTION 35. Section 23.08.046g(4)(ii) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby moved to become Section 23.08.052g(4)(ii) amended to read as follows:

SECTION 36. Section 23.08.052 h(1) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (1) Limitation on Use. Zoos may be allowed only in the Recreation or Public Facilities land use categories; the private keeping of zoo animals may be allowed in all land use categories where specialized animal facilities are designated allowable by the Land Use Element except Residential Suburban and Residential Single Family.

SECTION 37. Section 23.08.054 e of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- e. Setbacks. As required by Section 23.08.041 (Agricultural Accessory Structures) unless the Uniform Building Code would require a larger setback due to construction materials or except where located in a commercial land use category and entirely within a building that is not a greenhouse.

SECTION 38. Section 23.08.056 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

23.08.056 - Roadside Stands: These standards apply to the retail sale of agricultural products except hay, grain and feed, in open structures constructed for agricultural product merchandising. Hay, grain and feed sales are subject to Section 23.08.048 (Farm Equipment and Supplies). Sales from vehicles are subject to Section 23.08.142e (Sales from individual vehicles) and, seasonal sales are

subject to Section 23.08.142f (Seasonal Sales). The standards in Section 23.08.056 apply in addition to all applicable permit requirements and standards of the County Health Department, and any other applicable Federal and State statutes or regulations. It is recommended that the County Health Department be contacted by the applicant as early as possible to determine if any additional standards apply.

SECTION 39. Section 23.08.094a of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- a. Specific Plan Required. An application for a land use permit for a project within the use group of Petroleum Refining and Relating Industries (including extended reach facilities) and Marine Terminals and Piers may be applied for and obtained only after a Specific Plan, as described in Government Code Section 65450 et seq., for overall development of the parcel has been approved, except for:

SECTION 40. Section 23.08.161d of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- d. Type of use requiring a caretaker. A caretaker dwelling shall not be approved unless the Planning Director first determines that having a caretaker living on the site is critical and needed to the conduct of the business. The principal use of the site must require a caretaker for security purposes or for continuous supervision or care of people, agricultural plants, animals, equipment, or other conditions on the site. A caretaker's residence requested in connection with an agricultural use in any land use category is subject to Section 23.08.167b and c.

SECTION 41 Section 23.08.161f of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- f. Size, type and duration of dwelling unit allowed. The floor area of a caretaker residence shall not exceed 50 percent of the floor area of the commercial use on the site or 10 percent of the outdoor use area where no commercial building exists or is proposed to a maximum size of 1,200 square feet. Where a caretaker residence is proposed in the Residential Rural and Residential Suburban categories, the design standards of Section 23.08.169g (Secondary Dwellings) apply. Caretaker residences shall meet all applicable Uniform Building Code requirements for a dwelling unit unless a mobilehome is used and shall be either:

SECTION 42 Section 23.08.246a(2) and (3) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (2) Type of Structure. A temporary dwelling or office may be a mobilehome, recreational vehicle, or portable modular building in conformity with the Uniform Building Code, except within an urban or village area a temporary dwelling may only be a recreational vehicle of 29 feet or less in length.
- (3) Sanitation and Water Supply. A restroom within the temporary dwelling or office a portable restroom approved by the Health Department in the case of a temporary office is to be provided. Sewage disposal for a restroom within a temporary dwelling or office is to be by means of temporary hookup to community sewer facilities or the on-site septic tank system; sewage disposal from portable restrooms (only allowed for a temporary office) is to be as

authorized by the Health Department. Water is to be supplied by a public water supply or on-site well. The temporary dwelling or office shall not be occupied until the dwelling or office is connected by means of a temporary hookup to a public water supply or an approved on-site water supply.

SECTION 43. Section 23.08.246a(6) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- (6) Approved Permanent Use Required. Temporary dwellings or offices are allowed only while an approved building permit and an approved land use permit are in effect for the permanent use (Section 23.02.052 - Lapse of Land Use Permit), except where other circumstances are authorized through Minor Use Permit approval or as otherwise provided in this section. A mobilehome shall not be authorized as a temporary dwelling where the permanent dwelling is also proposed to be a mobilehome.

SECTION 44. Section 23.08.246a of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsection (8) to read as follows:

- (8) Location. Temporary dwellings and offices are to be located outside of the required setbacks.

SECTION 45. Section 23.08.246b of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

- b. Temporary Dwellings. A temporary dwelling may be established on the same site as the construction of a permanent residence, or on the site of a non-residential construction project. The temporary dwelling shall only be occupied by either the property owner, permittee, contractor or an employee of the owner or the contractor who is directly related to the construction project. Use of a temporary dwelling is limited to a maximum period of one year, unless the land use permit for the temporary dwelling is extended as set forth in subsection a(5) of this section.

SECTION 46. Chapter 11 (Definition of Fire Hazard) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to read as follows:

WILDLAND FIRE HAZARD FUEL POTENTIAL			
Very High	High	Moderate	
Chaparral	North Coastal Scrub	Riparian Woodland	Beach-Dune
	Foothill Woodland	North Coastal Grassland	Coastal Sand-plains
	Juniper/Oak Woodland	Evergreen Forest	Saline Plains
		Interior Herbaceous	Coastal Salt Marsh
		Desert Scrub	Freshwater Marsh

SECTION 47. That the Board of Supervisors has considered the initial study prepared and conducted with respect to the matter described above. The Board of Supervisors has, as a result of its consideration, and the evidence presented at the hearings on said matter, determined that the proposed negative declaration as heretofore prepared and filed as a result of the said initial study, is appropriate, and has been prepared and is hereby approved in accordance with the California Environmental Quality Act and the County's regulations implementing said Act. The Board of Supervisors, in adopting this ordinance, has taken into account and reviewed and considered the information contained in the negative declaration approved for this project and all comments that were received during the public hearing process. On the basis of the Initial Study and any comments received, there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment.

SECTION 48. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 49. This ordinance shall become operative only upon approval without any modifications by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 50. This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 6th day of May, 2003, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 20th day of May, 2003, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: _____

EXHIBIT G010003L:B

ORDINANCE NO. 2995

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, THE
COASTAL ZONE LAND USE ORDINANCE, BY AMENDING SECTION 23.04.090 ET SEQ
RELATING TO AFFORDABLE HOUSING

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 23.04.090a of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.04.090 - Affordable Housing Density Bonus: Within the Residential Single-Family and Residential Multi-Family land use categories, an applicant may request a density bonus and other incentives in return for agreeing to construct and sell or rent affordable housing pursuant to Government Code Section 65915, as provided in this section. Such housing developments may include: vacant subdivided lots for sale; lots developed with single-family dwellings; or, where allowed, lots developed with multi-family units. However, the affordable housing units required under this section must consist of completed single-family or multi-family dwellings. Standards for maximum rents, sales prices and long-term affordability of the designated affordable housing units provided pursuant to this section are contained in Section 23.04.094 of this title. The purpose of this section is to make the provision of affordable housing more attractive to the private developer while retaining good design and neighborhood character.

- a. Permit requirement: A project proposing an affordable housing density bonus shall be subject to Development Plan approval as set forth in Section 23.02.034 (Development Plan), except that:
 - (1) The purpose of the Development Plan review shall be to evaluate the entire project with respect to its compliance with the provisions of this section and Section 23.04.094, and with the findings specified by Section 23.02.034c(4).
 - (2) The Development Plan approval process in this case does not include the discretion to limit or disallow the development bonus provided by this section, but does include the authority to approve or disapprove the overall project, or to approve the project subject to conditions that do not affect the development bonus.

SECTION 2: Section 23.04.090c introduction paragraph of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

- c. Eligibility for bonus and allowable density including bonus: A proposed residential project must satisfy the following standards in order to qualify for a density bonus pursuant to this section:

SECTION 3: Section 23.04.090c(6)(ii) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

- (ii) A reduction in the open area required for cluster divisions under Section 23.04.036d of this title pursuant to Subsection g(8) of this section;

SECTION 4: Section 23.04.090e of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

e. Determining allowable density with bonus:

- (1) Residential Single-Family land use category: The maximum allowable density is determined by multiplying the base density as determined under Subsection b of this section by a factor of 1.35 if the affordable housing units are proposed to be provided on the site proposed to receive a density bonus, or a factor of 1.30 if the affordable housing units are proposed to be provided on a site separate from that proposed to receive a density bonus. The minimum parcel size permitted under Section 23.04.028 of this title in the Residential Single-Family land use category may be decreased by the same percentage factor that is used to increase the number of housing units. However, where an applicant has requested only a 25 percent increase in density, and no other incentives or concessions will be granted by the county, the minimum parcel size permitted under Section 23.04.028 may be decreased by only 25 percent. Where a proposed project may otherwise qualify for other density bonuses in addition to the provisions of this section (e.g. through the cluster division provisions of Section 23.04.036 of this title) only one such bonus may be used.
- (2) Residential Multi-Family land use category: The maximum allowable density is determined by multiplying the base density as determined under Subsection b of this section by a factor of 1.35 if the affordable housing units are proposed to be provided on the site proposed to receive a density bonus, or a factor of 1.30 if the affordable housing units are proposed to be provided on a site separate from that proposed to receive a density bonus. The maximum floor area permitted under Section 23.04.084 of this title in the Residential Multi-Family land use category may be increased by the same percentage factor that is used to increase the number of housing units. However, where an applicant has requested only a 25 percent increase in density, and no other incentives or concessions will be granted by the county, the maximum floor area permitted under Section 23.04.084 can be increased by only 25 percent.

SECTION 5: Section 23.04.090g(7) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

- (7) Private open area: Each residential parcel shall include within its own boundaries a minimum of 10 percent, but no less than 400 square feet, of the total area of the parcel as usable private open area. Usable private open area is defined as an area within a residential parcel enclosed by walls or fences, not encumbered by structures, driveways, parking spaces or slopes greater than 15 percent, not less than 10 feet in

width, and visible and accessible from the kitchen, dining room or living room of the dwelling.

SECTION 6: Section 23.04.092 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.04.092 - Affordable Housing Required in the Coastal Zone: This section provides for the implementation of California Government Code Section 65590, which requires that housing opportunities in the Coastal Zone for persons and families of low or moderate income shall be protected, encouraged and where feasible, provided. It also recognizes that the provision of affordable housing may not be feasible in some developments.

a. **Applicability of standards:** The standards of this section apply only to the following types of projects located within the Coastal Zone:

- (1) New housing projects containing 11 or more dwelling units or parcels, created by a single developer. Such projects include multi-family rental or ownership units, single-family units where 11 or more units are proposed on a single building site or within a subdivision, or a subdivision of 11 or more residential lots for sale.
- (2) Demolition or conversion of one or more single-family dwellings, multi-family dwellings, mobilehomes, mobilehome lots in a mobilehome park, hotel or motel to condominium, cooperative or similar form of ownership, where the proposed demolition or conversion involves three or more dwelling units in one structure, or 11 or more dwelling units in two or more structures if any such units were occupied by persons or families of low or moderate income (as defined by California Health and Safety Code Section 50093) in the 12 months prior to filing the land use or division application for the project, except where demolition or conversion is to provide for a "coastal dependent" or "coastal related" use as defined in Section 23.11.030 of this title and Sections 30101 and 30101.3 of the California Public Resources Code.
- (3) Demolition or conversion of one or more single-family dwellings, multi-family dwellings, mobilehomes, mobilehome lots in a mobilehome park, hotel or motel to a non-residential use which is not "coastal dependent" as defined in Section 23.11.030 of this title and Section 30101 of the California Public Resources Code.

b. **Requirements applicable to proposed demolitions or conversions:**

- (1) **Demolition or conversion to non-residential use:** The demolition or conversion of any residential structure to a non-residential use as described in Subsection ~~a(1)~~ **a(3)** of this section shall not be authorized unless the Review Authority finds that any residential use at that site is no longer feasible, based on substantial evidence provided by the applicant. If the Review Authority makes this finding, and the proposed demolition or conversion involves three or more dwelling units in one structure or 11 or more dwelling units in two or more structures, and the proposed demolition or conversion is not to provide for a "coastal dependent" or "coastal related" use as defined in Section 23.11.030 of this title and Sections 30101 and 30101.3 of the California Public Resources Code, then affordable replacement units as defined in

Section 23.04.094 of this title shall be provided at a ratio of one affordable unit for each demolished or converted unit that currently houses or has housed a family of low or moderate income within 12 months prior to filing of the request for a demolition or conversion permit.

- (2) Demolition or conversion to condominium, cooperative or similar form of ownership: Replacement units affordable to persons and families of low or moderate income as defined in Section 23.04.094 of this title shall be provided at a ratio of one affordable unit for each demolished or converted unit that currently houses or has housed a family of low or moderate income within 12 months prior to filing of the request for a demolition or conversion permit.
- (3) Continued availability of affordable housing: Affordable replacement housing units provided under Subsection b(1) or b(2) of this section shall be subject to the long-term housing affordability provisions described in Section 23.04.094 for a minimum period of time equal to 30 years minus the number of years beyond 10 years that the structure proposed for conversion or demolition has existed, but in no case less than 10 years.

c. Requirements applicable to proposed new housing projects: The following standards apply to the types of projects described in Subsection a(1) of this section:

- (1) Amount of required affordable housing: Except as provided in Subsection c(2) of this section, 15 percent of the units will be provided as affordable housing for persons and families of low or moderate income as defined in Section 23.04.094. Provision of 15 percent of the project as affordable housing shall be presumed feasible unless the Review Authority finds that the project should not be reasonably expected to provide that level of affordable housing, as provided in Subsection c(2) of this section. Projects receiving a density bonus in return for agreeing to provide affordable housing for persons or families of very low-income or lower-income pursuant to Section 23.04.090 of this title are not required by this section to provide more affordable housing than is required to qualify for the density bonus.
- (2) Feasibility finding required for fewer affordable housing units: In order to approve a new housing project with fewer affordable housing units than otherwise provided by Subsection c(1) of this section, the Review Authority shall first find, based on substantial evidence provided by the applicant, that the level of affordable housing provided by the proposed project is all that may be feasibly accomplished in a successful manner within a reasonable period of time, taking into account the economic, environmental, social and technical factors affecting the project.
- (3) Continued availability of affordable housing: Affordable housing units provided under Subsection c(1) or c(2) of this section shall be subject to the long-term housing affordability provisions described in Section 23.04.094 for a period of 30 years.

d. Location and timing for provision of affordable units: New or replacement affordable housing units required by this section may be placed on the same site as the other new housing units or demolished or converted units, or at some other site in the same community, provided that all other requirements of this title allow for such development. The affordable housing units

must be completed, and their county construction permits finalized, before the construction permits for the market rate units shall be finalized by the county, except where the developer has posted a performance bond or entered into an alternative agreement ensuring provision of the affordable housing units, subject to approval by the Office of County Counsel and the Director of the County Department of Planning and Building. In any case, the period of time for provision of the new or replacement housing units required by this section shall not exceed that established by Section 65590 of the California Government Code.

SECTION 7: Section 23.04.094 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.04.094 - Housing Affordability Standards: The standards in this section apply to housing units designated as affordable units as specified in Section 23.04.090 of this title, by subsection 26.01.034b of the Growth Management Ordinance, Title 26 of the San Luis Obispo County Code, or by subsection 18.04.010a(1) of the Public Facilities Fee Ordinance, Title 18 of the San Luis Obispo County Code.

- a. Determination of initial affordable housing sales prices: The following procedure is designed to determine sales prices which will enable purchase of the affordable housing units by the targeted income group families without their monthly housing costs exceeding 30 percent of their gross incomes.
 - (1) First, find the applicable median income based on the family size. This information is published in Section 6932 of Title 25 of the California Code of Regulations. Both the family size and the size of the housing unit shall be used to determine the affordable housing sales price, as follows:
 - (i) Studio: use the median income for a one-person family.
 - (ii) One-bedroom unit: use the median income for a two-person family.
 - (iii) Two-bedroom unit: use the median income for a three-person family.
 - (iv) Three-bedroom unit: use the median income for a five-person family.
 - (v) Four bedroom unit: use the median income for a six-person family.
 - (2) Next, determine the annual percentage rate of mortgage financing, amortized over thirty years, by adding 2.5 points to the 11th District Cost of Funds as currently published by the Federal Home Loan Bank Board at the time of building permit issuance. An interest rate based on alternative mortgage financing committed to the project may be approved by the Director of the Planning and Building Department, provided there are no balloon payments scheduled before the end of the term, the term is at least 30 years, any deferred-payment loans do not carry interest rates greater than 3 percent simple interest per annum, and there will be no negative amortization. (Repayment requirements upon resale or refinancing do not constitute scheduled balloon payments for purposes of this section).

- (3) Determine the affordable sales price. The median income determined under Subsection a(1) of this section shall be multiplied by the affordable sales price factor in the following table. Use the mortgage financing rate determined under Subsection a(2) of this section to calculate the maximum allowable initial selling price for the designated income or senior age group:

AFFORDABLE SALES PRICE FACTOR

Mortgage Interest Rate	Very Low-Income	Lower-Income	Low or Moderate-Income
1.0	3.14	4.80	7.46
1.5	2.93	4.47	6.96
2.0	2.73	4.18	6.49
2.5	2.56	4.11	6.07
3.0	2.40	3.66	5.69
3.5	2.25	3.44	5.34
4.0	2.12	3.23	5.02
4.5	1.99	3.05	4.73
5.0	1.88	2.87	4.47
5.5	1.78	2.72	4.22
6.0	1.68	2.58	4.00
6.5	1.60	2.44	3.79
7.0	1.52	2.32	3.60
7.5	1.44	2.21	3.43
8.0	1.38	2.10	3.27

Mortgage Interest Rate	Very Low-Income	Lower-Income	Low or Moderate-Income
8.5	1.31	2.01	3.12
9.0	1.26	1.92	2.98
9.5	1.20	1.84	2.85
10.0	1.15	1.76	2.73
10.5	1.11	1.69	2.62
11.0	1.06	1.62	2.52
11.5	1.02	1.56	2.42
12.0	0.98	1.50	2.33
12.5	0.94	1.44	2.25
13.0	0.91	1.39	2.17
13.5	0.88	1.34	2.09
14.0	0.85	1.30	2.02
14.5	0.82	1.26	1.96
15.0	0.80	1.22	1.89
15.5	0.77	1.18	1.84

- (4) Exception to initial affordable housing sales price limit: The initial sales price limits established by this section shall not apply to housing units purchased with mortgage financing provided through the federal Rural Housing Service Section 502 program.

b. Non-Sales: In cases where no sale will occur, such as when an owner-builder is involved (a landowner who wishes to construct his primary residence on his own property), the sales price that would apply pursuant to Subsection a of this section shall be used in meeting the long-term housing affordability provisions of Subsection d(1) of this section.

c. Rental units: Rent levels of the affordable units, including allowances for the costs of utilities as determined by the Housing Authority of the City of San Luis Obispo, are not to exceed the following:

- (1) Very low-income units: 30 percent of 50 percent of the median family income as determined under Subsection a.(1) of this section.

- (2) Lower-income units: 30 percent of 60 percent of the median family income as determined under Subsection a.(1) of this section.
- (3) Low or moderate-income units: the current Fair Market Rents established by the Department of Housing and Urban Development's Housing Assistance Payment Program (Section 8) or any superseding governmental program.

d. Continued availability of affordable housing: Once a density bonus as described in Section 23.04.090 of this title, or an exemption from growth management provisions under Subsection 26.01.034b of the Growth Management Ordinance, Title 26 of the San Luis Obispo County Code, or a deferment of the public facilities fee as described in subsection 18.04.010a(1) of the Public Facilities Fee Ordinance, Title 18 of the San Luis Obispo County Code, is granted in return for a commitment to provide affordable housing, such affordable units shall continue to be reserved as affordable housing as determined by this section for a period of 30 years, or for a period of time as defined in Section 23.04.090 or 23.04.092 of this title or subsection 26.01.034b of Title 26 of the County Code, as follows:

- (1) For sale units: Prior to issuance of any project construction permits the property owner and the County shall enter into and record a Construction Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). When a designated affordable housing unit is first sold to an eligible buyer, or when the owner-builder of a designated affordable housing unit requests final permit approval for occupancy of his residence, the buyer and county or the owner-builder and county shall enter into an Affordable Housing Agreement which shall be recorded as an encumbrance on the property, and secured by a recorded deed of trust. The said Affordable Housing Agreement shall supercede the Construction Agreement. The said Agreement and deed of trust shall establish the monetary difference between the initial purchase price and the initial appraised value as a loan payable to the county. Said loan shall accrue interest at a rate equal to 4.5 points added to the 11th District Cost of Funds as currently published by the Federal Home Loan Bank Board, amortized over 30 years, and the monthly payments of principal and interest shall be waived by the county as long as the owner who was previously approved by the county as an eligible buyer or as an owner-builder continues to own and reside in the property subject to the county loan as his or her principal residence, and also continues to be a legal resident of the County of San Luis Obispo. The County shall have a right of first refusal to purchase the property at current appraised value. The consideration for the County's right of first refusal shall consist of 1 percent of the remaining county loan balance. The balance of the County loan remaining after deducting this 1 percent of the loan balance shall be credited toward the purchase price if the County chooses to exercise the purchase option. The provisions of this section shall not impair the rights of a first mortgage lender secured by a recorded deed of trust. The purchase money lender(s) shall have a higher priority than the county's loan. The county's security shall be prioritized as a second mortgage. This first priority applies the purchase money lender's assignee or successor in interest, to:

- (i) Foreclose on the subject property pursuant to the remedies permitted by law and written in a recorded contract or deed of trust; or

- (ii) Accept a deed of trust or assignment to the extent of the value of the unpaid first mortgage to the current market value in lieu of foreclosure in the event of default by a trustor; or
- (iii) Sell the property to any person at a fair market value price subsequent to exercising its rights under the deed of trust. Any value in excess of the unpaid mortgage and costs of sale administration shall be used to satisfy the county loan. In no case may a first mortgage lender, exercising foreclosure assignment in-lieu of foreclosure or sale, obtain value or rights to value greater than the value of the outstanding indebtedness on the first mortgage at the time of the debt clearing action.

In addition, the following types of transfers shall remain subject to the requirements of the county's loan and right of first refusal: transfer by gift, devise, or inheritance to the owner's spouse; transfer to a surviving joint tenant; transfer to a spouse as part of divorce or dissolution proceedings; or acquisition in conjunction with a marriage.

- (2) Rental units: Rent levels shall be based on the same criteria as those used to compute the original rent ceiling in subsection c of this section. Such rent levels will be enforced through the Review Authority imposing applicable conditions at the time of land use permit or subdivision approval for the project, and by recorded deed restriction on each affordable unit.
- (3) Exception to resale restrictions: At the time of sale to a qualified buyer or at the time of occupancy by an owner-builder, if the fair market value of any designated affordable housing units is equivalent to the affordable sales price determined above, no affordable housing agreement shall be required. Additionally, no affordable housing agreement shall be required for housing units purchased with mortgage financing provided through the federal Rural Housing Service Section 502 program.

SECTION 8. That the activity is covered by a general rule exemption (State CEQA Guidelines section 15061(b)(3)) from the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 9. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 10. This ordinance shall become operative only upon approval without any modifications by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 11: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 25th day of March, 2003, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 8th day of April, 2003, by the following roll call vote, to wit:

AYES: Supervisors Harry L. Ovitt, Shirley Bianchi, Peg Pinard, K.H. "Katcho" Achadjian, and Chairperson Michael P. Ryan

NOES: None

ABSENT: None

ABSTAINING: None

Michael P. Ryan

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

Julie L. Rodewald
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

BY: CHESIE AISPURO Deputy Clerk

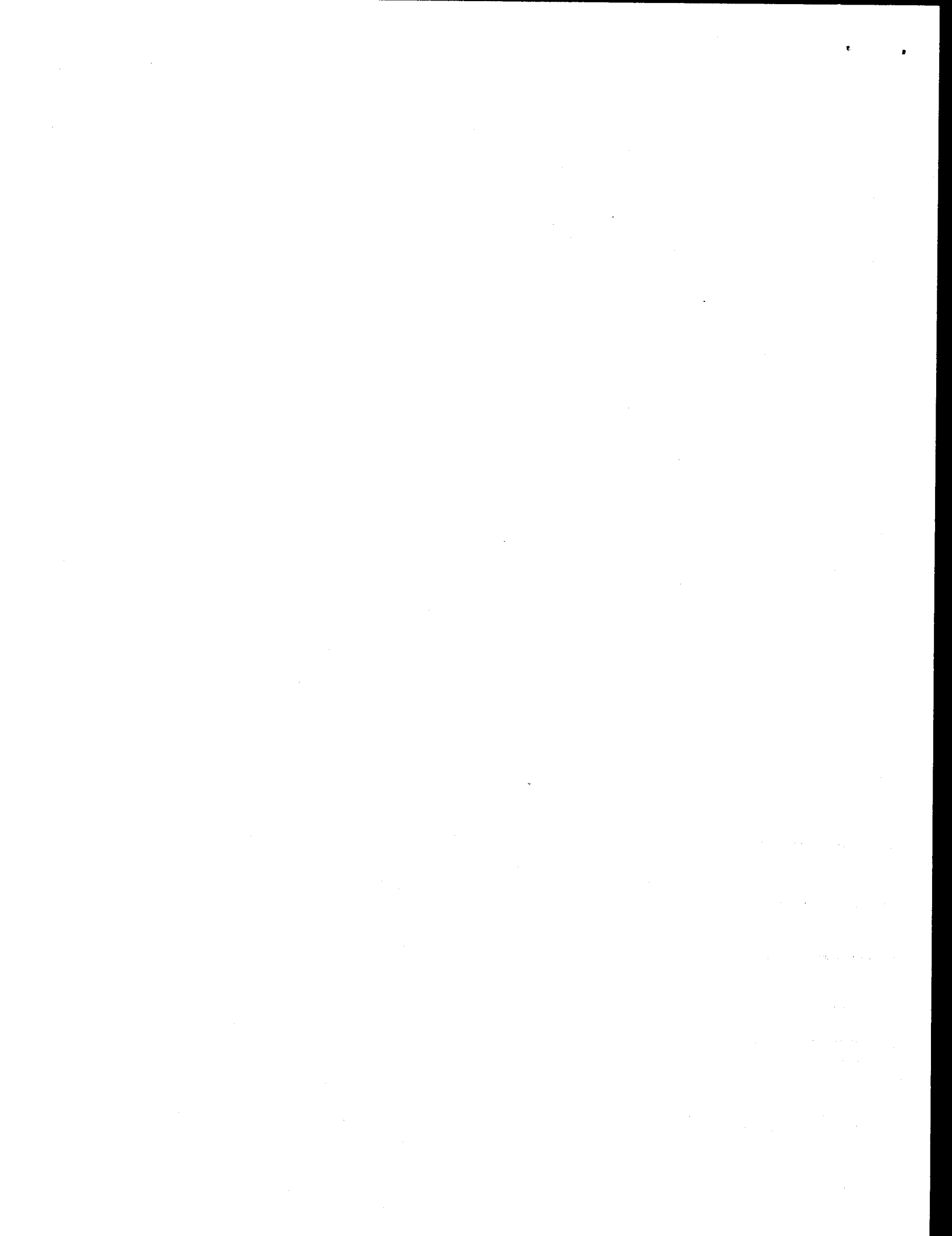
[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

JAMES B. LINDHOLM, JR.
County Counsel

By: 
Deputy County Counsel

Dated: March 14, 2003



CALIFORNIA COASTAL COMMISSION

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



February 2, 2001

(As revised to incorporate errata/clarifications of the July 12, 2001 action)

TO: COMMISSIONERS AND INTERESTED PERSONS

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

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

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

LCP PERIODIC REVIEW & THE PARTNERSHIP WITH LOCAL GOVERNMENT

The Commission's partnership with local government is the cornerstone of coastal management in California. Under the Coastal Act, counties and cities are responsible for achieving statewide coastal resource protection goals through the implementation of Local Coastal Programs (LCPs). Working with local governments, the Commission initially assures that the goals of the Coastal Act are integrated into these LCPs, and that they contain policies and procedures adequate to protect coastal resources of local and statewide importance. But once an LCP is certified by the Commission, local governments assume the principal responsibility for issuing coastal development permits. Local governments such as San Luis Obispo County also become the custodians of their LCPs, and play a vital role in keeping these plans current and responsive to

EX-1

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 1 of 73

environmental and social change. Since certification of its LCP in 1988, San Luis Obispo County has amended its LCP 26 times. Of course, many of these were piecemeal changes to the LCP, highlighting the need for comprehensive updates. Most recently, the County and its Advisory Councils have been developing comprehensive planning updates for the sensitive North Coast and Estero coastal areas. Overall, since LCP certification the County has been working on a variety of fronts, along with an informed and active citizenry, to respond to the complex and dynamic challenges of coastal resource protection through local implementation.

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

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

This is why Coastal Act section 30519.5 requires that the Commission periodically review the implementation of certified Local Coastal Programs. Regrettably, few periodic reviews have been completed thus far by the Commission, mostly due to the lack of resources needed to undertake these comprehensive planning evaluations. But increased funding has become available in recent years, and the Commission is committed to a strategy for systematically reviewing LCP implementation based on identified priorities for coastal resource protection in California. In December of 1998, the Commission identified San Luis Obispo County as its top priority for Periodic Review. In making this decision, the Commission recognized the extreme sensitivity and statewide significance of coastal resources in San Luis Obispo, as well as the tremendous growth pressures in this county located mid-way between the metropolitan regions

EX-2

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 2 of 73

of San Francisco and Los Angeles. In addition, the Land Use Plan of the County's LCP, which contains the core coastal protection policies for San Luis Obispo, was approved by the Commission in 1983, nearly 20 years ago. The County has been issuing coastal development permits for just under 13 years (since final LCP certification in 1988), without a comprehensive evaluation from the Commission.

As summarized below, much has changed since the 1988. Over the last 13 years the County has made great strides in protecting coastal resources. But there are also many areas where the LCP should be strengthened, and where daily implementation can be improved, to respond to changing circumstances and new knowledge about effective coastal resource protection. Under section 30519.5, if the commission determines that a certified local coastal program is not being carried out in conformance with any policy of the Act, the Commission submits to the local government recommendations for corrective actions that should be taken. These actions can include suggested amendments to the LCP as well as intergovernmental coordination measures or actions by other state and local government agencies to improve implementation of the LCP.

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

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

As shown Appendix E, Commission staff has been engaged in a productive dialogue with the County and local Advisory Council on the Estero Plan Update, which has produced substantial comments and responses to guide future policy development. Commission staff has also

EX-3

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 3 of 73

commented on the new North Coast Area Plan Project Description and the Draft Cambria Design Plan. The NCAP Project Description circulated by the County in fact reflects many of the modifications that the Commission suggested in its 1998 action on the North Coast Area Plan LCP Amendment submitted by the County. Although the modified amendment ultimately was not accepted by the County, significant discussions occurred at the staff level after this action in an effort to maximize opportunities to identify mutually-agreeable updates to the LCP. Commission staff also worked closely with the County for more than six months on the Avila Beach Specific Plan LCP Amendment in order to achieve certification of this important update to the LCP. This update was certified by the Commission in November 2000 and elements of that Plan are reflected in the Review.

Throughout the past year, every effort has been made to integrate these parallel planning efforts with the Periodic Review. Much more detailed analysis and discussion of particular proposed Area Plan changes remains to be done. Still, there is no doubt that the Periodic Review has been significantly informed by these other planning efforts and, alternatively, that the work of the Review has helped shaped the Commission staff feedback to the County. Over the next several months, Commission staff will be coordinating with the County, local Advisory Councils, community service districts and other members of the public to develop a final set of Periodic Review recommendations for Commission consideration, tentatively set for the Commission's May, 2001 meeting in Santa Cruz.

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

CHANGES SINCE LCP CERTIFICATION

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

EX-4

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 4 of 73

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

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

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

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

Resource Changes

- The listing of several endangered species, including the steelhead trout, red-legged frog, the western snowy plover, the morro shoulderband snail, and morro manzanita and four other plants endemic to Los Osos.
- The emergence of Pitch Canker Disease as a significant threat to the pine forest in and around Cambria.
- Emergence of significant new breeding colonies of elephant seals at Piedras Blancas in the early 1990s.

EX-5

- Increasing purchase of remote coastal ranchlands for the development of "Statement Homes".
- Designation of the San Simeon fault as an active fault by the State Geologist.
- Emergence of MTBE pollution as a major groundwater quality concern.
- Increases in tourism and shoreline recreation; increased popularity of recreational boating, hiking, mountain biking and other forms of outdoor coastal recreation.
- Significant flood events in Cambria.
- Greater than a 100% increase in visitor-serving accommodations on the North Coast.
- Increased shoreline erosion.
- Designation of California Coastal Trail from Oregon to Mexico as the National Millennium Trail for the State.
- Designation of Route One as a Scenic Highway.
- Significant impacts from oil and gas contamination in Avila Beach and Guadalupe Dunes.

New Resource Programs

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

Improved Resource Management Knowledge

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

Legal Changes

- Significant changes in 5th amendment Takings jurisprudence

EX-6

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 6 of 73

➤ *Adoption of a new California Nonpoint Source Pollution Control Program*

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

COASTAL MANAGEMENT ACHIEVEMENTS IN SAN LUIS OBISPO

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

- **Property and conservation easement acquisitions** have occurred, including at the East-West Ranch, Sur Sur Ranch/Forest Service, Williams/TPL, CT Ranch/TNC sites and the Estero Bluffs, Morro Palisades and Powell Property. Conservation easements also have been negotiated for 5.7 miles of coastline between Montana de Oro and Avila Beach and for the 3,000 acre Guadalupe oilfield and the Guadalupe Nipomo Dunes National Wildlife area was established.
- **County Acceptance of Public Access OTDs.** The County has picked up many outstanding offers to dedicate public access throughout its coastal zone.
- **Agricultural land preserves** under Williamson Act contracts have increased countywide and more than 7,000 new acres of land have come under contracts in the coastal zone.
- **Funding and studies for Erosion Control and Forest Management**, including development of a targeted erosion control program in Lodge Hill of Cambria.
- **Remediation for Avila Beach and Guadalupe Oil Spills** has been undertaken with over \$60 million in mitigation implemented.

EX-7

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 7 of 73

- **Ongoing coastal planning** has been undertaken. Specific Plans have been developed in Avila Beach, and are being developed for Oceano and the Morros. Substantial LCP enhancements for the North Coast and Estero planning areas are proposed, including a critical viewshed policy for the North Coast, and a comprehensive habitat conservation program for Los Osos; and Design Plans are being developed in Cambria.
- **Public participation** has increased through the establishment and staffing of formal Coastal Community Advisory Councils and the development of materials to facilitate public involvement in coastal planning and management.
- **Substantial funding for coastal resource protection and enhancement projects** has been assured through Coastal Resource Grant Programs and through major project mitigation.

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

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

SUMMARY OF PRELIMINARY REPORT

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

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

The Coastal Act envisioned a planning and regulatory program built on public participation and ongoing coordination between coastal management staffs at the local and state level. However, staffing constraints faced by both the County and the Commission has made coordination between the agencies and the interested public more difficult. The review of the County's LCP indicates that in many cases, the standards of the certified LCP are structured in conformance with the Coastal Act. Nevertheless, implementation issues arise when there are differences in

EX-8

policy interpretations, problems in notification, and inadequate or unclear analyses and permit findings. Better coordination early in the permitting process may help reduce appeals from County actions and improve ongoing decision-making. Similarly, clarification of noticing requirements and other implementation procedures, as suggested in Chapter 12, will enhance the efficiency and effectiveness of the development review process as well as maximize opportunities for public participation. Given limited staff resources, the County, Commission and the community should work to identify alternative ways to improve monitoring and exchange of information, and to perfect LCP implementation procedures.

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

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

In addition, urban development is being authorized without adequate public services. The total projected buildout will create deficits over the sustainable yield of available water supplies in San Simeon Acres, Cambria, Cayucos, and Los Osos. While the County has taken some positive steps, such as retiring development potential of close to 300 lots through a TDC program in Cambria and implementation of retrofit programs, the projected buildout will create substantial deficits in available capacity of services. Immediate short-run strategies are needed in Cambria to avert damage to groundwater basins and sensitive habitats. Serious longrun strategies are needed to address the problem of too many small lots in Cambria.

Preliminary Alternatives:

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

Urban Areas

- Strengthen the implementation Resource Management System (RMS) to assure more proactive resource management in urban areas with inadequate public services.

EX-9

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 9 of 73

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

Rural Areas (see also, Agriculture below)

- Minimize expansion of development nodes in the rural North Coast by rezoning viable grazing lands currently zoned for recreation back to Agriculture. Limit new visitor serving development to existing commercial nodes at San Simeon Village and San Simeon Acres.
- Apply resource protection policies more strictly to lot-line adjustments in rural lands and amend current lot line adjustment review criteria. Evaluate options for new lot-line adjustment policies to protect agricultural land, and methods for processing non-conforming parcels.
- Update the LCP to address large residential developments in rural areas, including assuring viewshed protection, addressing water impacts, and limiting the impacts of non-agriculturally related residential development on agricultural lands and operations.
- Establish a watershed/basin management program and additional requirements for minimizing water use.

EX-10

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 10 of 73

- Expand the RMS to require resource capacity studies in rural lands.

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

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

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

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

Preliminary Alternatives:

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

- Expand the LCP Watershed Chapter to include a comprehensive Water Quality Component. Incorporate the management measures of the *Plan for California's Nonpoint Source Pollution Control Program* into the LCP with amendments to the policies and ordinances, and through implementation of a variety of non-regulatory and educational programs.
- Develop watershed plans for each water basin and/or planning area to address cumulative nonpoint source pollution.

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

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

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

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

EX-12

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 12 of 73

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

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

Preliminary Alternatives:

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

- Develop a new LCP policy and ordinance to strengthen review of lot-line adjustments for conformance with the resource protection policies of the LCP.
- Evaluate policy alternatives to prohibit lot-line adjustments from increasing the number of developable parcels.
- Establish criteria regarding lot-line adjustments on existing non-conforming lots in agricultural lands so that lot-line adjustments are approved only if they maintain or enhance agricultural viability.
- Explore adopting a merger ordinance for non-conforming Agricultural parcels, as provided in the Subdivision Map Act.
- Pursue policies and programs to address the issuance of Certificates of Compliance and Conditional Certificates of Compliance.
- Require any other proposed development that would convert agricultural land to other non-agricultural uses to conduct an agricultural viability analysis.
- Update the existing LCP ordinance that outlines the required components of viability reports to ensure that agricultural viability is adequately assessed.
- Further restrict the non-agricultural uses allowed on agricultural lands.
- Develop LCP standards for large residential developments on Agricultural Land.

EX-13

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 13 of 73

- Evaluate Table O for revisions to address non-agricultural uses and to clarify conditional uses on agricultural land. For example, consider defining residences that are not developed in direct support of bonafide agricultural operation to be a conditional, supplemental use. Require agricultural protection easements on the parcel in conjunction with residential development.
- Modify agricultural exemptions to require coastal development permits for changes in the intensity of use of agricultural lands that result in grading and landform alteration, alteration of drainage and runoff or increased sedimentation, impacts to environmentally sensitive habitat area, or grading within 100 feet of a stream or waterbody.
- Enhance LCP standards to improve protection of coastal resources by: (1) limiting new or expanded crop production to slopes of less than 30%; (2) incorporating erosion control measures; (3) incorporating cover crops into vineyards and hedgerows, which increase the habitat and reduce erosion potential; (4) maintaining oak trees and protecting ESHA, and planting vines away from oaks; (5) reducing the use of fumigants, pesticides, and fertilizers; and (6) assuring wildlife travel corridors through limitations on fencing or other mechanisms. These revisions may be authorized under a combination of general planning law and the Coastal Act.
- Strengthen implementation of existing LCP water management requirements.
- Develop LCP policies and standards to address potential conversion of rural grazing landscapes to intensive crop production that would impact scenic vistas, alter watersheds, and adversely impact habitat values.

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

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

However, in many other cases, important public viewsheds have been degraded since certification of the LCP and will continue to suffer the cumulative impacts of new development under the current practices of development approval. Inadequate regulatory control over siting

EX-14

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 14 of 73

and design of new development, over-dependence on vegetative screening to mitigate substantial visual impacts, lack of enforcement of permit conditions, missed opportunities to eliminate non-conforming uses, and a development in critical viewsheds are all contributing to an erosion of irreplaceable visual resources. Impacts of cellular towers and fiber optic cables are an emerging trend that needs to be addressed. In the Harmony Coast area and in Cambria, the cumulative impacts resulting from the buildout of existing lots could significantly affect the visual resources and community character.

Preliminary Alternatives:

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

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

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

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

EX-15

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 15 of 73

- Incomplete maps of sensitive habitats have been relied upon to identify and protect ESHA;
- Project alternatives that avoid impacts to ESHA have not been adequately pursued;
- Mitigation requirements have not effectively offset impacts to ESHA;
- "Takings" concerns have unnecessarily compromised effective ESHA protection; and,
- The absence of comprehensive habitat protection and management plans for the Los Osos and Cambria areas has interfered with the effective protection of sensitive Monterey pine forest, coastal scrub, and maritime chaparral ecosystems.

Preliminary Alternatives:

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

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

EX-16

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 16 of 73

- Revise Table O to clarify that resource dependent uses are the only allowed uses within an ESHA or setback, and to acknowledge the restrictions on development in or adjacent to ESHA.
- Stringently enforce the LCP's prohibition of subdivisions that create new building sites in ESHA, and revise LCP provisions regarding clustered subdivisions so that all land divisions are effectively set back from, and protective of, ESHA.
- Update SRA standards to require that *all* development concentrate proposed uses in least sensitive portions of properties (not just development that triggers development plan review).
- Require all parcels that are geographically contiguous, and under common ownership, to be addressed by an overall development plan where development of any one of these parcels may pose impacts to ESHA.
- Analyze economic backed expectations where ESHA impacts cannot be avoided and where non-resource dependent development may need to be accommodated in order to prevent a taking. Restrict such development to the minimum necessary to avoid a taking of private property while maximizing consistency with the LCP.
- Establish maximum disturbance envelopes for new development in sensitive areas.
- Specify minimum mitigation requirements for unavoidable impacts, including monitoring and maintenance provisions adequate to ensure mitigation effectiveness or corrective action.
- Improve implementation of ESHA setback standards, evaluate effectiveness of current setback standards, and require 100 foot setbacks wherever possible (including in urban areas).
- Limit the use of variances so they do not result in adverse impacts to ESHA.
- Modify existing policies and ordinances to further restrict and avoid streambed alterations and to minimize their adverse impacts.

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

The County has accepted numerous outstanding Offers to Dedicate Public Access (OTDs), mostly for lateral access along the shoreline. Since certification, the County has required additional access mitigation - 60 lateral shoreline easements, five vertical shoreline easements

EX-17

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 17 of 73

and five trail easements - primarily in Cambria, Cayucos, and Los Osos. However, these required easements represent only about 37% of the cases where the County has authorized development along the shoreline. In some cases the County actions requiring access OTDs appear to conflict with the intent of the LCP policies by including limitations in the condition language that do not assure that the access will be provided. In some cases, access requirements site easements in a way that will not assure maximum public access.

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

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

Preliminary Alternatives:

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

- Continue efforts to complete an updated Comprehensive Access Component to include: a complete inventory of existing and potential access, including an analysis to document informal use and potential prescriptive rights; strategies for increasing public acquisition of areas; identification of areas where lateral access should be expanded to include blufftop access; and management of passive recreation in sensitive rural areas.
- Update the LCP to improve the siting of access dedications, including the use of blufftop trails.
- Continue efforts to accept any remaining outstanding OTDs and amend the LCP to allow for direct dedication of public access easements to the County.
- Develop a mechanism to address future quiet title actions and ensure the protection of public access opportunities.
- Analyze the long-term supply and demand for low-cost visitor serving recreation, and evaluate the need to further provide for such uses through LCP amendments.

EX-18

- Continue to work with other resource agencies to develop strategies to manage sensitive habitats in recreation areas. Policies should assure that where the Coastal Trail is on a beach that is seasonally occupied by sensitive species, a supplementary blufftop trail is provided. Include public access management and enhancement as a component of all habitat management planning and conservation plans.

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

Changes to LCP Hazards provisions and implementing procedures are needed to respond to the new information available regarding shoreline erosion hazards and the impacts that shoreline protection devices pose on coastal resources. Additional changes are needed to address the following issues that have been identified from a review of the approximately 56 permits for new or expanded shoreline armoring (mostly in Cayucos and Cambria) authorized by the Commission and the County since LCP certification: (1) implementation of existing setback policies has been insufficient to prevent additional shoreline armoring due to inadequate estimates of erosion rates; (2) accessory structures have been allowed in the setback areas; (3) approval of variances to setback standards in areas of high erosion hazard; and (4) an unrealistic estimated economic life of 75 years.

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

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

EX-19

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 19 of 73

Preliminary Alternatives:

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

- Modify policies to define “existing coastal development” as only the principle structure, and specify that armoring is not allowed for the sole purpose of protecting accessory structures. Strengthen setback policies to base required setbacks on a 100-year rather than a 75-year economic life of a structure. Re-examine the regional average erosion rates to estimate a minimum setback distance that better reflects current shoreline changes.
- Develop standards to prohibit new subdivisions, lot splits, or lot legalizations that create new lots in high wave hazard areas.
- Strengthen standards for new development on vacant lots subject to hazards, or for demolition and rebuilding of structures, to require that the applicant assumes the risk of building without assurances that future armoring will be allowed.
- Implement an area-wide shoreline erosion and bluff retreat management plan for Cayucos and Cambria. Identify specific types of armoring acceptable for specific areas, include procedures for evaluating alternatives. Also incorporate procedures to address emergency armoring, with provisions for coordinating for field inspection, guidance on types of temporary structures preferred, and requirements that emergency armoring be removed if a follow-up permit is not granted.
- Clarify policies that Highway 1 must comply with setback standards to be safe from erosion for 100 years, and pursue alternatives to armoring including relocation of the Highway where feasible and appropriate.
- Modify ordinances to require mapping of all public access easements and recorded OTDs.
- Update and expand requirements for geologic evaluation reports within the GSA combining designation.
- Update seismic mapping and expand the GSA designation to include new faults identified since certification. Require complete geologic investigation of these areas prior to approving new development.
- Expand the flood hazard designation.
- Develop and implement a flood analysis and management plan for West Village in Cambria.
- Prohibit the removal of vegetation on public lands to protect private development from fire hazards unless the impacts of such removal are appropriately mitigated.
- Resite existing structures outside of hazardous areas when proposed for redevelopment.
- Require reductions in building footprints where necessary to avoid erosion hazards.

EX-20

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 20 of 73

- Develop mitigation programs to pay for beach nourishment where shoreline protection devices may adversely affect beach sand supplies.
- Pursue acquisition of areas subject to high hazards.

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

- Update Archeological Resources Overlay Maps to reflect a more accurate location of archaeologically sensitive areas. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps.
- Pursue options to strengthen protection of archaeological resources including evaluating requirements for geoarchaeology surveys.

Energy and Industrial Development: *New issues since certification of the LCP include a significant increase in proposed fiber optic cables, wireless communication facilities¹, and the closure, or pending closure, of several energy facilities. The LCP should be updated to address these emerging issues.*

Preliminary Alternatives:

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

- Update LCP designations and policies to identify and establish cable corridors and consolidated landing sites.
- Expand LCP ordinances to require that fiber optic cable projects are installed with suitable mitigation measures such as drilling monitoring, erosion control, revegetation, public access mitigation and other measures necessary to protect all scenic resources and habitat values.

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

- Update LCP policies to address the abandonment and decommission of energy facilities and power plants. Incorporate more specific standards to address abandonment procedures, site remediation, and rezoning.

NEXT STEPS

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

EX-22

B. RECOMMENDATIONS FOR CORRECTIVE ACTION

New Development and Public Services

Recommendation 2.1: Improve Required Coastal Development Permit Findings for Service Extensions Beyond USL. Development proposals that require the extension of urban services across the USL should not be approved unless the required findings of Public Works Policy 1 and corresponding ordinances can be made. Amend Policy 1 by adding reference to CZLUO 23.04.430-432 as appropriate implementing ordinances. Add new implementing ordinance(s) to clarify required information and findings to support Public Works Policy 1.

Recommendation 2.2: Improve County/Commission Coordination. The County and the Commission should take full advantage of coordinated reviews of development proposals outside of the USL, particularly those that may create new urban development potential.

Recommendation 2.3: Clarify LCP Authority with respect to New Urban Development proposed outside USL. Amend LCP (Framework, Policies, Ordinances, Area Plans) as necessary to clarify where and under what circumstances the provision of urban services to new development outside of the USL is appropriate.

Recommendation 2.4: Reduce Development Potential on Urban Edges. Evaluate potential for reduction of development intensities on the perimeter of urban areas, including adjusting land use designations, allowable densities, relocating the USL/URL where appropriate, and evaluating consistency of such with Coastal Act section 30250.

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

Recommendation 2.6: Encourage Concentration of Development in Urban Areas. Amend the LCP to provide incentives for development, including broad redevelopment strategies, within the USL. For example, the County should consider developing planning and regulatory mechanisms to transfer development potential from outside the USL to inside the USL.

Recommendation 2.7: Strengthen Standards to address development potential on Non-conforming Lots. Amendment of current lot-line adjustments review criteria should be considered that would require adjustments to reasonably comply with all LCP Coastal Plan Policies and Ordinances within the constraints of Constitutional takings jurisprudence. See Agriculture Final Recommendation 5.4.

Recommendation 2.8: Evaluate Options for Processing Non-conforming lots in Single Ownership. The County and Commission should evaluate options available for processing non-conforming parcels in a common ownership, including identification of non-conforming parcels and options for lot merger, to maximize protection of agricultural lands. As part of this effort, the County and Commission should consider policy, ordinance, and program options, including those that would provide incentives to encourage voluntary merger of non-conforming parcels.

Recommendation 2.9: Update North Coast Area Plan to Protect Coastal Resources of the Hearst Ranch. Rezone Recreational lands on the Hearst Ranch to Agriculture, update combining designations, and establish LCP standards that require a Land Use Capacity Analysis prior to consideration of any development proposals and LCP amendments for non-agricultural development on the Hearst Ranch. The County should limit the location of such development to concentration in or immediately adjacent to San Simeon Acres if feasible or, if not feasible, to small-scale infill development within the commercial zoning of San Simeon Village. Other than these two locations, no new visitor-serving or other non-agricultural development should be allowed in the public viewshed except for underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events.

A Land Use Capacity Analysis should include at least the following: a comprehensive agricultural viability analysis for any areas proposed for non-agricultural development; a visitor-serving development supply and demand analysis; a comprehensive environmental constraints analysis, including evaluation of sensitive habitats, in-stream flow habitat values, water availability, groundwater basins, highway capacity, cultural resources, scenic resources, community character and hazardous areas. Specific performance standards that address the concerns raised by the Coastal Commission's 1998 NCAP Findings, such as required water monitoring and highway capacity limits, should be incorporated into the NCAP. Standards for protection of agricultural lands and mitigation of development impacts should be developed, including provision for agricultural conservation easements.

Recommendation 2.10: Require Resource Capacity Studies prior to Major Development Proposals. See Recommendation 2.9

Recommendation 2.11: Update LCP to address Large Residential Development. See Agriculture Recommendation 5.8.

Recommendation 2.12: Strengthen Implementation of the RMS System and ISCA. Implement Phase 2 of RMS contemplated in the Framework for Planning: establish an expanded RMS task force that includes Coastal Commission staff and other resource agencies; include CCC staff in review process for Resource Capacity Studies. The ISCA program currently in the LCP needs to be followed in evaluating new development proposals for Los Osos until such time as the Estero Area Plan is updated to address groundwater management issues and the protection of water supply for Agriculture in the Los Osos groundwater basin.

Recommendation 2.13: Address Cambria Short-term Development Constraints. Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal

development permits for new development that would require a new water connection or that would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSD on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.

Recommendation 2.14: Establish Watershed/Basin Management Programs. Establish Coordinated Resource Management Programs (CRMP) to promote watershed management, including resource identification and water quality monitoring, and to address competing rural and urban uses in North Coast and Estero Area groundwater basins. See also, Recommendation 3.7b.

Recommendation 2.15: Consider Additional Options for Water Conservation. Additional LCP policies and standards should be considered that would strengthen requirements for minimizing water use, such as xeriscaping and native drought-tolerant landscaping requirements.

Recommendation 2.16: Cambria Long-term development (Buildout Reduction). The LCP needs to be amended to address long-term development potential in Cambria. The County should work to expand the TDC program by identifying other sensitive areas that would benefit from transfer of potential development to more suitable locations. Expansion should include Special Project Area #2, as well as watershed areas, other scenic corridors and other small lot tracts in undeveloped areas that support significant coastal resources, particularly contiguous blocks of sensitive pine forest habitat. More aggressive policy options should be considered as well, including development of an Assessment District to retire lots/create open space and promote forest protection. Other mechanisms should be evaluated such as the ability to use mitigation fees or erosion control fees to address long-term buildout. Further attention could be focused on alternatives for reducing development potential on single and double lots and creating incentives for the minimum lot size of 7000 square feet. As part of this process, the County should establish a task force charged with identifying management options and strategies for reducing buildout in Cambria by a specific deadline.

Recommendation 2.17: Prohibit Creation of New Development Potential in Cambria and Los Osos. The County should consider prohibiting subdivisions that create new development potential in the communities of Cambria and Los Osos. Subdivisions that include no net gain in development potential (e.g. includes lot retirement) might be considered

Recommendation 2.18: Address Cumulative Impacts to Urban Design in Cambria. Through community planning and LCP amendments, cumulative impacts to urban design should be addressed, particularly concerning the potential role of TDC use. Consider standards to better address the amount of TDCs any one site can use based on the capability of the lot (size, slope, etc.) to handle the increase in square footage. Address minimum area of landscape that must be preserved, regardless of lot size; as well as a maximum footprint area.

Recommendation 2.19: Los Osos Short-term Development. Similar to Cambria, focused attention is needed on pending studies concerning the safe yield of the Los Osos groundwater basin and the role that a future wastewater treatment facility might play in determining this yield. The County should consider policies and standards to assure that new development that relies on the groundwater basin is not allowed until a safe-yield or alternative water source is determined. Policies and mechanisms to ensure basin-wide management of groundwater supplies should be considered.

Recommendation 2.20: Los Osos Long-term development. Amend Estero Area Plan, including changes to support a reduction in buildout, to reflect an updated Buildout analysis, preservation of groundwater basins, and sensitive habitat protection needs identified through the HCP. Options that build on the currently proposed TDC approach for habitat protection should be evaluated and incorporated into the LCP (see Chapter 4 ESHA).

Water Quality and Marine Resources

Recommendation 3-1: Modify and adopt the following policies and standards in the LCP.

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

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

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

- (i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.
- (ii) The applicant's plans for animal waste disposal, including plans showing measures to confine runoff, adequate capacity to allow for proper wastewater disposal, and measures to prevent seepage to groundwater.
- (iii)...

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

Similar requirements should be incorporated into CZLUO 23.08.052.

Recommendation 3-2: Deleted and replaced with 3-2 a-d.

Recommendation 3-2a: Add program to the LCP encouraging the County to continue supporting educational efforts to address resource impacts from agricultural activities. Efforts should include: a) reducing nonpoint source pollution, including sedimentation, from grazing and other agricultural practices; b) using BMPs and other management strategies to protect habitat areas; c) reducing the contamination of surface waters and groundwater from pesticides; d) reducing water quality degradation from nutrients; and e) reducing nonpoint source pollution caused by irrigation, by encouraging irrigation techniques that conserve water and retain water on-site. The County should use monitoring data and information from watershed planning efforts to target priority locations for educational efforts. In addition, the County should assess and document the effectiveness of educational efforts in preventing and/or minimizing nonpoint source pollution.

Recommendation 3-2b: Amend Ordinance 23.05.026 (d) to modify the exemptions granted from grading permit requirements for agricultural grading. The following grading activities could be exempt from requiring a grading permit, except when associated with grading for roadwork or pads for structures:

- grading of less than 50 cubic yards if Planning Director determines there are no potential impacts to coastal resources;
- tillage of existing agricultural fields;
- maintenance of existing agricultural roads, provided maintenance activities do not widen the road;
- grading further than 100 ft. from ESHA;
- grading which removes no significant trees;
- grading which removes ¼ acre or less of native vegetation,;
- grading on slopes under 30%, if designed per NRCS standards;
- grading performed under a program developed by NRCS or another appropriate agency, that has been reviewed and permitted as outlined in Recommendation 3-2d.

Recommendation 3-2c: Amend Ordinance 23.05.034(c) to allow grading for agricultural cultivation within 100 feet of an ESHA, consistent with the above exemption, if grading is designed to avoid adverse impacts to the ESHA, including preventing polluted runoff into coastal waters and preventing loss of habitat.

Recommendation 3-2d: Add program to Chapter 7 of the LCP (Agriculture) encouraging NRCS or other appropriate agencies to develop program(s) to implement BMPs for agricultural grading activities on agricultural lands. The programs must be certified as consistent with all LCP policies through one of the following mechanisms: a) County review and issuance of a master permit, b) through an LCP amendment, or c) through the Commission's federal consistency review process. Once the program is certified, implementation of specific projects under the program will be exempt from individual grading permits.

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

Recommendation 3-4: Expanding Erosion Control Studies. The County has targeted the Lodge Hill area to reduce erosion in the area and proposes to implement recommendations of a 1999 erosion control study. These recommendations generally focus on 1) paving roads, and 2) developing a comprehensive master plan for the community. The master plan should design for buildout of the community and incorporate the street drainage network into the plan. In general, implementing the study's recommendations could reduce erosion and sedimentation, and improve water quality in Lodge Hill. The comprehensive plan, though, should also address drainage issues from road paving, and should encourage infiltration of water and maintenance of the natural flow regime, to the extent feasible, by encouraging dispersal of sheet flow from roads into natural vegetated areas. The County should also incorporate measures to site development to retain forest cover.

Recommendation 3-5: Address Post-Construction Runoff. Incorporate into the planning process the following checklist of three questions, developed through the Model Urban Runoff Program, to help coastal planners identify and mitigate water quality impacts of proposed development (see Table 3-2, below).

Table 3-2: Water Quality Checklist

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

If the proposed project raises water quality issues based on the above questions, or other review, best management practices (BMPs) should be incorporated into the project design to address post-construction runoff.

Recommendation 3-6: Deleted and Replaced.

Recommendation 3-6a and Recommendation 3-11: Add policy or ordinance to prohibit subdivisions on slopes over 30%, where the subdivision would result in building pads, access roads, or driveways to be located on slopes over 30%, or where grading would result on slopes over 30%. For subdivision requests on slopes over 20%, the applicant should include the location of building pads and access roads, located to minimize erosion and sedimentation, and should require that development maintain pre-development flows by detaining stormwater flows on site.

Recommendation 3-6b and Recommendation 3-9: Modify criteria citing watercourses on USGS map. One requirement for sedimentation and erosion control plans is land disturbance activities that are "within 100 feet of a watercourse shown on current 7 ½ minute USGS quad map. Modify Section 23.05.036 of the CZLUO to include the following criteria for requiring a sedimentation and erosion control plan: where a) a watercourse supports fish, or b) has significant flow 30 days after last significant storm. References to watercourses throughout the LCP should include these criteria and meet the criteria under ESHA Recommendation 4.1.

Recommendation 3-6c and Recommendation 3-12: Deleted and replaced with the following: Modify the LCP grading and/or drainage ordinance (Sections 23.05.020 through 23.05.038 and/or 23.05.040 through 23.05.050) to require, as requirement for filing a plot plan, minor use permit, or development plan, a water quality control plan for all projects and activities which require land use permits or grading permits. Single family residences on slopes under 20% shall be exempt from this requirement if BMPs to assure the goals and objectives of the Modified Chapter 9 are included in the development plan and sized appropriately to ensure the protection of water quality and to meet the design goal criteria. The water quality plan shall:

- identify the type and size of BMPs necessary to maintain peak runoff rates and volumes similar to pre-development rates, and accommodate runoff from the 85th percentile storm runoffs;
- protect or restore natural drainage courses and where feasible use vegetated drainage systems to decrease erosion and filter nonpoint source pollution;
- minimize pollutant loads;
- limit impervious surfaces;
- require the long-term maintenance of BMPs to assure that standards are met.

Recommendation 3-6d and Recommendation 3-8: Deleted.

Recommendation 3-6e: To improve protection of water quality from residential septic systems, update Title 19 to include the following standards and requirements:

- Add as one of the criteria for siting that septic tank and leach field systems shall avoid poorly drained soils (Ordinance 19.20.222)

*Adopted Report
San Luis Obispo County LCP Periodic Review
July 12, 2001
As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

- Require inspection and maintenance reports to be submitted by the property owner and/or septic operator at least every three years. The first report should be submitted three years from the date of issuance of the building permit. The property owners and/or septic operators shall be responsible for proposing and undertaking all measures necessary to ensure the continuing proper operation and adequate capacity of the septic tank and leach line systems.
- Add the following setbacks to Ordinance 10.20.222 (c) (2):
 - Storm drainage pipes: 25 ft.
 - Escarpments: 25-50 ft.
 - Property Line: 5-10 ft.
 - Building foundations: 10-20 ft, or 30 ft when located upslope from a building in slowly permeable soils.
- Require that septic systems shall not adversely impact surface waters or cause the groundwater nitrate concentration to exceed 10.0 mg/l N or any such drinking water quality objectives established by the California Department of Health Services or Regional Water Quality Control Board, at any source of drinking water on the property nor on any off-site potential drinking water source. Where groundwater nitrate concentration may exceed the applicable water quality objective or where surface waters may be adversely affected from the septic systems, install denitrification system(s) to reduce total nitrogen loadings by 50%.

Recommendation 3-7a: Update Chapter 9 (Coastal Watersheds) of LCP to provide the framework for a comprehensive Watershed and Water Quality Protection component of the LCP. The chapter should include the following elements:

- a revised introduction to reflect the new knowledge and concern of nonpoint source pollution since 1988, including the recently adopted statewide nonpoint source pollution plan, which forms the basis for protection of water quality from nonpoint source pollution;
- a discussion of the need for watershed based policies and programs, including non-regulatory programs, to fully address water quality issues;
- updated goals and objectives for water quality protection (see following list of goals for guidance);
- modifications to existing policies and ordinances, as discussed in modified Recommendations 3-1 through 3-13;
- a program to encourage watershed planning (see discussion below);
- a program that requires the County to participate in water quality sampling and/or monitoring to measure water quality conditions and the effectiveness of management measures taken to reduce nonpoint source pollution.

As guidance for developing the LCP Watershed and Water Quality Component, the Commission suggests the following:

The chapter should include development of findings of fact, for the basis for specific policies, ordinances, and programs. These findings could be developed to include such provisions as the following:

The County finds that uncontrolled drainage and development of land has a significant adverse impact upon the health, safety and welfare of the community. More specifically,

- a) Nonpoint source runoff can carry pollutants into receiving water bodies, degrading water quality;
- b) The increase in nutrients such as phosphorus and nitrogen accelerates eutrophication of receiving waters, adversely affecting flora and fauna;
- c) Improperly channeling water may increase erosion or lead to excess sedimentation;
- d) Construction requiring the alteration of natural topography and removal of vegetation may increase erosion or lead to excess sedimentation;

SLO LCPA 1-03

Exhibit 2: Periodic Review Executive Summary and Final Recommendations

Page 30 of 73

- e) Excess sedimentation (siltation) of water bodies resulting from increased erosion decreases their capacity to hold and transport water, interferes with navigation, and harms flora and fauna;
- f) Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge;
- g) Improperly managed stormwater runoff can increase the incidence and extent of flooding, damaging habitat, as well as endangering property and human life;
- h) Improperly managed stormwater runoff can interfere with the maintenance of optimum salinity in estuarine areas, thereby disrupting biological productivity;
- i) Substantial economic losses result from these adverse impacts on community waters;
- j) Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

The chapter should include suggested goals and objectives. These goals and objectives could include such provisions as the following:

- a) To protect, restore, and maintain the chemical, physical and biological integrity of coastal waters;
- b) To minimize harm to the community by activities that adversely affect water resources;
- c) To encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
- d) To encourage the protection of natural systems and the use of them in ways that do not impair their beneficial functioning;
- e) To encourage the use of drainage systems that minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
- f) To minimize the transport of pollutants to coastal waters;
- g) To maintain or restore groundwater levels;
- h) To protect, maintain or restore natural salinity levels in estuarine areas;
- i) To minimize excess erosion and sedimentation;
- j) To prevent damage to wetlands;
- k) To prevent damage from flooding, while recognizing that natural fluctuations in water levels are beneficial; and
- l) To protect, restore, and maintain the habitat of fish and wildlife;

Included in the chapter should be policies such as the following:

- a) New development shall be designed to maintain predevelopment hydrological conditions to the maximum extent practicable.
- b) New development shall protect the absorptive, purifying, and retentive functions of natural systems that exist on a site, and shall, where possible, restore natural drainage systems.
- c) New development shall minimize pollutant loads.
- d) New development shall minimize impervious surfaces.

The chapter should also include standards and ordinance provisions to implement the policies. These standards could include such provisions as follows:

- a) New development shall implement Best Management Practices (BMPs) necessary to accommodate runoff from the 85th percentile storm runoffs as defined by the BMP Design Goal, and assure that development maintains peak runoff rates and volumes similar to pre-development rates.¹

¹ The BMP Design Goals is the size of a storm event that is used (along with other information) to determine the size of a structural BMP. Considering the long-run records of local storm events, the 85th percentile event would be larger than or equal to 85% of the storms. The 85th percentile storm can be determined by reviewing local precipitation data or relying on estimates by regulatory agencies. For example, the Los

- b) Development shall minimize site disturbance by clustering building site locations and placing roads along contours.
- c) To reduce impervious surfaces, permeable materials shall be used where possible for driveways and walkways. Walkways and driveways shall be limited to the smallest functional size.
- d) A water quality control plan shall be required for projects and activities that require land use permits or a grading permit. (See Recommendation 3-6c, Urban and Rural Development section.)

Recommendation 3-7b: The LCP should be updated to include a program to encourage watershed planning, including a finding that watershed planning is necessary to fully address water quality impacts inside the coastal zone. Watershed planning may require the participation and coordination of various agencies. Through this program, the County should facilitate watershed-planning efforts by:

- identifying priority watersheds or subwatersheds for watershed planning, consistent with criteria established for determining critical coastal areas. Priority areas should focus initially on watersheds with known water quality problems, or where development pressures are such that nonpoint source pollution can be anticipated to be a major concern;
- ensuring full public participation in the development of the plan;
- assessing land uses in the priority areas that degrade coastal water quality;
- pursuing funds to support the development of watershed plans; and
- participating in intergovernmental efforts for watershed planning.

General Components of a watershed plan (to guide implementation by many agencies) should include:

- Purpose and Objectives of the Plan;
- Description of approval process, including identification of participating stakeholders, and any required agreements or MOUs;
- Description of the Watershed, including description and data on such items as physical, hydrologic, climatic and natural resource features, land uses, types of land cover, water body use and classification, water body standards, natural and cultural resources, economic base, population demographics, farm demographics, governmental units;
- Resources Inventory
- Problem Identification, describing the specific water resource management problems including the sources and causes of impairment of point sources, nonpoint sources, physical and chemical pollutants, and problem or impediments;
- Problem Analysis, including an assessment of the cumulative impacts of development on water quality and hydrology in order to designate areas to further emphasize on site management of runoff;
- Alternative Management Strategies, including identifying specific measures to minimize the cumulative impact of new development on the watershed and avoiding the alteration of natural drainage patterns; using BMPs, proposed land use changes, structural solutions, and financial incentives; identifying which areas of the watershed which, if restored, could improve water quality; integrating agriculture management measures including developing watershed specific nutrient and pesticide management programs;
- Preparation of Draft Water Resources Management Plan;
- Monitoring and Evaluation Component to evaluate the effectiveness of BMPs used to control polluted runoff;
- Implementation Funding Strategy and Budget;
- Public Participation and Educational Strategy.

Angeles Regional Water Quality Control Board has determined that 0.75 inch is an adequate estimate of the 85th percentile, 24-hour storm event for typical municipal land uses within its jurisdiction.

Recommendations 3-8 through 3-12: Deleted and/or incorporated into above modified recommendations.

Recommendation 3-13: Deleted.

Recommendation 3-13a: For updated Harbor Plans, require an operation and maintenance component that addresses water quality protection. Update the LCP by adding policies and standards to implement effective runoff control strategies and pollution prevention activities, by requiring, where appropriate, the following best management measures:

- providing buildings and/or enclosed areas where possible for maintenance activities;
- constructing new or restore former wetlands where feasible and practical;
- requiring use of porous pavement where feasible;
- requiring installation of oil/grit separators to capture petroleum spills and coarse settlement;
- requiring use of catch basins where storm water flows to the marina basin in large pulses;
- requiring filters to storm drains that are located near work areas and placement of absorbents into drain inlets.

Where fuel stations are added or redesigned, require them to reduce pollution from discharges through measures:

- writing and implementing a fuel spill recovery plan;
- using automatic shutoffs on fuel lines and at hose nozzles to reduce fuel loss;
- installing personal watercraft floats at fuel docks to help drivers refuel without spilling;

To reduce contamination of surface waters, require, as appropriate:

- sewage pumpout, dump station, and restroom facilities, and require maintenance of facilities;
- establish no discharge zones to prevent sewage from entering waters.
- filter additions to storm drains that are located near work areas;
- removal of old style fuel nozzle triggers that are used to hold the nozzle open without being held;
- install fish-cleaning stations with appropriate sewer hookups at marinas and boat launch sites;
- require a management plan and appropriate facilities to store, transfer, and dispose of liquid materials;
- build curbs, berms, or other barriers around areas used for liquid material storage to contain spills;
- prepare a hazardous materials spill recovery plan and update it as needed.

Recommendation 3-13b: Add the following program to Chapter 5 of the LCP (Commercial and Recreational Boating): In partnership with Harbor Districts and other agencies, the County shall participate in, and encourage, efforts to educate boaters and boating facility operators to implement management measures to reduce water pollution from boating activities. To support public education programs, the County should encourage the development of programs that support the installation of infrastructure that will enable the public to implement appropriate BMPs.

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

As revised August 24, 2001 to incorporate changes from the addendum and hearing of July 12, 2001

Educational information could include the following:

- Management practices for maintenance activities which minimize in-water work, and encourage maintenance activities in enclosed buildings, within spray booths, or under tarp enclosures.
- The use of vacuum sanders to remove paint from boats and collect paint dust.
- The benefits of absorbents in drain inlets.
- The need to use chemical and filtration treatment systems only where necessary.
- The importance of using low-toxicity or non-toxic hull paints, antifreeze, and coolants, and recycling products when possible.

Infrastructure and facility modifications could include:

- Install easy-to-read signs on the fuel dock that explain proper fueling, spill prevention, and spill reporting procedures. Locate and design boat fueling stations so that spills can be contained, such as with a floating boom, and cleaned up easily.
- Place trash receptacles and recycling containers in convenient locations for marina patrons.
- Provide boaters with trash bags.
- Provide facilities that extract used oil from absorption pads if possible, or for the disposal of it in accordance with petroleum disposal guidelines.

Fueling Facilities and Operations could include:

- Have spill containment equipment storage, such as a locker attached to the fuel dock, easily accessible and clearly marked.
- Promote the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.
- Prohibit the use of detergents and emulsifiers on fuel spills.

Sewage Management modification could include:

- Provide sewage pumpout service at convenient times and at a reasonable cost.
- Provide portable toilet dump stations near small slips and launch ramps.
- Provide restrooms at all marinas and boat ramps.
- Establish practices and post signs to control pet waste problems.
- Establish no discharge zones to prevent sewage from entering waters.

Environmentally Sensitive Habitat Areas

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

- Revise definitions of SRA and ESHA contained in Section 23.11.030 so that they conform to the Coastal Act definition. Clarify that ESHA, and the application of ESHA protection standards, is not limited to the areas mapped as Combining Designations. As proposed on page 7-10 of the Estero Update, use the definition of "habitat for rare and endangered species" provided by the CEQA guidelines as an additional tool to define ESHA.
- Determine the presence of ESHA based on the best available information, including current field observation, biological reports, the National Diversity Database, and US Fish and

Wildlife Critical Habitat Designations and Recovery Programs. Where the available information indicates that an area may contain ESHA, but that area is not mapped as ESHA by the LCP, a Field Review Team comprised of County staff, project biologist(s), and representatives from involved wildlife agencies and organizations, shall conduct a Site Specific Constraints Analysis.

- As proposed by both the North Coast and Estero Updates, recognize all riparian habitats as ESHA regardless of whether they are mapped by USGS quadrangles.
- Replace the LCP's definition of streams, currently limited to streams shown by USGS maps, with an alternative definition, such as used by the Department of Fish and Game:

A stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

Recommendation 4.2: Revise and Update ESHA Combining Designations.

- Recognize maps as a tool for identifying potential locations of ESHA, but that the actual presence and extent of ESHA must be determined in the field. Establish Field Review Teams, comprised of County staff, the project biologist(s) and representatives from involved wildlife agencies and organizations, to evaluate sites where the Combining Designation Maps do not effectively address the potential presence of ESHA.
- Incorporate other rare and valuable habitat types into the ESHA Combining Designation Programs. These should include, but not be limited to, the additional sensitive habitats identified by the North Coast and Estero Updates.
- Maintain the Combining Designation maps as a dynamic geographic database that can be routinely updated as new information becomes available. To facilitate such efforts, the County should establish standard formatting requirements for field surveys and biological reports that could be directly incorporated into such a system. Coordination with other resource management entities involved with mapping sensitive habitats (e.g., the Morro Bay National Estuary Project) should also be pursued along with other grant programs and cooperative mapping efforts.

Recommendation 4.3: Update Requirements for Biological Investigations and Reports.

- Revise CZLUO Section 23.07.170 so that biological reports are prepared for all development within or adjacent to ESHA, not just those sites that have been mapped as ESHA. Use the Field Review process recommended above to determine the need for biological reports when development is located on a site that has the potential to support ESHA, but is not mapped as ESHA by LCP Combining Designations. Where the Site Specific Constraints Analysis

SLO LCPA 1-03

identifies the presence, or potential presence, of any sensitive habitat type, natural community, and/or particular plant or animal species that meets the revised definition of ESHA, a biological report should be required.

- Evaluate particular areas, particularly urban areas, where it may be appropriate to exclude new development from Site Specific Constraints Analyses. Incorporate such exclusions into the LCP based on scientific evidence demonstrating the absence of ESHA in such areas.
- Develop comprehensive habitat conservation and management programs for areas with particular habitat protection needs (e.g., Los Osos dune scrub and maritime chaparral habitats, Cambria Pine Forest, coastal watersheds that support Steelhead trout, and Cayucos Creeks; please see recommendation 4.6). Upon incorporation of such programs into the LCP, development within particular habitat areas may be excluded from the need to provide site-specific biological investigations and reports. Instead, the biological information required at the application stage would be related to implementation of the area wide habitat protection program (e.g., contribution to area wide program that retires development potential in ESHA).
- Update the minimum requirements for biological reports specified by CZLUO Section 23.07.170 in coordination with state and federal resource management agencies.
- The location and extent of ESHA on and adjacent to a development site should be described and mapped by the Biology Report, in a format that allows it to be incorporated into a GIS based Combining Designation map system (see Recommendation 4.2 above). The delineation should not be limited to the particular locations where rare plants or animals are observed at one point in time. Rather, it should consider the full range of the sites physical characteristics (e.g., soil type, vegetation, topographical features) that represent potential habitat for such rare plant and animal species. In addition, where previously disturbed but restorable habitat for rare and sensitive plant and animal species exist on a site that is surrounded by other valuable habitat areas, these areas should be delineated and protected as ESHA as well. Implementation of this recommendation will also require the incorporation of additional standards for Biological Reports within CZLUO Section 23.07.170.
- Biological reports and their accompanying ESHA delineations should be submitted for the review and comment of the California Department of Fish and Game, the US Fish and Wildlife Service, and to the National Marine Fisheries Service (as applicable), as well as to the California Coastal Commission, before applications for development in or adjacent to ESHA are filed as complete. The incorporation of such a requirement into the LCP (e.g., within Section 23.07.170 of the CZLUO) should be accompanied by a specific time frame for such reviews (e.g., 14 days) to ensure that they would not result in undue delays in the development review process.

Recommendation 4.4: Identify, and Implement Where Feasible, the Resource Dependent Criteria for Development in ESHA.

- Revise "Table O", such as through the addition of a new preamble, to clarify that Resource Dependent Uses are the only principally permitted use within an ESHA or their required setbacks. All other uses that may be permitted to accommodate an economic use should be considered conditionally permitted uses.
- Where non-resource dependent uses are proposed in or adjacent to ESHA, and may be necessary to accommodate to avoid a "taking" (i.e., there are no feasible alternatives that avoid impacts to ESHA), analyze whether there is a reasonable economic backed expectation for the non-resource dependent use (see Recommendation 4.10, below).
- Provide exceptions to the above standards in areas that are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Recommendation 4.6, below).

Recommendation 4.5: Prohibit Subdivisions that Create new Lots in ESHA.

- Implement the provisions of 23.07.170c.
- Revise Cluster Division Ordinance to require much smaller building sites, that they be located entirely outside ESHA and its setback, and that all of the ESHA area be retained and protected as Open Space. Make clustered division mandatory, rather than optional, for all divisions on parcels containing ESHA.
- Clarify that the parcel sizes established by CZLUO Sections 23.04.020 – 033 do not apply to sites that support ESHA, within which land divisions are prohibited.

Recommendation 4.6: Develop Comprehensive Habitat Conservation, Protection and Management Programs for Areas with Particular Habitat Protection Needs and Challenges.

- In urban areas that contain numerous existing lots within ESHA that has been fragmented or degraded by surrounding development, develop programs allowing for non-resource dependent uses that contribute to the protection of surrounding viable habitat areas threatened by development. The current effort to develop a Habitat Conservation Plan as part of the Los Osos Wastewater Treatment project and Estero Area Update should continue to be pursued, with ongoing coordination between the Los Osos CSD, involved regulatory agencies, and interested parties. As proposed by Preliminary Recommendation 4.36, a similar approach, involving a comprehensive forest management plan for Cambria would go a long way towards managing cumulative buildout in a manner that will protect the long-term health and survival of sensitive Monterey Pine Forest habitats.
- The constraints and opportunities associated with the protection of the coastal creeks and lagoons within the Cayucos urban area also warrants the incorporation of comprehensive creek protection plans (i.e., within the Estero Area Plan). Such plans could be used to perfect

setback standards, and prescribe specific mitigation measures, that enhance the riparian environment and clarify development requirements.

- Comprehensive habitat protection plans may prove to be equally useful for the protection of sensitive habitats in rural areas. The North Coast creeks and arroyos are examples of sensitive rural habitat areas that could benefit from such plans. HCP Planning efforts being initiated by State Parks, Community Services Districts, and others, should be closely coordinated with the County and Commission staff to ensure that they will effectively carry out Coastal Act and LCP requirements.

Recommendation 4.7: Revise Biological Report Requirements.

- In addition to the information that is currently required to be included in biology reports pursuant to CZLUO Section 23.07.170, the reports should identify the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. Biological Reports should identify where revisions to the project are available to avoid and minimize impacts on ESHA, which should be considered by the County in the evaluation of project alternatives.
- County analysis of development in or adjacent to ESHA should include an assessment of the impacts posed by fire safety requirements, such as vegetation clearance and roadway improvements. Where fire safety measures required to accommodate new development may impact ESHA beyond what was anticipated by the project's Biological Report, a supplemental report may be required. In any instances where fire clearance requirements would impact ESHA, project alternatives that avoid these impacts should be identified and pursued. Where impacts to ESHA associated with fire safety precautions can not be avoided, these impacts should be minimized and mitigated in accordance with Recommendations 4.11 – 4.16.
- Biological evaluations should not only insure adequate setbacks for sensitive habitat areas, but should also specify the ways in which the transitional habitat values of the buffer area can be protected. This should include limitations on the types of uses allowed, and requirements for the maintenance of the natural features that protect the adjacent habitat area.

Recommendation 4.8a: Expand Application of Rural Area SRA Standards regarding "Site Planning – Development Plan Projects" Contained in Area Plans.

- As proposed in both the North Coast and Estero Area Plan Updates, require *all* development (not just those located in rural areas that trigger Development Plan review) to concentrate proposed uses in the least sensitive portions of properties and retain native vegetation as much as possible. Apply this standard throughout the coastal zone.
- Provide flexibility in non-habitat related setback requirements where necessary to avoid and minimize ESHA impacts.

Recommendation 4.8b: Evaluate all Available Alternative Locations that Avoid and Minimize Impacts to ESHA. Require all applications for development within an ESHA or its setback to include an overall development plan for all properties that are geographically contiguous and in common ownership² at the time of the application.

Recommendation 4.9: Thoroughly Review and Aggressively Pursue Project Alternatives that Avoid Impacts to ESHA.

- The full range of project alternatives that would avoid impacts to ESHA, from alternative sites to different designs (including reductions in project sizes) should be pursued and required. This should include a critical analysis of the habitat constraints identified in the biological report and the options available to respond to these constraints (see Recommendation 4.7).
- In accordance with Policy 1 for ESHA, the requirements of CZLUO Section 23.07.170 should apply to development that is further than 100 feet from the ESHA where such development poses adverse impacts to the habitat.

Recommendation 4.10: Incorporate New Standards and Review Procedures to Implement ESHA and Viewshed Protection Consistent with Coastal Act Section 30010. To effectively resolve takings concerns where it is not feasible to avoid impacts to ESHA or development in scenic coastal areas (see Recommendations 8.1 and 8.6), incorporate additional standards and review procedures within the LCP that will protect coastal resources to the maximum extent possible consistent with Coastal Act Section 30010. For example, the County should consider developing of a process for evaluating the following when a non resource dependent use is proposed in or adjacent to ESHA, or when structural development is proposed in significant coastal viewsheds, and no alternatives to avoid such development is available:

- a) whether limiting uses within ESHA to those that are resource dependent consistent with Coastal Plan Policy 1 for ESHA would deprive the landowner of all economically beneficial use of the property; and,
- b) whether there is a reasonable investment-backed expectation of approval of such a non-resource dependent use.

Some of the information that should be evaluated as part of such an analysis includes:

1. Date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.

²- Parcels that are owned in fee as well as parcels subject to existing purchase options, even if separated by roads, streets, utility easements or railroad rights-of-way.

3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in 4 above, that applied to the property at the time the applicant acquired it, or which may have been imposed after acquisition.
6. Any changes to the size or use of the property since the time the applicant purchased it, including a discussion of the nature of the changes, the circumstances and the relevant dates.
7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
9. Any offers to buy all or a portion of the property which the applicant solicited or received since the time of purchase, including the approximate date of the offer and the offered price.
10. The applicant's cost associated with ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt services costs (such as mortgage and interest costs), and operation and management costs.
11. Apart from any rent received from leasing all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

In order to approve a non-resource dependent development within ESHA or its setbacks, or any development that conflicts with the scenic resource protection provisions proposed in Recommendations 8.1 and 8.6, the following findings should be made and accompanied by supporting evidence:

1. Based on the economic information provided by the applicant, as well as other relevant evidence, a resource dependent use would not provide an economically viable use of the applicant's property.

2. Restricting development on the applicant's property to a resource dependent use would interfere with the applicant's reasonable investment-backed expectations.
3. The amount of development represents the minimum necessary to provide the applicant with an economically viable use of his or her property.

Provide exceptions to the above requirements for development on lots where ESHA issues are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Recommendation 4.6, above).

Recommendation 4.11: Minimize the Intensity of Non-Resource Dependent Development to the Maximum Degree Feasible.

- In instances where the County concludes that, in order to avoid a taking of private property, a non-resource dependent use must be accommodated in ESHA, or that development must be accommodated within a scenic coastal area contrary to Recommendations 8.1 and 8.6, the County should require that such development be limited to the minimum required to avoid a taking.
- Prohibit access roads that disturb ESHA or encroach within scenic coastal areas unless the road is necessary to provide an economically viable use of the overall development plan area.

Recommendation 4.12: Establish Maximum Disturbance Limitations. Incorporate new standards into the Area Plans that establish maximum disturbance envelopes for unavoidable non-resource dependent development in ESHA. Such standards should be customized to the particular circumstances of the area, considering factors such as the size and configuration of lots, biological sensitivity and resource management principles, agricultural viability, and other coastal resources constraints (e.g., visual).

Recommendation 4.13: Require Conservation Easements/Deed Restrictions Over All ESHA Outside Development Envelope.

- Where non-resource development must be accommodated within or adjacent to ESHA, minimize the long-term impacts of such development by requiring all ESHA on the project site outside of the development envelope to be restricted to natural resource management, restoration and enhancement.
- Submit such easements and deed restrictions for the review and approval of the California Coastal Commission Executive Director pursuant to Section 13574 of the California Code of Regulations.

Recommendation 4.14: Coordinate Review of Projects that Pose Impacts on Listed Species with DFG, USFWS, and NMFS. Information that should be provided to justify the Findings required by Section 23.07.170b (i.e., that significant adverse impacts to the

habitat will be avoided), when not otherwise provided through the CEQA process, includes: concurrence of the Department of Fish and Game and/or U.S Fish and Wildlife Service if species listed under state or federal Endangered Species Act are involved; and, concurrence from the National Marine Fisheries Service if marine habitats are involved. The timing of this review should be coordinated between the County and wildlife agencies to ensure compliance with the Permit Streamlining Act.

Recommendation 4.15: Specify Mitigation Requirements.³

- Require on-site mitigation for development *adjacent* to ESHA. Where the impacts to ESHA posed by adjacent development have been avoided and minimized, but still pose adverse affects, mitigate by requiring implementation of an on-site habitat management, restoration, and enhancement program proportional to the potential impacts of the development.
- Require on-site and off-site mitigation for development *within* ESHA. Where development directly in an ESHA can not be avoided, and has been minimized to the greatest degree feasible, protect all ESHA outside the development envelope by implementing an on-site habitat management, restoration, and enhancement program that will reduce the adverse impacts of the development to the greatest extent feasible. In addition, require off-site mitigation to offset the reductions in habitat quantity and quality attributable to the development. In most cases, this should be in the form of acquiring and permanently protecting the same type of habitat, in an area otherwise threatened by development. The size and habitat quality of the off-site mitigation area should be proportional to the biological productivity of the area of impact. Incorporation of in-lieu fee programs into the LCP to implement such off-site mitigation is an option.

Recommendation 4.16: Specify Mitigation Monitoring and Evaluation Requirements. To ensure mitigation effectiveness, established minimum requirements for monitoring and implementation. In general, this should include: preparation of a 5 year implementation and monitoring plan, for the review and approval of the Planning Director, that identifies the specific mitigation objectives and the performance standards that will be used to evaluate success; and, the submission of a report at the conclusion of the 5 year period, again for the review and approval of the Planning Director, that either documents the successful implementation of the mitigation or proposes corrective actions and additional monitoring and reporting that will be implemented until the mitigation objectives have been achieved to the satisfaction of the Planning Director.

Recommendation 4.17: Pursue changes to Section 23.07.174b of the CZLUO to achieve conformance with Coastal Act Section 30236, as well as with ESHA Policy 23.

³ E.g, CZLUO Sections 23.07.170a(1) and 23.07.174d(2)(ii)

- This ordinance should specifically require that all permitted streambed alterations employ the best mitigation measures feasible, including but not limited to:
 - 1) avoiding the construction of hard bottoms
 - 2) using box culverts with natural beds rather than closed culverts
 - 3) providing for wildlife movement
 - 4) pursuing directional drilling for pipes and cables to avoid stream bed disturbance
- A reference to the updated section of the LCP addressing mitigation requirements, as proposed by Recommendations 4.15 and 4.16, should also be provided.
- Part (1) should state that streambed alterations are limited to necessary water supply projects. The incorporation of specific criteria to define what constitutes a “necessary” water supply project should be considered. A preliminary suggestion is to define such projects as those essential to protecting and maintaining public drinking water supplies, or accommodating a principally permitted use where there are no feasible alternatives.
- Part (4), allowing streambed alterations for the maintenance of flood control channels, should be considered for deletion. Necessary maintenance activities can be accommodated under part (2) of this ordinance, which includes the Coastal Act criteria for such activities (part (4) does not include these important criteria).

Recommendation 4.18: Delete the exemption for stream diversion structures associated with agricultural stock ponds of under 10 acre feet that may impact stream habitat.

Recommendation 4.19: Analyze streambed alterations for conformance with CZLUO Section 23.07.174b.

Recommendation 4.20: Improve coordination with the Department of Fish and Game’s Streambed Alteration process. Where possible, streambed alteration agreements should be obtained prior to or concurrent with the County’s review of the permit application, rather than as a condition of approval. This will provide greater opportunity to make adjustments to the project that would better protect the stream habitat.

Recommendation 4.21: Pursue Alternatives to Streambed Alterations. Evaluate alternative access routes to avoid development in a stream. Where alternative routes outside of riparian habitats are not available, pursue designs that avoid fill, culverts, and minimize in-stream bridge supports and disruption of natural creek flows and vegetation.

Recommendation 4.22: Encourage Additional Research Regarding the Effectiveness of Setback Distances.

- Such studies appears to be warranted given the apparent decline in the health of riparian resources such as the Steelhead trout, southwestern pond turtle, red-legged frog, and other

rare and endangered species. Incorporation of a program that would encourage such studies, potentially in coordination with local universities and/or resource management agencies and organizations, should therefore be considered.

- Pursue individual watershed management programs for coastal streams. Such program could address appropriate setback distances as well as other important riparian and water quality issues.

Recommendation 4.23: Apply a Minimum Standard Setback of 100 feet in Urban Areas Where Feasible. Consider applying a 100' standard setback, rather than 50' or less, in urban area where a 100' setback is feasible and would achieve better protection of stream resources. In all cases, development should be setback the maximum feasible distance from riparian vegetation, as determined through a site specific constraints analysis.

Recommendation 4.24: Improve Implementation of Setback Standards and Adjustments.

- Explore and require, unless more environmentally damaging, alternative alignments for new or improved roads and other uses allowed in setback areas that conform to standard setback requirements. For example, consider new alignments to existing non-conforming roads where there may be impacts associated with intensified use or fire safety improvements. If realignment is appropriate, abandonment and revegetation of the pre-existing road should also be required.
- In instances where alternative alignments are not feasible or more environmentally damaging, provide more specific guidance on what is required to mitigate adverse effects to the greatest degree feasible (CZLUO Section 23.07.172d(1)(ii), as referenced by 23.07.174d(1)). Please see Recommendations 4.15, 4.16, 4.17, and 4.27a.
- Critically evaluate "after-the-fact" permit applications where development has illegally encroached into setback areas. Before off-site mitigation is considered, evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation should be an additional requirement where necessary to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.

Recommendation 4.25: Consider Limiting Pedestrian and Equestrian Trails within Riparian Setback Areas to Passive Recreation.

- Where intensive recreational activities may adversely impact ESHA, they should be directed to areas outside of riparian setbacks.
- Where trails are allowed within or adjacent to riparian areas or other ESHA, require the provision of interpretive signing.

Recommendation 4.26: Incorporate Additional Standards for Stream Diversions and Water Wells.

- Prohibit diversion or extraction of surface and subsurface streamflows where adverse impacts to steelhead or other important riparian resources would result.
- Prohibit in-stream barriers to fish migration unless such structure comply with streambed alteration standards and provide effective fish ladders or by-pass systems.
- Where water supply projects have the potential to impact fish habitat or other stream resources, limit diversions to peak winter flows that exceed the amount needed to sustain the resources, and require off-stream storage where year-round water supplies are needed.
- To the degree feasible, water diverted from coastal streams should be treated after use and returned to the watershed of origin in like quality and quantity.

Recommendation 4.27(a): Incorporate Additional Standards for Development In and Adjacent to Streams and other Aquatic Habitats. All permitted development in or adjacent to streams wetlands, and other aquatic habitats should be designed and conditioned to prevent loss or disruption of the habitat (e.g., smothering of Steelhead spawning gravel and rearing habitats); protect water quality; and maintain and enhance biological productivity. To achieve this objective, CZLUO Section 23.07.174 should be updated in conjunction with updates to Coastal Watersheds Policies and the grading ordinance. These updates should incorporate standards that:

- necessitate flood control and other necessary instream work be implemented in a manner that minimizes disturbance of natural drainage courses and vegetation (e.g., limit the number of access routes to and from the construction area, locate stockpile and staging areas away from drainage courses and sensitive vegetation);
- require that all allowable instream development be designed to mimic natural habitat conditions wherever feasible (e.g., consider bridges that minimize disruption of natural drainage courses as an alternative to culverts, incorporate natural materials such as root wads, gravel, and native vegetation);
- prescribe methods to control drainage in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction (e.g., identify and evaluate location and capacity of silt fences/hay bails, drainage inlets, detention basins; encourage vegetated drainage features, such vegetated drainage swales and created wetland detention areas to facilitate filtration and habitat enhancement; and
- establish standards for the breaching of beach berms that support coastal lagoons (see Recommendation 4.33)

Recommendation 4.27(b): Develop and Implement Water Quality and Habitat Protection Standards for New Agricultural Development and Habitat Enhancement Projects in Coordination with Voluntary Assistance and Education Programs. Improve water quality and habitat protection standards applicable to habitat enhancement projects and new agricultural development within 100 feet of ESHA by updating CZLUO

SLO LCPA 1-03

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

*As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

Section 23.07.174e(6) in accordance with the agriculture and water quality recommendations of this report. New water quality and habitat protection standards applicable to such development should be developed and implemented in coordination with voluntary assistance and education programs. To minimize the need for permit review and ensure that habitat restoration activities and agricultural development in and near ESHA complies with Coastal Act Sections 30230, 30231, 30236, and 30240, the new LCP Water Quality Component should encourage:

- The certification of volunteer, education, and assistance programs that ensure habitat enhancement projects and agricultural development within setback areas effectively protect sensitive habitats, water quality, and other coastal resources. Such certification could be accomplished through the issuance of a "master" coastal development permit for program implementation; incorporating a categorical exclusion into the LCP for the implementation of such programs; or through Coastal Commission concurrence with a Federal Consistency Determination submitted by the federal agency responsible for program funding and/or implementation.
- Coastal development permit exemptions for individual projects that are implemented pursuant to certified programs.

Recommendation 4.28: Complete the Follow-Up Review on D870182 for the Aquaculture Facility North of Cayucos.

Recommendation 4.29: Miscellaneous Policy Clarifications.

- Identify the correct reference for CZLUO Section 23.07.174e(7)
- Delete CZLUO Section 23.07.174e(2)

Recommendation 4.30: Incorporate Standards for Wetland Delineations. In addition to pursuing an alternative to the LCP's current map based system for protecting wetlands and other environmentally sensitive habitats, new standards that facilitate a complete and accurate delineation of all wetlands during the local review process should be incorporated into the LCP. The provisions of Section 13577(b)(1) of the California Code of Regulations, Title 14, should be used as guidance in formulating these delineation standards. A potential location for these standards would be within the updated biological report requirements (see Recommendation 4.7).

Recommendation 4.31: Evaluate Biological Significance of Manmade Wetlands. Where necessary to address competing resource protection interests, consider the biological significance of man made wetlands. Allow adjustments to standard wetland setbacks from biologically insignificant manmade wetlands where the lesser setback will not disrupt sensitive habitats and is needed to achieve a more important resource protection objective.

Recommendation 4.32: Prohibit Variances to Wetland and Other ESHA Protection Standards Where Variances Can be Avoided. Consider changes to the variance provisions that would prohibit exceptions to wetlands and other ESHA setback and protection standards where those impacts could otherwise be avoided, unless the variance is needed to achieve consistency with Coastal Act Section 30010.

Recommendation 4.33: Develop Standards for the Breaching of Coastal Lagoons. Require a CDP for lagoon breaching activities, and limit such development to situations where it represents the least environmentally damaging feasible alternative for relieving a flood hazard, public health hazard, or water pollution problem. Lagoon breaching should also be allowed and encouraged where man made alterations have interrupted the natural breaching cycle. The decision to breach should be based on a comprehensive assessment of environmental conditions and alternatives available to address the hazard or resource concern.

The LCP should incorporate standards to ensure that where allowed, lagoon breaching mimics natural breaching to the extent feasible, and is carried out in a manner that is the most protective of wetland resources and other environmental resources particular to each site. Such standards should include:

- Coordination with all applicable regulatory agencies, including the California Coastal Commission, California Department of Fish and Game, the US Army Corps of Engineers, the Monterey Bay National Marine Sanctuary, and the Regional Water Quality Control Board.
- Development of a breaching plan based on a scientific assessment of the lagoon environment that addresses the need for breaching and available alternatives; impacts on endangered species and habitats; public health and safety; and public access and recreation
- Requiring the breaching activity to be conducted in a controlled manner that reduces lagoon water levels the minimum necessary to abate the hazard.
- Breaching plans and permits should also include short term and long term monitoring provisions that evaluate the health of the lagoon and the impacts of breaching

Recommendation 4.34: Provide Standards for Wetland Monitoring and Restoration Activities. Incorporate specific requirements (e.g., within Sections 23.07.172 and 23.05.034 of the CZLUO) for the monitoring and restoration of wetland resources to enhance effectiveness and ensure that such activities are carried out in a manner that will not harm wetland resources.

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

As revised August 24, 2001 to incorporate changes from the addendum and hearing of July 12, 2001

For example, the LCP should be updated to require clear performance criteria that relate logically to restoration goals. Where there is sufficient information to provide a strong scientific rationale, the performance criteria shall be absolute (e.g., specified abundance of particular species). Where absolute performance criteria cannot reasonably be formulated, relative performance criteria should be specified. Relative criteria are those that require a comparison of the restoration site with reference sites. The rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant should also be specified. If any comparison requires a statistical test, the test should be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program should relate logically to the performance criteria and chosen methods of comparison. The sampling program should be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each variable to be monitored. Sample sizes shall be specified and their rationale explained.

The use of independent consultants to evaluate the success of restoration projects and report their findings to the County should also be considered.

Recommendation 4.35: Review Mosquito Abatement Activities. Investigate whether mosquito abatement practices are being reviewed and permitted in conformance with ESHA Policy 12 and San Luis Bay SRA Program 8.

Recommendation 4.36: Coordinate the Management and Protection of Open Space Easements Obtained to Protect Wetlands and other ESHA. Evaluate ways to better obtain and protect open space easements over sensitive portions of bayfront property per Morro Bay SRA Program 23. This could include partnering with the Morro Bay National Estuary Program, and other qualified agencies and organizations. Similar efforts should be made to ensure that other open space easements obtained to protect ESHA are being effectively managed.

Recommendation 4.37: Develop a Comprehensive Forest Habitat Management and Protection Program. As part of the North Coast Update, consider incorporating the Cambria Monterey Pine Forest Management Plan currently being developed by the Cambria Forest Committee to guide and regulate buildout and forest management so that the long-term conservation of the Cambria pine forest ecosystem can be ensured and enhanced. In coordination with this effort, the North Coast Area Plan should be updated to include standards regarding the location and extent of off-site and on-site mitigation (e.g., tree replacement, contributions towards the acquisition of significant forest habitats); identification of additional TDC sending sites and appropriate receiver sites; and, provisions for the on-going management and preservation of protected forest areas.

Recommendation 4.38: Aggressively Pursue Project Alternatives That Avoid Tree Removal

- Require development to be sited and designed in a manner that that first avoids, then minimizes, removal of Monterey Pine. Make full use of flexible setbacks, and allow such flexibility in all areas of the pine forest, not just Lodge Hill.
- Apply an updated version of Pine Forest Preservation Standard 6c for the Cambria Urban Area to all areas with pine forest habitat.

Recommendation 4.39: Increase Tree Replacement Requirements Where Avoidance is not Possible

- Protect all native Monterey Pines, not just mature trees, by requiring replacement of all trees required to be removed, including saplings. Where feasible, replant saplings.
- Analyze the location and biological viability of locations and densities of replacement trees during development review.
- For situations where on-site replacement is not possible, develop and implement a framework for off-site replacement that maximizes long-term habitat protection and enhancement.
- Require that all replacement trees be from disease-free local Cambria stock only, and that invasive exotic species be avoided in landscaping.

Recommendation 4.40: Incorporate Programs and Standards Necessary to Respond to the Threats Posed by Pitch Canker and Sudden Oak Death

- Prohibit the removal of pine trees that clearly display a resistance to pitch canker (e.g., a healthy tree surrounded by diseased trees).
- Establish standard protocols for handling dead and diseased wood. These should include standard conditions that require: cleaning of cutting and pruning tools with a disinfectant prior to use on each individual tree; covering of all wood material being transported offsite to avoid dispersal of contaminated bark beetles; identification of the location to which the material will be transported (prohibit transfer to areas free of the disease). These conditions should also specify that in situations where wood material cannot be properly disposed of directly after cutting, it shall be cut into small logs and stored on-site under a clear plastic tarp until necessary preparations have been made for their removal. Other tree parts (i.e., branches, small limbs) should be chipped and left as a thin layer on-site.
- Designate location for green waste management and recycling facility.
- Coordinate with CDF and the US Forest Service regarding methods for preserving genetic resources (e.g., seeds and saplings). Potentially combine with green waste facility recommended above.

- Develop and require Forest Management Plan(s), backed by Forest Management District(s), to provide for long term management of the forest.

Recommendation 4.41: Provide Greater Incentives for Participation in the Cambria TDC Program and other Updates to the Program

- Reduce maximum size of development in urban areas to provide greater incentive to participate in TDC program and reduce the impact that density bonuses may be having on the forest. Eliminate footprint and GSA bonus available for Lodge Hill. To the degree feasible, implement this recommendation as a component of the Cambria Design Plan currently being developed.
- As part of the Cambria Design Plan or North Coast Update, formulate a more specific structure for allocating density bonuses to ensure that such bonuses provide an adequate contribution towards the protection of forest habitats otherwise threatened by development.
- Identify new "Special Project Areas" (i.e., sender sites) that contain the most biologically significant areas of pine forest habitat in conjunction with the CCSD's Cambria Forest Management Plan and other forest protection efforts.

Recommendation 4.42: Develop Additional Methods for Lot Retirement.

- Recognizing that new development within the forest has both direct and cumulative impacts on forest resources, and that the Monterey Pine Forest is increasingly threatened, a mitigation fee could be required for all new development within forested areas and applied to the acquisition and protection of the most sensitive forest areas.
- Creating an Open Space District could raise funds for the additional acquisitions. Efforts to establish an Open Space District should be coordinated with the Cambria Community Services District.

Recommendation 4.43: Reduce Buildout Potential.

- Prohibit subdivisions that create new building sites in or within 100 feet of pine forest habitat.
- Establish very large minimum lot sizes within rural areas comprised of pine forest habitat (e.g., 160 acres).
- Expand clustering standards and revise Cluster Division Ordinance to achieve much more consolidated development envelopes. This should include, but not be limited to: applying Monterey Pine Forest SRA Standard 4 to all development (not just subdivisions and large scale projects); and, reducing the maximum clustered parcel size of 10 acres in the Rural Lands Category.

- Prohibit any lot line adjustment that would result in greater development intensity within forest habitat as compared to the development that would be possible under the existing configuration.

Recommendation 4.44: Identify all habitat areas within the urban area that represent Ecologically Significant Units and vigorously apply ESHA protection standards to such areas.

Recommendation 4.45: For those urban areas that do not represent long-term viable habitat due to fragmentation, small size, surrounding uses, etc., but still maintain sensitive species habitat, allow development to occur in exchange for participation in a comprehensive area wide off-site mitigation program to be incorporated in the LCP.

Recommendation 4.46: To the degree feasible, coordinate the above with the Los Osos Sewer Project and an area wide HCP.

Recommendation 4.47: Continue to pursue incorporation of a TDC program as part of the Estero Area Plan Update, with the changes recently proposed in response to comments of Commission staff and further coordination.

Recommendation 4.48: Continue to work with beachfront homeowners and State Parks towards the development of a stand stabilization program that will address concerns regarding blowing sand and provide habitat restoration/enhancement.

Recommendation 4.49: Refer to the findings recently adopted by the Commission on Oceano Dunes OHVRA regarding vehicles in dunes.

Recommendation 4.50: Update LCP provisions related to new and on-going development activities within the Oceano Dunes State Off-Highway Vehicle Recreation Area in conjunction with Coastal Commission actions related to Coastal Development Permit 4-82-300 as well as with the Habitat Conservation Plan currently being developed. Consider prohibiting special off-road events in the Open Space area designated by the area plan intended to be maintained in its natural state and provide a buffer from the OHV area.

Recommendation 4.51: Re-evaluate exiting and proposed land use designations and development standards in South County dune habitats to ensure protection, and where feasible, enhancement of all ESHA (e.g., RS and Industrial designations over the undeveloped land of the Callendar-Garret Village area south and west of Hwy 1; proposed redesignation of RL land use category to Recreation after termination of oil extraction activities). The evaluation of existing designations, as well as any updates intended to address habitat protection needs, should be coordinated with the community and other involved wildlife management entities.

Recommendation 4.52: Resolve lot history and any potentially illegal subdivisions in the Callendar-Garret area that may facilitate non-resource dependent development in areas known to support rare and endangered plant species. Designate and protect such areas as ESHA in coordination with an area wide program that implements ESHA protection consistent with Coastal Act Section 30010 (protecting constitutional private property rights).

Recommendation 4.53: Work with the US Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the Point Reyes Bird Observatory and other interested parties to identify all shoreline areas that provide habitat, or potential habitat, for the Western snowy plover and Least tern. Designate and protect these areas as ESHA. Re-evaluate land use designations in and around these habitats, and craft standards for future development to ensure effective protection. Work with land owners/managers to make certain that current and future use of these habitat areas are designed and managed in accordance with habitat continuance and enhancement. Particular emphasis should be placed on the protection of important nesting areas, including but not limited to the Morro Bay Sandspit.

Recommendation 4.54: Identify beaches used by Northern Elephant Seals and classify as ESHA.

Recommendation 4.55: Establish standards and programs to manage human visitation and observation of beaches used by elephant seals, such as by updating the marine resource provisions of the Coastal Plan Policies and Section 23.07.178d of the Coastal Zone Land Use Ordinance.

Recommendation 4.56: Prohibit the installation of new revetments and outfalls on beaches used by Elephant Seals wherever it can be avoided.

Agricultural Resources

Recommendation 5-1: Amend Agriculture Policy 1 by adding the following language: For any proposed rezoning of agricultural lands to another designation, an agricultural viability report shall be prepared.

Recommendation 5-2: Modify the CZLUO to expand the factors that should be considered as part of the required viability studies for proposed rezoning of agriculturally designated lands to include the following:

Incorporate an Agricultural Viability Report definition, for example:

A report that assesses the viability of parcels as agricultural or grazing units, given existing conditions and proposed development. Viability is considered in terms of many factors, including product marketability, soils, parcel size, economic factors and any other factors relevant to the particular parcel. The report shall describe the role that each factor plays as a variable influencing the site and surrounding area's viability for agricultural production. The feasibility analysis should analyze both

the site and the larger area's current and past productivity as an agricultural unit for at least the preceding five years, but including sufficient time to include cycles of weather.

Recommendation 5-3: Modify the CZLUO to expand and specify the contents of the Agriculture Viability Reports for proposed rezoning of agriculturally designated lands. Expand and specify the contents of the Agriculture Viability Report. For example, CZLUO 23.04.024(a)(1), Existing land uses and (3) Site characteristics...including topography, soils, climate water availability and adjacent land uses, could be expanded to include more specific information, where appropriate, such as:

1. Soils
 - a. *The identification of all soil types that are found in the area (As stated in the most recent Soil Survey published by the United States Department of Agriculture).*
 - b. *Storie index and Capability Classification ratings of all identified soil types (As stated in the most recent Soil Survey published by the United States Department of Agriculture).*
 - c. *The expected animal unit month (AUM) yield for each identified soil type (As stated in the most recent Soil Survey published by the United States Department of Agriculture).*
 - d. *The expected net dollar return per acre for crops that are currently cultivated on each soil type.*
 - e. *An identification of crop types that could be potentially grown on each identified soil type, and also the expected net dollar return for such crops.*
 - f. *An identification of soil types used exclusively for grazing.*
 - g. *An identification of agricultural uses in the area that are not dependent upon the soil (e.g., greenhouses), and where identified, a description of their location and nature of operation(s).*
2. Geographic
 - a. *The description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, soil quality (depth, drainage, capability classification rating, storie index rating, texture, development, unique qualities) affecting agricultural operations in the area.*
 - b. *The description of management techniques that are currently used, or could be used, in order to improve soil quality for agricultural operations.*
 - c. *An identification of agricultural operations that use more than one parcel for production in the area, and where identified, a description of their current practice and average acreage for each individual operation.*
 - d. *A description of the relationship or proximity of agricultural and urban land uses.*
3. Water
 - a. *The availability of water in the area (condition of basin e.g.).*
 - b. *An identification of the water source (riparian, appropriative, etc.).*
 - c. *An identification of any water quality problems affecting agricultural operations in the area.*
 - d. *The current cost of water.*
4. Access
 - a. *Description of whether adequate access to agricultural support facilities (cold storage, equipment repair/sales, markets) in the area currently exist.*
 - b. *Where access is problematic, an identification of the nature of the conflict; and how the conflict impacts agricultural operation(s).*

CZLUO 23.04.024(a)(2) Present annual income derived from agricultural operations.... and (4) the potential of the site to support future food-producing agricultural uses...could be expanded to include consideration of such factors as, where appropriate:

1. History
 - a. *An identification of the types of agricultural operations that have taken place in the area in the past and where have they occurred.*

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

As revised August 24, 2001 to incorporate changes from the addendum and hearing of July 12, 2001

- b. An identification of how long agricultural operations have been conducted in the area.*
 - c. An identification of those parcels that have been used for agricultural operations in the area consistently in past, and where applicable an identification of such time periods.*
 - d. An identification of significant past management practices that have been used in the area in order to increase agricultural yields.*
- 2. Risk Factors*
 - a. A discussion of the effect of drought years on agricultural operations in the area and, if so, what the cost of water is during these periods.*
 - b. An analysis of whether the costs of production and labor are predictable for agricultural operations in the area.*
 - c. A discussion of whether commodity prices are consistent or inconsistent from year to year for crops grown in the area.*
 - d. A discussion of whether salt-water intrusion into well water supply is an issue, and if so, how it affects agricultural operations in the area.*
 - e. An identification of whether there is a problem with crop quality in the area.*
 - f. An identification of whether the agricultural market is volatile for crops grown in the area.*
- 3. Economics*
 - a. An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development; and,*
 - b. An analysis of the operational expenses excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development.*
 - c. Cost shall be determined by, and consist of, the following variables:*
 - 1. Fixed Costs for any given crop are assumed to be constant, regardless of the annual yield. Fixed costs shall include only current costs and shall not speculate on potential future circumstances.*
 - a. Land cost (i.e. rent, lease, property tax, etc.) shall NOT be included into the cost analysis (See Coastal Act Section 30241.5)*
 - b. Capital costs including: 1) land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.); 2) equipment (i.e., trucks, tractors, buildings, special equipment (e.g. irrigation), etc.); 3) herd expenses (i.e., payment for bulls and heifers); and 4) miscellaneous expenses. Cost determination must also include depreciation and interest expenses.*
 - c. Cultivating cost including operating costs for: 1) labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits); 2) materials (i.e., water, seed, feed supplements, salt, fertilizer, and pesticides); 3) machinery; 4) fuel and repair; and 5) outside consultants (i.e., veterinary and management).*
 - 2. Variable Costs are the harvest costs and are based on the amount of yield only. Depending on the crop yield, variable costs fluctuate for any given year. In most cases, this is expressed as the cost per unit of yield (tons, 100 weight, or pounds).*
 - d. Gross Revenue shall be determined by and consists of the following variables:*
 - 1. Gross returns for each crop type.*
 - 2. Past return figures should factor in the appropriate Producer Price Index (PPI) figure in order to account to inflation over time.*
 - e. Evaluative methods to incorporate the above cost and revenue figures shall include, where relevant:*
 - 1. Determination of the net economic impact on private and public sectors and, second, a test for agricultural viability. Net economic impact refers to change in dollar flow within the community brought about by a given change in land use. "Net economic impact" equals total public revenues minus total public costs, plus private sector income. This should be computed according to the existing land use, the proposed development, and any viable project alternatives. This may be accomplished through the following process:*
 - a. Cost/Revenue analysis that determines public costs associated with conversion of agricultural land and also revenues generated by increases in property tax within the project site. Public service marginal costs should compute the new and/or incremental costs of adding development to the public service system, which includes the cost of capital improvements necessary to accommodate such development. This should also state, and if possible quantify,*

SLO LCPA 1-03

those costs or externalities not easily accounted for in cost computations. One externality could include the probable change in assessed value of parcels adjacent to the development. Public service revenues are generated by increases in property tax within the project site.

- b. Input/Output analysis that looks at the private sector of the areas economy in terms of its purchases and sales to other sector both locally and from outside the area. From this information, multipliers for each sector should be developed. Determination of the input figures will reveal the affect of removing the subject number of acres, for the subject crop, from agricultural production. This will reveal the effect to the private sector economy.*
- 2. Determination of the minimum acreage for a viable agricultural operation (farm family approach). In order to determine net income, production costs by crop should be computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting figure represents the farmer's income per acre of productive land. The per acre income figure should then be divided into the County's Median Income figure to compute the number of acres required to support a farm family.*
- 3. Determination of net return per acre, per crop type, for the area only. By crop type, determine gross revenue per acre for subject crop types then subtract from gross revenue figures the cost per acre associated with each crop type.*

The report shall include maps and photos (aerial and site photos) of the area being evaluated that, at a minimum, identify the following on all such figures: parcel lines, parcel numbers, farm boundaries, owners and/or leasees of each parcel and/or farm, wells and/or any other water supply lines, storie ratings, capability classifications, slopes, and roads.

For purposes of this determination, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the County's certified local coastal program.

Recommendation 5-4: Modify CZLUO to add the following criteria for lotline adjustments on agriculturally zoned lands:

- lotline adjustments shall not create new subdivision potential and shall not increase the number of lots which can support non-agricultural development. To assess the total potential for non-agricultural development, including residential development, the County should consider the original intent of each lot, whether the lot was created to support future development, and whether the lot would otherwise be developable pursuant to identified criteria to protect the public welfare. Lotline adjustments should not allow future development for those lots which were not originally created to support development;
- lotline adjustments shall not create new parcels where the only building site would be on prime agricultural soils; within ESHA, critical viewsheds, or in a defined hazardous area; or would require significant landform alteration to accommodate future development;
- applications for lotline adjustments shall identify the purpose of the adjustment and the proposed uses for each adjusted parcel;

- lotline adjustments shall not be approved unless the adjustment will maintain or enhance the agricultural viability of the site. To assure the protection of long-term viability, applications for lotline adjustments which support, in part, non-agricultural development must include an economic analysis of agricultural potential, consistent with that required under Ordinance 23.04.024 for land divisions.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, the lotline adjustment or subdivision shall maximize the protection of agricultural lands by clustering and minimizing the area of lots intended for non-agricultural uses, including reducing the parcel size to be less than the 20 acre minimum parcel size required for agricultural lands. Lots for non-agricultural uses shall be clustered where there is less agricultural potential due to the soil types, topography or other site constraints and shall maximize the extent of *undivided* agricultural lands.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall identify the location of all access roads and building envelopes, assuring adequate buffers between future residences and associated access uses so as to minimize conflicts with the adjacent agricultural operations, and minimize roadway lengths and site disturbance. Where possible, non-agricultural development shall be sited close to existing roads, while minimizing impacts from access roads or driveways on agricultural operations;
- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall require an agricultural easement over the agricultural parcel(s) which prohibits future subdivision of the parcel(s). In addition, for parcels intended to support non-agricultural uses, a deed restriction should be required prohibiting future subdivision of the parcel(s);
- ensure that all geographically contiguous parcels in common ownership are addressed through a comprehensive evaluation.

Recommendation 5-5: Deleted

Recommendation 5-6: Undertake a study to identify: 1) existing non-conforming lots on agriculturally zoned lands adjacent to conforming lots, and 2) non-conforming lots which meet the standards under the Subdivision Map Act for potential lot mergers.

Recommendation 5-7: Processing of Certificates of Compliance. In the interest of good public policy and avoidance of unnecessary judicial review, amend the LCP with standards such as the following:

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

*As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

- Amend CZLUO 21.02.020(a) to require that within three calendar days of receipt, the County provide to the Coastal Commission [notice/a copy] of all certificate of compliance applications submitted to the County for any property lying wholly or in part outside of an urban area (as defined by the USL for each area).
- Amend CZLUO 21.02.020(c) to
 - 1) require that upon request, the complete application content for a certificate of compliance be provided to the Coastal Commission. Such requests shall be made by the Commission within 7 calendar days of receipt of the [notice/application] submitted pursuant to CZLUO 21.02.020(a).
 - 2) provide an administrative consultation process, through which the Executive Director of the Coastal Commission may consult with the County Planning Director about individual applications for certificates of compliance for which the application content has been requested. The Executive Director shall request consultation within 7 calendar days of receiving a complete certificate of compliance application. No certificates of compliance shall be issued by the Planning Director until such time as a requested consultation has taken place. Any staff reports prepared pursuant to CZLUO 21.02.020(c)(1) shall be provided to the Executive Director.
 - 3) provide an administrative conflict resolution process for cases in which the Executive Director and County Planning Director do not agree on the issuance of a certificate of compliance. For example, provide for review by the Board of Supervisors as currently provided for subdividers pursuant to CZLUO 21.04.020.

Recommendation 5-8: Develop LCP standards for residential developments on Agricultural Land. Update the CZLUO to establish performance standards for residential development on agriculturally zoned lands which protect the maximum amount of agricultural lands. Such standards could include the following:

- non-agricultural uses on agricultural lands should be subordinate and accessory to agricultural operations;
- single family residences and associated accessory development should minimize site disturbance;
- roads and driveways shall be the minimum width and length necessary , and shall be designed to avoid unnecessary cut and fill, particularly by conforming to natural landforms;
- residential structures and residential accessory structures shall be sited to retain the maximum amount of agriculturally designated lands available for agricultural production, consistent with all other LCP policies;

*Adopted Report
San Luis Obispo County LCP Periodic Review
July 12, 2001
As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

- residential structures and residential accessory structures shall be sited and designed to protect ESHA, avoid impacts to critical viewsheds to the maximum extent feasible, and maintain the rural character of the area.

Recommendation 5-9 Deleted and replaced.

Recommendation 5-9a: Amend Table O to define the following land uses as supplemental uses for agriculturally zoned land:

Bed and Breakfast facilities;
Eating and Drinking places;
Outdoor Retail sales;
Paving Materials;
Petroleum Extraction;
Rural Recreation and Camping;
Stone and Cut Stone Products;
Warehousing;
Waste Disposal sites;
Wholesaling and Distribution;
Temporary Events which are for profit and non-agriculturally related.

Recommendation 5-9b: Modify Agriculture Policy 3 (b) to specify that an economic analysis is required for supplemental uses only. To implement Agriculture Policy 3 (b), modify Ordinance 23.04.050(5) to require the following information as a condition of filing for all supplemental uses:

- existing land uses on the site;
- present annual income derived from agricultural operations
- income generated from other, non-agricultural operations on the site;
- site characteristics affecting agricultural land use and production, including topography, soils, climate, water availability, and adjacent land uses;
- the potential of the site to support future food-producing agricultural uses and estimated annual income from such uses;
- estimated income from proposed supplemental development;
- potential effects of the proposed development on agricultural food production, both short-term and long-term;
- recommendations and conclusions of the development's effects on agricultural production.

Recommendation 5-9c: Modify Ordinance 23.04.050 (7) and Agriculture Policy 3 (h) to require agriculture easements and, where appropriate, open space easements for all supplemental uses except temporary events, and for non-supplemental uses where it is determined that an easement is necessary to assure the protection of agricultural lands.

Recommendation 5-9d: Modify Agriculture Policy 3 and Ordinance 23.04.050(b) (3) through (6) to clarify that *all* uses identified as special uses under Table O ("S" or "S-P" uses) in agriculturally designated areas, whether also defined as supplemental uses or not, must comply with the existing criteria to: a) obtain permits for development, b) meet the required findings to locate development off prime soils and avoid conflicts with surrounding agricultural lands, c) provide the information currently specified for a permit application, d) comply with the siting and design standards for development, with the following exceptions:

- non-supplemental uses are exempt from economic analysis, as required under Recommendation 5-9b;
- residential and residential accessory structures are exempt from Ordinance 23.04.050 (6) (ii), requiring that non-agricultural uses be limited to a maximum of 2% of the gross site area.

Recommendation 5-9e: Modify Table O to exclude as electric generating plants and mining as allowable uses on agriculturally zoned lands.

Recommendations 5-10 – 5-12: Deleted. Addressed through Recommendation 3-2 a—d.

Public Access

Recommendation 6.1: Incorporate Comprehensive Access Components into Each Area Plan

- All of the Area Plans in the LCP should be amended to include a specific access component, consistent with Section 30500 of the Coastal Act. This component should include at a minimum, the following information: (1) Statements of the public access goals, objectives, policies, ordinances, standards, programs, and other management objectives relevant to each planning area; (2) a comprehensive inventory of existing and potential public shoreline access, including a map or maps indicating the specific locations of such access resources.
- The Access Component should include a Public Trails Plan to ensure future implementation of the California Coastal Trail. Development of the Trails Plan should consider guidance outlined in the Periodic Review for development of:
 - Planning objectives
 - Siting and Design policies and standards
 - Acquisition and management policies and standards
- The Comprehensive Public Access Component should consider realignment alternatives as recommended by Recommendation 7.14 and should include a policy that will ensure that any impacts to access from highway realignment are mitigated such that no public access is lost and new access opportunities are maximized.

Recommendation 6.2: Amend LCP Lateral Access Requirements to Provide for Blufftop Accessways, where superior access would be provided. Where the area between the MHTL and the toe of the bluff is constrained by rocky shoreline, evaluate whether alternative siting of accessways along the blufftop would maximize public access consistent with the Coastal Act.

Recommendation 6.3: Continue Efforts to Accept and Open Outstanding Access OTDs. The County should continue efforts to ensure all outstanding OTDs are accepted and opened.

Recommendation 6.4: Amend LCP to Provide for Direct Dedications of Accessways and Evaluate Performance Standards for these Accessways. As discussed in the Commission's Public Access Action Plan, the County should amend the LCP to allow for direct dedication of public access to the County where appropriate. Performance standards for these dedications and other access OTDs should be evaluated to address such issues as coastal erosion and long-term trail maintenance.

Recommendation 6.5: Develop an LCP Program to Document and Pursue Prescriptive Rights as part of the Access Component. As part of protecting historic use areas, the County shall develop a program to document informal use and potential prescriptive rights as part of the Access Component. Information developed under this documentation effort shall be used to protect prescriptive rights in future County planning and development reviews. Such a program could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights, and could include the participation of other agencies and interested groups.

Recommendation 6.6: Develop LCP Program to Assure Protection of Existing and Potential Public Rights. The County should develop a program to assure comprehensive review of quiet title actions and other changes in intensity of land use, including potential abandonments of public rights-of-way, that may adversely impact public access. A more expanded review of potential loss of historic offers to the public should be pursued. The County has recognized this concern in the proposed Estero Area Plan Update Circulation Chapter regarding Los Osos: "Preservation of all rights-of-way and offers of dedication for roads, ways, vertical and other accessways." The County could further protect public access opportunities by accepting all dedicated street ends within Los Osos. The County and Commission should discuss options for coordinating and pooling resources to evaluate quiet title actions, to maximize protection of public access opportunities.

Recommendation 6.7: Comprehensive Public Recreation Planning. Through a comprehensive Public Access planning process, long-term supply and demand and opportunities for low-cost visitor-serving coastal recreation should be analyzed. The LCP should be evaluated for potential amendments to provide for such uses. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor-serving uses, including that which may be needed in the future.

Recommendation 6.8: Deleted.

Recommendation 6.9: Habitat Conservation Plan Access Review. Ensure that public access management and enhancement consistent with LCP policies is considered as a component of all habitat management and natural community conservation plans within the coastal zone.

Coastal Hazards

Recommendation 7.1: Modify CZLUO 23.05.090(a) to define more specifically what existing structures are for purpose of allowing future armoring. For example, as follows: *“existing coastal development” for purposes of this section shall consist only of the principle structure and shall not include accessory or ancillary structures such as garages, decks, steps, eaves, landscaping, etc. No shoreline protection device shall be allowed for the sole purpose of protecting the accessory structure(s).*

Recommendation 7.2: Revise Coastal Policy 6 to change setbacks to require that they be based on a projected 100-year economic life.

Recommendation 7.3: Revise CZLUO 23.04.118: Eliminate the stringline method for determining setbacks, section (a). Modify section (b) to base setback on a projected 100 year economic life of structure. Add requirement to incorporate a safety factor either as a multiplier or as a set distance, as developed through an Areawide Shoreline Management Plan.

Recommendation 7.4: Modify CZLUO 23.04.118 “Exceptions to Bluff Setbacks Requirements” section (c) to eliminate subpart (3) roof and wall projections.

Recommendation 7.5: Deleted and incorporated into 7. 8.

Recommendation 7.6: Modify Hazard Policy 1 to ensure that in shoreline areas subject to erosion, subdivisions and lot splits shall not be permitted unless they are within (1) an urban infill area and (2) a region covered by an Areawide Shoreline Management Plan that has been certified into the LCP.

Recommendation 7.7: Strengthen Measures to ensure no future armoring.

Modify standards in shorefront areas subject to beach or cliff erosion, inundation, wave uprush, etc., to avoid future shoreline protective devices as a result of new development. For new development on vacant shorefront lots, or for demolition and rebuilding of structures, where geologic evaluations conclude that the development can be sited and designed to avoid the need for a future shoreline protective device, require recordation of a deed restriction that ensures that no shoreline protective device(s) shall be constructed to protect the development approved and ensures waiver of any rights to construct such devices that may exist under Public Resources Code Section 30235.

Recommendation 7.8: Adopt Areawide Shoreline Management Plans as a program in the LCP: Pursue funding to develop and implement Area-Wide Shoreline Erosion and Bluff Retreat Management Plans for Cayucos and Cambria, and, if appropriate, for other shoreline hazard areas. The Area-wide Plans should assess specific sections of these coastline areas based on factors including, but not be limited to, geology, wave conditions, and sand budget. The management plans should include:

- A re-examination of regional average annual erosion rates in order to reflect current shoreline changes.
- Standard engineering plans defining the specific types of armoring that would be acceptable for specific areas, and where appropriate, identification of the types of armoring that should never be considered for certain areas in order to minimize risks and minimize impacts from armoring to public access and scenic resources from the shoreline and water recreation areas.

Standard alternatives feasibility analysis worksheet that would be a required element of all hazard response projects and that would require applicants to go through a series of steps to assure that hard protective devices were only created as a last resort. The analysis may require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, etc.), an examination of all other options (removal, relocation, "do nothing", sand replenishment, etc.), and a conclusion that a shoreline protective device would be the "best option" (most protective of the public trust, best long term solution, etc.) for the subject site.

- Standard conditions and monitoring requirements that may include discussion of mechanisms to ensure shoreline protection effectiveness and public safety with provisions for the removal of ineffective or hazardous protective structures as well as programs to address beach replenishment and sand supply.
- Procedures to address emergency armoring, such as: coordination with property owners and for field inspections before and after storm seasons; guidance for types of temporary structures preferred and a provision for removal of temporary structures if no follow up permit is filed within 30 days.

Preliminary Recommendation 7.9: Modify CZLUO 23.04.420 (g) to ensure that the easements are protected against further encroachment by requiring that the easements be mapped in detail in conjunction with recordation.

Preliminary Recommendation 7.10: Modify CZLUO 23.02.033 ((a)(8) Public Access Locations. Applications for projects between the ocean and the nearest public road shall include the locations of nearest public access points to the project and the mapped locations of any existing public access easements or recorded offers to dedicate public access easements.

Recommendation 7.11: Revise condition language for requiring access easements to provide that access is required unless verification is provided to the Department of Planning and Building that such recorded easement already exists on the property.

Recommendation 7.12: Deleted and Incorporated into 7.8

Recommendation 7.13: Policy 6 should clarify that Highway 1 must comply with setback standards similar to other existing structures. Establish setbacks based on assuring that the highway will be safe from erosion without need for armoring for 100 years. Policy 4 should be expanded to clarify that consideration of alternatives should include possible relocation of the structure to be protected, including Highway 1.

Recommendation 7.14: Amend the NCAP to consider alternatives for the Realignment of Highway One to avoid further placement of shoreline protection while protecting the public access and scenic and visual resources of Highway 1.

Recommendation 7.15: Modify CZLUO section 23.04.118 to update required contents of geologic evaluation reports within the GSA combining designation.

Recommendation 7.16: Delete and incorporate into 7.8.

Recommendation 7.17: Modify LCP to update seismic mapping and identification and extend GSA CD to new faults identified and traces of faults in order to require complete geologic investigation pending new development. New development should be restricted in the Special Studies Zones resulting from updated mapping.

Recommendation 7.18: Expand FH Designation to Arroyo del Puerto, Oak Knoll, Little Pico, Villa Creek and Ellyslly Creek.

Recommendation 7.19: For areas subject to FH combining designation in Cambria, no new development except public services shall be approved until the County has approved the recommendations of the flood analysis and management plan for the West Village that is currently being developed.

Recommendation 7.20: Modify the Coastal Policies or the CZLUO to provide standards that require:

- 1) that any fire clearance area is shown on the site plan for new development proposals as part of the application content;
- 2) that any proposed new development of structures adjacent to public parklands or lands designated as Open Space be sited and designed such that any required fuel modification for the proposed development is confined to the private property in order to avoid impacts to habitat and recreational resources on public lands;

- 3) where structures cannot feasibly be sited to avoid fuel modification on adjacent public lands, that alternative mitigation is provided which can include measures such as off-site restoration or provision of in-lieu fees for restoration;
- 4) that where feasible, proposed structures are sited so that a natural vegetation buffer of sufficient size is maintained between the necessary fuel modification areas and the public parkland. Development, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation should not be permitted in the buffer areas, except that habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values.
- 5) These standards should not apply to ongoing fire suppression and management activities conducted on public parklands necessary to minimize fire hazards to adjacent property.

Scenic and Visual Resources

Recommendation 8.1: Enact a Critical Viewshed Protection Policy for the North Coast Area that applies to any new development within "critical viewsheds" to be designated north of Cayucos (except any location within the Urban Reserve Lines at Cambria or San Simeon Acres, or in San Simeon Village, or the existing community of Harmony) and for the Estero Area that applies to portions of the Morro corridor. The following actions should be taken to develop this policy:

Designate "critical viewsheds" in these areas by taking into account all public vantage points from:

- State Highway Route One,
- public beaches, shoreline recreation areas and offshore state coastal waters,
- bluff overlooks, turnouts, and designated future public use areas (particularly, between the first public road and the sea outside of the designated Urban Services Lines).

Develop standards for new development within designated Critical Viewsheds that provide:

- no new development will be allowed that can be seen or that could potentially degrade public views (e.g., construction and grading that can be seen by normal, unaided vision from any public vantage points)
- mechanisms to resolve private property takings concerns where it is not feasible to comply with the critical viewshed protection policy and standards (alternatives include incorporating review procedures within the LCP as outlined in Recommendation 4.10 of this report as well as development of a Transfer of Development Rights program.
- all new parcels must contain building sites outside the critical viewshed (i.e., at least one location per parcel that will accommodate a reasonable residential development that will be entirely hidden from public view). Residential development includes any grading needed to provide a driveway or other improvement.

- underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events can be allowed within the Critical Viewshed;
- Provide strict design, density and mitigation standards that allow improvements and enhancements of recreational support facilities within existing, isolated commercial visitor serving nodes (Harmony, San Simeon, Piedras Blancas, Ragged Point).

Additional standards should be considered to guide review of development in Critical Viewsheds. For example:

- Provide for project specific visual analysis with story poles or comparable demonstration techniques, including consideration of views from state waters.
- Avoid viewshed impacts through application of sensitive design measures and siting that uses existing topography. Allow landscape screening with planting, earthen berms or other measures only where no building site can be concealed from view and where such measures would be in keeping with the character of the surrounding area and also be consistent with all other resource and protection policies.
- Provide guidelines for preferential use of non-reflective, earth tone building materials for mitigating public view impacts;
- Provide that all exterior lighting (except traffic signals, navigational aids and similar safety devices with no reasonable alternative) shall be concealed or shielded so that no light source is directly visible from public viewing areas, and that no artificial lighting of the shoreline or sea results.
- Require utility extensions to be installed underground or otherwise concealed from public view (e.g., suspended under bridges); pursue all opportunities to remediate existing visually intrusive utility lines (e.g., undergrounding, conversion to shared poles, etc.).
- Where fencing is required, standard range fencing that does not impair public views, nor the passage of light, air, or common native wildlife is preferred. Fencing that interferes with public views should be avoided.
- Address maintenance of landscaping where landscaping could either block important public views or is specifically required to mitigate impacts to public views by screening development.
- Provide exceptions for development that requires a location in the viewshed in order to properly function and no other location is feasible for such things as necessary public facilities (including public access improvements), agricultural improvements needed to support grazing operations and crop production, and necessary resource protection and restoration projects.

In developing the Critical Viewshed Policy and standards, approaches of the Coast Highway Management Plan being developed for the Big Sur Coast in Monterey County under the National Scenic Byways program may provide possible guidance.

*Adopted Report
San Luis Obispo County LCP Periodic Review
July 12, 2001
As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

Recommendation 8.2: Create a Scenic SRA Combining Designation. All highly scenic areas in the Coastal Zone should be mapped and designated as Sensitive Coastal Resource Areas. Creation of a coastal visual SRA could incorporate and expand upon inland standards that require assessing visibility of the project, requiring a site visit as part of the application process and other standards on ridgetop development, slopes, rock outcroppings, building feature and landscaping.

Preliminary Recommendation 8.3: Strengthen Enforcement Program and Condition Compliance Monitoring. Develop a project tracking system to facilitate monitoring and enforcement of mitigation measures, and coordination with other affected departments, as funding allows.

Preliminary Recommendation 8.4: Create a Funding Mechanism For An Open Space District. The County should consider creating a permanent source of funding for open space acquisitions. A 1/2 cent sales tax, bond initiative or creation of a countywide or coastal zone open space district could provide millions of dollars annually for the purchase of property and retirement of development rights. The County should also strategically pursue grants and other outside funding supplies to augment such a funding mechanism.

Recommendation 8.5: Pursue National Scenic Byway Designation for Highway One in the Estero and North Coast Planning Areas. Consider including Highway One north of Cayucos and the scenic Morro corridor (already designated by the County as a State Scenic Highway) for inclusion in the National Scenic Byways program. This will allow implementation funding to be sought under the Federal Highway Administration's scenic byway program.

Preliminary Recommendation 8.6: Strengthen Public Viewshed Protection Policy Language. The LCP should be amended to clarify that scenic viewsheds need to be protected from all public viewing areas, including state coastal waters. This could be accomplished through additional language in existing LCP visual policies and ordinances. For example, Policy 2 could be amended as follows:

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from all major public-viewing areas, including state waters. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.

To effectively resolve takings concerns where it is not feasible to comply with the scenic resource protection policies and standards, incorporate additional standards and review procedures within the LCP (as outlined in Recommendation 4.10 of this report) that will maximize protection of coastal resources and conform to Coastal Act Section 30010. Alternatives such as Transfer of Development Rights should also be considered.

Ordinance 23.04.021 (c)(6) could be modified as follows:

New land divisions where the only feasible building site would be on a slope or ridgetop where a building would be silhouetted against the skyline as viewed from any public viewing area, including state lands shall be prohibited.

Recommendation 8.7: Deleted.

Recommendation 8.8: Complete Specific Plans, Rather Than Design Plans to further define and describe area plan standards.

Recommendation 8.9: Monitor and Evaluate Current TDC Program to assess the effect of the current TDC program implementation on community character and its overall performance in reducing buildout and preserving forest resources.

Recommendation 8.10: Support Continued Undergrounding of Overhead Utilities. The County Undergrounding Committee should continue to receive strong support for their work, and the Coastal Commission should work with the PUC to ensure that this important program is retained. The committee should consider including the overhead utilities across and along Highway One through the Hearst Ranch on the next priority list submitted to the Board of Supervisors.

Recommendation 8.11: Evaluate implementation techniques to protect the community character of Harmony including designation as a Special Community of Historic Importance or by applying the Historic Combining Designation.

Archaeological Resources

Recommendation 9.1: Update Archeological Resources Overlay Maps. Updating the LUE maps to reflect a more accurate location of archaeologically sensitive areas will assist with site identification. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps:

Protection of Resources Not Within the AS Combining Designation. All land use permit applications that propose development within 100 feet of the bank of a coastal stream (as defined in the Coastal Zone Land Use Ordinance), or within 300 feet of such stream where the slope of the site is less than 10 percent, shall be subject to the standards for the Archaeologically Sensitive (AS) combining designation in the Coastal Zone Land Use Ordinance and in this plan.

Recommendation 9.2: Evaluate Requirement for Geoarchaeology Surveys. Through Area Plan Updates, conduct an assessment of potentially buried archaeological resources and identify requirements for undertaking more specific Geoarchaeology Surveys.

Recommendation 9.3: Evaluate Use of Conservation Easements. Disturbance to archaeological data could also be avoided on larger sites by requiring a conservation easement

over the area containing archaeological resources. Avoiding impacts through such easements where feasible may be more protective of the resources than reliance on data recovery. The LCP should be modified to consider such conservation easements instead of data recovery on larger sites, where possible.

Recommendation 9.4: Evaluate Permit Exemptions. The County should consider including standards in permit requirements (CZLUO23.03.040) that development that requires a coastal development permit should not be exempt from permit requirements if archaeological resources may be impacted. Rural lands may contain archaeological resources and exempt development may be destructive to these resources.

Energy and Industrial Development

Recommendation 10.1: Update LCP to Address Onshore Fiber Optic Cable Projects. In updating its LCP Area Plans, Land Use designations and/or siting criteria standards should be revised to encourage consolidated cable corridors. Evaluate potential reuse of abandoned oil/gas facilities pipelines for possible alternative use for communication cables. Additional mitigation measures should be developed to address potential impacts from drilling such as requirements for Drilling Fluid Monitoring Plans. Monitoring requirements should be included that provide for qualified monitors onsite with ability to stop drilling should fractures occur which could release bentonite. The CZLUO should be revised to include more specific mitigation for access/recreation impacts, avoidance or minimization of sensitive resources during construction, as well as mitigation measures such as erosion control, revegetation, and other measures necessary to protect scenic resources and habitat values.

Recommendation 10.2: Update Energy Policies of LCP Area Plans. As part of the update of LCP Area Plans, the County should update information on current energy demand and ensure that existing policies and standards provide adequate guidance for mitigating the impacts of any potential energy facilities consistent with other LCP and Coastal Act policies.

Recommendation 10.3: Update LCP to Address Abandonment of Energy Facilities. As part of the Area Plan Updates the County should update and revise standards and requirements governing abandonment and clean up of sites in the EX Combining Designation. Updating of standards could include revised requirements that operators submit an Abandonment and Restoration Plan within 60 days of permanently ceasing operations and require bonding or other financial securities to ensure that abandonment and clean up procedures are carried out in an appropriate and timely manner.

Commercial Fishing and Recreational Boating

Recommendation 11.1: Develop a Program to Educate Boaters on the Sensitive Habitat Values of Morro Bay and Other Aquatic Habitats.

Recommendation 11.2: Coordinate the Review of the Proposed Boat Launch Ramp in Baywood Park with Commission Staff, the Department of Fish and Game, and other involved regulatory Agencies and Interested Individuals. As the design and environmental analysis of the proposed boat launch ramp progresses, continued coordination with Commission staff, as well as with biological experts and other regulatory agencies and interested parties, should be pursued.

Recommendation 11.3: Update the Port San Luis Master Plan and Associated Sections of the San Luis Bay Area Plan. Recognizing that circumstances regarding the operation, maintenance, and financing of Port San Luis Harbor facilities have changed since the relevant sections of the LCP were certified, a comprehensive update of the Port San Luis Master Plan and associated LCP provisions is in order. Given the wide range of coastal resource issues raised by future development of uplands owned by the Port San Luis Harbor District, this update should be closely coordinated with Commission and County staff.

The San Luis Bay Area Plan and the Port San Luis Master Plan shall be updated to include a standard to ensure adequate capacity on Avila Beach Road for priority uses under the Coastal Act and LCP. As well, a program should be developed to encourage analysis of the effects of development in Avila Valley on capacity of Avila Beach Road inside the coastal zone. The program should encourage revisions as needed to the General Plan standards for the amount and intensity of development to ensure that adequate road capacity to serve priority uses within the coastal zone will be provided.

Procedures

Recommendation 12.1: Update LCP and Post-Certification Maps.

- The County and the Commission staff should coordinate a review of LCP Maps for accurate delineations of coastal zone boundary and sensitive resource areas and update as necessary.
- The Coastal Commission staff, in coordination with the County, should update the Post-Certification maps to accurately reflect permit and appeal jurisdictions. Once updated, the Commission should provide electronic versions of these maps for use in updating LCP maps.
- Recognize that the appealability of development based on geographic criteria (e.g., the presence of an SRA, a location between the first public road and the sea) should be determined according to what is on the ground as opposed to what is shown on the LCP and Post-Certification Maps. An exception to this is that roads constructed without the proper permits should not be considered as the first public road.

Recommendation 12.2: Increase Coordination for Projects that Cross Jurisdictional Boundaries

- Coordinate permit jurisdiction determinations when projects may involve development within the Commission's original jurisdiction.

- Develop a coordinated permit review procedure for development that straddles permit jurisdictions to avoid, where feasible, the need for separate coastal development permits from the County and the Commission.

Recommendation 12.3: Resolve Areas of Deferred Certification. Update the LCP to eliminate Areas of Deferred Certification (e.g., Sweet Springs Marsh and the Otto property) and establish local permit jurisdiction over future development in such areas.

Recommendation 12.4: Revise LCP Permit Exemptions. LCP permit exemptions (Section 23.03.040 of the CZLUO) should be revised so they conform to Coastal Act Section 30610 and associated sections of the California Code of Regulations.

Recommendation 12.5: Update LCP Provisions Regarding Temporary Events. LCP provisions regarding temporary events, should be updated consistent with the Commission's guidelines, and as recently incorporated into the San Luis Bay Area Plan, so they apply countywide.

Recommendation 12.6: Identify and Review Categorical Exclusions. Clarify where Categorical Exclusions may have been previously approved and how they are being implemented. The Commission staff, in coordination with the County, should evaluate whether these exclusions may be impacting coastal resources and therefore may warrant rescission.

Recommendation 12.7: Improve Noticing and Processing Procedures. The Commission staff should coordinate with the County to resolve noticing and processing issues related to CDPs, CDP amendments and extensions, grading permits, emergency permits, and appeals. In some cases, changes to the LCP may be needed to bring LCP noticing and processing requirements in conformance with the Coastal Act and the California Code of Regulations. The Commission too should improve its noticing procedures. In particular, Commission staff should provide the following notice to the County:

- The date on which Notices of Final Action are received. This will inform the County of the Coastal Commission appeal period for those projects that are appealable, and the effective date of the local permit for unappealable development;
- Whether any appeals have been received at the conclusion of the Coastal Commission appeal period. If no appeals have been filed, this notice will confirm the County's ability to release local building permits. If an appeal has been filed, this notice will allow the County to send the Commission a copy of the local file in a more timely manner.

Recommendation 12.8: Clarify Allowable and Principally Permitted Uses.

- Revise Table O to identify that allowable uses are further limited by Combining Designations (e.g., resource dependent development is the only principally permitted use in ESHA).

- Update Table O to differentiate the principally permitted land use within each land use designation from conditionally permitted uses. All uses currently subject to special standards and criteria should be identified as a conditional use (i.e., all uses currently listed as "S-#-P";
- Table O should also list Land Divisions, Certificates of Compliance, and Lot Line Adjustments as conditionally permitted development within the particular land use designation where they may be allowed.

Recommendation 12.9: Update Permit Application Requirements. Review permit application requirements and current methods for implementing these requirements to ensure that all information necessary to evaluate project consistency with LCP standards is being obtained at the application stage rather than as a condition of approval.

Recommendation 12.10: Provide Legal Documents for Executive Director Review and Approval. Enhance coordination regarding the format and content of legal documents related to open space and public access easements and consider changes to permit procedures that would facilitate such coordination.

Recommendation 12.11: Clarify Appealability of Projects Involving Conditional Uses. Section 23.01.043c4 should identify that if any component of a proposed development constitutes a conditional use, the entire project shall be appealable to the Coastal Commission.

Recommendation 12.12: Improve Methods for Ensuring Compliance with Permit Conditions. Among other means available to achieve effective compliance with permit conditions, the County could develop a tracking system that would be available to all relevant County departments and Commission staff.

Recommendation 12.13: Increase Coordination of Enforcement Actions. Coordinate responses to violations with Commission staff and other involved regulatory agencies.

Recommendation 12.14: Improve Coordination Regarding Emergency Actions. When time allows, consult with the Commission regarding alleged emergencies. This is critically important when a proposed emergency action may result in development on lands that are within the permit jurisdiction of the Coastal Commission.

To facilitate improved coordination and emergency permit processing, the County should prepare an Emergency Permit Procedure Manual. In addition, the County should initiate a process to identify areas that are susceptible to emergency situations (e.g., the flood plain along Arroyo Grande Creek), and to prepare Emergency Prevention Implementation Plans for these areas focusing on methods for avoiding emergencies.

Recommendation 12.15: Expand Standards for Approval of Variances. Incorporate additional standards regarding the use of variances into the LCP. For instance, where a variance is needed to prevent the strict application of ESHA protection standards from resulting in a

Adopted Report

San Luis Obispo County LCP Periodic Review

July 12, 2001

*As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

taking, approval of the variance should be accompanied by information and analyses needed to establish that the variance is warranted under Coastal Act Section 30010.

Recommendation 12.16: Clarify LCP Provisions Regarding Nonconforming Uses. Clarify LCP provisions regarding nonconforming uses and structures, and consider incorporating new standards for the development/adjustment/certification of non-conforming parcels as addressed in Chapter 5 of this report. With respect to the adjustment of non-conforming parcels, Section 21.02.030(c) of the County's Real Property Division Ordinance should be revised to require lot line adjustments to conform to all elements of the LCP (not just the zoning and building ordinances). These new standards should be crafted in a way that conforms to all applicable local, state, and federal laws.

Recommendation 12.17: Provide Additional Opportunities to Efficiently Resolve Appeals

- Incorporate new procedures into the LCP that would provide additional opportunities to resolve appeals at the local level and use existing LCP provisions that allows the County to modify its approval of a project in order to resolve an appeal filed by two Commissioners.
- Improve procedures for providing Commission staff with all information relevant to appealed projects. The information transmitted must include all documents and materials used by the local government in its consideration of the coastal development permit application. Where the County has a question regarding the need or relevance of particular documents or materials, such questions shall be referred to the Commission staff.
- Provide Commission staff with copies of County staff reports prior to the local hearing.

Recommendation 12.18: Institute Appeal Provisions for Variances. Amend the LCP to identify that any development approved by variance is a conditionally permitted use appealable to the Coastal Commission. An appropriate location for this change would be within Section 23.01.045 of the CZLUO.

Recommendation 12.19: Improve Coordination with Grant Programs. Commission and County staff should work with local state and federal grant sources, as well as the recipient of grants, in a way that will facilitate the coastal resource protection and planning improvements called for by this report.

Recommendation 12.20: Seek Additional Funding and Staffing Resources. Both the Coastal Commission and the County should attempt to secure the funding necessary to further develop and implement the recommendations of the Periodic Review. In particular, the Commission should continue to offer LCP Grants that will facilitate the County's ability to commit staff resources to this effort, and the County should take full advantage of these and other grant opportunities. In addition, the Commission should seek funding to staff the Central Coast District Office at a level that will enhance its ability to assist and coordinate with San Luis Obispo County.

Recommendation 12.21: Develop an LCP "Quick Reference Guide". Compile the portions of the LCP that contain the policies, ordinances and standards applicable to new coastal

*Adopted Report
San Luis Obispo County LCP Periodic Review
July 12, 2001
As revised August 24, 2001 to incorporate changes from
the addendum and hearing of July 12, 2001*

development in a single document that would provide applicants and administrators with a quick reference guide to applicable regulatory standards.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



September 29, 2003

Chairperson Mike Ryan
San Luis Obispo County Board of Supervisors
County Government Center
San Luis Obispo, CA 93408

Subject: San Luis Obispo County Response to the *San Luis Obispo County Local Coastal Program Periodic Review*, adopted by the California Coastal Commission on July 12, 2001

Dear Chairman Ryan and San Luis Obispo County Supervisors:

I am writing to convey the California Coastal Commission's concerns regarding the implementation of its recommendations in the San Luis Obispo County Periodic Review. On July 12, 2001, the Coastal Commission adopted the Periodic Review of San Luis Obispo County's Local Coastal Program (LCP), which identified 165 actions the Commission determined are necessary and appropriate to fully carry out Coastal Act policies in San Luis Obispo County in light of new information and changed circumstances since certification of the LCP in 1988. Both the County and the Commission have committed significant resources towards implementing the recommended actions, and some progress has been made in carrying out the less controversial recommendations. However, in the two years that have transpired since periodic review completion, few substantive changes to the LCP have been made, and many important recommendations have yet to be addressed. The Commission reviewed the status of periodic review implementation efforts at its March and June 2003 meetings, and after considering several possible responses to the situation chose not to pursue legislative action at that time, and determined that renewed collaborative efforts between the County and the Commission, working toward effective implementation of the major recommendations, is the most productive way to proceed. In the interest of facilitating implementation of what the Commission deems to be the most important recommendations in the periodic review, we submit the following recommendations for action in Phases 1 and 2 of the County's implementation program¹:

I. Phase 1

The Phase 1 amendments recently submitted for Commission certification partly respond to 67 of approximately 90 recommendations that the County originally agreed to consider. Notwithstanding the beneficial changes contained in the submittal, some modifications will be

¹ The timelines contained in these recommendations were developed in coordination with County and Commission staff.

needed to effectively implement the corrective actions². The County should coordinate with the Commission staff regarding these adjustments so that the modified amendments can take effect before March 31, 2004.

II. Phase 2

The Phase 2 work program approved by the County should be supplemented and prioritized as follows, and the associated LCP amendments should be submitted for Commission certification by August 31, 2004:

A. Sensitive Habitat Protection

Phase 2 should complete the Phase 1 effort to replace the LCP's reliance on outdated maps for delineation and protection of environmentally sensitive habitat areas (ESHA) with a process to use actual on-the-ground, site-specific ESHA determinations (Recommendations 4.1, 4.2). Similarly, Phase 2 should include the incorporation of new standards to ensure accurate delineation of wetlands (Recommendation 4.30).

Other actions needed to protect important biological resources involve updating the LCP to effectively avoid, minimize, and mitigate the adverse impacts of new development on ESHA. Accordingly, the Commission supports the County's proposal to address Recommendations 4.2, 4.3, 4.5, 4.9, 4.10, 4.14, 4.15, 4.18, and 4.53 during Phase 2. A related action that should be included in this effort is the establishment of an LCP requirement to record conservation easements and/or deed restrictions to permanently protect ESHA on sites where new development occurs (Recommendation 4.13). In addition to these proposals, the Commission would hope that the County could address ESHA recommendations 4.08 – 4.32, but is specifically concerned and would like to see recommendations 4.08a, 4.26, and 4.32 included in Phase 2.

B. Water Quality

The Phase 1 amendments submitted by the County propose to apply, County-wide, the water quality protection standards recently put in place for residential and commercial development in Cambria and Avila Beach through the certification of the specific plans for these areas. At the same time, the County is developing related water quality standards as part of other planning efforts such as the Estero Area Plan Update, and a separate set of water quality standards is contained in the modified Grading and Drainage Ordinance Update recently approved by the Commission. In order to avoid internal inconsistencies, and provide consistent and effective implementation of water quality standards, the County should consolidate and complete the various LCP changes currently under consideration. In particular, the County should adopt the Commission's modifications to the Grading and Drainage Ordinance update as a means to

² Please refer to the Commission's staff's analysis of the draft Phase 1 amendments included in the staff report prepared for the Coastal Commission hearing of March 5, 2003.

establish baseline water quality standards, and develop complementary Phase 2 amendments that support and supplement these standards as well as eliminate redundancies and outdated language from the LCP. Ideally, this should include an update of the Chapter 9 Policies to better protect coastal water quality in accordance with periodic review Recommendation 3.7a.

With regard to broader watershed planning efforts called for by Recommendation 3.7b, the Commission has recognized that the development of watershed plans will require the involvement of multiple agencies. To facilitate these efforts, Phase 2 should incorporate a program into the LCP that will provide a framework for enhanced watershed planning. In addition, since the County is currently pursuing updates to Title 19 standards for septic systems, this update should also be coordinated with the Phase 2 amendments in response to Recommendation 3.6e.

C. Scenic Resources

Enhancing LCP protections for the highly scenic North Coast and "Morro Corridor" areas of the San Luis Obispo County coastal zone is an important component of the Periodic Review. The Commission therefore supports the County's decision to include a response to Recommendation 8.1 (protection of North Coast and Estero critical viewsheds) as part of the Phase 2 effort, recognizing that the initial focus will be on implementing this recommendation within the Estero Area, through the Estero Area Plan Update, as discussed below. We would expect, though, that updates to the North Coast Area Plan visual resource standards will be pursued in a timely fashion in a later phase of implementation. Phase 2 should also strengthen visual resource protection countywide by completing the Phase 1 effort to recognize and protect sensitive scenic resource areas (Recommendation 8.2), and by enhancing viewshed protection policies and ordinances in accordance with Recommendation 8.6.

D. Hazards

The Estero and North Coast Updates provide the appropriate opportunity to address coastal erosion hazard issues in the areas they are most prevalent, Cambria and Cayucos. However, an important periodic review recommendation applicable to the entire coastline is to avoid new development in areas at risk of coastal erosion by, among other ways, requiring development to assume the risk of building in hazardous areas and prohibiting future seawalls to protect new development (Recommendation 7.7). This provision should be included in the Phase 2 amendments. Among the other hazard recommendations that the County has proposed to deal with during Phase 2, an update of LCP fire clearance requirements (Recommendation 7.20) should be addressed as a priority.

E. Implementation Procedures

An essential step in the coastal development review process is determining whether a proposed development is the "principally permitted use" within the certified land use designation; this determination affects appealability, processing procedures, and the application of particular

development standards. In order to enable accurate and consistent determinations, Phase 2 should include the modifications to Table O called for by Recommendations 4.4 and 12.8. Other important procedural changes that should also be addressed by Phase 2 include the need to limit Coastal Development Permit Exemptions to those authorized by Section 30610 of the Coastal Act (Recommendation 12.4), and to provide for the appeal of all LCP Variances (Recommendation 12.18).

III. Grading and Drainage Ordinance Update

As an efficient means of implementing Water Quality Recommendations 3.2b-c, 3.6b-c, 3.9 and 3.12, as well as ESHA Recommendation 4.27, the County should adopt the modifications to the grading and drainage ordinance update (LCP Amendment 1-01 Part C) suggested by the Commission on March 5, 2003. Given that the County's acceptance may be contingent upon the Commission's certification of exclusions to permit requirements for specific categories of development (e.g., grading associated with agricultural production), the County should submit the proposed Categorical Exclusions before March 1, 2004, and work for full certification of both the exclusion and the modified Grading and Ordinance Update by August 31, 2004.

IV. North Coast Area Plan Update

The Board's recent authorization to initiate Phase 2 of the North Coast Area Plan Update, focused on the urban areas, provides the appropriate opportunity to address the significant public service and natural resource constraints to future development in Cambria, among other ways, by reducing buildout levels to those that can be sustained by available services without adverse impacts to coastal resources and public access and recreation opportunities (Recommendations 2.16 – 2.20). For example, submittal of the Update should be accompanied by a detailed analysis showing the level of development allowed by the plan, and how such development can be accommodated within existing public service capacities and resource constraints.

The Update should also include a comprehensive habitat protection plan for Cambria's valuable forest habitats (Recommendations 4.6, 4.36 – 4.47), and updated standards to minimize shoreline armoring along Cambria's coastal bluffs (Recommendations 7.1-7.7). Additionally, the Update should evaluate and update the Cambria TDC program as necessary to protect Community character, preserve forest resources, and maximize buildout reduction (Recommendation 8.9). Finally, the Update should include a specific Public Access component, in partial fulfillment of Recommendation 6.1. A draft of this Update should be available for public review by May 31, 2004, and the locally approved Update should be submitted for Commission certification by December 31, 2004.

V. Estero Area Plan Update

Similarly, the Estero Area Plan Update currently underway provides the appropriate vehicle for the County to:

- implement a comprehensive habitat protection plan to protect the sensitive dune habitats of the Los Osos area (Recommendations 4.6 and 4.36 – 4.47);
- address public service constraints to the buildout of the South Bay Urban Area (Recommendations 2.16 – 2.20);
- designate the Morro Corridor as a critical viewshed and enact improved visual protection standards for this and other scenic areas such as the Irish Hills (Recommendations 8.1, 8.2, and 8.6);
- develop a Shoreline Management Plan to address shoreline erosion and armoring issues in Cayucos (Recommendation 7.8); and,
- incorporate a Public Access component within the Area Plan (Recommendation 6.1).

Submittal of the Estero Update for Commission certification should occur prior to August 31, 2004.

VI. Other Outstanding Recommendations

Coastal Act Section 30519.5 requires the County to implement the actions recommended by the Periodic Review, or submit a report setting forth its reasons for not taking recommended actions within one year of the transmittal of the recommendations. However, the County has not yet responded to approximately 30% of the recommendations contained in the Periodic Review. The County should therefore, prior to January 31, 2004, submit a report explaining the reasons why it has declined to move forward with the adoption and implementation of the recommended actions that have not yet been addressed. This report should also address any Phase 1 and 2 recommendations that have not been pursued by the County.

VII. Phase 3

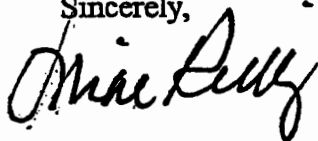
The recommended schedule for submitting the various LCP amendments identified above concludes in September 2004. These submittals should be followed by the submittal of a Phase 3 Implementation Work Plan, which should be submitted for Commission review and comment by January 1, 2005. This phase should include all recommendations not previously addressed in Phase 1, 2 or the January 31, 2004 report required above. Priorities for Phase 3 should include implementation of recommendations regarding:

- Lot-line Adjustments on Agricultural Lands (Recommendation 5.4)
- Processing of Certificates of Compliance (Recommendation 5.7)
- Residential Development on Agricultural Land (Recommendation 5.8)

- Access Components for remaining Area Plans (Recommendation 6.1)
- A comprehensive update of archaeological resource protection provision, including but not limited to the changes recommended in Chapter 9 of the Periodic Review
- Critical Viewshed for North Coast Rural Area (Recommendation 8.1)
- Special Community designation for the Town of Harmony (Recommendation 8.11)

We hope that this letter, setting forth the priority recommendations of the periodic review and the timetable we think is reasonable for completion of the identified actions, is constructive and will be taken by the County in the collaborative spirit in which it is transmitted. We are confident that the County shares the Commission's goal of achieving an updated LCP that reflects our mutual experience implementing the certified LCP with new information and changed circumstances. This letter complements what was set forth in the periodic review and will, if acted upon in a timely fashion, ensure more effective protection and enhancement of the valuable natural, scenic, recreation, and cultural resources of San Luis Obispo County's coastal zone. We look forward to further cooperation in this regard.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mike Reilly", written over a horizontal line.

Mike Reilly
Chairman

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



Adopted

August 20, 2002

TO: Commissioners and Interested Parties

FROM: Charles Lester, Acting District Director
Steve Monowitz, Coastal Planner

SUBJECT: **SAN LUIS OBISPO COUNTY LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-01, Part B: Clarifications, Procedural, and Miscellaneous Changes.** Staff Report adopted by the Commission action at its meeting of August 8, 2002 at the Embassy Suites Hotel (333 Madonna Road) in San Luis Obispo.

SUMMARY OF STAFF REPORT

DESCRIPTION OF AMENDMENT REQUEST

San Luis Obispo County is proposing to amend the implementation portion of its Local Coastal Program by revising the Coastal Zone Land Use Ordinance ("CZLUO", Title 23 of the San Luis Obispo County Code). The amendment submittal contains a wide variety of changes to the CZLUO, many of which are minor changes that clarify existing standards and update cross-references (for example, references to the "California Administrative Code" have been changed to "California Code of Regulations"). The substantive changes proposed by the amendment include:

Revisions to Appeal Procedures. The amendment proposes to revise LCP language regarding appealable development and grounds for appeal, and to include a new provision that allows appellants to withdraw appeals.

Changes to the Minor Use Permit Review and Approval Process. The amendment proposes changes to the Minor Use Permit/Coastal Development Permit (MUP) review and approval process that would: revise the date by which a Public Hearing can be requested; allow the Planning Director to continue action on a MUP where no public hearing has been requested; and, change the date on which the Planning Director must send notice of the County's Final Action.

Changes to the Maximum Duration of a Land Use Permit required for a Land Divisions. The amendment proposes to allow a maximum of five (rather than three) 12-month time extensions for land use permits for divisions of land.

Changes to Parcel Size Standards. The amendment proposes to change the way in which net parcel size is measured by including portions of the parcel that are dedicated for sidewalks and landscaping or equestrian trails. The amendment also proposes to exempt the creation of new parcels intended to protect historic structures from minimum parcel size standards.



California Coastal Commission

SLO LCPC 1-03
Exhibit 4: Adopted Summary and Findings
for SLO LCPC 1-01 Part B
Page 1 of 20

Proposed Changes to Standards for Accessory Uses. The amendment proposes to update standards for structures and uses that are accessory to the primary use of the site, including home offices and occupations, caretaker units, and temporary dwellings and offices. With respect to home offices and occupations, the amendment proposes to incorporate new provisions that: allow the construction of detached home offices, provided that such structures comply with the standards for guesthouses; establish standards for home occupations conducted within a garage; and, recognize counseling services as an allowable home occupation. With respect to caretaker units, the amendment proposes to include standards that: clarify caretaker units associated with agricultural uses must comply with standards for farm support quarters; and, require caretaker units within Residential Rural and Residential Suburban land use designations to comply with standards for secondary dwellings. Finally, with respect to temporary residences and offices (i.e., temporary structures that enable residents and contractors to remain on site during construction of an approved development), the amendment proposes to incorporate new standards that: limit temporary dwellings within urban areas to recreational vehicles with a maximum length of 29 feet; ensure adequate on-site or municipal water and sewer service; require compliance with setback standards; and, limit occupancy to the property owner, permittee, contractor, or employee directly related to the approved construction project.

Proposed Changes to Setback Standards. The amendment proposes to revise setback requirements in a manner that: allows a front setback of 15 feet (rather than 25 feet) for new residences in areas with improved sidewalks and street landscaping; and, requires side setbacks for development on rural corner lots, agricultural accessory buildings, and ground storage facilities for flammable liquids to comply with uniform building and fire codes.

Proposed Changes to Standards Regarding Lighting, Right of Way Improvements, and Utilities. The amendment proposes to revise standards for lighting in a manner that limits the height of exterior lighting to the tallest building that exists on the site (rather than the tallest building that could be allowed), and requires street lighting to minimize light pollution. The amendment also proposes to revise standards requiring development that increases property value by over 25% to install curb, gutters, and sidewalks by allowing a current appraisal (rather than the assessment roll) to be used in the evaluation of property value. With respect to utilities, the amendment proposes to: exempt development within an underground utility district from the requirement to install utilities underground where 75 percent of the developed lots within 1000 feet of the site have overhead utility service; require a minor use permit (rather than development plan) for exemptions to undergrounding requirements; and, clarify that undergrounding requirements apply to the area between the development and the power source, as well as the site itself.

Proposed Changes to Animal Keeping Standards: The amendment proposes to revise regulations for animal keeping facilities to exempt 4-H and Future Farmers of America projects, require commercial horse facilities to comply with Title 9 of the County Code, require commercial rabbit facilities to comply with standards for rabbit farms, and prohibit the keeping of zoo animals within residential suburban and residential single-family land use designations.



Other Miscellaneous Changes: The amendment also proposes to: eliminate square footage limitations for porches; exempt small areas of landscaping from water efficient landscaping requirements; replace existing standards for swimming pool fences with a reference to the Uniform Building Code; notify applicants for roadside stands of other applicable county, state, and federal standards; and, update the list of habitat types that have a moderate potential for wildland fire.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the Implementation Plan (IP) amendment **with modifications** needed to ensure that the amended IP will carry out provisions of the certified Land Use Plan (LUP) encouraging maximum public participation and protecting coastal resources. Specifically, to maximize public participation and fulfill the minimum notice and hearing requirements established in the California Coastal Commission Code of Regulations (Title 14, Division 5.5 of the California Code of Regulations), the suggested modifications:

- Clarify that actions on applications for appealable development, including actions on applications for extensions, are appealable to the Coastal Commission and subject to public hearing and noticing requirements;
- Clarify the circumstances under which the exhaustion of local appeals is not required in order to file an appeal with the Coastal Commission;
- Change the timeframe in which a public hearing on a Minor Use Permit may be requested so that a minimum 7 day notice period is provided for appealable development;
- Modify the procedures for Final Local Action Notices to ensure that such notices are not sent prior to the expiration of local appeal periods; include a description of appeal procedures; and, are sent for County actions on both appealable and non-appealable development.

To ensure that the sections of the CZLUO proposed for amendment carry out the coastal resource protection provisions of the certified Land Use Plan, the suggested modifications:

- Replace the reference to LCP maps with a reference to the LCP's Rules of Interpretation for determining whether a project is within a Sensitive Resource Area. This clarifies that the location of development in relationship to sensitive resource areas must be determined in accordance with the actual location of the resource, rather than a depiction on a map.
- Update the standards for animal raising and keeping facilities to require all such facilities to include water quality protection measures and clarify that a coastal development permit is required for commercial horse keeping facilities.



commercial purposes is subject only to the requirements of subsections b. through e. of this section.

- (i) *Permit requirement. No permit requirement in the Agriculture or Rural Lands land use categories or on parcels of five acres or larger; Plot Plan approval elsewhere or where the raising and keeping is for commercial purposes.*

III. RECOMMENDED FINDINGS

The San Luis Obispo County certified LCP is composed of seven parts: the Coastal Zone Land Use Ordinance, which is the Implementation Plan (IP) portion of the LCP; the Framework for Planning, the Coastal Plan Policies, and four Area Plans, which make up the Land Use Plan (LUP). The Commission approved the LUP with modifications on October 14, 1982, and the IP was approved as submitted on October 7, 1986. The County assumed permit-issuing authority on March 1, 1988.

A. Amendment Description

San Luis Obispo County is proposing to amend the implementation portion of its Local Coastal Program by revising the Coastal Zone Land Use Ordinance ("CZLUO", Title 23 of the San Luis Obispo County Code). The amendment submittal contains a wide variety of changes to the CZLUO, many of which are minor changes that clarify existing standards and update cross-references (for example, references to the "California Administrative Code" have been changed to "California Code of Regulations"). Other components of the amendment result in substantive changes to, among other things, appeal procedures, noticing and hearing requirements, and requirements for animal keeping facilities. The changes proposed by the amendment are summarized in more detail on pages 1-3 of this report, and specifically listed below. A complete copy of the amendment submittal is attached to this report as Exhibit 1.

Changes to the CZLUO proposed by SLO LCPA 1-01 Part B:

1. Replace references to the "California Administrative Code" with references to the "California Code of Regulations"
2. Correct various cross-references.
3. Modify the appeal withdrawal process so that an appeal may be withdrawn without a public hearing.
4. Revise the appeal sections to clarify when a local decision on a project can be directly appealed to the Commission.
5. Clarify when development located within 300 feet of the beach is appealable to the Coastal Commission
6. Update the grounds for appeal to the Coastal Commission so they match the grounds established by Section 30603 of the Coastal Act.



7. Revise procedures for Minor Use Permits by changing the date by which a public hearing must be requested, providing the Planning Director with the authority to continue a hearing, and modifying the timeframe for noticing actions.
8. Increase the number of 12-month time extensions that can be granted for land use permits authorizing land divisions from three to five.
9. Modify parcel size standards for lots that dedicate a 10-foot wide strip of land for sidewalks with landscaping adjacent to the street, or for equestrian trail facilities, so that such area can be included in the calculation of the site's net site area.
10. Clarify that the same standards that apply to the construction of a guesthouse applies to the construction of a home office that is detached from the main residence.
11. Revise the front setback requirement of 25 feet for residential development so that a residence can be constructed within 15 feet in areas improved with sidewalks and landscaping.
12. Distinguish side setback standards for urban and rural corner lots to conform to the uniform fire code.
13. Clarify the definition and standards for Porches and remove the square footage limitations.
14. Clarify that the "Review Authority" (including but not limited to the Planning Commission) shall determine parking requirements for public safety facilities and wasted disposal sites.
15. Clarify that small areas of landscaping exempt from water efficient standards must still meet other landscaping requirements.
16. Delete current standards for swimming pool fencing and instead apply the Uniform Building Code.
17. Limit the height of exterior lighting to the height of the tallest building that *exists* on the site, rather than the height of the tallest building that would be *allowed*.
18. Require that street lighting be designed to minimize light pollution by preventing that light from going beyond the horizontal plane at which the fixture is directed.
19. Update the reference to the Uniform Building Code Section regarding nuisance and hazard abatement.
20. Modify curb, gutter, sidewalk provisions so that a current appraisal can be used as an alternative to the assessment roll in determining whether a proposed development will increase the property value by over 25% and therefore require the installation of curb, gutters and sidewalks.
21. Exempt development within an underground utility district from the requirement to install utilities underground where 75 percent of the developed lots within 1000 feet of the site have overhead utility service.
22. Clarify that the requirement to underground utilities may be applied to the area between the distribution source, as well as on the site itself, and should be coordinated with the utility service provider.
23. Require Minor Use Permit approval rather than Development Plan approval where the Review Authority exempts the requirement for utilities to be installed underground because physical conditions make the use of underground utilities impractical or unreasonable.



24. Require above ground storage facilities for flammable or combustible liquids to be setback less than 50 feet from the property line where allowed by the Uniform Fire or Building Code
25. Within Historic Site combining designations, allow the creation of smaller parcels than otherwise allowed by minimum lot size standards, where the creation of such a lot will support the restoration or continuation of a historic structure and provided that such parcels can only be transferred to a valid tax exempt charity and the historic structure will not be used for residential purposes.
26. Establish standards for home occupations conducted within a garage.
27. Recognize counseling services as an allowable home occupation.
28. Allow the construction of a detached home office as a residential accessory use subject to the same standards as those that apply to the construction of a detached guesthouse.
29. Update the reference to the noise standards contained in the ordinance that regulates animal keeping in urban areas and residential land use categories.
30. Delete the requirement that official 4-H or Future Farmers of America animal keeping projects on sites that are one acre or greater comply with the specific animal standards established by Section 23.08.046f3-11.
31. Require that the keeping of horses for commercial purposes comply with Title 9 of the County Code.
32. Require that the raising and keeping of rabbits for commercial purposes comply with the specific animal standards for rabbits and rabbit farms, including Plot Plan approval.
33. Prohibit the private keeping of zoo animals within the residential single-family land use designation.
34. Require larger setbacks for Agricultural Accessory Structures where necessary to carry out the Uniform Building Code.
35. Notify applicants for Roadside Stands that such projects must comply with standards established by the County Health Department and other applicable Federal and State statutes or regulations.
36. Include "extended reach facilities" as a type of development related to the petroleum refining industry that must comply with CZLUO standards, including the requirement for a Specific Plan
37. Clarify that a caretaker's residence proposed in connection with an agricultural use must comply with standards for farm support quarters (including in areas outside of the agricultural land use designation).
38. Clarify that a caretaker's residence is proposed in the Residential Rural and the Residential Suburban land use categories is subject to design standards for Secondary Dwellings.
39. Limit temporary dwellings within urban areas to recreational vehicles under 29 feet in length.
40. Update standards for sewer and water service for temporary dwellings and offices.
41. Prohibit the installation of a mobile home as a temporary dwelling where the permanent dwelling is proposed to be a mobile home.
42. Require that temporary dwellings and offices be located outside of required setbacks.
43. Limit occupancy of temporary dwellings to the property owner, permittee, contractor, or an employee of the owner or contractor directly related to the construction project.



44. Identify the following habitat types as having moderate potential for wildland fires: Interior Herbaceous, Coastal Salt Marsh, Desert Scrub, and Freshwater Marsh.

B. Ability of the Amended IP to Carry Out the Certified LUP

The County is proposing a number of changes to the certified Implementation Plan (IP), which in order to approve, the Commission must find are consistent with, and adequate to carry out, the certified Land Use Plan. The two issue areas that are raised by the amendment in this regard are:

Public Participation: Whether the sections of the IP that are affected by the amendment and which address appeal procedures and public noticing and hearing requirements are adequate to carry out LUP provisions calling for maximum public participation and meet the minimum requirements established by the California Code of Regulations.

Coastal Resource Protection: Whether the sections of the IP affected by the amendment are adequate to carry out LUP provisions protecting coastal resources such as environmentally sensitive habitat areas.

1. Public Participation

a. LUP Provisions and Minimum Requirements of the California Code of Regulations

A fundamental goal of the San Luis Obispo County certified LUP is to provide maximum opportunity for public participation in the planning process. The *Coastal Zone Framework for Planning* (Framework) includes 15 general goals that describe the purpose of the LCP and are to be furthered by LCP amendments and updates (page 1-3 of the Framework). General Goal 11.d on page 1-8 of the Framework states:

Encourage maximum public participation in the decision making process when new plans are developed and when development is being reviewed.

In order to carry out this LUP goal and meet the minimum state requirements for LCP implementation, the amendment must conform to Sections 13560-13572 of the California Code of Regulations, which state:

Article 17. Local Coastal Program Implementation Regulations

§ 13560. Scope of Article.

The provisions of this Article shall constitute minimum standards of notice and hearing requirements for local governments and for the Commission in reviewing development projects after certification of a local coastal program.



§ 13563. Existing Local Procedures.

Existing local government notice and hearing procedures which are in substantial compliance with the provisions of these regulations may be reviewed and certified by the Commission as part of the local coastal program.

§ 13565. Notice of Appealable Developments.

Within ten (10) calendar days of accepting an application for an appealable coastal development permit (or local government equivalent) or at least seven (7) calendar days prior to the first public hearing on the development proposal, the local government shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed and to the Commission. The notice shall contain the following information:

- (1) a statement that the development is within the coastal zone;*
- (2) the date of filing of the application and the name of the applicant;*
- (3) the number assigned to the application;*
- (4) a description of the development and its proposed location;*
- (5) the date, time and place at which the application will be heard by the local governing body or hearing officer;*
- (6) a brief description of the general procedure of local government concerning the conduct of hearing and local actions;*
- (7) the system for local and Coastal Commission appeals, including any local fees required.*

§ 13566. Public Hearing on Appealable Developments.

At least one public hearing shall be held on each application for an appealable development, thereby affording any persons the opportunity to appear at the hearing and inform the local government of the nature of their concerns regarding the project. Such hearing shall occur no earlier than seven (7) calendar



days following the mailing of the notice required in Section 13565. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.

...

§ 13570. Finality of Local Government Action.

A local decision on an application for a development shall not be deemed complete until (1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act, and (2) when all local rights of appeal have been exhausted as defined in Section 13573.

§ 13571. Final Local Government Action-Notice.

(a) Notice After Final Local Decision. (This section shall not apply to categorically excluded developments.) Within seven (7) calendar days of a local government completing its review and meeting the requirements of Section 13570, the local government shall notify by first class mail the Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the local government (or, where required, who paid a reasonable fee to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.

....

§ 13573. Exhaustion of Local Appeals.

(a) An appellant shall be deemed to have exhausted local appeals for purposes of Section 13111 and shall be qualified as an aggrieved person where the appellant has pursued his or her appeal to the local appellate body (bodies) as required by the local government appeal procedures; except that exhaustion of all local appeals shall not be required if any of the following occur:

- (1) The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies



for permits in the coastal zone, in the implementation section of the Local Coastal Program.

- (2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.*
- (3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.*
- (4) The local government jurisdiction charges an appeal fee for the filing or processing of appeals.*

(b) Where a project is appealed by any two (2) members of the Commission, there shall be no requirement of exhaustion of local appeals. Provided, however, that a local government may provide, by ordinance, that notice of commissioner appeals may be transmitted to the local appellate body (which considers appeals from the local body that rendered the final decision), and the appeal to the Commission may be suspended pending a decision on the merits by that local appellate body. If the decision of the local appellate body modifies or reverses the previous decision, the commissioners shall be required to file a new appeal from that decision.

b. Analysis of Amended IP's Ability to Carry Out LUP Public Participation Goals and Statewide LCP Implementation Requirements

To ensure adequate opportunity for public participation in the review of applications of coastal development, the above regulations establish the minimum noticing, hearing, and appeal procedures that must be carried out by local governments in their implementation of LCP's. The Coastal Commission's recent *Periodic Review of the San Luis Obispo County LCP* (adopted by the Commission on June 12, 2001) identifies that the noticing, hearing and appeal procedures that are the subject of this amendment do not conform to the minimum standards required by the Code of Regulations². As further detailed below, the submitted amendment does not fully resolve these inconsistencies, and must be modified in a manner that will carry out the applicable regulations and the LUP's goal of maximum public participation.

1) Appeal Procedures.

The opportunity to appeal certain actions on coastal development proposals is an important way in which the public participates in the development review process. A critical aspect of a well

² Periodic Review recommendation 12.7



functioning appeals process is to ensure that the public has an accurate understanding of what can be appealed. The submitted amendment helps to clarify the appeals process by updating Section 23.01.043c of the CZLUO to state that County *actions* on permit applications for specific types of projects may be appealed to the Commission. This same clarification needs to be made in part b of the ordinance, and is called for by Suggested Modification 2 (see page 7).

Suggested Modification 2 also clarifies that County actions on appealable coastal development projects include, *but are not limited to*, County actions on land use permits. For example, County actions on lot line adjustments, conditional certificates of compliance, and grading permits are not processed as land use permit, but equate to actions on coastal development applications that in certain cases are appealable to the Coastal Commission. This necessary clarification is accomplished by replacing the term "land use permit" with the broader term "coastal development permit".

In addition, Modification 2 clarifies the instances in which the exhaustion of local appeals is not required in order to file an appeal with the Coastal Commission in accordance with Section 13573 of the Code of Regulations. This modification is needed to prevent the ordinance from reading as if the *only* situation in which an appeal can be filed directly to the Coastal Commission (other than by two Commissioners) is where the County charges a fee for the appeal.

Finally, Modification 2 revises the description of the types of development for which County actions are appealable to the Coastal Commission. Currently, subsection c of 23.01.043 identifies County actions on development between the first public road and the ocean, or within a certain distance of the ocean, as being appealable to the Coastal Commission. To maintain consistency with the language contained in Section 30603 of the Coastal Act, suggested modification 2 replaces "ocean" with "sea".

2) Public Hearing Procedures

The opportunity for the public to comment on development proposals is also an important aspect of the public participation process. Section 13566 of the California Code of Regulations requires at least one public hearing to be held for actions on coastal development applications that can be appealed to the Coastal Commission. Section 13565 requires notice of such development to be provided to the interested parties at least seven days prior to the first public hearing.

As currently certified, the CZLUO requires that County actions on land use permits that can be appealed to the Coastal Commission be processed either as a Minor Use Permit (MUP) or Development Plan. A public hearing on a MUP is only conducted if requested by a member of the public. A public hearing is always conducted for applications that are processed as Development Plans.

The amendment proposes to modify the time period under which a public hearing on a MUP can be requested by requiring that the request be made seven days before the hearing. Currently, a public hearing must be requested within 10 days from the date of the public notice (CZLUO Section 23.02.033b(4)(ii)), and the notice must be provided at least 10 days prior to the hearing (CZLUO



Section 23.01.060). Assuming that it takes the notice 1-3 days to reach the interested parties by mail, this approach is consistent with the minimum 7 day noticing requirement established by the code of regulations.

However, the amendment proposes to revise the CZLUO to require that a hearing on a Minor Use Permit must be requested 7 days prior to the hearing. This change shortens the window to request a hearing from 7 days to 1-3 days; if the notice is sent 10 days prior to the hearing and takes 1-3 days to be received by mail, the recipient of the notice would only have 1-3 days to request a hearing. Suggested Modification 4 on pages 8-9 revises the amendment in a manner that provides interested parties with at least 7 days to request a hearing in accordance with Section 13566 of the California Code of Regulations. This modification also ensures that there will be proper noticing of continued hearings.

3) Noticing Procedures

Of course, the public's opportunity to participate in hearings and the appeals process is dependent upon effective noticing. One of the important elements of the noticing required by the California Code of Regulations is the notification of final local actions. Notices of Final Local Actions (NOFA's), also often referred to as Final Local Action Notices (FLAN's), are used to initiate Coastal Commission appeal periods. NOFA's/FLAN's also provide the primary way in which the Commission can monitor local permitting activities and address any questions regarding the appealability of those decisions. In some instances, the proposed County provisions are inconsistent with the Commission's minimum notice requirements and can not be approved.

Suggested Modification 5 clarifies that the County must send the Commission a Notice of Final Action for all County actions on coastal development (appealable and non-appealable), and that such notice must include a description of the appeal process, as required by Section 13571 of the California Code of Regulations and Section 23.02.036a of the CZLUO. In accordance with Section 13570, this modification also incorporates language to ensure that Notices of Final Action are not provided prematurely (i.e., before the time period for appealing the decision at the local level has expired). Suggested Modification 1 ensures addresses the timing of such notice when appeals are withdrawn at the local level.

Similarly, Suggested Modification 6 brings the CZLUO into conformity with Sections 13570 and 13571 of the California Code of Regulations requiring local governments to provide notice of *all* final actions on coastal development applications, including actions on amendments and extensions, which in some cases can be appealed to the Commission. The added reference to Coastal Act access and recreation sections is needed because the sections of the CZLUO referenced by the ordinance do not contain the exact language of the Coastal Act.

4) Permit Extension Procedures

The amendment includes changes to LCP procedures that would allow the county to grant five 12-month extensions for land use permits required in conjunction with land divisions rather than the maximum of three 12-month extensions currently allowed by CZLUO Section 23.02.050. This is



intended to bring the CZLUO into conformance with the provisions of the Subdivision Map Act regarding the extension of approved subdivisions.

The proposed increase in the number of extensions allowed for subdivision permits does not limit the IP's ability to carry out the certified LUP, provided that these and all other permit extensions are accompanied by an analysis of changed circumstances, and are processed in accordance with the minimum requirements established by the California Code of Regulations. There is no maximum number of extensions established by the California Code of Regulations.

As described above, compliance with Sections 13560 through 13574 of the California Code of Regulations establish minimum noticing and hearing requirements for the implementation of certified LCPs. These standards apply to *all* applications for coastal development; the only distinction made by these regulations is the method of noticing and hearing required for appealable, non-appealable, and categorically excluded development. Thus, applications to extend a coastal development permit constitute an application for coastal development, and are therefore subject to the minimum noticing and hearing procedures established by these sections. For example, a County action on an application to extend a coastal development permit that can be appealed to the Coastal Commission must be processed in accordance with the noticing and hearing provisions applicable to actions on appealable development. The proposed amendment does not fully reflect this requirement and must be denied.

Therefore, Suggested Modification 7 updates the LCP procedures for extensions to ensure that the noticing, hearing, and appeal provisions established by the California Code of Regulations are applied to applications for coastal development permit extensions. In addition, Suggested Modification 7 clarifies that the extension of land use permits required for land divisions is subject to the same procedures and standards (e.g., those regarding changed circumstances) that are required for the extension of all other types of coastal development permits. These changes will enable the public and the Commission to participate in the review of permit extensions, which, in turn will facilitate the sharing of information that should be applied to required analyses of changed circumstances.

c. Public Participation Conclusion

As detailed above, the sections of the IP proposed for amendment do not carry out the goal of the certified LUP to maximize public participation, or the minimum noticing and hearing requirements established by the California Code of Regulations and thus, are not adequate to carry out the LCP. Specifically, the procedural sections of the CZLUO proposed for revision by the amendment do not accurately describe the appeals process; do not meet statewide requirements for public hearings; do not ensure effective notice of final local actions; and do not establish adequate standards and procedures for the extension of coastal development permits. Therefore, the amendment is denied as submitted and can only be approved if it is modified in the manner suggested.



2. Coastal Resources and Public Access and Recreation

a. LUP Provisions for Coastal Resource Protection and Public Access and Recreation

As detailed in the following findings, the procedures for implementing the coastal development review process will influence the Implementation Plan's ability to effectively carry out the resource protection and public access and recreation objectives of the Land Use Plan. The provisions of the San Luis Obispo County certified LUP intended to protect coastal resources and enhance public access and recreation opportunities are far too numerous to cite in this report. However, some of the important LUP provisions that are implemented, in part, through the permit review procedures affected by this amendment include:

Policy 1 for Environmentally Sensitive Habitats:

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats

New Development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent upon such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO)]

Policy 10 for Coastal Watersheds:

Policy 10: Drainage Provisions

Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO]

Policy 2 for Visual and Scenic Resources:

Policy 2: Site Selection for New Development

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development shall utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE



IMPLEMENTED AS A STANDARD.]

In terms of public access, Section 30604(c) of the Coastal Act requires every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone to include a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 (commencing with Section 32000).

b. Analysis of Amended IP's Ability to Carry Out LUP Provisions**1) Use of LCP Maps**

As detailed in the Coastal Commission's Periodic Review of the San Luis Obispo County Local Coastal Program (adopted July 12, 2001), LCP maps are often relied upon to determine the Commission's appeal jurisdiction and applicable development standards. For example, LUP provisions calling for the protection of coastal resources protection LCP ESHA Protection provisions have, in some instances, been interpreted as applying only to those areas that are mapped by the LCP as ESHA Combining Designations. This has posed problems where the maps do not accurately reflect on-the-ground resources, in terms of determining applicable standards for the development and whether action on the development is appealable to the Coastal Commission. Most importantly, the use of these maps rather than specific site information does not ensure that coastal resources will be protected consistent with the policies of the certified LUP.

Similar problems can arise where LCP implementation relies on the Coastal Commission's post-certification maps to determine whether a project is within the Commission's appeal jurisdiction and/or subject to conformance with Coastal Act access and recreation policies by virtue of a location between the first public road and the sea. Again, such determinations should be based on the actual location of the development in relationship to such features. As noted by the post-certification maps, questions that may arise regarding the precise location of such boundaries should be referred to the local government and/or the Executive Director of the Commission for clarification and information. Again, it is essential that these boundaries be determined in accordance with actual site conditions to provide accurate and consistent application of development standards and appeal procedures.

These issues are raised by the proposed amendment because it includes revisions to Section 23.01.043c of the CZLUO, which identifies when a development can be appealed to the Coastal Commission. Currently, Section 23.01.043c states that a county decision on a permit application can be appealed to the Coastal Commission if the development is located within a mapped Sensitive Coastal Resource Area mapped by the LCP, or if the development is located between the first public road and the sea, or within 300 feet of the sea or a beach these areas, as mapped by the adopted post-certification appeals maps.

Notwithstanding Section 23.01.043c's reference to LCP and post-certification maps, Section 23.01.041 of the CZLUO, entitled *Rules of Interpretation*, provides appropriate guidance for



addressing situations where such maps may not accurately reflect the actual location of coastal resources and features. Part c of that section states, in relevant part:

c. Map boundaries and symbols: If questions arise about the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, the following procedures are to be used to resolve such questions in the event that planning area standards (Part II of the Land Use Element), do not define precise boundary or symbol location:

...

(3) Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.

To carry out LUP provisions that protect sensitive coastal resources and public access and recreation opportunities, and in accordance with LCP's Rules of Interpretation cited above, the location of sensitive coastal resources and other coastal features must be based on their actual location rather than a depiction on a map. Therefore, Suggested Modification 3 replaces Section 23.01.043c's reference to LCP and post-certification maps with a reference to the Rules of Interpretation. Suggested Modification 3 also deletes Section 23.01.043c's reference to the definition of SRA contained in Section 23.11 is deleted because that definition refers back to Section 23.01.043c.

2) Animal Keeping Facilities:

New animal raising and keeping activities represents a change in the intensity of the use of land and therefore constitutes development as defined by the Coastal Act and San Luis Obispo County LCP. Such development has the potential to impact coastal resources through the removal of sensitive vegetation, increasing erosion and the amount of sediments and pollutants contained within storm water runoff, and introducing structures within scenic view corridors. Permit requirements for such facilities, which are proposed for revision by the amendment, need to be updated in order for the IP to effectively implement the coastal resource protection policies of the LUP.

Currently, CZLUO Standards regulating animal keeping facilities require coastal development permits for animal raising and keeping in very limited circumstances. Experience has shown that some of the permit exemptions for animal raising and keeping have resulted in adverse impacts to coastal resources. A good example of this is the loss of sensitive coastal scrub and maritime chaparral associated with the expansion of horse keeping activities in the Sea Horse Lane area of southern Los Osos, most of which has occurred without coastal development permit review. Thus, the coastal permit exemption provisions of the proposed amendment can not be certified as



submitted. The amendment can only be approved with suggested modification 8, which requires a coastal development permit for the commercial keeping of horses.

More broadly, Suggested Modification 8 requires a coastal development permit for all new animal raising and keeping activities or facilities, other than those associated with the production of agricultural products³, when such activities or facilities are proposed within sensitive resource areas. The exemption for agricultural activities is provided to avoid requirements that would limit the productivity of agricultural lands inconsistent with LUP objectives. As discussed in the Periodic Review of the San Luis Obispo County LCP, there are many educational programs in place that support farmers in their efforts conduct agricultural activities in an environmentally sustainable manner. Further coordination with such programs, rather than additional permit requirements, will be used to ensure that animal keeping facilities associated with agricultural operations carry out LUP coastal resource protection objectives.

Concerns regarding the impact of non-agricultural animal facility development on coastal water quality is addressed by adding a requirement that permit applications for such development include plans showing measure to confine runoff and prevent seepage of wastewater to groundwater. Suggested Modification 8 also supplements the performance standards applicable to all animal keeping operations, regardless of permit requirements, to require that they be managed and maintained in a manner the prevents the discharge of polluted runoff.

c. Resource Protection Conclusion

As discussed above, the sections of the IP proposed for amendment do not effectively carry out the resource protection provisions of the certified LUP. Specifically, the section regarding appealable development emphasizes the use of maps rather than actual site characteristics, which can lead to inaccurate determinations of appeal jurisdictions and applicable standards. In addition, the standards for animal keeping facilities do not contain adequate provisions for the protection of environmentally sensitive habitat areas and coastal water quality. As a result, the amendment is denied as submitted and can be approved only if modified as suggested.

C. Other Aspects of the Amendment

As described on pages 1 – 3 and 14-16 of this staff report, the submitted amendment contains a wide variety of changes to the CZLUO, including but not limited to the changes to procedures and animal keeping standards addressed above. The other aspects of the amendment adequately carry out the provisions of the certified LUP as further discussed below.

³ The CZLUO defines agricultural products as food and fiber in their raw unprocessed state and ornamental plant material.



1. Changes to Parcel Size Standards.

Parcel size standards are critical elements to an LCP because they provide the primary way in which the density and intensity of future development is regulated. Parcel size standards play an important role in the protection of coastal agriculture and sensitive habitats, and in managing development to that which can be sustained by an areas public service and resource capacities.

The amendment proposes to change the way in which net parcel size is measured by including portions of the parcel that are dedicated for sidewalks and landscaping or equestrian trails. This is a minor revision in the way in which parcel sizes are calculated, primarily within urban and village areas, and will not have a significant affect on overall parcel sizes. Thus, the amended ordinance remains adequate to carry out the resource protection provisions of the LUP.

The amendment also proposes to exempt the creation of new parcels intended to protect historic structures from minimum parcel size standards. This change will enhance the CZLUO's ability to carry out the provisions of the LUP protecting special communities and small scale neighborhoods because it provides a more flexible way in which historical structures can be protected. The submitted language contains adequate safeguards to ensure that the exemption from parcel size standards can only be applied to genuine historical preservation efforts, and therefore retains the IP's ability to effectively carry out the LUP.

2. Proposed Changes to Standards for Accessory Uses.

The amendment proposes to update standards for structures and uses that are accessory to the primary use of the site, including home offices and occupations, caretaker units, and temporary dwellings and offices. With respect to home offices and occupations, the amendment proposes to incorporate new provisions that: allow the construction of detached home offices, provided that such structures comply with the standards for guesthouses; establish standards for home occupations conducted within a garage; and, recognize counseling services an allowable home occupation. With respect to caretaker units, the amendment proposes to include standards that: clarify caretaker units associated with agricultural uses must comply with standards for farm support quarters; and, require caretaker units within Residential Rural and Residential Suburban land use designations to comply with standards for secondary dwellings. Finally, with respect to temporary residences and offices (i.e., temporary structures that enable residents and contractors to remain on site during construction of an approved development), the amendment proposes to incorporate new standards that: limit temporary dwellings within urban areas to recreational vehicles with a maximum length of 29 feet; ensure adequate on-site or municipal water and sewer service; require compliance with setback standards; and, limit occupancy to the property owner, permittee, contractor, or employee directly related to the approved construction project.

The proposed changes clarify existing regulations regarding accessory and temporary uses, and supplement these regulations in a way that responds to various problems and issues associated with



such uses. With these changes, the IP will be better able to implement the resource protection policies of the LUP with respect to accessory and temporary uses.

3. Proposed Changes to Setback Standards.

The amendment proposes to revise setback requirements in a manner that: allows a front setback of 15 feet (rather than 25 feet) for new residences in areas with improved sidewalks and street landscaping; and, requires side setbacks for development on rural corner lots, agricultural accessory buildings, and ground storage facilities for flammable liquids to comply with uniform building and fire codes. As amended, these ordinances will be better able to carry out the access and hazard policies contained in the certified LUP.

4. Proposed Changes to Standards Regarding Lighting, Right of Way Improvements, and Utilities.

The amendment proposes to revise standards for lighting in a manner that limits the height of exterior lighting to the tallest building that exists on the site (rather than the tallest building that could be allowed), and requires street lighting to minimize light pollution. This will result in greater protection of scenic coastal resources, consistent with visual and scenic resources policies of the LUP.

The amendment also proposes to revise standards requiring development that increases property value by over 25% to install curb, gutters, and sidewalks by allowing a current appraisal (rather than the assessment roll) to be used in the evaluation of property value. This change is intended to address situations where property values listed on the assessment roll may be artificially low due to Proposition 13. Although this may limit the ability of the County to require curb, gutter, and sidewalk improvements based on property values, it will not affect the County's ability to require access improvements where necessary to meet the public access and recreation policies of the LUP.

With respect to utilities, the amendment clarifies that the requirement to underground utilities applies to both the project site and the area between the project site and the source. This improves the ordinance's ability to protect scenic coastal resources consistent with the objectives of the LUP. However, the amendment also limits requirements for undergrounding utilities by exempting development within an underground utility district where 75 percent of the developed lots within 1000 feet of the site have overhead utility service. Additionally, the amendment reduces the level of permit review required for other types of underground utility exemptions by requiring a minor use permit rather than development plan. According to the County, these revisions have been proposed because deregulation of the utility industry has made property owners, rather than the utility company, responsible for getting power to a project site. Given the fact that exemptions can be granted only where 75 percent of the homes in the immediate vicinity have overhead utility services, and that a public hearing can be requested for all other exemptions, the amended ordinance remains adequate to carry out the visual and scenic resource protection policies of the LUP.



5. Other Miscellaneous Changes

Other components of the amendment include changes that eliminate square footage limitations for porches; exempt small areas of landscaping from water efficient landscaping requirements; replace existing standards for swimming pool fences with a reference to the Uniform Building Code; notify applicants for roadside stands of other applicable county, state, and federal standards; and, update the list of habitat types that have a moderate potential for wildland fire. Of these "miscellaneous" changes, only those regarding porches and landscaping raise substantive issues.

In terms of porches, the elimination of square footage limitations and standard setback requirements have the potential to result in greater site disturbance and impacts to coastal resources. However, other elements of the CZLUO can be used to address this issue. In particular, ordinances requiring the protection of Sensitive Resource Areas and Environmentally Sensitive Habitat Areas, and establishing minimum setbacks from these areas, will maintain the IP's ability to regulate porches in a manner that carries out the resource protection objectives of the LUP.

With respect to landscaping, the proposal to exempt projects that involve less than 2,500 square feet of irrigated landscaping with a turf area of less than 20% of the irrigated landscape area from water efficient landscaping standards is, according to the County submittal, consistent with the state's water efficient model ordinance. This change may have a minor impact on water conservation, which is a crucial tool for the protection of coastal watersheds and groundwater basins (e.g., the Los Osos groundwater basin and the north coast creeks that provide water for Cambria). Nevertheless, other existing ordinances that will not be revised by the amendment are adequate to address this concern. In particular, CZLUO provisions requiring new development to demonstrate the availability of adequate public services precludes the approval of new development that can not be sustained by existing water supplies consistent with the protection of coastal resources.

D. California Environmentally Quality Act (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. In this case the County approved a Negative Declaration for the amendment finding that it did not generate any significant environmental impacts. Modifications to the amendment have been suggested that will further assure that any adverse environmental impacts will not occur or will be mitigated. Approval of the amendment, as modified, will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

