

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400

Th-10b



November 23, 2005

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director
Charles Lester, Deputy Director
Chris Kern, North Central Coast District Manager
YinLan Zhang, North Central Coast District Program Analyst

SUBJECT: **City of Half Moon Bay Resubmitted Major Local Coastal Program
Amendment 1-05 (Changes in Permitting Procedures and Development
Standards for Residential Development on Substandard Lots)**

EXECUTIVE SUMMARY

The City of Half Moon Bay is proposing to amend its Zoning Code to provide more permissive development standards and streamline the approval process for improvements to existing single-family residences on certain substandard lots. These changes are proposed in response to concerns raised by residents that strict development standards adopted by the City in 2001 to limit new development on vacant substandard lots unfairly burden homeowners wishing to make minor improvements to existing residences on substandard lots. Currently, for improvements to existing residences on substandard lots, residents must obtain a use permit, a coastal development permit, and a stamp by a licensed architect. Furthermore, the sizes of allowed additions for homes on substandard lots of size comparable to standard lots in another residential zoning district are significantly smaller. To address these concerns, the City is proposing to:

1. Define a new class of substandard lots known as “exceptional” lots to include substandard lots with existing residence within the R-1-B-1 and R-1-B-2 zoning districts that provide minimum average width of 50 feet and minimum area of 5,000 square feet.
2. Increase the maximum allowable floor area ratio and lot coverage for improvements to existing single-family residences on exceptional lots.
3. Reduce the setback requirements for additions to single-family residences on exceptional lots.
4. Allow additions to single-family residences on exceptional lots to encroach into front and side yard setbacks in cases where the existing development already encroaches into the setback.
5. Eliminate the requirement for a use permit for improvements to existing single-family residences located on exceptional lots.

6. Eliminate the requirement for a use permit for certain improvements to existing single-family residences located on substandard and severely substandard lots.
7. Apply the development standards for standard lots to substandard lots with 95% of the required lot width and 100% of the required area.
8. Eliminate the requirement that all plans for development on substandard and severely substandard lots be prepared by a licensed architect.
9. Conform the coastal development permitting requirements and exemptions to those of the Coastal Act and the Commission's regulations.

The increases in maximum allowable floor area ratios and lot coverage on exceptional lots and on substandard lots with 95% of the required lot width and 100% of the required area (95% width rule) would lead to an increase in the amount of impervious surface coverage within the City. Therefore, the City is proposing to establish new water quality protection standards to mitigate the individual and cumulative impacts of the proposed LCP amendment due to increased urban runoff.

Finally, the City is proposing to clarify that the "Coastal Resource Conservation Standards" contained in Chapter 18.38 of the Zoning Code would not apply to any other local permits except coastal development permits. Currently, all development in the City is subject to the standards in Chapter 18.38 that protect biological, geological, and archeological resources and coastal access. The proposed amendment to the zoning code would specify that these Coastal Resource Conservation Standards would only be applicable to development requiring a coastal development permit. No substantive changes to these standards are proposed.

The proposed amendment, as submitted, would not be consistent with the coastal development permitting and exemptions provisions specified in the Coastal Act and Commission regulations. In addition, as proposed by the City, the water quality protection measures would be implemented through measures specified in the San Mateo Countywide Storm Water Pollution Prevention Program (STOPPP), which have not been reviewed and approved by the Commission or incorporated into the City's LCP. As proposed, these water quality protection measures would not be applicable to development qualifying for the proposed 95% width rule. If certified, the 95% width rule would provide for an increase in impervious surface coverage and related polluted runoff under the LCP development standards. Therefore, staff recommends that the Commission certify the LCP amendment with suggested modifications to: (1) conform the coastal development permitting and exemption provisions of the LCP to those contained in the Coastal Act and the Commission's regulations; (2) to specify the appropriate water quality protection standards and fully incorporate them into the LCP; and (3) to ensure that these water quality protection standards would be both adequate for and applicable to all development that could adversely impact water quality as a result of the proposed amendment.

Staff recommends that the Commission, upon completion of a public hearing, reject the proposed amendment as submitted and certify the amendment request with suggested modifications.

STANDARD OF REVIEW

Section 30513 of the Coastal Act states:

...

The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan.

...

The standard of review for the proposed Zoning Code amendment is the City's certified Land Use Plan. Therefore, to approve the proposed amendment to the Zoning Code, the Commission must find that the Zoning Code as amended conforms with and is adequate to carry out the City's certified Land Use Plan.

STAFF RECOMMENDATION

RESOLUTIONS AND SUGGESTED MODIFICATIONS

I. MOTIONS, STAFF RECOMMENDATIONS, AND RESOLUTIONS FOR IP/ZONING CODE AMENDMENT NO. HMB-MAJ-1-05

A. DENIAL OF IP/ZONING CODE AMENDMENT NO. HMB-MAJ-1-05 AS RESUBMITTED:

MOTION I: *I move that the Commission Reject IP/Zoning Code Amendment No. HMB-MAJ-1-05 as resubmitted by the City of Half Moon Bay.*

STAFF RECOMMENDATION TO DENY:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of IP/Zoning Code 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 I TO DENY CERTIFICATION OF IP/ZONING CODE AMENDMENT NO. HMB-MAJ-1-05 AS RESUBMITTED:

The Commission hereby denies IP/Zoning Code Amendment No. HMB-MAJ-1-05 as submitted by the City of Half Moon Bay and adopts the findings set forth below on the grounds that the amendment does not conform with, and is not adequate to carry out, the provisions of the certified Land Use Plan. Certification of the IP/Zoning Code amendment as resubmitted 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 IP/Zoning Code amendment as resubmitted.

B. CERTIFICATION OF RESUBMITTAL IP/ZONING CODE AMENDMENT NO. HMB-MAJ-1-05 WITH SUGGESTED MODIFICATIONS:

MOTION II: *I move that the Commission certify the resubmittal of IP/Zoning Code Amendment No. HMB-MAJ-1-05 for the City of Half Moon Bay 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 resubmittal of the IP/Zoning Code amendment with suggested modifications and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION II TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the resubmittal of IP/Zoning Code Amendment No. HMB-MAJ-1-05 for the City of Half Moon Bay if modified as suggested and adopts the findings set forth below on the grounds that the IP/Zoning Code amendment with suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the resubmittal of the IP/Zoning Code 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 IP/Zoning Code amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment.

SUGGESTED MODIFICATIONS

The City shall adopt the following Zoning Code change with additions underlined and deletions in ~~striketrough~~.

Suggested Modification #1:

18.06.050 Exceptions to Development Standards

F. Development Standards for Substandard and Severely Substandard Lots. This section sets forth additional development standards for development on Substandard or Severely Substandard Lots, which are defined in the Zoning Code Definitions in Section 18.02.040. The development shall meet all standards set forth in Tables E and F respectively, unless otherwise specified.

...

2. The exception to development standards for substandard, severely substandard, and exceptional lots set forth in Zoning Code Section 18.06.050.F shall only be applied in full conformity with coastal development permitting

requirements pursuant to Section 30600 and 30610(a) of the Coastal Act, Title 14 Section 13250, 13252, and 13253 of the California Code of Regulations, and Chapter 18.20.025 and 18.20.030 of the Zoning Code.

Suggested Modification #2:

18.06.050 Exceptions to Development Standards

F.3. Exceptions to the Requirement for a Use Permit. The following is a list of exceptions to the Use Permit requirement for development on Substandard and Severely Substandard lots:

...
~~F.4 e. 5~~ **Water Quality.** No coastal development permit for development on exceptional lots or substandard lots that provide 95% of the required width and 100% of the required area of the underlying zoning district shall be granted unless the approved development conforms to the water quality protection standards specified in Section 18.38.120 of this Title.

18.38.120 Water Quality Protection. The applicability of this Section shall be limited to: (1) development on exceptional lots as defined in 18.02.040, and (2) development on substandard lots that provide 95% of the required width and 100% of the required area of the underlying zoning district as defined in Chapter 18.06 of this Title.

A. Onsite Retention and Infiltration. To the maximum extent feasible, development shall not result in an increase in the peak rate or average volume of offsite storm water discharge from the pre-development discharge. This requirement shall be achieved by maximizing onsite storm water retention and infiltration. However, onsite infiltration of storm water shall not be required where infiltration would contribute significantly to geologic instability in a geologically hazardous area.

B. Discharge to Sensitive Habitat Areas and Coastal Waters. No pollutants, including but not limited to sediments, heavy metals, pesticides, herbicides, fertilizers, nutrients, construction material, chemicals, petroleum hydrocarbons, trash, etc. shall be directly discharged to any sensitive habitat area, wetland, stream, drainage ditch, or coastal waters.

C. Construction Phase Best Management Practices. Development shall be undertaken in accordance with the following *Construction Phase Best Management Practices* including but not limited to:

1. Prohibit clearing and grading in areas adjacent to sensitive habitat areas, streams, wetlands, drainage ditches and other coastal waters and on slopes greater than 4:1 during the rainy season (October 14 through April 15).

2. Reduce waste by ordering only the amount of materials needed.

3. Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar methods.
4. Avoid mixing excess amounts of fresh concrete or cement mortar. Whenever possible, return contents of mixer barrel to the supplier for recycling. Dispose of small amounts of excess concrete, grout, and mortar in the trash.
5. Re-vegetate disturbed areas as soon as possible following completion of grading or clearing with native, drought tolerant vegetation.
6. Identify all storm drains, drainage swales, drainage ditches, and streams located near the construction site and ensure all construction personnel are aware of their locations to prevent pollutants from entering them.
7. Use straw bale barriers, sand bags, brush or rock filters or other appropriate measures to trap sediment and minimize the quantity of sediment-laden runoff from the site.
8. Ensure that vehicles are parked in areas free from mud; monitor site entrances for mud tracked off-site.
9. Avoid stockpiling of soils or materials when rain is forecast.
10. Cover all construction material and stockpiles with a waterproof tarp during periods of rainy weather to control runoff.
11. Monitor the site for erosion and sediment runoff every 24 hours during and after every storm event.
12. Before it rains, sweep and remove materials from surfaces that drain to storm drains, creeks, or channels.
13. To the maximum extent feasible, prevent blowing dust from exposed soils through the use of mulch or other non-toxic, organic materials.
14. Control the storage, application and disposal of pesticides, petroleum products and other chemicals.
15. Prohibit cleaning of brushes or rinsing paint containers into streets, gutters, storm drains, streams, and drainage ditches. Recycle, return to supplier, or donate unwanted water-based (latex) paint. Dried latex paint may be disposed of in the garbage. Unwanted paint (that is not recycled), thinners, and sludges must be disposed of as hazardous waste.
16. Avoid cleaning, fueling, or maintaining vehicles onsite, except in an area designated to contain and treat runoff. Clean up leaks, drips, and other

spills immediately so they do not contact storm water. Never wash down pavement or surfaces where materials have spilled. Use dry cleanup methods whenever possible.

17. Locate washout areas more than fifty feet from storm drains, open ditches or surface waters and ensure that runoff from washout does not enter coastal waters or other sensitive habitats.

18. Provide sanitary facilities for construction workers.

19. Prohibit placement of portable toilets on or near storm drain outlets. Ensure that the units are adequately maintained, promptly repaired, and replaced as needed.

20. Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.

21. All Construction Phase Best Management Practices shall be inspected and maintained as necessary to ensure proper function.

D. Post Construction Phase Best Management Practices. Development shall be undertaken in accordance with the following *Post Construction Phase Best Management Practices* including but not limited to:

1. Use permeable materials for driveways and walkways to the maximum extent feasible.

2. Minimize directly connected impervious surfaces.

3. Direct rooftop and driveway runoff to onsite pervious areas such as landscaped areas, and avoid routing rooftop runoff to the roadway, drainage ditches, or other storm water conveyance systems.

4. Minimize vegetation clearing and grading.

5. Maximize canopy interception and water conservation by preserving existing native trees and shrubs, and planting additional native, drought tolerant trees and large shrubs.

6. Use water cisterns to collect and store runoff.

7. Landscape with native, drought tolerant species to minimize the need for fertilizers, pesticides, herbicides, and irrigation.

8. Structural Best Management Practices including but not limited to biofilters, detention basins, infiltration basins, and drainage inserts shall be

implemented if onsite filtration and retention cannot be feasibly accomplished through Site Design and Source Control Best Management Practices.

9. Structural Best Management Practices shall be designed to treat storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based Best Management Practices and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based Best Management Practices.

10. All Post Construction Phase Best Management Practices shall be inspected and maintained as necessary to ensure proper function.

E. Erosion Control, Drainage, and Storm Water Management Plans.
~~permit applications requiring a Coastal Development Permit that meet the criteria below shall include a site specific erosion and drainage control plan. Plans shall be required for new development~~ Development that (1) increases lot or site impervious surface coverage by more than 5% of the lot area or (2) involves grading that will affect drainage patterns on or off the site shall be undertaken in accordance with site-specific construction phase erosion control, drainage plan and post construction storm water management plan prepared by a licensed/registered civil or professional engineer.

~~1. a~~ The erosion and drainage control plans shall include a site specific erosion control plan that includes controls on grading (i.e. timing and amounts), Best Management Practices for staging, storage, and disposal of construction materials, design specification of sedimentation controls and plans for the landscaping/ re-vegetation of graded or disturbed areas. The plans shall also include a site-specific storm water runoff control plan measures that demonstrates how the net increase in runoff will be diverted from impervious surfaces into pervious areas of the property in a non-erosive manner that filters and lets storm water infiltrate the soil prior to conveyance offsite.

~~2. b Development that requires a site specific erosion, sediment, and drainage control plan, pursuant subject to §18.06.050(F)(3)(c)(5)(a) shall provide a post construction plan detailing how storm water and polluted runoff will be managed or mitigated. The post-construction storm water management plan~~ Project Submittals shall include details regarding how the project development will use appropriate Site Design and Source Control Best Management Practices specified in § 18.38.120(D) from the San Mateo Countywide Storm water Pollution Prevention Program Storm water Management Plan (STOPPP) to minimize post-construction polluted runoff and maximize onsite retention and infiltration of storm water. The project plans submitted with the permit application shall also specify any Treatment Control or Best Management Practices that the applicant elects to include in the development necessary to minimize post-construction polluted runoff, and include the operation and maintenance plans for these treatment control Best Management Practices. The post construction plan shall also detail:

- ~~i. Drainage improvements (e.g., locations of infiltration basins).~~
- ~~ii. Potential flow paths where erosion may occur after construction.~~
- a. Pre-development site drainage.
- b. Post-development site drainage.
- c. Location and design specification of any treatment or structural Best Management Practices that will be implemented.
- d. ~~iii. Methods to accommodate onsite percolation, Description of how the revegetation of disturbed portions of the site will be revegetated, including the types of native, drought tolerant plants that will be used. address onsite and/or offsite impacts and construction of any necessary improvements.~~
- ~~iv. Storm drain pollution prevention measures including all construction elements and Best Management Practices (BMPs). to address the following goals in connection with both construction and long term operation of the site:~~
 - ~~Maximize on-site retention and infiltration measures including directing rooftop runoff to permeable areas rather than driveways~~
 - ~~Maximize, to the extent practicable, the percentage of permeable surfaces and limit directly connected impervious areas in order to allow more percolation of runoff into the ground~~

Suggested Modification #3:

18.02.040 Definitions.

...

Structure: ~~Anything constructed or erected that requires a location on the ground, “Structure” includes ing but is not limited to any building, a swimming pool, access drives or walks, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line but not including a fence or a wall used as a fence if the height does not exceed six feet, or infrastructure such as a road, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission or distribution line.~~

Suggested Modification #4:

18.20.025 Permit Required. Unless otherwise exempted, all development as defined in Section 18.20.020.C and Section 30106 of the Coastal Act in the City of Half Moon Bay requires a Coastal Development Permit. The Coastal Development Permit must be approved prior to the commencement of development and shall be required in addition to any other permits or approvals required by the City. A local Coastal Development Permit may be combined with any other permit application. When not feasible to combine a Coastal Development Permit with one or more other applications, it may be processed concurrently with or prior to any other procedures required by this Title or the Municipal Code. Prior to initiating the review process

for any discretionary or ministerial permits in the City, the Planning and Building Director shall determine the feasibility of concurrent or prior processing of the Coastal Development Permit. The coastal development permitting requirements herein and exemptions in Section 18.20.30 shall be carried out in full conformity with Sections 30600 and 30610 of the Coastal Act and Title 14, Sections 13250, 13252, and 13253 of the California Code of Regulations. Any conflicts between provisions in the Zoning Code and either the Coastal Act or Title 14, Sections 13250, 13252, and 13253 of the California Code of Regulations shall be resolved in favor of the California Coastal Act and Title 14, Sections 13250, 13252, and 13253 of the California Code of Regulations.

A. Coastal Development Permits to be Issued by the City. Except as provided in Subsection B below governing coastal development permits issued by the Coastal Commission and Section 30519(b) of the Coastal Act, any development that meets the definition contained in Section 18.20.020 and 30106 of the Coastal Act, including any of the following must obtain a Coastal Development Permit from the City. The following list is provided for illustrative purposes and does not constitute an exclusive list.

~~1. Any development in or within 100 feet of any Sensitive Habitat Area, Riparian Corridor, Bluffs and Seacliff Areas, and Wetlands, or within a Wild Strawberry habitat, as designated in Chapter 18.38 or as shown on the Coastal Resource Area Maps;~~

~~2. Any development within Archaeological Resource Areas where there is substantial indication that archaeological resources exist on or within 100 feet of the project;~~

~~3. Any development which would preclude the general public from use of, or access to, a public recreational area for a significant period of time.~~

~~4. A temporary event which:~~

~~a. Either individually or together with other temporary events scheduled before or after the event, precludes the general public from use of a public recreational area or use of a sandy beach for a period of time; or~~

~~b. With it's associated activities or access requirements, will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, public access opportunities, visitor and recreational facilities, water-oriented activities, agricultural lands, marine or biological or archaeological or paleontological resources; or~~

~~c. Would restrict public use of roadways or parking areas or otherwise impact public use or access to coastal waters between Memorial Day weekend and Labor Day; or~~

~~d. Has historically required a Coastal Development Permit to address and monitor associated impacts to coastal resources; or~~

- ~~e. Involves a charge for general public admission or seating where no fee is currently charged for use of the same area.~~
- ~~5. Any lot line adjustment.~~
- ~~6. Removal of riparian or other major or notable vegetation other than for agricultural purposes.~~
- ~~7. Construction or expansion of wells or septic systems.~~

Suggested Modification #5:

18.20.030 Exemptions. The coastal development permitting requirements in Section 18.20.25 and exemptions herein shall be carried out in full conformity with Sections 30600 and 30610 of the Coastal Act and Title 14, Sections 13250, 13252, and 13253 of the California Code of Regulations. Any conflicts between provisions in the Zoning Code and either the Coastal Act or Title 14, Sections 13250, 13252, and 13253 of the California Code of Regulations shall be resolved in favor of the California Coastal Act and Title 14, Sections 13250, 13252, and 13253 of the California Code of Regulations. The following categories of projects are exempt from the requirement to secure approval of a Coastal Development Permit:

A. Replacement of Structures Following Disaster. The replacement of any structure, other than a public works facility, destroyed by disaster, provided that the replacement structure:

- 1. Conforms to all Zoning Code and Building Code requirements applicable at the time of replacement;
- 2. Is the same use as the destroyed structure; and
- 3. Does not exceed the floor area, height or bulk of the destroyed structure by more than 10 percent and is sited in ~~essentially~~ the same location on the site as the destroyed structure.
- 4. As used in this subdivision:
 - a. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - b. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
 - c. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

B. Categorical Exclusion Areas. Any category of development within specifically defined geographic area as adopted pursuant to Sections 30610(e) and

30610.5 of the Public Resources Code after Certification of the Local Coastal Program and that otherwise meet all other applicable regulations of the City of Half Moon Bay.

~~C. — **Miscellaneous Activities and Development.** The following activities, and development projects are exempted:~~

~~1. — **Permits.**~~

~~a. — **Sign permits.**~~

~~b. — **Home occupation permits.**~~

~~c. — **Permits for which no "development" is proposed, including issuance of business licenses, approval of final subdivision maps for which a Coastal Development Permit has been issued, and approval of individual utility service connections and disconnection's.**~~

C.2. — Repair and Maintenance. Repair and maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such activities, except as otherwise specified in Subchapter 7, Title 14, Section 13252 of the California Code of Regulations and any amendments thereafter adopted. ~~Such activities include but are not limited to:~~

~~a. — **Repair and maintenance necessary for on going operations of an existing facility which does not expand the footprint, floor area, height, or bulk of an existing facility, and the minor modification of existing structures required by governmental safety and environmental regulations, where necessary to preserve existing structures which does not expand the footprint, floor area, height, or bulk of an existing structure;**~~

~~b. — **Interior remodeling of a building, except where such remodeling changes the nature of the use.**~~

~~c. **D. Improvements to Existing Single-Family Residences.** Additions to existing single-family residences and improvements normally associated with single-family residences such as garages, swimming pools, fences, storage sheds, and landscaping, but not including guest houses or self contained residential units, except as otherwise specified in Subchapter 7, Title 14, Section 13250 of the California Code of Regulations.~~

~~d. **E. Improvements to structures other than single-family residences or public works facilities** except as otherwise specified in Subchapter 7, Title 14, Section 13253 of the California Code of Regulations.~~

3. F. **Utilities.** ~~a. Installation testing, placement in service, or the replacement of any necessary utility connection between an existing service facility and any development that has previously been granted a Coastal Development Permit. The City may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.~~

~~b. — **Installation, maintenance, and repair of underground electrical facilities and the conversion of existing overhead facilities to underground facilities, provided the work is limited to public road or railroad rights of way or public utility easements and provided the site is restored as closely as reasonably possible to its original condition.**~~

~~c. Installation, maintenance and minor alteration of utilities that do not increase in capacity or are required to restore service or prevent service outages.~~

~~4. Removal or harvesting of major vegetation for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan.~~

~~5. G Temporary Events. Any proposed development which the Planning and Building Director finds to be a temporary event which does not have any significant adverse impact on coastal resources, except those which meet all of the following criteria:~~

~~a. 1. The temporary events below are examples of temporary events which are excluded from the requirement of a Coastal Development Permit:~~

~~a. Commercial Promotional Events. Sidewalk sales, not lasting more than three (3) days, and flea markets, rummage sales, festivals, bazaars, or other similar temporary activities not lasting more than two (2) weeks, the primary purpose of which is to promote proposed or existing businesses, on public or private property within any Commercial District. No person or group shall undertake or establish such activities without first securing written approval from the Planning and Building Director.~~

~~b. Commercial Uses Outside Structures. Sidewalk sales, not including peddlers, on public or private property, not lasting more than three (3) days, and conducted in a manner sufficient to allow safe pedestrian and wheelchair passage onto or along the sidewalk where such activity is being conducted in Commercial District.~~

~~c. Seasonal Sales of Christmas trees and pumpkins. The sale, display, and storage of Christmas trees and accessories therefore on portions of vacant lots or other open areas that do not contain wetlands or other environmentally sensitive habitat areas for a temporary period of time between Thanksgiving and December 26 of any year, and the sales, display, and storage of pumpkins between October 1 and November 5 of any year, subject to obtaining a temporary business license as required by the Half Moon Bay Municipal Code.~~

~~b. 2. A temporary event requiring a coastal development permit includes events which meet all three of the following criteria:~~

~~a. are held between Memorial Day weekend and Labor Day; and~~

~~b. occupy all or a portion of a sandy beach area; and~~

~~c. involve a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).~~

~~b. 3. As used in this subdivision:~~

a. “Temporary events(s)” means an activity or use that constitutes development as defined in Section 18.20.025 and Section 30106 of the Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parking, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.

b. “Limited duration” means a period of time which does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis.

c. “Non-permanent structures” include, but are not limited to, bleachers, perimeter fencing, vender tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, movie/film sets, etc., which do not involve grading or landforms alteration for installation.

d. “Exclusive use” means a use that precludes use in the area of the event for public recreation, beach access or access to coastal waters other than for or through the event itself.

e. “Coastal resources” include but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archeological or paleontological resources.

f. “Sandy beach area” includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

~~6. — Temporary events.~~

~~H. Any activity that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this title, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.~~

~~7. — Land divisions for public agency acquisition. Land divisions brought about in connection with the acquisition of such land by a public agency for recreational purposes.~~

D. 18.20.031 Record of Exemptions. The Planning and Building Director shall maintain a record of all permits issued for development within the Coastal Zone that were exempted from the requirements of the Coastal Development Permit process. This record shall be available for review by members of the public and the Coastal Commission. The Record of

Exemption shall include the name of the applicant, the location of the project, and a brief description of the project.

Suggested Modification #6:

18.38.015 Applicability. The requirements and standards of this Chapter shall apply to all development requiring a coastal development permit within any zoning district in the City of Half Moon Bay ~~except the following activities:~~

~~A. The continuance of any pre-existing non-agricultural use, provided such use has not lapsed for a period of one year or more. This shall include any change of use which does not significantly increase the degree of encroachment into or impact upon the sensitive habitat as determined by the Planning Director.~~

~~B. The continuance of any pre-existing agricultural use, provided such use has been exercised within the last five years.~~

~~C. All activities listed in the California Food and Agricultural Code pursuant to the control or eradication of a pest as defined in Section 5006, Food and Agricultural Code, as required or authorized by the County Agricultural Commissioner.~~

~~D. Any category of development that is exempt from coastal development permitting requirements pursuant to Section 30610 of the Coastal Act as implemented by Title 14, Sections 13250, 13252, 13253 of the California Code of Regulations, and Chapter 18.20 of the Zoning Code.~~

EFFECTIVENESS OF AMENDMENT

Coastal Act Section 30514(a) states that the local government may amend its certified LCP and implementing ordinances, regulations, and other actions, but until the Commission certifies the amendment, the amendment shall not take effect. In accordance with Section 13551 of the Commission regulations, if the Commission certifies the amendment as submitted, because the local government's resolution of submittal so requested, the amendment shall take effect immediately. However, if the Commission certifies the amendment with suggested modifications, the local government must subsequently approve the modifications suggested by the Commission, and the Executive Director in turn must concur with the local government's approval before the amendment becomes effective.

FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

RELEVANT LOCAL COASTAL PROGRAM POLICIES

Relevant Policies in Current Certified Land Use Plan

LUP Policy 1-1 states:

The City shall adopt those policies of the Coastal Act (Coastal Act Sections 30210 through 30264) cited herein, as the guiding policies of the Land Use Plan.

LUP Policy 1-3 states:

Where there are conflicts between the policies set forth in the Coastal Land Use Element and other elements of the City's General Plan or existing ordinances, on balance, the policies of this Coastal Land Use element shall take precedence.

LUP Policy 1-4 states:

Prior to the issuance of any development permit required by this Plan, the City shall make the finding that the development meets the standards set forth in all applicable Land Use Plan policies.

LUP Policy 3-13(a) states:

Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provisions (i.e. catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to man-made agricultural ponds if the life of the pond is endangered, (7) allow dredging in or adjacent to man-made ponds if the San Mateo County Resource Conservation District certifies that siltation imperils continued use of the pond for agricultural water storage and supply.

LUP Policy 4-9 states:

All development shall be designed and constructed to prevent increase in runoff that would erode natural drainage courses. Flows from graded areas shall be kept to an absolute minimum, not exceeding the normal rate of erosion and runoff from that of the undeveloped land. Store water outfalls, gutters and conduit discharge shall be dissipated.

LUP Policy 7-1 states:

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

LUP Policy 7-5 states:

All new development, including additions and remodeling, shall be subject to design review and approval by City Architectural Review Committee.

LUP/Coastal Act Policy 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.

LUP/Coastal Act Policy 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.

LUP/Coastal Act Policy 30251 states:

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

Relevant Policies in Current Certified Zoning Code

Zoning Code Ordinance 18.21.010 states in relevant part:

The purpose of establishing the design review process set forth in this Chapter is:

- A. To determine whether proposed projects are in compliance with the regulations in this Chapter;*
- B. To promote the orderly and harmonious development of the City's existing and new residential neighborhoods;*
- C. To ensure that new development, alterations to existing structures and proposed demolition in the downtown historic area will be subjected to design review; and*

...

Zoning Code Ordinance 18.21.020 states in relevant part:

Prior to the issuance of any Building Permits for new construction, alterations, or additions to any residential, commercial, industrial, or institutional building, the Planning Director shall review the plans submitted for each proposed project to establish the appropriate level of review as set forth herein:

A. Residential Projects:

1. Approval by the Architectural Review Committee is required:

- a. For the construction of any new residence or accessory structure on a property within the Downtown Historic Area, and for any alterations or additions to an existing residence within the Downtown Historic Area.*
- ...*
- c. For any new residential structure or modifications to an existing structure requiring a discretionary permit such as a Parking Exception, Variance, or Use Permit.*
- d. For the construction of a new single-family residence or remodels and additions to an existing residence, accessory structures, or site improvements which may otherwise be exempt from the provisions of the Chapter that the Planning Director has determined may not be consistent with the Standards for Review set forth in this Chapter. ...*

...

Zoning Code Ordinance 18.21.030 states in relevant part:

In carrying out the purposes of this section, the Planning Director, Architectural Review Committee, and Planning Commission shall consider in each specific case any and all of the following as may be appropriate:

- A. The siting of any structure on the property as compared to the siting of other structures in the immediate neighborhood;*
- B. All structures shall be in good proportion; have simplicity of mass and detail; shall not strive for picturesque effect; there shall be an appropriate use of materials; colors shall be in good taste and never harsh or garish, but in harmony with themselves and their environment.*

...

- E. The size, location and arrangement of on-site parking and paved areas;*

...

- G. All of the above factors shall be related to the setting or established character of the neighborhood or surrounding area.*

Zoning Code Ordinance 18.21.035 states:

The Planning Director, Architectural Review Committee, and Planning Commission shall determine from the data submitted whether the proposed project will be in conformance with the provisions of this Chapter and shall approve the application upon making a positive finding.

The application may be disapproved, may be approved as submitted, or may be approved subject to conditions, specified changes and additions. In approving any project, the Planning Director, Architectural Review Committee, and Planning Commission shall find that such buildings, structures, planting, paving and other improvements shall be so designed and constructed that they will not be of unsightly or obnoxious appearance to the extent that they will hinder the orderly and harmonious development of the City, impair the desirability or opportunity to attain the optimum use and the value of the land and the improvements, impair the desirability of living or working conditions in the same or adjacent areas and/or otherwise adversely affect the general prosperity and welfare.

Zoning Ordinance 18.37.010 states:

The specific purpose and intent of these Visual Resource Protection Standards are to:

- A. Protect the scenic and visual qualities of coastal areas as a resource of public importance.*
- B. Ensure that new development is located so as to protect views to and along the ocean and scenic coastal areas.*
- C. Minimize the alteration of natural landforms.*
- D. Restore and enhance visual quality in visually degraded areas.*
- E. Allow development only when it is visually compatible with the character of the surrounding areas.*

BACKGROUND

Much of the San Mateo County Mid-Coast region, including what is now the City of Half Moon Bay, was subdivided into small lots in the early 1900's. Two typical small lot sizes are 25 by 100 feet and 35 by 110 feet. Lots of this size do not meet the minimum lot-size requirements of the underlying zoning districts and are thus considered "substandard lots." Historically, most single-family residences in the Mid-Coast region of San Mateo County, including what is now the City of Half Moon Bay, consisted of relatively small houses or cottages. In the 1990's however, as the average house size throughout the state and nation increased, substantially larger homes were being constructed on small substandard lots in the Mid-Coast area. In response to community concern about how this development trend impacts community character and the scenic qualities of the area, both the City of Half Moon Bay and San Mateo County adopted more restrictive standards for development on substandard lots, limiting size, height, and lot coverage, and imposing new architectural design standards for development on substandard lots. In July 2001 the Commission certified amendments to both the County and City LCPs to enact these new standards.

The Commission certified Half Moon Bay's LCP Amendment 1-00 (Residential Development Standards) as submitted by the City with no modifications. Following is a summary of the provisions enacted by that amendment.

Standards applicable to both standard and substandard lots:

- Maximum Building Envelope (18.06.040.G) Increased the setbacks for portions of residences in the single-family residential zones (Zones R-1, R-1-B1, and R-1-B2) above a certain height. This standard reduced the bulk of the tallest portions of the residences and subsequently increased the “daylight plane” between adjacent residences.
- Floor Area (18.02.040) Modified the Zoning Code definition of floor area to include basements and crawl spaces that are greater than 4 ½ feet from floor to ceiling and improved attics.
- Single-Story Height Limit (18.06.030) Specified that an exception is required for single-story residences greater than 16 feet in height and that the maximum allowable height for single-story residential structures *with an exception* is 20 feet.
- Corner Lot Setback (Street-Facing Side Yard Setback) (18.06.030 and 18.06.050.G) Increased the street-facing side-yard setback for corner lots from 10 to 20 feet for standard-sized lots. The street-facing side yard setback for severely substandard lots such as 25-foot-wide by 100-foot-long lots was set at 10 feet.
- Corner Lot Sight Distance (18.06.040.B.4) Increased the distance required for street visibility from corner lots by extending the measurement for sight distance area from 15 to 25 feet on both side of the corner lot, and allowed for increased sight distance areas on a case-by-case basis. Required site-distance safety review for development of corner lots.
- Definition of Structure (18.02.040) Modified definition of “structure” to specifically exclude infrastructure or walls or fences shorter than six feet in height and to include access drives and walks.
- Definition of Lot Area (18.02.040) Defined “lot area” as the square footage of a legally subdivided parcel, excluding public easements for street use.
- Definition of Lot Depth (18.02.040) Revised definition of “lot depth” to determine depth by the average distance between front and rear lot lines, rather than the distance between the midpoints of the lines.
- Definition of Lot Width (18.02.040) Modified “lot width” definition to mean the average distance between side lot lines, rather than the average of the lengths of the rear and front lines.
- Definition of Second Dwelling Unit (18.02.040) Modified definition of “second dwelling unit” to mean a rental dwelling located on a lot within a single-family residential zone, instead of located solely on R-1 lots.

Standards applicable only to development on substandard and severely substandard lots:

- Definition of Substandard Lot (18.02.040) Added definition of “substandard lot” to Definitions chapter of Zoning Code. A “substandard lot” is defined as a lot that provides less than the required lot width or area in the relevant zoning district.
- Definition of Severely Substandard Lot (18.02.040) Defined “severely substandard lot” in the Definitions chapter of the Zoning Code as a lot that provides 55 percent or less of the required lot width or area required in the relevant zoning district.

- Exceptions (18.02.050) Reduced allowable exceptions for development of substandard and severely substandard lots.
- Proportionality Rule (18.02.040) Added “Proportionality Rule” to Zoning Code to reduce lot coverage and floor area by the ratio of the actual lot width or area to the minimum lot width or area for the relevant zoning district.
- Regulatory Structure for Substandard Lots (18.060.050.G) Eliminated the Administrative Variance for development on lots zoned for single-family residences between 85 and 99.9 percent of the minimum lot area or lot width for the relevant zoning district. Restricted the administrative exception to development on lots having the minimum required lot area and having within 5% of the minimum lot width. Required a Use Permit for development on lots with less than the minimum lot area or less than 95% of minimum lot width.
- Basement Exception to Floor Area (18.060.050.G) Allowed the exemption of 15% of the allowed floor area, up to 225 square feet, from the floor area ratio calculation subject to findings in the Use Permit.
- Architect’s Stamp (18.060.050.H) Required plans for development on substandard and severely substandard lots to be stamped by a licensed architect.
- Design Guidelines (18.060.050.I) Required the Architectural Design Review committee to review setbacks, front façade, orientation to the street, side orientation to adjacent properties, daylight plane, mass, and bulk in the determination of project compatibility with the neighboring area.
- Chimney and Other Encroachments (18.06.050.E) Prohibited chimney or any other encroachment into setbacks for development on severely substandard lots and allowed only chimney encroachments but no other encroachments in the development setbacks on substandard lots.

In early 2004 the City began to receive complaints from a number of property owners wishing to construct additions to existing single-family homes on substandard and severely substandard lots that the residential development standards and permitting procedures enacted in 2001 were overly burdensome and restrictive. In particular, the City received complaints about the following Zoning Code policies enacted by the 2001 LCP amendment:

- Section 18.06.050.H, which established the requirement that plans for development on substandard and severely substandard lots be stamped by a licensed architect.
- Section 18.06.050.G, which established the use permit requirement for development on lots with less than the minimum lot area or less than 95% of the minimum lot width,
- Section 18.02.040, which established the “Proportionality Rule”, and
- Section 18.06.050.E, which prohibits encroachment into setbacks on substandard and severely substandard lots.

After considering a number of alternatives, the City proposed LCP Amendment 1-05 to respond to these complaints. As proposed LCP Amendment 1-05 would:

- Rescind Zoning Code Section 18.06.050.H, which requires plans for development on substandard and severely substandard lots be stamped by a licensed architect.
- Define a new class of substandard lots known as “exceptional” lots to include substandard lots with a legally developed single-family home prior to December 7, 2004 within the R-1-B-1 and R-1-B-2 zoning districts that provide minimum average width of 50 feet and minimum area of 5,000 square feet.
- Increase the maximum allowable floor area ratio and lot coverage for improvements to existing single-family residences on exceptional lots.
- Reduce the setback requirements for additions to single-family residences on exceptional lots.
- Allow additions to single-family residences on exceptional lots to encroach into side and front yard setbacks where the residence already encroaches into the setback.
- Eliminate the requirement for a use permit for improvements to existing single-family residences located on exceptional lots and for certain improvements to single-family residences on substandard and severely substandard lots.
- Treat substandard lots that meet the 95% width rule as standard lots.

Upon receipt of the City’s original LCP amendment application, Commission staff requested additional information necessary to evaluate the potential individual and cumulative impacts to visual resources and water quality that could result from the proposed changes to development standards on exceptional lots and lots that meet the 95% width rule. Because the proposed amendment would affect a large number of residential lots (approximately 1,200 to 1,400) and would increase floor area ratio and lot coverage on those lots, it was Commission staff’s position that a comprehensive analysis was required to review the proposed amendment’s consistency with the LUP and Coastal Act. However, the original LCP amendment submittal lacked a detailed discussion of the amendment’s relationship to and effect on the other sections of the certified LCP, specifically, the coastal resource protection policies of the LUP concerning biological and visual resources, and water quality. Therefore, Commission staff deemed the submittal incomplete pursuant to Section 13552(c) of the Commission regulations.

However, the City was eager to place the amendment on the Commission’s agenda and sought a solution that would make the requested analysis unnecessary. After discussions with Commission staff, the City agreed to modifications that would restrict the proposed development standards for substandard and exceptional lots to only improvement to single-family residences exempt from coastal development permitting requirements. This modification ensured that coastal development permitting standards would not be changed and that the more permissive development standards on substandard lots and exceptional lots proposed by the City would only be applicable to development already exempt from coastal development permits.

In accordance with this agreement, the Commission certified the amendment in March 2005 with suggested modifications that limited the applicability of the more permissive development standards to development that is exempt from the coastal development permitting requirements of the Coastal Act. The resulting LCP amendment, with the suggested modifications and as

approved by the Commission, would prohibit new residential development and improvements to single-family residences that would require coastal development permits on substandard lots that meet the 95% width rule from using the standard lot development standards. The Commission's suggested modifications would also prohibit improvements to single-family residences that would require coastal development permits from using the exceptional lots development standards.

Specifically, the Commission approved Amendment 1-05 in March 2005 with the following suggested modifications:

- Removal of Section 18.20.025.A.4 that requires a coastal development permit for all development requiring a use permit. This modification resolved inconsistencies between the Zoning Code and the Coastal Act and Commission regulations regarding coastal development permitting requirements and exemptions. The modification clarifies that the City's use permit requirements are independent of coastal development permitting requirements.
- Addition of supercession clause to Sections 18.20.025 and 18.20.030 of the Zoning Code, which contains the coastal development permit requirement and exemptions provisions, that declares that any conflicts between the Zoning Code and the Coastal Act and Commission regulations would be resolved in favor of the Coastal Act and Commission regulations.
- Amendment to Section 18.38.015 to clarify that development that is exempt from coastal development permitting requirements would not be subject to the "Coastal Resource Conservation Standards" in Chapter 18.38 of the Zoning Code, which include the biological, archeological, and geological resources, and public access protection standards. This modification was made at the request of the City so that development exempt from coastal development permitting requirements would not be required to meet the otherwise applicable resource conservation and public access provisions in the Zoning Code.
- Addition of Section 18.06.050.F.2 which limits the exceptions to development standards on severely substandard, substandard, and exceptional lots provided in Section 18.06.050.F.3 to improvements to single-family residences that are exempt from coastal development permitting requirements.

The Commission's suggested modifications for the City's original LCP amendment submittal addressed two main issues: (1) inconsistencies between provisions in the Zoning Code and the Coastal Act concerning coastal development permitting and exemptions requirements, and (2) individual and cumulative impacts to coastal resources resulting from the increased scale of residential development that would be allowable under the more permissive development standards proposed for exceptional lots and lots meeting the 95% width rule.

However, the City ultimately decided against adopting the suggested modifications due to the concerns of certain property owners. The City's main concern is with Section 13250(b) of the Commission's regulations that requires a coastal development permit for additions to single-family residences greater than 10 percent of the size of the existing home on lots located between the first public road and the sea. Because of this regulation, adopting the Commission's

suggested modifications would mean that exceptional lots between the first public road and the sea would not be eligible for the exceptional lot development standards if the desired addition is greater than 10 percent of the existing house size as the improvement would require a coastal development permit. There are 109 exceptional lots between the first public road and the sea, and residents on those lots feel that they would be unfairly excluded from being able to benefit from the more permissive development standards available to their neighbors on same sized lots if the City adopts the Commission's suggested modifications and the LCP amendment is certified.

Consequently, the City is here proposing revisions to the Commission's suggested modifications in this resubmittal of LCP amendment 1-05 so that the more permissive development standards proposed for exceptional lots and substandard lots that meet the 95% width rule could be applied to residential development requiring coastal development permits. In conjunction with the current proposal to ease development standards on substandard and exceptional lots, the City is also proposing to establish water quality protection measures for development on exceptional lots to mitigate the individual and cumulative water quality impacts from the resulting increase in impervious surface coverage that would be allowable under the revised development standards.

Overall, this LCP amendment resubmittal incorporates most of the Commission's previous suggested modifications and contains both minor and major changes to others. The Commission finds that while most of the proposed changes conform with and are adequate to carry out the policies of the certified LUP, additional modifications are necessary to ensure consistency of the LCP coastal development permitting and exemption provisions with those of the Coastal Act and the Commission's regulations. In addition, suggested modifications are recommended to achieve maximum protection of coastal water quality pursuant to LUP Policy 4-9 as well as Sections 30230 and 30231 of the Coastal Act, which act as guiding policies in the LUP.

AMENDMENT DESCRIPTION AND ANALYSIS

Removal of Requirement for Architect's Stamp (18.06.050.H)

The proposed amendment to remove the requirement for an architect's stamp on plans for development on substandard or severely substandard lots would not conflict with any visual resources policies of the LUP. The original intent of 18.06.050.H is to ensure that development is accurately contained within the maximum building envelope and complies with the residential development standards of the Zoning Code. Removing the architect's stamp would not change the development standards. Development plans would still be subject to review by the Architectural Review Committee, which enforces standards such as maximum lot coverage and floor area ratio and assesses impacts to visual resources. This specific amendment would only eliminate a local permitting procedural requirement without changing development standards for review of any coastal development permit under the certified LCP. Therefore, the Commission finds that the proposed amendment, as otherwise modified, conforms with and is adequate to carry out the policies of the certified LUP.

Small Additions and Accessory Structures (18.06.050.F.3.b)

The proposed amendment to Zoning Code Section 18.06.050.F.3.b to eliminate the use permit requirement for additions to existing single-family residences on substandard lots (that can not

be classified as exceptional lots) not exceeding 250 square feet or the applicable development standard for lot coverage and floor area ratio would not conflict with the coastal resource protection policies of the LUP. This use permit exemption would not change the development standards for substandard and severely substandard lots in the certified zoning code. The proposed use permit exemption would only affect local permitting procedures but would not affect coastal development permitting requirements or coastal resources and public access protection policies of the LCP. As such, the Commission finds that the proposed amendment, as otherwise modified, conforms with and is adequate to carry out the certified LUP.

Affordable Housing Exemption from Development Standards (18.06.050.H)

This proposed amendment was a modification originally suggested by the Commission and is a part of the current LCP amendment resubmittal. It clarifies that waivers or relaxation of the development standards described in Chapter 18.06 of the Zoning Code applied to affordable housing development may only be allowed if the resulting development fully conforms with policies of the certified LCP.

Exceptions to Development Standards on Substandard and Exceptional Lots (18.06.050.F.2)

Previously, the Commission, through suggested modifications, added Section 18.06.050.F.2 to the Zoning Code to clarify that the exceptions to development standards for severely substandard, substandard, and exceptional lots specified in Section 18.06.050.F.3 would only be applicable to improvements to existing single-family residences exempt from coastal development permits. As discussed in the background section above, this modification was the result of an agreement reached between the City and Commission staff to expedite the processing of the LCP amendment. However, the City subsequently decided against accepting this modification due to concerns of owners of exceptional lots located between the first public road and the sea. The City instead proposes alternate language to Section 18.06.050.F.2, which would allow the more permissive development standards proposed for substandard lots that meet the 95% width rule and exceptional lots to be used for development requiring a coastal development permit.

However, the City's proposed revisions to Section 18.06.050.F.2 would affect standards for evaluating coastal development permits and could potentially impact coastal resources particularly visual resources and water quality. As further discussed in the below findings, potential visual impacts from the currently proposed development standards for substandard lots that meet the 95% width rule and exceptional lots would not be significant. The proposed amendment would result in increases in floor area ratio and lot coverage on 95% width rule substandard lots and exceptional lots which would increase impervious surface coverage and lead to individual and cumulative adverse impacts to water quality. However, these water quality impacts would be adequately mitigated by the City's proposed water quality protection standards if modified in accordance with the Commission's suggested modifications.

The Commission is suggesting minor modifications (Suggested Modification #1) to Section 18.06.050.F.2 to ensure that the Zoning Code is consistent with the provisions of the Coastal Act and the Commission's regulations relating to coastal development permitting requirements and exemptions, and to prevent any ambiguity with respect to these requirements. With the suggested

modifications, the proposed amendment conforms with and is adequate to carry out the certified LUP.

Development Standards for Substandard Lots that Meet the 95% Width Rule

The proposed amendment to Zoning Code 18.06.050.F.3.a would apply the development standards applicable to standard lots to development on substandard lots that provide at least 95 percent of the required lot width and 100 percent of the required lot area in the underlying zoning district (95% width rule). For example, to qualify for the 95% width rule, a lot in the R-1 Zoning District would have to be 47.5 feet wide (50 feet for standard lots) and 5,000 square feet in area and a lot in the R-1-B-1 zoning district would need to be 57 feet wide (60 feet for standard lots) and 6,000 square feet in area. The table below illustrates the proposed changes to development standards for substandard lots that meet the 95% width rule.

Table 1. Proposed Development Standards for Substandard Lots that Meet the 95% Width Rule

LOT SIZE	ZONING	CURRENT FAR FOR SUBSTANDARD LOTS	PROPOSED FAR (STANDARD LOT DEVELOPMENT STANDARDS)	CURRENT LOT COVERAGE FOR SUBSTANDARD LOTS	PROPOSED LOT COVERAGE (STANDARD LOT DEVELOPMENT STANDARDS)
47.5 feet wide 5,000 square feet (Substandard lot that meet 95% width rule)	R-1	47.5% (2,375 square feet)	50% (5,000 square feet) +2.5%	47.5% for single story 33.25% for two story	50% for single story +2.5% 35% for two story +1.75%
57 feet wide 6,000 square feet (Substandard lot that meet 95% width rule)	R-1-B-1	47.5% (2,850 square feet)	50% (5,000 square feet) +2.5%	47.5% for single story 33.25% for two story	50% for single story +2.5% 35% for two story +1.75%
71.25 feet wide 7,500 square feet (Substandard lot that meet 95% width rule)	R-1-B-2	47.5% (3,562 square feet)	50% (5,000 square feet) +2.5%	47.5% for single story 33.25% for two story	50% for single story +2.5% 35% for two story +1.75%

The 95% width rule is part of the City's originally proposed amendment. With the original suggested modifications, the Commission previously found the amendment consistent with the LUP because it would only be applicable to development exempt from coastal development permitting requirements, and as such, would not affect coastal development permitting standards.

However, under the current City proposal, development that would require coastal development permits including new residential development on substandard lots that meet the 95% width rule would be eligible for the standard lots development standards.

The proposed amendment would affect substandard lots that meet the 95% width rule in all residentially zoned districts in the City, including the R-2 and R-3 Districts. However, the majority of the substandard lots that meet the 95% width rule are concentrated in the Arleta Park neighborhood, which is zoned R-1-B-1. The City counts roughly 80 of these lots in Arleta Park and estimates that approximately 10 substandard lots that meet the 95% width rule exist outside of the Arleta Park neighborhood.

Visual Resources

LUP Policy 7-1 and Zoning Code Chapter 18.37 require protection of scenic quality and visual resources in the City. Zoning Code Chapter 18.21 provides architectural and design review standards to ensure that development is compatible and in scale with the character of existing neighborhoods and surrounding areas. The Arleta Park neighborhood where most of the 95% width rule lots are located is west of Highway 1. However, coastal views are limited in this neighborhood due to the presence of existing residential development. The proposed amendment would not change the height limit for development on such lots. As shown in the table above, the proposed amendment would allow a 2.5% increase in the floor area ratio for development on lots meeting the 95% width rule in the R-1-B-1 District, where most of the 95% width rule lots are located. As such, the resulting development would not be out of scale with residences on surrounding standard lots which are the same in area but only slightly wider. Overall, the proposed amendment would not create significant adverse impacts to coastal views, scenic and visual resources, or neighborhood character.

Water Quality

The proposed amendment would increase the maximum allowable site coverage for both additions to existing single-family residences and new development on substandard lots that meet the 95% width rule, which would result in greater impervious surface coverage and impacts to water quality. The impacts, however, would be adequately addressed by the proposed water quality protection standards, if the proposed standards were modified according to Commission's Suggested Modification # 2. The water quality protection standards, as modified, would require development on substandard lots meeting the 95% width rule to minimize polluted runoff and maximize onsite retention and infiltration through storm water best management practices (BMPs). The water quality protection standards would ensure that all development requiring coastal development permits on these substandard lots would be evaluated for potential adverse impacts to water quality and that development would be undertaken with the appropriate construction and post-construction phase BMPs to prevent water quality impacts related to polluted runoff.

Because the proposed amendment would not create significant adverse impacts to visual resources and because water quality impacts would be adequately minimized and mitigated by the water quality protection measures with the suggested modifications, the Commission finds

that the proposed amendment, as modified, conforms with and is adequate to carry out the certified LUP.

Exceptional Lots and Development Standards on Exceptional Lots (18.06.050.F.3.c, 18.06.050.F.3.d, and 18.02.040[Definitions])

Definition

The proposed amendment to Section 18.02.040 of the Zoning Code establishes the following definition for exceptional lot:

Exceptional Lot: A lot in an R-1-B-1 or R-1-B-2 Zoning District that does not meet the minimum average width and/or lot area requirement for the Zoning District that the parcel is within, but provides at least 50 feet in average lot width and provides at least 5,000 square feet in gross lot area and has a residence that was constructed and completed (Certificate of Occupancy was issued for the structure or the structure was completed prior to the issuance of Certificates of Occupancy by the City) prior to December 7, 2004.

The proposed lot dimensions for exceptional lots are based on the minimum size of a standard lot in the R-1 Zoning District (Exhibit 2). It is important to note that, exceptional lots, by definition, must already contain an existing residence. Vacant substandard lots with the same minimum dimensions cannot qualify as exceptional lots, and thus, the exceptional lot development standards would only be applicable to improvements to single-family homes existing as of December 7, 2004 and not to new development or to additions to single-family homes constructed after December 7, 2004.

Use Permit Exemption

Under the proposed amendment, additions to existing single-family residences on exceptional lots would be exempt from the City's use permit requirements. Pursuant to the proposed amendment, this change would not effect coastal development permitting requirements.

Development Standards

The proposed amendment to Zoning Code Section 18.06.050.F.3.c provides the criteria, floor area ratio and lot coverage requirements for exceptional lots. For floor area ratio, a sliding scale is proposed to replace the proportionality rule currently required for substandard lots. The proportionality rule requires that floor area ratio be reduced by the ratio of the actual lot width or lot area to the required lot size in the zoning district. For instance, for a currently substandard lot that is 50 feet wide and 5,000 square feet in area in the R-1-B-1 zoning district, the 50% FAR allowed for the zone would be reduced by the ratio of the actual lot width or lot area to that of the required (60 feet wide and 6,000 square feet), which means that the maximum allowable FAR would be 41.6%. The amendment proposes to calculate the FAR for exceptional lots with a sliding scale instead of the proportionality rule. The FAR based on the sliding scale would be 50 percent for the first 5,000 square feet of lot area, 30 percent for lot area between 5,000 to 7,500

square feet, and 20 percent for lot area above 7,500 square feet. Applying the sliding scale to a 6,000-square foot, 55-foot wide (exceptional) lot in the R-1-B-1 District would allow an existing residence to expand to a maximum size of 2,800 square feet with a floor area ratio of 46.6 percent, instead of the 2,750 square feet and 45.8 percent floor area ratio allowed by the current proportionality rule. Under the proposed sliding scale, the FAR for exceptional lots would result in house sizes smaller than those of standard lots for lots exceeding 5,000 square feet (Exhibit 4).

Lot coverage for additions to single-family residences on exceptional lots would also use the sliding scale instead of the proportionality rule for single-story homes and would increase to 35 percent for two-story residences. Under the proposed amendment, the maximum allowable lot coverage on the same sized lot as mentioned above would be 46.6 percent for a single-story house and 35 percent for a two story residence. The table below illustrates the development standards of a standard lot and the proposed changes to development standards on an exceptional lot.

Table 2. Proposed Exceptional Lot Development Standards

LOT SIZE	ZONING	MAX. ALLOWABLE FAR	MAX. ALLOWABLE LOT COVERAGE
60 feet wide 6,000 square feet (standard lot)	R-1-B-1	50% (3,000 square feet)	50% for single story 35% for two story
55 feet wide 6,000 square feet (substandard lot)	R-1-B-1	45.8% (2,750 square feet)	45.8 % for single story 32.1% for two story
55 feet wide 6,000 square feet (exceptional lot)	R-1-B-1	46.6% (2,800 square feet) +0.8% (50 square feet)	46.6% for single story +0.8% 35% for two story +2.9%

The proposed amendment to Section 18.06.050.F.3.d of the Zoning Code would reduce the side yard setback requirement by one foot for exceptional lots in the R-1-B-2 Zoning District and reduce the front yard setback by five feet for all additions on exceptional lots. The amendment would also allow additions to existing single-family residences on exceptional lots to extend into front and side setbacks to match setbacks of existing development, so long as the front and rear set backs would be a minimum of 20 feet. Currently, additions to existing single-family residences on substandard lots must comply with the setback requirements of the underlying zoning district. Thus, an addition to an existing single-family home in the R-1-B-1 District must comply with the five-foot side yard setback even if the existing home already encroaches into the setback to within three feet of the property line. This results in “notched” additions (Exhibit 5). The proposed amendment would allow additions to single-family residences on exceptional lots to encroach into front and side yard setbacks the same distance as an existing home on a lot.

Visual Resources

The proposed amendment for exceptional lots would allow the construction of larger additions to single-family residences on approximately 1,200 to 1,400 substandard lots in the R-1-B-1 and R-1-B-2 Zoning Districts. The R-1-B-1 and R-1-B-2 zoned areas are distributed throughout the middle and northern portions of the City on both sides of Highway 1 (Exhibit 3). These areas are developed residential neighborhoods that do not currently provide direct views to the beach from Highway 1. Additionally, the proposed amendment would not increase the maximum allowable height and would create only a minor relief from development standards for additions to existing single-family residences in developed residential areas (as shown in above Table 2, a 55-foot-wide, 6,000-square-foot exceptional lot would be allowed to build an addition that is 0.8% larger than currently allowed). While the proposed amendment would result in slightly larger houses, it would not affect the architectural and design review standards in Chapter 18.37 of the Zoning Code established to protect neighborhood character and ensure that development is in scale and compatible with existing development in surrounding areas. Because the resulting development would not impact coastal views and would not be out of scale with that of surrounding areas, the proposed LCP amendment would be consistent with LUP Policy 7-1 and Chapters 18.21 and 18.37 of the Zoning Code that protect visual resources and establishes architectural and design review standards.

Water Quality

The proposed amendment would increase the size and lot coverage of additions allowed on exceptional lots. These changes would allow increased impervious surface coverage and lead to adverse individual and cumulative impacts to coastal water quality from polluted runoff. These impacts, however, would be adequately addressed by proposed water quality protection standards, if the proposed standards were modified according to the Commission's suggested modification # 2. The water quality protection standards, as modified, would require affected development to minimize polluted runoff and maximize onsite retention and infiltration through appropriate storm water management BMPs. These water quality protection standards would ensure that all development affected by the proposed LCP amendment would be undertaken with the appropriate construction and post-construction phase BMPs to prevent water quality impacts related to polluted runoff.

The Commission finds that the proposed amendment as modified would conform with and be adequate to carry out the water quality protection policies of the certified LUP.

Water Quality (18.38.120)

The proposed development standards for exceptional lots and substandard lots that meet the 95% width rule would increase the amount of maximum allowable lot coverage on the affected lots, resulting in greater impervious surface coverage. The following table shows the amount of lot coverage that would be increased by the proposed development standards for a substandard lot.

Table 3. Proposed Increases in Lot Coverage

LOT SIZE	ZONING	CURRENT MAX. ALLOWABLE LOT COVERAGE	MAX. ALLOWABLE LOT COVERAGE UNDER PROPOSED LCP AMENDMENT	AMOUNT OF CHANGE (%)
50 feet wide 5,000 square feet (exceptional lot)	R-1-B-1	41.6% for single story 29.1% for two story	50% for single story 35% for two story	+9.4 +5.9
50 feet wide 5,000 square feet (exceptional lot)	R-1-B-2	33% for single story 23% for two story	50% for single story 35% for two story	+17 +12
57 feet wide 6,000 square feet (meet 95% width rule)	R-1-B-1	47.5 for single story 33.25 % for two story	50% for single story 35% for two story	+2.5 +1.75

Increases in impervious surface coverage decrease the infiltrative function and capacity of land and lead to an increase in the volume and velocity of storm water runoff. The cumulative effect of increased impervious surface coverage is that the peak discharges of streams receiving the runoff are increased and the peak occurs much sooner after precipitation events. Changes in stream flow result in modifications to stream morphology. Runoff from impervious surfaces also intensifies erosion and the transport of sediments to receiving bodies of water. Various pollutants such as petroleum hydrocarbons and heavy metals are commonly found in runoff from developed areas. Thus, increases in impervious surface coverage resulting from the proposed amendment would create adverse individual and cumulative impacts to the quality and biological productivity of coastal waters.

The City currently has no implementation plan component to meet the requirement of Sections 30230 and 30231 of the Coastal Act, which are incorporated in the LUP as guiding policy, and Policy 4-9 of the LUP which stipulates that runoff from developed areas shall not exceed pre-development levels. To meet the water quality protection policies of the LUP and to comply with San Mateo County's STOPPP that covers the City of Half Moon Bay, the City has developed some construction phase and post-construction phase BMPs which the City requires as conditions on coastal development permits and building permits. However, none of these measures have been certified as a part of the City's LCP. The City is proposing water quality protection standards for improvements to single-family residences requiring coastal development permits on exceptional lots as a part of this LCP amendment resubmittal. The proposed standards would require construction and post construction phase BMPs to maximize onsite retention and infiltration of storm water runoff and minimize polluted storm water runoff.

However, under the City's proposal, these water quality protection requirements would only be applicable to improvements to single-family residences on exceptional lots requiring coastal development permits where the development would either increase lot or site coverage by more than 5% of the site area or involves grading that would affect drainage patterns. This limited application would not adequately address the water quality impacts of the proposed amendment because the proposed water quality protection measures would not be required for smaller scale

development on exceptional lots or new development and improvements to single-family residences on substandard lots that meet the 95% width rule. Unlike the exceptional lot standards, which are only applicable to additions to existing single-family residences, the proposed 95% width rule would be applicable to all residential development, including the construction of new homes. In general, new residential development on substandard lots that meet the 95% width rule would result in greater water quality impacts than improvements to single-family homes on exceptional lots due to more extensive construction, grading, and increases in impervious surface coverage. However, as proposed by the City, the water quality protection standards would not be applicable to such development under the LCP.

The Commission therefore suggests modifications to Zoning Code Section 18.38.120 that would expand the applicability of the proposed water quality protection implementation measures to all development affected by the proposed amendment. Since this amendment would be the first to implement the water quality protection policies contained in the City's LUP by incorporating best management practices into the LCP Implementation Plan, the Commission's suggested modifications to Section 18.38.120 would provide a framework for additional water quality protection measures appropriate for other types of development through future LCP amendments. Should San Mateo County amend the STOPPP program in a manner that would result in conflicts with Coastal Act water quality protection policies, an LCP amendment may be required to resolve such conflicts. However, pursuant to Coastal Act Section 30005, the City is free to implement more protective water quality measures than are necessary to meet the requirements of the Coastal Act.

The suggested modifications would ensure that the water quality protection policies contained in the certified LUP are adequately implemented for development on exceptional and substandard lots that meet the 95% width rule by:

- Establishing performance standards for the water quality protection measures,
- Requiring all permitted development to implement construction and post-construction phase BMPs,
- Establishing construction phase and post-construction phase BMPs appropriate for new individual residential development and improvements to single-family residences,
- Requiring maintenance of BMPs to ensure proper function, and
- Clarifying the specific requirements of construction phase erosion and sediment control plans and the post-construction phase storm water management plans.

As modified, the water quality measures would require specific BMPs necessary to control erosion and sediment during the construction phase and to maximize onsite retention and infiltration of storm water during the post-construction phase for development on exceptional lots and substandard lots meeting the 95% width rule. The proposed BMPs for both the construction phase and post-construction phase of development have been developed specifically to address the individual and cumulative water quality impacts of new individual single-family residential development and improvements to single-family residences.

The construction phase BMPs are designed to prevent the sedimentation and pollution of coastal waters by minimizing the erosion and offsite transport of soil, construction material, and pollutants from construction sites and containing polluted storm water runoff during construction onsite. The post-construction BMPs, including BMPs that address site design, source control, and treatment would maximize onsite infiltration and retention of storm water, prevent increases in the peak rate and average volume of post-development storm water runoff, and minimize the amount of pollutants entering coastal waters. Site design and source control BMPs are preventative actions that involve management and source controls such as minimizing impervious surfaces and directly connected impervious areas, minimizing disturbance of soils and vegetation, and minimizing the amount of runoff and pollutants from the irrigation of landscaping. Treatment, or structural BMPs include storage practices such as detention basins, filtration practices such as grassed swales and filter strips, and infiltration practices such as infiltration basins and infiltration trenches. Site design and source control BMPs reduce the need for structural BMPs. For most new construction of and improvements to individual single-family residences, site design and source control BMPs would be adequate to address the post-construction water quality impacts. However, in some cases, a combination of non-structural and structural measures may be required to prevent water quality impacts, such as development on steep slopes, or development that would significantly increase impervious surface coverage.

The proposed water quality protection standards, with the suggested modifications, also prescribe different water quality protection standards for different scales of development. The basic design elements for all development proposals would need to demonstrate how the development would incorporate appropriate construction and post construction phase BMPs to minimize adverse effects on water quality. Specific erosion control and storm water pollution prevention plans would not be required for minor projects such as small additions or improvements to existing homes. A detailed plan for erosion, sediment, and drainage control during construction as well as a plan detailing how storm water and polluted runoff would be managed or mitigated post-construction would be required for development that would increase impervious site coverage by more than 5% or involve grading. Performance standards would also be established to ensure that the water quality protection measures are effectively implemented.

Implementation of the required BMPs, plans, and performance standards included in the proposed water quality protection measures as modified would ensure that the significant individual and cumulative impacts to coastal water quality resulting from development undertaken pursuant to the proposed standards for exceptional lots and substandard lots meeting the 95% width rule are adequately mitigated. The Commission finds that with the proposed water quality protection measures, with the suggested modifications, conform with and are adequate to carry out the water quality protection policies of the Half Moon Bay LUP.

Coastal Development Permits and Exemptions (18.20.025, 18.20.030 and 18.20.040)

Section 18.20.025A.4 of the current Zoning Code requires a coastal development permit for any development that requires a use permit, planned unit development plan, specific plan, variance, subdivision map, or any other legislative, adjudicatory, or discretionary action. Because of this specific provision and the current requirements in Sections 18.06.050.G.2 and 18.06.050.G.4 for all development on severely substandard and substandard lots to obtain a use permit, residents wishing to make improvements to homes on substandard and severely substandard lots must

apply for both a use permit and a coastal development permit, regardless of whether the development is exempt from coastal development permitting requirements pursuant to Section 30610 of the Coastal Act and corresponding Commission regulations. The Coastal Act does not include a provision requiring coastal development permits for development based on whether or not other local government permits or approvals are required by a local government. As such, Zoning Code Section 18.20.025A.4 is inconsistent with the coastal development permitting requirements established in the Coastal Act. Deletion of this provision would clarify that the need for other local permits does not determine whether a coastal development permit is required for the development. The Commission, through previous suggested modification, removed Section 18.20.025.A.4, and the City, in agreement with this modification, is proposing to delete this provision in the Zoning Code as a part of this revised LCP amendment proposal.

To resolve additional conflicts between the City's LCP and the Coastal Act regarding requirements for coastal development permits, and to adequately carry out LUP Policies 1-1, 1-3 and 1-4, the Commission, in its previous action on the amendment, also suggested adding a supercession clause to Zoning Code Sections 18.20.25 and 18.20.30, stating that any conflicts between the City's LCP and the either the Coastal Act or its implementing regulations regarding coastal development permitting requirements and exemptions shall be resolved in favor of the Coastal Act and its implementing regulations. This previous Commission modification to Sections 18.20.25 and 18.20.30 of the Zoning Code is also being incorporated as a part of the City's current LCP amendment proposal.

However, additional conflicts between the Zoning Code and the Coastal Act and Commission's regulations exist regarding coastal development permitting and exemptions requirements. The Commission at this time is suggesting further modifications to Sections 18.20.025, 18.20.030, and 18.20.040 of the Zoning Code to further ensure conformity of the coastal development permitting requirements and exemptions with those of the Coastal Act and Commission regulations.

Definition of Structure

The Commission suggests modifying the definition of "structure" in Section 18.20.040 of the Zoning Code to conform with the definition in the Coastal Act.

Section 30106 of the Coastal Act and Section 18.20.025 of the Zoning Code states in relevant part:

*"Development" means, on land, in or under water, the placement or erection of any solid material or **structure**...* [Emphasis added]

Section 30106 of the Coastal Act also states:

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Section 30600(a) of the Coastal Act states:

*Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any **development** in the coastal zone,*

other than a facility subject to Section 25500, shall obtain a coastal development permit.
[Emphasis added.]

As evidenced by sections of the Coastal Act cited above, how “structure” is defined has direct implications for coastal development permitting requirements. The City’s current definition of structure in Section 18.20.040 of the Zoning Code specifically excludes infrastructure, walls, and fences shorter than six feet in height and is inconsistent with the definition in Section 30106 of the Coastal Act. The Commission’s suggested modification to the definition of structure (Suggested Modification #3) would correct this inconsistency.

Coastal Development Permit Required and Exemptions

The Commission is recommending removal of Sections 18.20.025.A.1-7 of the Zoning Code, which provide an illustrative list of types of development that require a coastal development permit. While potentially helpful and qualified in Section 18.20.025A as only illustrative and not exclusive, this list may create the false impression that development not specified in the list would not require a permit. For instance, 18.20.025.A.1 states that a coastal development is required for “any development in or within 100 feet of any sensitive habitat area, riparian corridor, bluffs and seacliff areas, and wetlands, or within a wild strawberry habitat...” While this specific requirement does not conflict with the Coastal Act, it creates the impression that development sited greater than 100 feet from any of the listed habitat types would not require coastal development permits. Furthermore, the types of development listed, such as in 18.20.025.A.4 (which the City is proposing to remove) and 18.20.025.A.3, are not consistent with provisions in the Coastal Act and Commission regulations on coastal development permitting requirements. (18.20.025.A.3 states that a permit is required for “any development which would preclude the general public from use of, access to, a public recreational area for a significant period of time,” which is not consistent with Sections 30106 and 30600 of the Coastal Act.)

The Coastal Act contains a specific definition of development, and states that all development would require coastal development permits, unless specifically excluded. The list of exemptions in the Coastal Act is limited, precisely enumerated, and narrowly applied. Similarly, the City’s policies should reflect these provisions of the Coastal Act, require coastal development permits for all development as defined in the Coastal Act, and provide a clear list of exemptions consistent with the Coastal Act and Commission regulations. The Commission’s suggested modification to delete the illustrative list of development requiring coastal development permits would not only prevent potential conflicts between the City’s LCP and the Coastal Act but would also carry out the requirement of the Coastal Act that specifies when a permit is required.

Accordingly, the Commission is also suggesting modifications to Section 18.20.030 of the Zoning Code to clarify and accurately describe the types of development exempt from coastal development permits consistent with the Coastal Act and Commission regulations.

Current Zoning Code provisions that list types of development exempt from coastal development permitting requirements are not fully consistent with the Coastal Act, especially the exemptions provided for development related to utilities. Section 30610(f) of the Coastal Act exempts the installation, testing, and placement in service, and replacement of utility connection between existing facility and approved development from coastal development permitting requirements

but allows the Commission to require mitigation where necessary for adverse impacts to coastal resources resulting from the development. Contrary to Section 30610(f), the exemption for utility connections in the Zoning Code does not allow the City to require mitigation when necessary. Furthermore, Zoning Code Sections 18.20.030.C.3.b and c contain additional exemptions for utility connections that are inconsistent with Section 30610(f) of the Coastal Act. The Commission's suggested modifications for Section 18.20.30 of the Zoning Code would resolve the conflicts between this section and the Coastal Act.

The Commission finds the proposed amendment with the suggested modification conforms with and is adequate to carry out policies of the LUP because it would match the coastal permitting requirements and exemptions in the Zoning Code with those of the Coastal Act and the Commission's regulations.

Exemptions for Applicability of Coastal Resource Conservation Standards

The City is proposing to add a clause in Section 18.38.015 of the Zoning Code to specify that the "Coastal Resource Conservation Standards" in Chapter 18.38 which protect public access, biological, geological, and archeological resources in the City would not be applicable to development exempt from coastal development permitting requirements.

Currently, Section 18.38.015 lists (1) the continuance of pre-existing non-agricultural use that has not lapsed for more than one year, (2) the continuance of agricultural use that has not lapsed more than 5 years, and (3) pest control related to agricultural activities as exempt from the Coastal Resource Conservation Standards. Exemptions from these standards are not extended to other local permits or development exempt from coastal development permits. Because the City lies entirely within the Coastal Zone, the LCP Zoning Code is applicable throughout the entire City, and forms the standard of review, in part, for both local coastal development permits and other local permits such as use permits. However, the City wishes to limit the applicability of the Coastal Resource Conservation Standards contained in Chapter 18.38 only to development that requires coastal development permits, and is thus proposing an additional exemption to Section 18.38.015 to clarify that development exempt from coastal development permits would also be exempt from the public access and coastal resource protection standards in Chapter 18.38 of the Zoning Code. This particular amendment was previously adopted by the Commission as a suggested modification, upon the City's request, and the City has incorporated the suggested modification in the current LCP amendment resubmittal.

However, upon closer examination, further modification are necessary in order for the Commission to find the proposed amendment to Section 18.38.015 of the Zoning Code consistent with Coastal Act requirements on coastal development permitting and exemptions, and in order to meet the intent of the City to apply Chapter 18.38 requirements to only coastal development permits. The continuance of a pre-existing non-agricultural use that has not lapsed for more than one year, the continuance of an agricultural use that has not lapsed more than 5 years, and pest control related to agricultural activities, which are currently exempt from the Coastal Resource Conservation Standards pursuant to Section 18.38.015 of the Zoning Code are not permitted exemptions under Section 30610 of the Coastal Act and are thus invalid exemptions in conflict with Coastal Act policies. The language proposed by the City would not exempt other local permits from the standards in Chapter 18.38 but would instead exempt

development that would not require coastal development permits. Thus, the Commission is suggesting modifications (Suggested Modification #6) to remove the activities currently listed in Zoning Code Section 18.38.015 as exempt from the Coastal Resource Conservation Standards and to clarify that only development requiring a coastal development permit would be subject to the Coastal Resource Conservation Standards. With the suggested modifications, the proposed amendment would be consistent with Coastal Act provisions on coastal development permitting requirements and exemptions and would provide the clarification intended by the City that the Coastal Resource Conservation Standards would only be applicable to development requiring a coastal development permit.

While a local government has the discretion to be more protective of coastal resources, the Coastal Act and LUP do not require the application of coastal resource protection standards to development exempt from coastal development permits. The proposed amendment with the suggested modifications would not result in any substantive changes to the Coastal Resource Conservation Standards for development requiring a coastal development permit. Therefore, the proposed amendment, with suggested modifications, conforms with and is adequate to carry out policies of the certified LUP.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Coastal Commission's review and development process for Local Coastal Programs and amendments has been designated 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 use any environmental information that the local government has developed.

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.

As discussed above, the City's proposal, as modified, is consistent with the Land Use Plan and will not have any significant adverse environmental impacts. The Commission incorporates its findings on land use plan conformity at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse effects of the project that have been received as of the writing of this report. Therefore, the Commission finds that approval of the Zoning Code will not result in significant environmental effects within the meaning of the California Environmental Quality Act.

EXHIBITS

1. Text of Proposed Amendment/Adopted Ordinance No. O-03-05
2. Current Residential Development Standards and Proposed Development Standards
3. Zoning Map
4. Floor to Area Ratio Comparison between Standard and “Exceptional” Lots
5. Plan Showing Single-Family Residence with “Notched” Wall