

CALIFORNIA COASTAL COMMISSION

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



Th4a

Filed: 4/05/06
49th Day: 5/24/06
Staff: T. Luster-SF
Staff Report: 4/20/06
Hearing Date: 5/11/06

STAFF REPORT AND RECOMMENDATION ON APPEAL **SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: County of San Luis Obispo

DECISION: Approval with Conditions

APPEAL NO.: A-3-SLO-06-017

APPLICANT: Pacific Gas and Electric Company

PROJECT DESCRIPTION: Install new steam generators at the Diablo Canyon Nuclear Power Plant

PROJECT LOCATION: Approximately six miles north of Avila Beach, San Luis Obispo County

APPELLANTS: Mothers For Peace
Sierra Club – Santa Lucia Chapter
Commissioners Mike Reilly and Mary Shallenberger

APPENDIX I: Local Coastal Program (LCP) Public Access Provisions

SUMMARY OF STAFF RECOMMENDATION: The staff recommends that the Commission, after public hearing, determine that **substantial issue exists** with respect to the grounds on which the appeal has been filed. The appellants have raised substantial issues in that the project as approved and conditioned by the County through issuance of a coastal development permit and conditional use permit does not conform to applicable LCP policies.

SUBSTANTIVE FILE DOCUMENTS:

- Certified County of San Luis Obispo Local Coastal Program
- County of San Luis Obispo File No. DRC2004-165
- Coastal Commission Appeal File No. A-3-SLO-06-017
- Appeal Applications from Mothers For Peace, Sierra Club, and Commissioners Reilly and Shallenberger

I. APPELLANTS CONTEND THAT

The project does not conform to several County LCP provisions related to public access, geologic risk, and protection of marine biological resources and water quality, and to Coastal Act provisions related to public access.

II. LOCAL GOVERNMENT ACTION

The coastal development permit was approved by the County of San Luis Obispo on March 7, 2006, concurrent with approval of a conditional use permit. The project had previously been subject to environmental review by the California Public Utilities Commission, which certified an Environmental Impact Report for the project on November 18, 2005.

III. APPEAL PROCEDURES

After certification of a LCP, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within the appealable areas as defined by Coastal Act Section 30603(a). Pursuant to Coastal Act Section 30603(b), the grounds for appeal are limited to the assertion that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program. In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development conforms to the public access and public recreation policies of Chapter 3.

The only persons qualified to testify before the Commission at the “substantial issue” stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

IV. MOTION

I move that the Commission determine that Appeal No. A-3-SLO-06-017 raises NO substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-3-SLO-06-017 presents a substantial issue with respect to the grounds on which the appeal has been filed under section 30603 of the Coastal Act regarding consistency with the certified local coastal plan and/or the public access and recreation policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

- 1) Project Description:** The project, as approved and conditioned by the County, is the installation of eight new steam generators at the Diablo Canyon Nuclear Power Plant. The power plant has two electrical generating units, each containing four steam generators. Each generator is about 70 feet long and weighs over 300 tons. Components of the existing generators are degrading at a rate that would require the plant to shut down by 2014, about eleven years before the end of the term of its current operating licenses issued by the Nuclear Regulatory Commission (Unit 1 is licensed until 2021 and Unit 2 is licensed until 2025). Installing the new generators is intended to allow the plant to operate until the end of those license terms.

Main project elements include constructing a number of buildings and structures to support the project, transporting new generators to the site via barge, removing the existing generators from the power plant, and transporting those generators to a storage facility within the power plant high security area but outside the coastal zone. The existing generators are expected to be stored on site until the power plant is closed and decommissioned at some

point in the future. Project operations would occur over a period of about two years and would add about 900 additional personnel to the power plant's work force.

- 2) **Permit History:** On March 7, 2006, the County of San Luis Obispo conditionally approved Coastal Development Permit #DRC2004-165 and concurrently approved a Conditional Use Permit for the project. On March 27, 2006, the Coastal Commission received the County's Notice of Final Action and associated records to start the 10-working-day appeal period, which ended April 11, 2006. The appeals were filed on March 20, 2006 and April 5, 2006.
- 3) **Permit Jurisdiction:** Portions of the project are located within the Coastal Zone in the County of San Luis Obispo and is subject to the County's certified Local Coastal Program (LCP). Because the project is a major energy facility and because portions are between the sea and the first public road, it is also within the appeal jurisdiction of the Coastal Commission, pursuant to Coastal Act Section 30603. Additionally, a portion of the project is within the Commission's retained jurisdiction – the project involves development activity in and on the shoreline and will result in intake and discharge of coastal waters – so the project will therefore require a permit directly from the Commission, although the applicant has not yet applied for that permit.
- 4) **Non-compliance with the Certified LCP:** The standard of review for this appeal is consistency with the certified LCP of the County of San Luis Obispo, and, because the project is located between the first public road and the sea, the standard of review includes the public access and recreation provisions of the Coastal Act. Appellants contend that the project as approved and conditioned by the County is inconsistent with several policies of the certified LCP and the Coastal Act, including those related to public access, marine biological resources, water quality, and geologic hazards. Of the appeal issues raised, five raise a substantial issue with the project's conformity to the LCP and two do not.

APPEAL ISSUES RAISING A SUBSTANTIAL ISSUE:

4a) Appeal Issue – Nonconformity With Public Access Provisions of the LCP:

LCP Section 23.04.420 states, in part:

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act.

(g) Where public coastal accessways are required by this section, approval of a land division, or land use permit for new development shall require guarantee of such access through deed restriction, or dedication of right-of-way or easement. Before approval of a land use permit or land division, the method and form of such access guarantee shall be approved by county counsel, and shall be recorded in

the office of the county recorder, identifying the precise location and area to be set aside for public access...

(h) Coastal accessways required by this section or by planning area standards of the Land Use Element shall be physically improved as provided by this subsection. The need for improvements to any accessway shall be considered as part of land use permit approval...

[Note: due to its length, the full text of LCP Section 23.04.420 is appended to the end of this document.]

These LCP provisions require that public access easements necessary for project approval be fully described and recorded by the County Recorder's Office before issuance of a land use permit. They also require that public access improvements (e.g., paths, benches, fences, signs, etc.) be described and reviewed prior to land use permit approval. Appellants contend that the project, as approved and conditioned, does not conform to these provisions because the easement required by the County has not yet been adequately identified or recorded, and the necessary site improvements have not been adequately described.

The project, as conditioned, requires PG&E to provide a public access easement along the road to the Point San Luis lighthouse; however, the project does not describe the easement (e.g., its extent, dimensions, any conditions of use, etc.) and does not provide for recordation of the easement prior to land use permit approval, as is required by the LCP. Additionally, although the project provides for PG&E to pay for various public access improvements (e.g., the design, permitting, or construction of a bikepath, road improvements, etc.), those access components are not adequately described, as is required by this LCP provision. Therefore, based on the County's record, the information provided by appellants, and the above, the Commission finds that ***substantial issue exists*** regarding the project's conformity to LCP Section 23.04.420.

4b) Appeal Issue – Inadequate Public Access:

Pursuant to Coastal Act Section 30603(b), because the project is located between the first public road and the sea, it is subject to public access provisions of both the LCP and the Coastal Act, which include the following:

LCP Section 23.04.420 states:

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act...

[Note: the full text of LCP Section 23.04.420 is appended to the end of this document.]

Coastal Act Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Appellants contend that the project, as approved and conditioned, would interfere with access to the coast and therefore does not conform to public access provisions of the LCP and Coastal Act Section 30211. The project is located in a high-security area at the Diablo Canyon site. Existing development within that site has resulted in public access restrictions along several miles of shoreline and has been required to mitigate for the loss of access.¹ Although the project's steam generator storage facility is just outside the coastal zone, the security area required for that storage facility extends both within and outside the coastal zone. It is unclear whether the project will further reduce public access in the area or will maintain the existing level of restrictions, since it is not known how long this facility's security restrictions will remain relative to the restrictions required for the other power plant components that require high security levels.² If, for example, the storage facility and its security requirements stay in place beyond when the power plant is decommissioned and those requirements extend over a greater area than is currently required for other long-term components of the power plant complex (e.g., the ISFSI), then those security requirements within the coastal zone could result in additional restrictions on public access to the shoreline and would require mitigation to address the additional public access restrictions. The project, as currently proposed and conditioned, does not incorporate such measures.

In sum, because the project is between the first public road and the sea and may interfere with public access to the shoreline, it is subject to the LCP and Coastal Act access provisions cited above. The project raises numerous questions as to its conformity to LCP and Coastal Act public access provisions. Therefore, based on the County's record, information provided by the appellants, and the above, the Commission therefore finds that *substantial issue exists* with respect to the project's conformity to LCP Section 23.04.420 and Coastal Act Section 30211.

4c) Appeal Issue – Marine Biological Resources:

LCP Section 23.07.178 states:

¹ Previous developments that were required to provide access due to their effects on access include the facility's Simulator Building, which resulted in a coastal trail on the south end of the Diablo Canyon property, and the facility's Independent Spent Fuel Storage Installation (ISFSI), which resulted in a coastal trail on the north end of the Diablo Canyon property.

² In December 2005, the Commission approved construction of the ISFSI. The Commission found that the ISFSI was expected to remain at the power plant site in perpetuity and would therefore create a perpetual restriction to public access over part of the Diablo Canyon complex. It is not clear whether the security restrictions associated with the steam generator storage facility would further extend the area in which public access is restricted.

The provisions of this section are intended to preserve and protect habitats for marine fish, mammals and birds. Development within or adjacent to marine habitats is subject to the provisions of this section.

(1) Protection of Kelp Beds, Offshore Rocks, Reefs and Intertidal Areas. Development shall be sited and designed to mitigate impacts that may have adverse effects upon the habitat, or that would be incompatible with the continuance of such habitat areas.

(2) Siting of Shoreline Structures. Shoreline structures, including piers, groins, breakwaters, seawalls and pipelines shall be designed or sited to avoid and to minimize impacts on marine habitats.

(3) Coastal Access. Coastal access shall be monitored and regulated to minimize impacts on marine resources. If negative impacts are demonstrated, then the appropriate agency shall take steps to mitigate these impacts, including limitations of the use of the coastal access.

The project is subject to this LCP provision, as portions of the project are located on or adjacent to the shoreline, and the power plant uses up to more than 2 billion gallons per day of seawater. Appellants contend that the project would result in adverse effects to marine organisms and water quality due to its use of once-through cooling water and its thermal discharge. The appeals cite several documented adverse impacts caused by the power plant, including entrainment, impingement, and thermal discharges, all of which have degraded the nearshore marine biological community. Appellants additionally note that had the project not been approved, these adverse effects would continue for no more than about eight years, but that with project approval, the effects will continue for about nineteen years. Despite this extended period of impacts, the project does not include adequate measures to mitigate these impacts.³

The project, as approved and conditioned, is not sited, designed, or adequately mitigated to address the adverse marine biological effects described above. It also does not preserve and protect marine habitats, as is required by this LCP provision, and therefore raises numerous questions about its consistency with this LCP provision. Based on the County's record, the information provided by appellants, and the above, the Commission finds that ***substantial issue exists*** regarding the project's conformity to LCP Section 23.07.178.

4d) Appeal Issue – Water Quality:

LCP Section 23.05.040 states:

Standards for the control of drainage and drainage facilities provide for designing projects to minimize harmful effects of storm water runoff and resulting inundation and erosion on proposed projects, and to protect neighboring and downstream properties from drainage problems resulting from new development. The standards of Sections

³ Appellants note that a conservation easement being proposed by PG&E meant to address some of these impacts as part of a settlement with the Regional Water Quality Control Board is not adequate to ensure conformity to the LCP. That proposed easement has not at this time been finalized and it is not a requirement of the coastal development permit or other project permits, so any mitigation benefits it might offer are not assured.

23.05.042 through 23.05.050 are applicable to projects and activities required to have land use permit approval.

LCP Section 23.05.042 states:

No land use or construction permit (as applicable) shall be issued for a project where a drainage plan is required, unless a drainage plan is first approved pursuant to Section 23.05.046. Drainage plans shall be submitted with or be made part any land use, building or grading permit application for a project that:

- a. Involves a land disturbance (grading, or removal of vegetation down to duff or bare soil, by any method) of more than 40,000 square feet; or*
- b. Will result in an impervious surface of more than 20,000 square feet; or*
- c. Is subject to local ponding due to soil conditions and lack of identified drainage channels; or*
- d. Is located in an area identified by the County Engineer as having a history of flooding or erosion that may be further aggravated by or have a harmful effect on the project; or*
- e. Is located within a Flood Hazard (FH) combining designation; or*
- f. Involves land disturbance or placement of structures within 50 feet of any watercourse shown on the most current USGS 7-1/2 minute quadrangle map; or*
- g. Involves hillside development on slopes steeper than 10 percent.*
- h. May, by altering existing drainage, cause an on-site erosion or inundation hazard, or change the off-site drainage pattern, including but not limited to any change in the direction, velocity, or volume of flow.*
- i. Involves development on a site adjacent to any coastal bluff.*

The project will result in various types of runoff and sedimentation due to construction, increased traffic, and ongoing operations. The project is subject to these LCP provisions and the County has conditioned its approval of the project to require submittal of a drainage plan as required by LCP Section 23.05.042. However, appellants contend that the project does not conform to this provision because the LCP requires the drainage plan be submitted prior to project approval as part of its land use permit application. Although the project includes measures to mitigate some water quality impacts, without the approved drainage plan, it does not provide assurance that those impacts are minimized, as is required pursuant to LCP Section 23.05.040. Because the project does not yet have an approved drainage plan, it raises questions about its consistency with these provisions. Therefore, based on the County's record, the information provided by appellants, and the above, the Commission finds that ***substantial issue exists*** regarding the project's conformity to LCP Sections 23.05.040 and 23.05.042.

4e) Appeal Issue – Geologic Hazards:

LCP Section 23.07.084 states:

All land use permit applications for projects located within a geologic study area (except those exempted by Section 23.07.082) shall be accompanied by a report prepared by a certified engineering geologist and/or registered civil engineer (as

to soils engineering), as appropriate. The report shall identify, describe and illustrate, where applicable, potential hazard of surface fault rupture, seismic shaking, liquefaction or landslide, as provided by this section. Provided, however, that no report is required for an application located in an area for which the county engineer determines that sufficient information exists because of previous geology or soils reports. Where required, a geology report shall include:

(1) A review of the local and regional seismic and other geological conditions that may significantly affect the proposed use;

(2) An assessment of conditions on or near the site that would contribute to the potential for the damage of a proposed use from a seismic or other geological event, or the potential for a new use to create adverse effects upon existing uses because of identified geologic hazards. The conditions assessed are to include, where applicable, rainfall, soils, slopes, water table, bedrock geology, and any other substrate conditions that may affect seismic response, landslide risk or liquefaction potential;

(3) Conclusions and recommendations regarding the potential for, where applicable:

(A) Surface rupture or other secondary ground effects of seismic activity at the site,

(B) Active landsliding or slope failure,

(C) Adverse groundwater conditions,

(D) Liquefaction hazards;

(4) Recommended building techniques, site preparation measures, or setbacks necessary to reduce risks to life and property from seismic damage, landslide, groundwater and liquefaction to insignificant levels.

This LCP provision requires that a project such as this one, located within a geologic study area, submit a geotechnical report as part of its land use permit application. The report is meant to identify geologic hazards at and near the project site and to recommend ways to avoid or minimize risks from those hazards. Although the project's application to the County included some geologic and geotechnical information, the County noted in its project approval that some of this information may be inadequate, and the project was therefore approved and conditioned to require submittal of additional information at some future date. Appellants contend that the project does not conform to this LCP provision because it was approved and conditioned to allow those geotechnical studies to be completed and reviewed after issuance of the coastal development permit.

This LCP provision clearly intends that geologic and geotechnical concerns be identified before a project is approved. Among the provision's requirements are submittal of the recommended building techniques, site preparation measures, and setbacks needed to reduce geologic risks, any of which could affect how a facility is sited and designed, and any of which could require additional review to determine associated environmental impacts. Because the project is approved and conditioned to allow this information after issuance of the coastal development permit, it raises numerous questions about its consistency with this LCP provision. Therefore, based on the County's record, the information provided by appellants, and the above, the

Commission finds that *substantial issue exists* regarding the project's conformity to LCP Section 23.07.084.

APPEAL ISSUES NOT RAISING A SUBSTANTIAL ISSUE:

4f) Appeal Issue – Geologic Hazards:

Appellants contend that the project's long-term storage facility is being built on the site of a landslide and that it has not yet been subject to the necessary seismic studies. However, because this structure is outside the coastal zone and is not subject to the County's LCP jurisdiction, the Commission finds that this contention raises *no substantial issue* regarding LCP conformity.

4g) Appeal Issue – Potential Re-Licensing:

Appellants contend that the County's permits do not acknowledge, condition, or mitigate for the possibility that project approval will enable PG&E to relicense the power plant and extend its life beyond the current terms of its NRC licenses that end in 2025. However, there do not appear to be LCP provisions that apply to this appeal issue. Additionally, approval of the project does not necessarily lead to re-licensing. The PUC's rate-setting and environmental review for this project was based on cost recovery for the project being completed by the end of the existing license periods. If PG&E chooses to apply for a new or extended license from the Nuclear Regulatory Commission, that would require a new and separate review process. Therefore, the Commission finds that this contention raises *no substantial issue* regarding LCP conformity.

APPENDIX I: Local Coastal Program Public Access Provisions

LCP Section 23.04.420:

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. This section to satisfy the intent of the California Coastal Act also establishes coastal access standards.

a. Access defined:

- (1) Lateral access: Provides for public access and use along the shoreline.*
- (2) Vertical access: Provides access from the first public road to the shore, or perpendicular to the shore.*
- (3) Pass and repass: The right of the public to move on foot along the shoreline.*

b. Protection of existing coastal access. Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

c. When new access is required. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or*
- (2) The site already satisfies the provisions of subsection d of this section; or*
- (3) Agriculture would be adversely affected; or*
- (4) The proposed new development is any of the following:*
 - (i) Replacement of any structure pursuant to the provisions of Section 30610(g) of the California Coastal Act.*
 - (ii) The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*
 - (iii) Improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede public access and do not result in additional seaward encroachment by the structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*
 - (iv) The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure.*

(v) Any repair or maintenance activity excluded from obtaining a land use permit by this title, except where the Planning Director determines that the use or activity will have an adverse effect on lateral public access along the beach.

(vi) Nothing in this subsection shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

d. Type of access required:

(1) Vertical Access:

(i) Within urban and village areas: Within an urban or village area where no dedicated or public access exists within one-quarter mile of the site, or if the site has more than one-quarter mile of coastal frontage, an accessway shall be provided for each quarter mile of frontage.

(ii) In rural areas: In rural areas where no dedicated or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage.

(iii) Prescriptive rights: An accessway shall be provided on any site where prescriptive rights of public access have been determined by a court to exist.

(iv) Additional accessways: The applicable approval body may require accessways in addition to those required by this section where the approval body finds that a proposed development would, at the time of approval or at a future date, increase pedestrian use of any adjacent accessway beyond its capacity.

(2) Vertical access dedication. Accessways shall be a minimum width of five feet in urban areas and 10 feet in rural areas.

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

e. Timing of access requirements. The type and extent of access to be dedicated, and/or constructed and maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of land use permit approval, as provided by this section.

(1) Dedication: Shall occur before issuance of construction permits or the start of any construction activity not requiring a permit.

(2) Construction of improvements: Shall occur at the same time as construction of the approved development, unless another time is established through conditions of land use permit approval.

(3) Opening access for public use. No new coastal access required by this section shall be opened or otherwise made available for public use until a public agency or private

association approved by the county agrees to accept responsibility for maintenance of the accessway and any liability resulting from public use of the accessway.

(4) Interference with public use prohibited. Following an offer to dedicate public access pursuant to subsection e(1) of this section, the property owner shall not interfere with use by the public of the areas subject to the offer before acceptance by the responsible entity.

f. Permit requirement. Except as otherwise provided by this subsection, Minor Use Permit approval is required before issuance of any construction permit for an accessway, or the start of any access construction not requiring a permit, unless the details of the required access are approved as part of another Minor Use Permit or Development Plan for the principal use. The permit requirement of this subsection applies to the construction of a new accessway, or alteration, major restoration, transfer of maintenance responsibility or abandonment of an existing accessway. No land use permit is required for:

(1) The offer of dedication, grant of easement or other conveyance of title for future accessway construction where no public use exists or is proposed at the time of conveyance; or

(2) Normal maintenance or minor improvements, where the total valuation of work does not exceed \$1500 as determined by the County Fee Ordinance.

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

(1) Deed restriction. Shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the public access area, subject to approval by the Planning Director.

(2) Grant of fee interest or easement: Shall be used when a public agency or private organization approved by the Planning Director is willing to assume ownership, maintenance and liability for the access.

(3) Offer of dedication: Shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for accessway maintenance and liability. Such offers shall not be accepted until maintenance responsibility and liability is established.

(4) Procedures for open space easements and public access documents. Pursuant to Section 13574 of Title 14 of the California Administrative Code, all land use permits and tentative subdivision maps subject to conditions of approval pertaining to public access, open space, agricultural or conservation easements shall be subject to the following procedures:

- (i) All legal documents shall be forwarded to the executive director of the Coastal Commission for review and approval as to the legal adequacy and consistency with the requirements of potential accepting agencies;*
- (ii) The executive director of the Coastal Commission shall have 15 working days from the receipt of the documents in which to complete the review and to notify the applicant and the county of recommended revisions, if any;*
- (iii) If the executive director of the Coastal Commission has recommended revisions to the applicant, the land use permit shall not become effective pursuant to Section 23.02.034d of this title until the deficiencies have been resolved to the satisfaction of the executive director;*
- (iv) The land use permit may become effective (Section 23.02.034d) upon expiration of the 15 working day period if the Coastal Commission has not notified the applicant and the county that the documents are not acceptable.*

h. Coastal accessways required by this section or by planning area standards of the Land Use Element shall be physically improved as provided by this subsection. The need for improvements to any accessway shall be considered as part of land use permit approval, and responsibility for constructing the improvement shall be borne by the developer or consenting public agency. After construction, maintenance and repair may be accomplished by a public agency or by a private entity approved by the applicable review body taking action on the project land use permit.

(1) Typical improvements that may be required. The extent and type of improvements and support facilities that may be required may include but are not limited to drainage and erosion control measures, planting, surfacing, structures such as steps, stairways, handrails, barriers, fences or walls, benches, tables, lighting, parking spaces for the disabled, safety vehicles or general public use, as well as structures such as restrooms or overlooks.

(2) Type and extent of improvements – required findings. The improvements described in subsection h(1) of this section shall be required to an extent where such improvements:

- (i) Are necessary to either assure reasonable public access, protect the health and safety of access users, assure and provide for proper long-term maintenance of the accessway, or protect the privacy of adjacent residents.*
- (ii) Are adequate to accommodate the expected level and intensity of public use that may occur;*
- (iii) Can be properly maintained by the approved maintenance entity;*
- (iv) Incorporate adequate measures to protect the privacy and property rights of adjoining property owners and residents.*

(i) Accessway signing. Where required through land use permit or tentative subdivision map approval, signs installed in conjunction with accessways shall conform to the following standards:

(1) Sign design. Accessway signs shall use white letters on a brown background. The number and dimensions of signs are to be determined through land use permit review.

(2) Identification Signs: Shall contain the words "COASTAL ACCESS" in three-inch letters at the top of the sign, as well as the name of the accessway, if any, and indicate if there are any hazards or rare or endangered species.

(3) No Trespass Signs: Shall contain the words "RESPECT PRIVATE PROPERTY - NO TRESPASSING".

(4) Hazard Signs: Shall be located at the tops of bluffs or cliffs.

(5) Parking area signing: Each parking area shall be posted in a location visible from the public road with a sign that is between two and four square feet in area, stating: "PARKING FOR PUBLIC COASTAL ACCESS". Lettering shall be a minimum of two inches high and clearly legible.