

# CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV

# Th6c



**Prepared June 24, 2009 (for July 9, 2009 hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Manager  
Jonathan Bishop, Coastal Planner

**Subject: San Luis Obispo County Major Amendment Number 2-07 Part 1 (Second Units).** Proposed major amendment to the San Luis Obispo County's certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's July 9, 2009 meeting to take place at the San Luis Obispo County Government Center, Board of Supervisors Chambers, 1055 Monterey Street, San Luis Obispo.

## Summary

San Luis Obispo County is proposing to amend its Local Coastal Program (LCP) Land Use Plan (LUP) and Implementation Plan (IP, also known as the Coastal Zone Land Use Ordinance (CZLUO)) in response to recent legislative changes regarding second units (per AB 1866). AB 1866 amended Government Code Section 65852.2 to change the process for the review of second unit applications. Most significantly, AB 1866 requires that second unit applications in residentially designated areas received after July 1, 2003 be considered by local governments "ministerially" without public hearings. AB 1866, however, does not supersede or reduce implementation of the Coastal Act, with the exception that public hearings shall not be required by local governments for coastal development permit applications for second units.

The County proposes several processing changes to bring the LCP into conformance with the process outlined in Government Code §65852.2 for second units on residential properties. These changes are primarily procedural, focused on removing hearing requirements and further detailing the parameters for noticing appealable versus non-appealable second units. In addition, the County proposes making secondary units a principally permitted use in the Residential Single-Family (RSF), Residential Suburban (RS), and Residential Rural (RR) land use categories (the only LCP districts in which second units are allowed). The County also proposes changing the design standards for second units.

The amendments proposed by the County are mostly straight-forward and generally focused in response to AB 1866 requirements. There are a few areas where staff believes that minor modifications are necessary (e.g., making explicit certain implicit requirements, fixing typos, and making minor coastal zone-specific clarifications). More substantively, the proposed amendment makes second units a principally permitted use in all RSF, RS, and RR areas. Although staff believes that harmonizing AB 1866 and the LCP is appropriate with respect to hearings on second units, it is not necessary or appropriate to extend the purpose and make second units principally permitted in these zone districts. The two concepts are separate, and can be kept separate in the LCP. This is particularly important because second units are currently appealable to the Commission, and making them principally



permitted would mean they would only be appealable to the Commission on locational grounds. This is problematic, particularly in suburban and rural areas where second unit development requires a more thorough level of oversight to help ensure they are not incompatible with existing less urban development patterns, and to help ensure the residential density increase resulting from additional second units in these areas does not create adverse impacts, both individually and cumulatively, on coastal resources. This processing safeguard was put in place precisely to ensure adequate review for development outside of the scope of what the LCP principally envisions for property. This is critically important for suburban and rural properties that contain abundant coastal resources and for which growth pressure can be exceedingly high as urban areas reach build-out, and where statewide perspective can be particularly relevant in light of local development pressures.

Fortunately, this issue can be easily addressed and still harmonize the LCP to AB 1866 regarding second units. Specifically, staff recommends modifications to leave the LCP’s use charts as is and to not make second units principally permitted. The changes would still mean that second units could be approved by the County absent a public hearing (as per AB 1866), but that they would still be appealable to the Coastal Commission.

**With the identified modifications, staff recommends that the Commission find that the proposed LCP amendment is consistent with and adequate to carry out the policies of the Coastal Act and the LUP. As so modified, staff recommends that the Commission approve the LCP amendment.** Motions and resolutions can be found on pages 3 and 4 of this report.

**LCP Amendment Action Deadline:** This proposed LCP amendment was filed as complete on July 16, 2008. The proposed amendment affects both the LUP and the IP, and the original 90-day action deadline was October 14, 2008. On September 11, 2008, the Commission extended the action deadline by one year to October 14, 2009. Thus, the Commission has until October 14, 2009 to take a final action on this LCP amendment.

## Staff Report Contents

	page
I. Staff Recommendation – Motion and Resolution.....	3
II. Suggested Modifications.....	5
III. Findings and Declarations .....	6
A. Proposed LCP Amendment.....	7
B. Consistency Analysis.....	9
C. California Environmental Quality Act (CEQA).....	19
III. Exhibits	
Exhibit A: Board of Supervisor’s Resolution	
Exhibit B: Proposed LCP text changes	



## I. Staff Recommendation – Motion and Resolution

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make four motions in order to act on this recommendation.

### 1. Denial of Land Use Plan Major Amendment Number 2-07 Part 1 as Submitted

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

**Motion (1 of 4).** I move that the Commission **certify** Land Use Plan Major Amendment 2-07 Part 1 as submitted by San Luis Obispo County.

**Resolution to Deny as Submitted.** The Commission hereby denies certification of the Land Use Plan Major Amendment 2-07 Part 1 as submitted by San Luis Obispo County and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

### 2. Approval of Land Use Plan Major Amendment Number 2-07 Part 1 if Modified

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

**Motion (2 of 4).** I move that the Commission **certify** Land Use Plan Major Amendment 2-07 Part 1 if it is modified as suggested in this staff report.

**Resolution to Certify with Suggested Modifications.** The Commission hereby certifies Land Use Plan Major Amendment 2-07 Part 1 to the San Luis Obispo County Local Coastal Program if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.



3. Denial of Implementation Plan Major Amendment Number 2-07 Part 1 as Submitted  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (3 of 4).** I move that the Commission **reject** Implementation Plan Major Amendment Number 2-07 Part 1 as submitted by San Luis Obispo County.

**Resolution to Deny as Submitted.** The Commission hereby **denies** certification of Implementation Plan Major Amendment Number 2-07 Part 1 as submitted by San Luis Obispo County and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

4. Approval of Implementation Plan Major Amendment Number 2-07 Part 1 if Modified  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (4 of 4).** I move that the Commission **certify** Implementation Plan Major Amendment Number 2-07 Part 1 if it is modified as suggested in this staff report.

**Resolution to Certify with Suggested Modifications.** The Commission hereby certifies Implementation Plan Major Amendment Number 2-07 Part 1 to the San Luis Obispo County Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.



## II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and Land Use Plan consistency findings. If San Luis Obispo County accepts each of the suggested modifications within six months of Commission action (i.e., by January 9, 2010), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

### Land Use Plan (LUP) Modifications

1. **Do not add a P to the existing S-8 designation in LUP Framework for Planning, Chapter 6, Table O, for the Residential Rural, Residential Suburban, and Residential Single Family land use categories.**
2. **Modify the LUP's San Luis Bay Coastal Planning Area, Avila Beach Urban Area, Communitywide Standard, as follows:**

#### AVILA BEACH

The following standards apply only to lands within the town of Avila Beach, to the land use categories or specific areas listed.

4. **Permit Requirement.** Unless otherwise specified in the Avila Beach Specific Plan, Minor Use ~~Plan~~ Permit approval is required for all proposed new uses except secondary dwellings. All development activities on the Tank Farm shall require Development Plan review and approval.

### Implementation Plan (IP)/CZLUO Modifications

3. **Modify Section 23.02.030f as follows:**

**f. Plot Plan processing – Appealable development.** A Plot Plan application for a project that is appealable to the Coastal Commission pursuant to Section 23.01.043c shall be processed as a Minor Use Permit (Section 23.02.033), except secondary dwellings.

4. **Modify Section 23.08.169d as follows:**

**d. Permit Requirement.** Plot Plan approval is required in all areas where Secondary Dwelling Units are allowed. For a secondary dwelling meeting the definition of appealable development pursuant to Coastal Zone Land Use Ordinance Section 23.01.043(c), a public hearing is not required. Instead, a notice shall be filed in accordance with Coastal Zone Land Use Ordinance section 23.02.070(b). The notice shall be provided to all property owners within 300 feet of the subject property and to all residents within 100 feet. In addition to the items listed in 23.02.070(b), the notice shall state that the project may be appealed to the California Coastal Commission. Nothing in this section shall exempt



secondary dwellings from meeting any applicable Local Coastal Plan policies. Notice of Final County Action is required in accordance with Coastal Zone Land Use Ordinance section 23.02.036.

**5. Modify Section 23.08.169g(4) as follows:**

(4) Exceptions to design standards. Alternatives to the design standards of subsections g. of this section may be approved by the Review Authority pursuant to Section 23.02.033 (Minor Use Permit). These standards are the only provisions in this section subject to such action. The maximum size of unit as set forth in Subsection g(1), and the maximum size of the garage workshop as set by Subsection g(6), cannot be modified except by a Variance (Section 23.01.045). The maximum distance from the primary unit may be adjusted in compliance with Section 23.02.033 where the secondary dwelling is proposed within an existing structure legally constructed prior to January 1, 2006 and there will be no physical change to the site (no additional footprint or garage space added to serve the secondary unit). Otherwise, the maximum distance from the primary unit may be modified only where the Review Authority first finds the following:

- (i) Locating the secondary dwelling within the distance as set forth in subsection g(1) would necessitate the removal of, or impact to, any of the following:
  - (a) Existing improvements, such as detached accessory structures, swimming pools, wastewater disposal fields, drainage facilities, or water storage tanks.
  - (b) Environmentally Sensitive Habitat Areas, or significant vegetation such as native trees or shrubs, riparian vegetation, vineyards, orchards, or visually prominent trees.
  - (c) Significant topographic features (including, but not limited to, steep slopes, ridgelines, bluff(s), water courses wetlands, lakes or ponds, or rocky outcrops).
  - (d) Archeological resources.
  - (e) Prime agricultural lands and soils.
  - (f) Significant public views.

### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Proposed LCP Amendment



1. Government Code (and AB 1866) Second Unit Requirement Background  
Signed by the Governor on September 29, 2002, AB 1866 added three new provisions to Section 65852.2 of the Government Code that are particularly significant for the purposes of reviewing proposed second units in residential zones within the coastal zone. The law now:

- 1) Requires local governments that adopt second unit ordinances to consider second unit applications received on or after July 1, 2003 “ministerially without discretionary review or a hearing.” (Government Code Section 65852.2(a)(3))
- 2) Requires local governments that have not adopted second unit ordinances to “approve or disapprove the [second unit] application ministerially without discretionary review.” (Government Code Section 65852.2(b)(1))
- 3) Specifies that “[n]othing in [Section 65852.2] shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act ... except that the local government shall not be required to hold public hearings for coastal development permit applications for second units.” (Government Code Section 65852.2(j))

Thus, AB 1866 significantly changes one component of local government procedures regarding coastal development permits for second units in residential zones (public hearings), but it does not change the substantive standards that apply to coastal development permits for such second units.

Pursuant to AB 1866, local governments can no longer hold public hearings regarding second units in residential zones. This prohibition applies both to initial local review and any subsequent local appeals that may be allowed by the LCP. The restriction on public hearings, however, does not apply to the Coastal Commission itself. The Commission can continue to conduct public hearings on proposed second units located in areas where the Commission retains permitting jurisdiction and when locally approved coastal development permits are appealed to the Commission.

AB 1866 does not change any other procedures or the development standards that apply to second units in residential zones located within the coastal zone. Rather, it clarifies that all requirements of the Coastal Act apply to second units, aside from requirements to conduct public hearings. Thus, for example, public notice must be provided when second unit applications are filed and members of the public must be given an opportunity to submit comments regarding the proposed development. When a second unit application is appealable, local governments must still file a final local action notice with the Commission and inform interested persons of the procedures for appealing the final local action to the Commission. In addition, all development standards specified in the certified LCP and, where applicable, Chapter 3 of the Coastal Act apply to such second units.

## 2. Description of Proposed LCP Amendment

The amendment would make secondary dwelling units a principally permitted use in the Residential Single-Family (RSF), Residential Suburban (RS), and Residential Rural (RR) land use categories in



Table O of the LUP.<sup>1</sup> The amendment would also change Sections 23.03.042(c) (Table 3-A Note 2), 23.08.014, 23.08.169(c)(1)(i), 23.08.169(c)(2), 23.08.169d, and 23.08.169g of the LCP's IP. The amendment also changes the Avila Beach Communitywide Standards in the LCP's San Luis Bay Area Plan. Specifically, the amendment:

- 1) Modifies the Framework for Planning, Chapter 6, Table O by adding a "P" to the existing S-8 designation in the RSF, RS, and RR land use categories;
- 2) Modifies Section 23.03.042(c) (Table 3-A Note 2) to except secondary dwelling units from Minor Use Permit Approval;
- 3) Modifies Section 23.08.014 to except secondary dwelling units from Minor Use Permit Approval;
- 4) Modifies Section 23.08.169(c)(1)(i) to indicate the specific criteria that need to be met in order to allow a secondary dwelling unit in the South Bay urban area;
- 5) Modifies Section 23.08.169(d) to indicate that secondary dwelling units don't require a public hearing, and are to be noticed per LCP requirements when appealable. This section is also updated to ensure satisfaction of all other applicable LCP policies when reviewing secondary units;
- 6) Modifies Section 23.08.169g to establish new design guidelines for secondary units; and,
- 7) Modifies Avila Beach Communitywide Standards in the San Luis Bay Area Plan to except secondary dwelling units from Minor Use Permit (Avila Beach Communitywide) and Development Plan (Residential Rural – Mallagh Landing) approval requirements.

See exhibit A for the Board of Supervisor's resolution, and exhibit B for the proposed changes.

### 3. Effect of Changes Proposed

Under the proposed amendment, applications for second units in the coastal zone will be processed without public hearings. Existing LCP noticing requirements would be maintained through the amendment, and interested parties would still be made aware of such projects, including, when the

---

<sup>1</sup> The LCP's principally permitted use provisions have been the subject of some debate historically between the Commission and the County with respect to the way in which the LCP's use codes work in relation to what is or is not principally permitted in various zoning districts. The Commission's position has been and continues to be that only uses identified with a "P" alone in CZLUO Table O are principally permitted because the LCP indicates as much (CZLUO Section 23.01.043(c)(4) states: "Any approved development not listed in Coastal Table O, Part 1 of the Land Use Element as a Principal Permitted (P) Use"). The County has in the past at times interpreted CZLUO Section 23.01.043(c)(4) as indicating that any use that has a use code that includes a "P" is considered principally permitted. The amendment is characterized here and in this report in the way in which the County intends it to be implemented; namely that a use code including a "P" for the three districts involved make second units principally permitted there. However, it is only characterized in that way in this report for purposes of evaluation of the County's proposal, and in no way is that characterization meant to imply that the Commission agrees with the County's interpretation. Given the Commission's action in this LCP amendment resolves issues with respect to second units and their status in way that does not require resolution of potential Table O issues in this respect, this issue is not further discussed herein.





project is appealable, receiving instructions on how to appeal the project to the Coastal Commission. Secondary units are required to meet all other applicable LCP policies. However, adding a “P” to the existing S-8 designation contained in Table O will result in secondary dwelling units (second units) becoming a principally permitted use in the Residential Single-Family (RSF), Residential Suburban (RS), and Residential Rural (RR) land use categories. As such, second unit projects will only be appealable to the Commission on location grounds.<sup>2</sup> These changes will potentially reduce the level of review for applicants to gain approvals for second units in residential zones. Whether the level of the County’s review is reduced depends on the manner in which administrative reviews will be undertaken at the County, and the length of time that these will take. The specifics of the County’s internal review process in this respect are unknown at this time. Nevertheless, the lack of a public hearing requirement should reduce the absolute amount of processing time associated with a second unit application because it removes a major step. A lesser administrative review (compared to a more involved public hearing level review before decision-making boards) will generally expedite review of second units in residential zones.

Changes to the design standards for second units will also generally add greater flexibility in siting and design. In some cases (e.g. Residential Single-Family lots), second units will be allowed to be slightly larger in terms of maximum overall floor area (from 640 square feet (s.f.) to 800 s.f.). In other cases (e.g., Residential Rural lots greater than 5 acres), the maximum floor area for second units will be more restrictive (from 1,200 s.f. to 800 s.f.). The ordinance allows for modifications to the maximum distances a second unit must be from the primary residence where none was allowed before, but includes required findings for modifications aimed at protecting important coastal resources. In general, changes to the design standards will have only a marginal effect because the LCP already contains many of the same design guidelines and in some cases the new standards are more restrictive.

## B. Consistency Analysis

### 1. Standard of Review

The standard of review for the proposed modifications to the County’s LUP is consistency with the Coastal Act. The standard of review for proposed modifications to the County’s IP or CZLUO is that they must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act

---

<sup>2</sup> Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. Only the criteria of (a) above would apply to second unit development in the RSF, RS, and RR land use categories.



policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (CZLUO) standards then typically further refine LUP policies to provide guidance on a parcel by parcel level. Because this is both an LUP and IP amendment, the standard of review is the Coastal Act for LUP consistency and policies of the LUP for IP/CZLUO consistency.

## 2. Applicable Policies

Both the Coastal Act and the County's LUP protect environmentally sensitive habitat areas, agricultural lands, visual and community character, and require demonstration of adequate public services for proposed development. They also distinguish between urban and rural development, and direct development to already developed areas best able to accommodate it. Quality design, respective of the built and natural environment, is expected. Overall, the Coastal Act and LUP requirements reflect and implement similar fundamental goals. Selected Coastal Act and corresponding LUP policies include:

### Environmentally Sensitive Habitat Areas

Coastal Act Section 30240 states:

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

**Section 30240(b).** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Coastal Act Sections 30230 and 30231 provide:

**Section 30230.** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

**Section 30231.** *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.*



San Luis Obispo County LUP Policies 1 and 2 provide:

***ESHA Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats***

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

***ESHA Policy 2: Permit Requirement***

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

**Agricultural Protection Policies**

Coastal Act Section 30241 requires the maintenance of the maximum amount of prime agricultural land to assure the protection of agricultural economies:

***Section 30241.*** *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*



*(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Coastal Act Section 30242 establishes a general standard for the conversion of agricultural lands:

**Section 30242.** *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

Coastal Act Section 30243 addresses protection of the soil resource itself:

**Section 30243.** *The long-term productivity of soils ... shall be protected....*

San Luis Obispo County LUP Policies 1, 4, 5, and 7 provide:

***Agriculture Policy 1: Maintaining Agricultural Lands***

*Prime agricultural land shall be maintained, in or available for, agricultural production unless: 1) agricultural use is already severely limited by conflicts with urban uses; or 2) adequate public services are available to serve the expanded urban uses, and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, thus contributing to the establishment of a stable urban/rural boundary; and 3) development on converted agricultural land will not diminish the productivity of adjacent prime agricultural land.*

*Other lands (non-prime) suitable for agriculture shall be maintained in or available for agricultural production unless: 1) continued or renewed agricultural use is not feasible; or 2) conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services to serve additional development; and 3) the permitted conversion will not adversely affect surrounding agricultural uses.*

*All prime agricultural lands and other (non-prime) lands suitable for agriculture are designated in the land use element as Agriculture unless agricultural use is already limited by conflicts with urban uses.*

*Permitted Uses on Prime Agricultural Lands. Principal permitted and allowable uses on prime agricultural lands are designated on Coastal Table O – Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on the prime agricultural soils, that the least amount of prime soil possible is converted and that the use will not conflict with surrounding agricultural lands and uses.*



*Permitted Uses on Non-Prime Agricultural Lands. Principal permitted and allowable uses on non-prime agricultural lands are designated on Coastal Table O – Allowable Use Chart in Framework For Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on non-prime soils, that the least amount on non-prime land possible is converted and that the use will not conflict with surrounding agricultural lands and uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

***Agriculture Policy 4: Siting of Structures***

*A single-family residence and any accessory agricultural buildings necessary to agricultural use shall, where possible, be located on other than prime agricultural soils and shall incorporate whatever mitigation measures are necessary to reduce impacts on adjacent agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.050a OF THE CZLUO.]*

***Agriculture Policy 5: Urban-Rural Boundary***

*To minimize conflicts between agricultural and urban land uses, the urban service line shall be designated the urban-rural boundary. Land divisions or development requiring new service extensions beyond this boundary shall not be approved. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.432 AND 23.04.421 OF THE CZLUO.]*

***Agriculture Policy 7: Water Supplies***

*Water extractions consistent with habitat protection requirements shall give highest priority to preserving available supplies for existing or expanded agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Visual and Scenic Resources and Community Character  
Coastal Act Section 30251 states:

***Section 30251.*** *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.*

Coastal Act Section 30253(5) protects community character. Section 30253(5) states:

***Section 30253(5).*** *New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*



San Luis Obispo County LUP Policies 1, 2, 4, 5, 6, 7, and 11 provide:

***Visual and Scenic Resources Policy 1: Protection of Visual and Scenic Resources***

*Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

***Visual and Scenic Resources Policy 2: Site Selection for New Development***

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

***Visual and Scenic Resources Policy 4: New Development in Rural Areas***

*New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.021 OF THE CZLUO.]*

***Visual and Scenic Resources Policy 5: Landform Alterations***

*Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]*

***Visual and Scenic Resources Policy 6: Special Communities and Small-Scale Neighborhoods***

*Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO CHAPTER 23.11 (DEFINITIONS) OF THE CZLUO.]*

***Visual and Scenic Resources Policy 7: Preservation of Trees and Native Vegetation***

*The location and design of new development shall minimize the need for tree removal. When trees must be removed to accommodate new development or because they are determined to be a safety hazard, the site is to be replanted with similar species or other species which are*



*reflective of the community character. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.05.064 OF THE CZLUO.]*

***Visual and Scenic Resources Policy 11: Development on Coastal Bluffs***

*New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on adjacent sandy beaches. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Public Services

General development siting and public service issues are mainly the purview of Coastal Act Sections 30250, 30252 and 30254.

Coastal Act Section 30250 states:

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

***Section 30250(b).*** *Where feasible, new hazardous industrial development shall be located away from existing developed areas.*

***Section 30250(c).*** *Visitor-serving facilities that cannot be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

Coastal Act Section 30252 states:

***Section 30252.*** *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*



Coastal Act Section 30254 states:

**Section 30254.** *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development*

San Luis Obispo County LUP Policies 1 and 8 provide:

**Public Works Policy 1: Availability of Service Capacity**

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

**Public Works Policy 8: Priority Development**

*Where existing or planned public works facilities can accommodate only a limited amount of new development, the following land uses shall have priority for services in accordance with the Coastal Act and be provided for in the allocation of services in proportion to their recommended land use within the service area.*

*a. Uses which require location adjacent to the coast (coastal-dependent uses).*

*b. Essential public services and basic industries vital to the economic health of the region, state or nation including agriculture, visitor-serving facilities and recreation.*

*Priority for development of such uses shall be given to land within the USL that are already subdivided with services available and then to unsubdivided parcels within the USL with services available. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD].*

### 3. Consistency Analysis

Background on RSF, RS, and RR lands

The County has a series of residential land use designations, including Residential Single-Family (RSF), Residential Suburban (RS), and Residential Rural (RR). The RS and RR designations generally cover





areas just outside of urban nodes, where residential development is generally more dispersed and more compatible with a rural atmosphere and lifestyle. The LCP describes these residential areas as low density, and that these designations are applied in order to maintain the character of the open countryside and its attributes. For example, RS zoned land along the southern Cambria urban fringe near Camp Ocean Pines includes sensitive Monterey pine forest habitat. Likewise, RS and RR zoned lands around the Los Osos urban fringe are similarly resource rich. These areas include a myriad of waterways and sensitive habitat areas, and are critical public viewsheds, particularly as seen from Pecho Road towards the ocean. In other areas, like in Avila Beach, RR land near Mallagh Landing includes the wide marine terrace and coastal bluffs overlooking the Pacific. In the south county, it is not uncommon for RS zoned land near Willow Road to be in agricultural production. Nearly all of these areas lack adequate public service capacities, such as sustainable water supplies. As a result, the proposed amendment affects some of the more sensitive and resource rich coastal zone lands within San Luis Obispo County.

#### Elimination of Public Hearing Requirements

The primary focus of both AB 1866 and the proposed amendment is to eliminate the public hearing requirement for second units in RSF, RS, and RR zones. Although the LCP's current public hearing requirement for second units is designed to ensure maximum participation, and to help allow for project issues to be addressed in an open public forum, its elimination in this case to respond to AB 1866 requirements should not adversely impact coastal resources so long as existing related LCP provisions and processes are maintained (see also below regarding principally permitted uses). In other words, whether there is a public hearing or not, proposed second unit projects must be consistent with the LCP and thus must protect these resources as directed by the LCP. The removal of the public hearing requirement will limit testimony and discussion at a public hearing, which will eliminate the effect of such testimony and discussion on such projects, but interested parties will still be noticed as required, and will still have the ability to participate through submitting their comments to the County otherwise. Again, although not ideal for public participation, the outcome should still be LCP consistent development.

#### Secondary Dwelling Units as a Principal Permitted Use

The LCP only allows second units in the RSF, RS, and RR zones (and the amendment does not change this application). However, currently, Table O of the LUP defines second units in these zones as special "S-8" uses. Such uses are only allowable subject to special standards and/or processing requirements, spelled out in such policies as CZLUO Section 23.08.169 (Secondary Dwelling Units (S-8)). Second units are currently conditional uses in RSF, RS, and RR zones.

The proposed amendment inserts a principally permitted "P" notation for secondary dwelling units in the LCP's Table O use code chart. According to the County, this makes them a principally permitted use in the RSF, RS, and RR land use categories. These uses would still also be called out as special "S-8" uses, subject to special standards and/or processing requirements (in this case S-8 requires approval subject to the terms of CZLUO Section 23.08.169 specific to secondary dwelling units). Actions by the County to approve non-principally permitted use development are appealable to the Coastal



Commission (in addition to those County actions taken to approve any development when it is located in a geographically appealable zone).

As described earlier, the residential zones in question include County coastal zone lands in less urban areas, where coastal resource protection issues are relatively more present than in urban areas. Although the LCP currently allows these types of projects in these areas, it provides special processing for them, including designating them as development that is appealable to the Commission, because these types of projects in these types of areas demand relatively more oversight to ensure that coastal resources are protected as required by the LCP.

If these types of projects were instead identified as principally permitted, as proposed, a portion of the LCP's special processing applicable to them would also be eliminated. Specifically, actions to approve second units in these residential land use categories in the coastal zone would no longer be categorically appealable to the Coastal Commission. This safeguard was put in place precisely to ensure adequate review for development outside of the scope of what the LCP principally envisions for property. As discussed above, this is critically important for suburban and rural properties that contain abundant coastal resources and for which growth pressure can be exceedingly high as urban areas reach build-out, and where statewide perspective can be particularly relevant in light of local development pressures. Thus, it is likely that the amendment will lead to future second unit growth in suburban and rural areas of the County without application of that statewide perspective as necessary, which could be to the detriment of coastal resources inconsistent with both the certified LUP and the Coastal Act.

Fortunately, this issue can be easily addressed, consistent with both the Coastal Act and AB 1866 regarding second units. Specifically, the LCP's use charts can be left as is (to not make second units principally permitted). The other LCP changes would still mean that second units could be approved by the County absent a public hearing (as per AB 1866), but that they would be processed otherwise in the manner currently prescribed for these use by the existing LCP, including with respect to the potential for appeal to the Coastal Commission. See suggested modification 1.

#### Final Local Action Requirements

Proposed Section 23.08.169d indicates that second units don't require a public hearing, and are to be noticed per LCP requirements when appealable. While it is implied that the applicable final local action noticing requirements to the Commission would remain, it is not explicit in this section. For clarity, a modification is suggested to make this implicit requirement explicit. See suggested modification 4.

#### Design Standard Changes

The changes to the design standards for second units will generally add greater flexibility in siting and design, but shouldn't result in adverse coastal resource impacts as a result. With the amendment, as is currently the case, second units must still be found consistent with all LCP requirements, including those protecting against inappropriate second unit development, and including those requiring coastal resource protection otherwise (e.g., protecting agricultural lands, public views, sensitive habitat areas, etc.). Suggested modification 5 simply clarifies and reinforces these provisions. As modified, these



changes can be found Coastal Act and LCP consistent.

#### Clarifications/Other

In addition to those issues detailed above, there are instances where the language of the proposed text needs to be clarified, and typographic errors fixed, to ensure its clear implementation consistent with the LUP. In one area of the CZLUO (Section 23.02.030f) the same exception clause for permit requirements proposed by the County is added for internal consistency. See suggested modification 2, 4, and 5.

#### 4. Conclusion

The Commission must determine whether the LUP changes proposed are consistent with the Coastal Act, and the IP changes proposed are consistent with and adequate to carry out the LUP. There are portions of both sections of text where there are inconsistencies and/or other issues that would affect the proposed text's ability to be consistent with the Coastal Act, and carry out LUP policies that ultimately ensure that coastal resources are protected. Modifications are suggested to address the identified issues.

In conclusion, if so modified in all of the ways outlined here, according to the cited modification texts, then the proposed LUP and IP amendment can be approved as being consistent with the Coastal Act and adequate to carry out the certified LUP.

### C. California Environmental Quality Act (CEQA)

Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The County in this case prepared a Mitigated Negative Declaration under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



IN THE BOARD OF SUPERVISORS  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day September 12, 2006

PRESENT: Supervisors Harry L. Ovitt, Shirley Bianchi, Jerry Lenthall,  
James R. Patterson and Chairperson K.H. 'Katcho' Achadjian  
ABSENT: None

RESOLUTION NO. 2006 - 312

RESOLUTION TO AMEND THE SAN LUIS OBISPO COUNTY GENERAL PLAN, LAND USE ELEMENT, THE LAND USE ELEMENT AND LOCAL COASTAL PLAN, THE LAND USE ORDINANCE, TITLE 22 OF THE COUNTY CODE AND THE COASTAL ZONE LAND USE ORDINANCE, TITLE 23 OF THE COUNTY CODE AND TO ADOPT ORDINANCES ENTITLED "AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, CHAPTER 22.104 BY AMENDING SECTION 22.104.090 RELATING TO THE COMMERCIAL SERVICE AREA ON THEATER DRIVE", "AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, BY AMENDING VARIOUS SECTION RELATING TO SECONDARY DWELLING STANDARDS AND PERMIT REQUIREMENTS", "AN ORDINANCE AMENDING COASTAL ZONE LAND USE ORDINANCE, TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, BY AMENDING VARIOUS SECTIONS RELATING TO SECONDARY DWELLING STANDARDS AND PERMIT REQUIREMENTS" AND "AN ORDINANCE AMENDING SPECIFIC SECTIONS OF THE SAN LUIS OBISPO COUNTY LAND USE ORDINANCE, TITLE 22 OF THE COUNTY CODE AND THE COASTAL ZONE LAND USE ORDINANCE, TITLE 23 OF THE COUNTY CODE" AND TO APPROVE ENVIRONMENTAL DOCUMENTS

The following resolution is now hereby offered and read:

WHEREAS, state law requires that a general plan be adopted; and

WHEREAS, the Land Use Element of the San Luis Obispo County General Plan was adopted by the Board of Supervisors on September 22, 1980, and is a proper element of the General Plan; and

WHEREAS, on March 1, 1988, the San Luis Obispo County Board of Supervisors adopted the Local Coastal Program as amendments and additions to the Land Use Element of the San Luis Obispo County General Plan, specifically incorporating the Land Use Plan of the Local Coastal Program into the Land Use Element of the General Plan hereinafter referred to as the "Land Use Element and Local Coastal Plan", and to the San Luis Obispo County Code Titles 19, 21, and 23; and

WHEREAS, state law, public necessity, convenience and general welfare requires that general and specific plans be amended from time to time; and

WHEREAS, the Planning Commission of the County of San Luis Obispo after noticed public hearings did recommend amendments to the Land Use Element, the Land Use Element / Local Coastal Plan, the Land Use Ordinance - Title 22 of the County Code and the Coastal Zone Land Use Element - Title 23 of the County Code, adopted resolutions or otherwise took action recommending said amendments.

NOW THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, in a regular meeting assembled on the twelfth day of September, 2006, that the County General Plan, the Land Use Element / Local Coastal Plan, the Land Use Ordinance - Title 22 of the County Code and the Coastal Zone Land Use Element - Title 23 of the County Code be amended as follows:

1. Amend the San Luis Obispo County General Plan, Land Use Element, Salinas River Area Plan, official maps, as such amendment appears on Exhibit LRP2004-00010:A, attached hereto and incorporated herein as though fully set forth. [This document does not apply to the Coastal Zone and was not certified as part of the Local Coastal Program. Therefore this amendment does not need to be submitted to the California Coastal Commission.]

2. Amend the San Luis Obispo County General Plan, Land Use Element, Salinas River Area Plan, official maps, as such amendment appears on Exhibit G030012M:A, attached hereto and incorporated herein as though fully set forth. [This document does not apply to the Coastal Zone and was not certified as part of the Local Coastal Program. Therefore this amendment does not need to be submitted to the California Coastal Commission.]

3. Amend the San Luis Obispo County General Plan, Framework for Planning, San Luis Bay Coastal Area Plan and the Land Use Element/Local Coastal Plan, as appears on Exhibit G030002L:C which is attached hereto and incorporated herein as though fully set forth; and pursuant to Public Resources Code, section 30514, authorize the Coastal Zone Framework and San Luis Bay Coastal amendment submittal to the California Coastal Commission for consideration and certification.

4. Adopt, enact and instruct the Chairman of the Board of Supervisors to sign "An Ordinance Amending Title 22 of the San Luis Obispo County Code, The Land Use Ordinance, Chapter 22.104 by Amending Section 22.104.090 Relating to the Commercial Service area on Theater Drive" as set forth in Exhibit G030012M:B which is attached hereto and incorporated herein as though fully set forth. [This document does not apply to the Coastal Zone and was not certified as part of the Local Coastal Program. Therefore this amendment does not need to be submitted to the California Coastal Commission.]

5. Adopt, enact and instruct the Chairman of the Board of Supervisors to sign "An Ordinance Amending Title 22 of the San Luis Obispo County Code, The Land Use Ordinance, by Amending Various Section Relating to Secondary Dwelling Standards and Permit Requirements" as set forth in Exhibit G030002L:A which is attached hereto and incorporated herein as though fully set forth. [This document does not apply to the Coastal Zone and was not certified as part of the Local Coastal Program. Therefore this amendment does not need to be submitted to the California Coastal Commission.]

6. Adopt, enact and instruct the Chairman of the Board of Supervisors to sign "An Ordinance Amending Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, by Amending Various Sections Relating to Secondary Dwelling Standards and Permit Requirements" as set forth in Exhibit G030002L:B which is attached hereto and incorporated herein as though fully set forth and pursuant to Public Resources Code, section 30514, authorize the Coastal Zone Framework and San Luis Bay Coastal amendment submittal to the California Coastal Commission for consideration and certification.

7. Adopt, enact and instruct the Chairman of the Board of Supervisors to sign "An Ordinance Amending Specific Sections of the San Luis Obispo County Land Use Ordinance, Title 22 of the County Code and the Coastal Zone Land Use Ordinance, Title 23 of the County Code" which is attached hereto and incorporated herein as though fully set forth. [This document does not apply to the Coastal Zone and was not certified as part of the Local Coastal Program. Therefore this amendment does not need to be submitted to the California Coastal Commission.]

BE IT FURTHER RESOLVED AND ORDERED that the environmental documents for the above enacted amendments be approved as follows:

1. Regarding the amendments that were processed on the basis of a proposed Negative Declaration, the Board of Supervisors reviewed and considered the proposed Negative Declarations together with all comments received during the public review process prior to enacting the amendment. Further, on the basis of the initial studies and comments received for the Negative Declaration, there is no substantial evidence that the amendments will have a significant effect on the environment, therefore the Board of Supervisors hereby adopts the Negative Declaration pursuant to the applicable provisions of the California Environmental Quality Act (CEQA). The Negative Declaration prepared reflect the independent judgment of the Board of Supervisors, acting as the lead agency for the amendments.

2. Regarding the amendments that were processed on the basis of a Statutory Exemption, the Board of Supervisors finds that the activity is covered by a Statutory Exemption (pursuant to California Environmental Quality Act Guidelines Section 15282(i) from the California Environmental Quality Act (CEQA).

BE IT FURTHER RESOLVED AND ORDERED that this resolution with respect to Exhibits G030002L:B and C shall become operative automatically, pursuant to 14 California Code of Regulations §13551(b)(1), upon the certification without any modifications or amendments to said amendments by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification pursuant to 14 California Code of Regulations §13544. In the event that the California Coastal Commission recommends modifications to said amendments, the amendments with modification shall be processed in accordance with Government Code § 65350 et seq., before final local government adoption of the amendments with the modifications suggested by Coastal Commission pursuant to 14 California Code of Regulations §13551(b)(2), or before the Board of Supervisors resubmits, pursuant to Public Resources Code Section 30512 and 30513, any additional amendments to satisfy the Commission's recommended changes.

Code Section 30512 and 30513, any additional amendments to satisfy the Commission's recommended changes.

BE IT FURTHER RESOLVED AND ORDERED that in accordance with Government Code Section 25131, after reading of the title of the ordinances, further reading of the ordinances in full is waived.

BE IT FURTHER RESOLVED AND ORDERED that this resolution shall be effective on the same date as Ordinance 3096, 3098 & 3099, said date being October 12, 2006 except for Ordinance 3097, which will become effective on January 1, 2007.

4 Upon motion of Supervisor Ovitt, seconded by Supervisor Lenthall, and on the following roll call vote, to wit:

AYES: Supervisors Ovitt, Lenthall, Bianchi, Patterson, Chairperson Achadjian

NOES: None

ABSENT: None

ABSTAINING: None

The foregoing resolution is hereby adopted.

K.H. ACHADJIAN

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

ATTEST

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

By: C.M. CHRISTENSEN Deputy Clerk  
[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.  
County Counsel  
By: [Signature]  
Deputy County Counsel

Dated: 8-30-06

STATE OF CALIFORNIA ) ss  
COUNTY OF SAN LUIS OBISPO )  
I, JULIE L. RODEWALD, County Clerk of the above  
entitled County, and Ex-Officio Clerk of the Board  
of Supervisors thereof, do hereby certify the fore-  
going to be a full, true and correct copy of an order  
entered in the minutes of said Board of Super-  
visors, and now remaining of record in my office.  
Witness, my hand and seal of said Board of  
Supervisors this SEP 18 2006  
JULIE L. RODEWALD  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
By: [Signature]  
Deputy Clerk

PROPOSED AMENDMENTS TO COASTAL ZONE FRAMEWORK FOR PLANNING,  
TABLE O AND SAN LUIS BAY COASTAL ZONE AREA PLAN

1. **Framework for Planning, Chapter 6, Table 0, Residential Use Group, Secondary Dwellings** is hereby amended as follows:

Add a P to the existing S-8 designation in the Residential Rural, Residential Suburban and Residential Single Family land use categories.

2. **San Luis Bay Coastal Planning Area, Avila Beach Urban Area, Communitywide Standards** are hereby amended as follows:

**AVILA BEACH**

The following standards apply only to lands within the town of Avila Beach, to the land use categories or specific areas listed.

4. **Permit Requirement.** Unless otherwise specified in the Avila Beach Specific Plan, Minor Use Plan approval is required for all proposed new uses except secondary dwellings. All development activities on the Tank Farm shall require Development Plan review and approval.  
[Added 2000, Ord. 2919]

3. **San Luis Bay Coastal Planning Area, Rural Area Standards,** are hereby amended as follows:

**PIRATES COVE (CAVE LANDING)**

The following standards apply only to the Pirates Cove area (see Figure 8-1) to the land use categories or specific areas listed.

RESIDENTIAL RURAL:	The following standards apply only to lands within the Residential Rural land use category.
--------------------	---

**Mallagh Landing.**

1. **Permit Requirement.** Development plan approval is required for all uses, except secondary dwellings, to include the following:
  - a. Residential clusters shall be identified in accordance with the sections of the Coastal Zone Land Use Ordinance which identifies cluster densities. At such time as the county adopts a Planned Unit Development (PUD) ordinance, the residential clusters shall be identified in accordance with the PUD ordinance.

EXHIBIT G030002L:B

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING COASTAL ZONE LAND USE ORDINANCE, TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE BY AMENDING VARIOUS SECTIONS RELATING TO SECONDARY DWELLING STANDARDS AND PERMIT REQUIREMENTS

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

**SECTION 1:** Section 23.03.042(c) (Table 3-A) Note 2 of the Coastal Zone Land Use Ordinance, Title 23 of the County Code, is hereby amended to read as follows:

Note 2 - Any use normally required by this title to have Plot Plan approval (except signs, pursuant to 23.04.306(a) shall instead require Minor Use Permit approval, except secondary dwellings, where Section 23.01.043 (Appeals to the Coastal Commission) identifies the proposed project as development which is appealable to the Coastal Commission.

**SECTION 2:** Section 23.08.014, 2<sup>nd</sup> paragraph, of the Coastal Zone Land Use Ordinance, Title 23 of the County Code is amended to read as follows:

Where Plot Plan approval is the land use permit required by this chapter and the proposed development is appealable to the Coastal Commission as provided by Section 23.01.043, Minor Use Permit approval (23.02.033) shall instead be required except for secondary dwellings.

**SECTION 3:** Section 23.08.169(c)(1)(i) of the Coastal Zone Land Use Ordinance, Title 23 of the County Code is hereby amended to read as follows:

**c. Limitations on location.**

- (1) **Excluded areas.** A Secondary Dwelling Unit shall not be allowed within the following areas. In such areas, secondary dwelling units are deemed to be incompatible with existing development, or the density increase resulting from secondary units pursuant to this section would create adverse cumulative effects on essential community services and natural features. Such services and features include but are not limited to water supplies, storm drainage facilities, roadway traffic capacities, and soils with limited suitability for septic system sewage disposal or subject to erosion:
  - (i) **South Bay.** The South Bay urban area as defined by the Land Use Element, Estero area plan, except that where the site and secondary dwelling unit satisfy the following provisions of ~~subsection g(1)(ii)(a), (b) or (c), or g(2)(ii)(a) or (b) for the applicable land use category~~, a detached unit may be allowed.



A. Within the Residential Single-Family category.

1. Where the site area is 12,000 square feet or larger and the site is served by community water and sewer; or
2. Where the site area is one acre (net) or larger and the site is served by community water and on-site sewage disposal; or
3. Where the site area is 2.5 acres (net) or larger and the site is served by on-site water supply and sewage disposal.

B. Other allowed land use categories.

1. Where the site is two acres (net) or larger and the site is served by community water or sewer.
2. Where the site area is five acres (net) or larger and the site is served by on-site water supply and sewage disposal.

SECTION 4. Section 23.08.169c(2) (Secondary Dwelling Units, S-8) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby deleted as follows:

- ~~(2) **Minimum access.** A secondary dwelling is allowed only on a site that has frontage: (1) on a road or private easement that is maintained by the county, state or special district; (2) on a road that is offered for dedication to the public and is surfaced with chip seal or better; or (3) on a private easement that is surfaced with chip seal or better. For roads or easements described in (2) or (3), the access must be maintained through organized maintenance, such as a road maintenance agreement or homeowners association.~~

SECTION 5. Section 23.08.169d (Secondary Dwelling Units, S-8) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

- d. Permit requirement. ~~Minor Use Permit Plot Plan~~ approval is required in all areas where Secondary Dwelling Units are allowed. For a secondary dwelling meeting the definition of appealable development pursuant to Coastal Zone Land Use Ordinance Section 23.01.043(c), a public hearing is not required. Instead, a notice shall be filed in accordance with Coastal Zone Land Use Ordinance section 23.02.070(b). The notice shall be provided to all property owners within 300 feet of the subject property and to all residents within 100 feet. In addition to the items listed in 23.02.070(b), the notice shall state that the project may be appealed to the California Coastal Commission. Nothing in this section shall exempt secondary dwellings from meeting any applicable Local Coastal Plan policies.

SECTION 6. Section 23.08.169g (Secondary Dwelling Units, S-8) of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

g. Design standards:

(1) ~~Within the Residential Single-Family category. The following standards apply to all land use categories where secondary dwellings are allowed.~~

~~(i) The maximum floor area of a secondary dwelling shall be 640 square feet, except that such area may be increased to a maximum of 1200 square feet (exclusive of any garage) where the site satisfies the requirements of subsections g(1)(ii)(a), (b) or (c).~~

~~(ii) The secondary dwelling shall be permanently attached by a common wall to the primary dwelling or on the second floor of the primary dwelling's detached garage and shall use the same design style except:~~

~~(a) Where the site area is 12,000 square feet or larger and the site is served by community water and sewer; or~~

~~(b) Where the site area is one acre (net) or larger and the site is served by community water and on-site sewage disposal; or~~

~~(c) Where the site area is 2.5 acres (net) or larger and the site is served by on-site water supply and sewage disposal.~~

~~In such cases the secondary dwelling may be detached if it employs an exterior design style compatible with the primary dwelling and is located on the rear of the site, provided that no more than 50 percent of the site shall be covered by structures.~~

~~(iii) Entrances shall be designed to maintain the character of a single dwelling and to avoid the attached secondary dwelling changing the appearance of the primary dwelling to resemble a duplex. The entrance to an attached secondary dwelling shall not be located on the same building face as the entrance to the primary dwelling unless the entrance to both the primary and secondary dwellings is shared.~~

(2) ~~Other allowed land use categories:~~

~~(i) The maximum floor area of a secondary dwelling shall be 800 square feet, except that such area may be increased to a maximum of 1200 square feet (exclusive of any garage) where the site satisfies the requirements of subsections g(2)(ii)(a) or (b).~~

~~(ii) The secondary dwelling shall be permanently attached by a common wall to, or located within 50 feet of, the primary dwelling or on the second floor of the primary dwelling's detached garage and shall use the same design style except:~~

~~(a) Where the site is two acres (net) or larger and the site is served by community water or sewer.~~

~~(b) Where the site area is five acres (net) or larger and the site is served by on-~~

site water supply and sewage disposal:

~~In such cases the secondary dwelling may be detached from the primary dwelling but shall be of a design style compatible with the existing primary dwelling. For sites of 20 acres or larger in residential categories, the secondary dwelling shall be located within 500 feet of the primary dwelling. For sites less than 20 acres, the secondary dwelling shall be located within 250 feet of the primary dwelling. An attached secondary dwelling shall comply with the design provisions of subsection g(1)(iii) of this section.~~

SIZE OF LOT	MAXIMUM SIZE OF UNIT(1)	TYPE OF ROAD SURFACE(2)	MAXIMUM DISTANCE FROM PRIMARY UNIT
6,000 sq. ft. - 20,000 sq. ft.	640 square feet	Paved	10 feet
>20,000 sq. ft. - 1 acre	640 square feet	Paved	50 feet
>1 acre - 2 acres	800 square feet	Chip seal(3)	50 feet
>2 acres - 5 acres	800 square feet	Chip seal(3)	100 feet
>5 acres	800 square feet	Chip Seal(3)	250 feet

Notes:

- (1) Includes attics greater than 6 feet in height, unconditioned storage space and lofts.
  - (2) If the road that provides access to the property is maintained by the County, State, or special district, the surfacing requirement does not apply. If the road is not maintained by the County, State or special district, the surfacing requirement applies and the road must be maintained through an agreement with property owners fronting the road or through an established homeowners association.
  - (3) Chip seal must be placed over a Class II or better base material as defined by California Department of Transportation standards.
- (2) Driveways: The driveways serving the primary and secondary dwelling shall be combined where possible. An adjustment may be granted in compliance with Section 23.01.044 if combining driveways is prohibited by a physical site constraint, would result in grading on slopes over 15 percent or would require the removal of oak trees or other native trees.
2. (3) Within urban and village reserve lines:.
- a. The secondary dwelling shall employ a design style compatible with the primary dwelling.
  - b. When a secondary dwelling is attached to the primary dwelling, the entrances shall be designed to maintain the character of a single dwelling and to avoid the attached secondary dwelling changing the appearance of the primary dwelling to resemble a duplex. The entrance to an attached secondary dwelling shall not be located on the same building face as the entrance to the primary dwelling unless the entrance to both the primary and secondary dwellings is shared.

c. No more than 50 percent of the site shall be covered by structures.

(34) Exceptions to design standards. Alternatives to the design standards of subsections g. and c(2) of this section may be approved by the Review Authority pursuant to Section 23.02.033. These standards are the only provisions of this section subject to such action. The maximum size of unit as set forth in Subsection g(1), and the maximum size of the garage workshop as set by Subsection g(6), cannot be modified except by a Variance (Section 23.01.045). The maximum distance from the primary unit may be adjusted in compliance with Section 23.02.033 where the secondary dwelling is proposed within an existing structure legally constructed prior to January 1, 2006 and there will be no physical change to the site (no additional footprint or garage space added to serve the secondary unit). Otherwise, the maximum distance from the primary unit may be modified only where the Review Authority first finds the following:

- (i) Locating the secondary dwelling within the distance as set forth in subsection g(1) would necessitate the removal of, or impact to, any of the following:
  - (a) Exiting improvements, such as detached accessory structures, swimming pools, wastewater disposal fields, drainage facilities, or water storage tanks.
  - (b) Sensitive or significant vegetation such as native trees or shrubs, riparian vegetation, vineyards, orchards, or visually prominent trees.
  - (c) Significant topographic features (steep slopes, ridgelines, bluffs) water courses, wetlands, lakes or ponds, or rocky outcrops.
  - (d) Archaeological resources

5. Parking. A Secondary Dwelling Unit shall be provided one off-street parking space per bedroom up to a maximum of two spaces, in addition to those required for the primary residence by Section 23.04.166c(5) (Required Parking Spaces - Residential Uses), and such parking space shall be located, designed and constructed pursuant to Sections 23.04.163, 164 and 168, except that for lots of 7,500 square feet or less, the parking may be located within the front setback and tandem with the parking required for the primary dwelling.

6. Garage/workshop. The garage/workshop for a secondary dwelling is limited to a maximum of 50 percent of the size of the secondary dwelling and is required to be attached to the secondary dwelling. Where the secondary dwelling is constructed on the second floor of the primary dwelling's detached garage, no additional attached or detached garage/workshop shall be permitted.

SECTION 7. That the activity is covered by a Statutory Exemption (pursuant to California Environmental Quality Act Guidelines Section 15282(i) from the California Environmental Quality Act (CEQA).

SECTION 8. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 9. This ordinance shall become operative only upon approval by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 10: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

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

ATTEST:

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

[SEAL]

**CCC Exhibit B**  
**(page 7 of 7 pages)**