

**CALIFORNIA COASTAL COMMISSION**

725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
VOICE (831) 427-4863  
FAX (831) 427-4877



# Th15a

**Prepared November 29, 2012 (for December 13, 2012 hearing)**

**To:** Coastal Commissioners and Interested Persons See the staff report addendum.  
**From:** Dan Carl, Deputy Director  
Mike Watson, Coastal Planner  
**Subject:** **City of Seaside Local Coastal Program Amendment Number 1-11 (LUP Update and IP Certification).** For public hearing and Commission action at its December 13, 2012 meeting in San Francisco.

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## DESCRIPTION OF SUBMITTAL

The City of Seaside is proposing to completely update its Local Coastal Program (LCP) Land Use Plan (LUP), and is proposing an LCP Implementation Plan (IP) for the first time. Thus, the City's LCP amendment proposal constitutes a complete LCP for the first time for the City of Seaside. This is the first amendment to the LUP since its certification in 1983, and represents a comprehensive update that essentially replaces the majority of the LUP's land use regulatory policies and programs. Although the general goals of the 1983 LUP remain current, the updated LUP contains numerous new policies addressing a variety of coastal resource issues not previously covered in the currently certified LUP. The LUP update reflects current understandings regarding sea level rise, flood and hazard abatement, environmentally sensitive habitat area (ESHA) and wetland protection, water quality enhancement, transportation planning, water and utility requirements, and a host of other relevant coastal planning issues. The proposed LCP amendment was received on June 3, 2011 and subsequently filed as complete on March 19, 2012. Coastal staff has worked very closely with City staff on issues raised by the submittal, and have reached agreement on suggested modifications to address coastal resource issues. As suggested to be modified, City and Coastal staff are in agreement on the LCP. The standard of review for the LUP is Chapter 3 of the Coastal Act, and the standard of review for the IP is the LUP, as amended.

## BACKGROUND AND HISTORY OF THE CERTIFIED LUP

Certification of the LUP in 1983 was the end result of a lengthy land use planning effort that effectively began in 1977 and included several submittals and iterations, including: approval by the City on September 3, 1981; Commission certification with suggested modifications for the Laguna Grande/Roberts Lake subareas and denial of the Beach subarea on March 5, 1982; Commission approval of the Beach subarea with suggested modifications on August 12, 1982;

re-submittal of the Beach subarea on January 21, 1983; Commission approval with modifications of the Beach subarea on May 26, 1983; and concluding with Commission certification of the entire LUP (Laguna Grande, Roberts Lake, and Beach subareas) on October 12, 1983. This proposed LCP amendment is the first since the LUP was certified in 1983.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission hold a public hearing and approve the LCP subject to modifications. This will require the Commission to **deny** both the LUP and IP as submitted, and then **approve** the LUP amendment and the IP if modified to incorporate the suggested modifications. The motions to accomplish this are found on pages 5 – 7 below. The City would have six months (i.e., until June 13, 2013) to accept the modifications or only the denials would stand.

The City of Seaside has put forth a considerable effort over the past several years to prepare and submit the proposed LCP, including working directly with staff during that time. The City has used this opportunity to bring the LUP up to date with current planning and development standards, particularly with regard to the protection of the City's coastal resources. Overall, the LCP amendment as proposed by the City constitutes a far more comprehensive, detailed, and improved plan than the City's currently certified LUP. The recommendation for approval with modifications is based on addressing remaining issues related to the protection of ESHA and wetland areas, provision of public recreational access, protection of water quality and visual resources, avoidance of flooding hazards, ensuring adequate public services (including related to transportation, circulation, water, and wastewater capacities), as well as other related coastal resource issues. These modifications range from major revisions, such as needed to ensure that the objectives of the Coastal Act policy are clearly articulated, and the insertion of policies/procedures for addressing storm water quality, heretofore missing from the LCP, to minor changes, such as rephrasing advisory wording ("should" "may") into mandatory terms ("shall" "must"), consistent with the compulsory nature of a given policy. As indicated above, City and Commission staff have worked closely together to draft appropriate modifications, the City is in agreement with the suggested modifications, and the City is asking for the Commission to approve the LCP as modified.

## **SUMMARY OF ISSUES**

The main issues associated with the proposed LCP amendment can be summarized as follows:

### **Hazards**

The proposed LCP generally addresses coastal hazard issues in conjunction with minimizing flood risks by limiting development along the beach and shoreline, identifying sea level rise and related impacts, and maintaining the storm water outfall at Monterey State Beach. This is appropriate because, for the most part, coastal hazard issues within Seaside are predominantly related to maintaining the water level of Laguna Grande and Roberts Lake and avoiding flooding of adjacent commercial and residential properties inland of Highway 1. Over the years, the City has mechanically manipulated a sand berm to allow water from the lakes to release to the bay.

Additional policies are proposed to address threats from tsunamis, require analysis of wave uprush/shoreline erosion in new development, and to refine outfall maintenance provisions.

### **Water Quality**

The proposed LCP contains only limited provisions designed to maintain and enhance the quality of coastal waters. Laguna Grande and Roberts Lake both suffer from sedimentation, nutrient and urban pollutant loading, low oxygen levels, and other forms of degradation, and this water is ultimately conveyed onto Monterey State Beach and the Monterey Bay National Marine Sanctuary. Staff is recommending modifications including more robust storm water and water quality protection provisions to mitigate both construction and post-construction water quality impacts, and to target specific classes of pollutants. The storm water and water quality provisions were coordinated through Commission water quality staff, including to ensure that they would effectively address new Regional Water Quality Control Board (RWQCB) requirements associated with the pending update to the statewide Phase II Stormwater Permit.

### **Land Use**

Several lakefront properties would be designated for visitor-serving commercial and recreational uses, the proposed density and intensity of which could lead to adverse impacts to adjacent wetland and riparian habitats. The suggested modifications refine density/intensity and setback standards in order to adequately buffer adjacent resources to ensure they are protected.

### **Public Access and Recreation**

The proposed LCP provides a good description of the various public access and recreational and visitor-serving opportunities available in Seaside. Seaside is the gateway to the Monterey peninsula with approximately 500 feet of beach frontage, two freshwater lakes, access to the Monterey Bay Coastal Recreation Trail and California Coastal Trail alignment, easy access to Cannery Row and area attractions, and options for overnight accommodation. In general, the proposed LCP policies call for protecting these facilities, and access to them, as well as for new improvements. However, there are a few parts of the LCP in need of refinement to ensure public recreational access is protected, provided and enhanced as required by the Coastal Act. For example, restrictions on the use of public facilities and parking in the evening hours that deprives visitors of a way to conveniently access the coast, are removed. Also, the water quality improvements described above will protect public use areas from the impact of storm water facilities and storm water flows, including related to public access and recreational use of Monterey State Beach and elsewhere on adjacent beaches. Finally, modifications are necessary to appropriately address provision and retention of lower-cost visitor-serving facilities. Thus, modifications will increase hours of available parking, will consolidate and, where feasible, eliminate storm water outfalls on area beaches, and will protect lower-cost visitor opportunities.

### **Transportation and Circulation**

Highway 1 slices through the City on its seaward edge, and is the major transportation corridor in the region, including for public recreational and visitor use. The level of service for Highway 1 and area intersections in Seaside are poor during morning and afternoon peak periods, and at extended times during the busy summer months. To address these issues, the Transportation Agency for Monterey County (TAMC) is developing plans for restoring rail service between Marina and the City of Monterey, and area planners are seeking for ways to encourage various forms of alternative transportation including through construction of a network of trails and paths

such as the Monterey Bay Recreation Trail -- a local component of the California Coastal Trail. Given the context, modifications are included to address transportation capacities, to protect the former railroad right-of-way for the specific purpose of re-establishing light rail service and multi-modal transportation options (trails, etc.), to encourage alternative forms of transportation (e.g., hiking and biking), to require adequate parking and circulation in all new development, and to provide for maintenance and repair of existing transportation facilities in Seaside.

### **Public Services**

The proposed LCP describes the City's public infrastructure and offers policies for its future improvements and maintenance. However, certain public service constraints require additional detail. For example, the City of Seaside is in an area with severely limited water supplies, and the policies need to be amended to reflect that context. Thus, modifications are included to protect coastal priority uses, to ensure that adequate long-term and sustainable water supplies are available for development, and to ensure that water services are publicly managed.

### **Other Issues**

By and large, the proposed LCP mostly adequately addresses issues of archaeological resources, ESHA, and visual resource protection. There are proposed policies for identification and preservation of archaeological sites and environmentally sensitive habitats, including through buffers. The City also commits to a number of actions to actively manage and improve its habitat areas. Similarly, there are proposed policies to address visual resources in a manner to prevent degrading scenic views of the lakes and Monterey Bay. However, certain refinements are necessary to ensure protection consistent with the Coastal Act. For example, the ESHA protection policies need additional detail for addressing cumulative impacts and appropriate acreage replacement ratios for unavoidable direct impacts. Similarly, certain policy additions are needed to round out archaeological protections. And for public views, the visual resource discussion needs to be updated (e.g., , explicitly protecting public views from Highway 1), and policies for protecting views refined, particularly related to primary view corridors associated with the Highway and the City's lakes. In terms of other Coastal Act topics, they are not relevant and thus not discussed in this report (e.g., the City of Seaside lacks any agricultural land, timberlands, boating facilities, dams, coastal-dependent industries, or major energy plants).

## **PUBLIC PARTICIPATION SUMMARY**

The noted issues and others of more local concern were debated in many public forums. The City has provided a summary of public participation available for review at the Commission's Central Coast District Office in Santa Cruz. The City Council, Planning Commission, and other City committees held at least four public hearings on various aspects of the proposed LCP prior to its submittal to the Commission.

## **ADDITIONAL INFORMATION**

For further information on the City's proposed LCP or this report, please contact Mike Watson at (831) 427-4863. Correspondence should be sent to the Central Coast District Office in Santa

Cruz district office at 725 Front Street, Suite 300, Santa Cruz, CA 95060.

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## EXHIBITS

Click on the links below to go to the exhibits  
not contained within this document.

Exhibit A: Location Maps

Exhibit B: Aerial Photos of the Seaside Coastal Zone

Exhibit C: Proposed LUP and IP with cross-through and underline suggested modifications

Exhibit D: Proposed LUP and IP with suggested modifications incorporated

Exhibit E: LCP Appendices (Biological Inventory Report; Wetlands Management / Enhancement  
and Restoration Program; W. Broadway Urban Village Specific Plan)

## I. MOTIONS AND RESOLUTIONS

Staff is recommending that the Commission approve the LCP if modified. The Commission needs to take four separate actions, two on the LUP and two on the IP to effect this recommendation.

### 1. Denial of LUP as Submitted

Staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the LUP 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:**

*I move that the Commission certify Land Use Plan Amendment SEA 1-11 as submitted by the City of Seaside. I recommend a no vote.*

**Resolution:**

*The Commission hereby denies certification of Land Use Plan Amendment SEA 1-11 as submitted by the City of Seaside 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 LUP with Suggested Modifications**

Staff recommends a **YES** vote on the following motion. Passage of the motion will result in the certification of the LUP 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:**

*I move that the Commission certify Land Use Plan Amendment SEA 1-11 for the City of Seaside if it is modified as suggested in this staff report. I recommend a yes vote.*

**Resolution:**

*The Commission hereby certifies Land Use Plan Amendment SEA 1-11 for the City of Seaside 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 IP as Submitted**

Staff recommends a **YES** vote on the following motion. Passage of this motion will result in rejection of the IP and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion:**

*I move that the Commission reject Implementation Plan SEA 1-11 as submitted by the City of Seaside. I recommend a yes vote.*

**Resolution:**

*The Commission hereby denies certification of the Implementation Plan submitted for the City of Seaside and adopts the findings set forth below on grounds that the Implementation Plan as submitted does not conform with, and is inadequate to carry out, the provisions of the certified land use plan as amended. Certification of the Implementation Plan would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan as submitted.*

**4. Approval of IP with Suggested Modifications**

Staff recommends a **YES** vote on the following motion. Passage of this motion will result in certification of the IP with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion:**

*I move that the Commission certify Implementation Plan SEA 1-11 for the City of Seaside if it is modified as suggested in this staff report. I recommend a yes vote.*

**Resolution:**

*The Commission hereby certifies the Implementation Plan for the City of Seaside if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

**II. SUGGESTED MODIFICATIONS**

The Commission suggests that the following changes to the submitted City of Seaside Land Use Plan and Implementation Plan are necessary to make the requisite findings. If the City accepts the suggested modifications within six months of Commission action (i.e, by June 13, 2013), by formal resolution of the City Council, the City's Local Coastal Program will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

Please see Appendix A for the suggested modifications to the City of Seaside LUP, and Appendix B for the suggested modifications to the City's IP.

### III. FINDINGS AND DECLARATIONS

#### A. NATURAL HAZARDS

Section 30253 of the Coastal Act requires minimization of risks to new development from natural hazards and states, in part:

*New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Coastal Act Section 30235 addresses the use of shoreline protective devices:

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

**Background:** The Seaside coastal zone encompasses approximately 70 acres (excluding the State Highway Route One corridor). At least half of this area is comprised of either beach or inland lakes which drain the much larger 13.5 square-mile Canyon del Rey Creek watershed. Runoff from the upper slopes of the watershed flows first into lake Laguna Grande, then Robert's Lake, and lastly flows via a storm drain outfall onto Seaside State Beach. Channelization of this watercourse and increased development within the upper watershed has resulted in increased runoff being diverted to Seaside's lakes. As a result, the areas around the lakes are prone to flooding during periods of high rainfall. In addition, natural hazards including shoreline erosion, sea level rise, and tsunamis can affect the coastal shoreline areas. In addition to these hazards, the Seaside coastal zone is also subject to potential hazards associated with seismic shaking, liquefaction, and fire.

**LUP Analysis:** The LUP generally has policies that provide for protection of development in areas impacted by natural hazards. These policies include minimizing risk to life and property in all new development via completion of specific geotechnical studies for new development and to determine the extent and type of hazards on a site. All applications for new development within identified hazard areas must include an adaptive management plan that identifies the expected life of the project along with strategies for decommissioning the development once its lifetime has been reached due to hazards. Additionally, the LUP directs the City to prepare an update to the Hazard Mitigation Plan which includes a vulnerability assessment to identify the areas of the city most at risk from sea level rise, along with recommended responses to identified threats.

The submitted LUP omits more specific policy direction on addressing impacts from tsunami, including requirements to avoid the flood inundation zone, and where avoidance is not possible, to site and design development above the maximum flood elevation. The submitted LUP is also



somewhat lacking in standards to ensure that natural habitat area buffers and public access and recreation amenities take into account changing sea level conditions. Geotechnical report requirements also require additional detail for development within in an area subject to ocean waves, tsunami, or flooding hazard, including in relation to the potential future use of shoreline armoring. Thus, as submitted, the LUP is inconsistent with Coastal Act Sections 30235 and 30253 regarding the avoidance of natural hazards and appropriate hazard response.

The LUP can be brought into conformance with the addition of modifications that require, as part of the CDP application process, a geotechnical report prepared by a licensed engineer subject to refined expectations and criteria for report contents. The report must include an analysis of wave uprush and shoreline erosion processes in order to establish the appropriate long-term setbacks that will ensure the safety and protection of any permitted structures over the life of the development without reliance on seawalls, deep caisson foundation, or similar engineered structures. The modifications further identify the conditions that must be considered in the report, including a seasonally eroded beach, high tide, long-term sea level rise projections, and the 100-year storm. The modifications also explicitly require identification of economic lifetime and expectations for decommissioning development when hazardous conditions dictate.

Additionally, modifications are proposed that require tsunami threats be addressed via siting and design measures that minimize and mitigate flood hazards to the maximum extent possible, including by designing all habitable space above the maximum flood elevation. A separate modification requires the development of a Tsunami Preparedness Plan that includes identifying susceptible areas, preparation of response policies/practices, deployment of an early warning system, identification of evacuation routes, and public education for mitigating the hazards associated with a tsunami.

Finally, modifications are proposed that require that public access and recreation amenities are managed in a manner that will ensure those amenities can adapt to changes in sea level rise and shoreline configuration. Similarly, establishment of natural habitat buffers must take into consideration changes in sea level conditions. Both adaption strategies are necessary for preserving the unique flora and fauna of the City's interior lakes as well as its labyrinth of public access trails and recreation areas in the face of changing global climatic conditions.

As modified, the LUP Natural Hazard policies are consistent with and adequate to carry out the intent of Coastal Act Sections 30235 and 30253.

## **B. WATER QUALITY**

The following sections of the Coastal Act pertain to the management of available water supplies and maintenance of water quality:

**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 wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

**Background:** In the past, both Laguna Grande and Roberts Lake have been significantly polluted. Major problem sources included urban runoff, erosion in the watershed, windblown sand from destabilized sand dunes, and nutrient input from waterfowl. The City's *Wetlands Management Enhancement and Restoration Program* (WMERP; CDP 3-86-129) contained management objectives to improve the water quality of both lakes to a degree sufficient to support a recreational fishery, provide enhanced aesthetic qualities, and permit recreational boating.

**Analysis:** Seaside lies within and at the bottom of the Canyon Del Rey Creek watershed. Runoff from the upper slopes of the watershed and including the communities of Monterey, Del Rey Oaks, and Seaside, flows into Laguna Grande and Roberts Lake and ultimately flows via a storm drain outfall onto Seaside Beach and the Monterey Bay National Marine Sanctuary. As noted in the public access section, the interior lakes and Seaside State Beach are very popular public recreational access areas. Maintaining and restoring water quality throughout the greater Canyon Del Rey Creek watershed, and in this case, Seaside's urban landscape, is necessary to protect lake and bay resources, as well as public recreational access.

The Commission shares responsibility for regulating non-point source water pollution in the coastal zone with the State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the RWQCB have been co-leads in developing stormwater regulations for the Central Coast region. Final post-Construction Stormwater Management Requirements have recently been developed and adopted (September 6, 2012). Management measures and practices are directed at reducing the volume and the harmful effects of polluted runoff entering Central Coast waterways, lakes, and beaches. These measures are best implemented at the local planning level, since they can be most effective during the design stage of development. All participating local governments, including the City of Seaside, are required to implement these measures within one year of adoption (i.e., September 6, 2013).

The Commission and the Central Coast RWQCB are both working to protect water quality in the southern Monterey Bay area including Seaside, although each has different authorities and responsibilities in that effort. The Commission has primary responsibility for protecting many coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through issuance of discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards and taking enforcement actions where standards are violated.

**Seaside LUP as Submitted:** The City's LUP submittal includes a variety of important policies to address water quality issues. These include policies to develop a City-wide Storm Water Utility Program that will also address the City's need to implement a National Pollution Discharge and Elimination System (NPDES) permit; policies to regulate illegal discharges; watershed protection policies to retain natural drainages; policies to restore areas beneficial to water quality; and so forth.

The submitted LUP also includes general development policies that require the protection of natural drainage systems, site planning to address drainage and polluted runoff, and the use of Best Management Practices (BMPs). Specific standards include requirements to: design post-construction BMPs to infiltrate and/or treat storm runoff; minimize impervious surfaces; implement Low Impact Development (LID) design techniques; and incorporate BMPs into commercial developments.

**Coastal Act Consistency:** The Commission recognizes that new development in Seaside has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 listed above require that coastal water quality be protected through policies that manage these types of new development impacts.

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. Development and re-development activity in Seaside has the potential to lead to increased impermeable surfaces. The reduction in permeable surface can lead to an increase in the volume and velocity of storm water runoff that can be expected to leave the development site. Maintaining permeable surfaces and managing runoff onsite helps to limit the impacts of pollutant runoff. Pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sub-lethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, wetlands, and lakes, and can have adverse impacts on human health. They are particularly important to manage in the vicinity of significant marine resources such as Laguna Grande, Roberts Lake and Monterey Bay – a National Marine Sanctuary.

As summarized above, Seaside's submitted LUP contains a comprehensive set of water quality policies designed to protect and enhance water quality and the beneficial uses of local coastal waters from adverse impacts related to land development. With only a few exceptions, these policies contained in the Seaside LUP provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters, protecting against adverse impacts related to land development consistent with Coastal Act Sections 30230 and 30231. To bring the LUP into full compliance with the Chapter 3 policies, modifications are needed that direct the City to implement the recently adopted Post-Construction Stormwater Management Requirements (September 6, 2012), and similarly adopt and implement the recommendations of the City's soon-to-be revised Wetlands Management, Enhancement, and Restoration Program. Both are essential to halt and reverse the adverse water quality impacts affecting the City's lakes and bay shoreline. Modifications are also necessary to require development and re-development to reduce sources of and/or treat pollution before it enters the storm drain system and ultimately the City's coastal waterways. Lastly, a modification that directs the City to seek opportunities to consolidate and/or eliminate beach discharge facilities and outfalls where possible will improve the biological productivity and quality of coastal waters of the Monterey Bay Marine Sanctuary consistent with Coastal Act Sections 30230 and 30231.

If modified as described above, the Seaside LUP would include a comprehensive and appropriate set of policies to meet the goal of protecting and enhancing water quality of local coastal waters from adverse impacts related to development, consistent with Coastal Act sections 30230 and 30231.

### **C. WETLANDS AND ENVIRONMENTALLY SENSITIVE HABITAT AREAS**

The following sections of the Coastal Act pertain to preservation and enhancement of coastal waters, wetlands, and environmentally sensitive habitat areas (ESHAs):

***Section 30107.5.** "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

***Section 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 wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

***Section 30240.** (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Additional Section 30233 in part provides wetland protection as follows:

***Section 30233.** (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

*(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreation.*

*(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

*(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

*(6) Restoration purposes.*

*(7) Nature study, aquaculture, or similar resource dependent activities.*

*(b) Dredging and spoils disposal shall be planned and carried out to avoid significant*

*disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.*

*(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. ...*

**Background:** Coastal Act requirements emphasize the importance of protecting, maintaining, enhancing, and restoring coastal waters, wetlands, and ESHA. These requirements stress that future development within or adjacent to such areas must be appropriate in terms of the type of use, siting, and design to ensure that these areas are not degraded or threatened. Factors that have the potential to affect the viability and stability of natural systems include alteration in drainage systems, sedimentation and erosion, obstacles to proper water circulation, grading/dredging, filling and construction from development. All of these concerns must be prevented or mitigated by LUP policies to be found consistent with the Coastal Act. The three affected planning areas of the LUP can be combined into four generalized habitat types, including: 1) wetlands/marsh and open water; 2) riparian; 3) coastal strand (beach and dunes); and 5) mixed forest.

**Beach:** The Beach subarea consists of approximately 500 linear feet of beach frontage along the Pacific Ocean. At the back of the beach are undulating Flandrian sand dunes that have been stabilized mainly with both native dune plant and exotic species to prevent wind-driven erosion and to enhance habitat values for native plant and animal species. Inland of the dunes is the Monterey Bay Recreation Trail (a segment of the California Coastal Trail), Sand Dunes Drive, and ultimately Highway 1. There are sand dunes within the median strips between the rec trail, Sand Dune Drive and Highway 1, though much of the dunes are covered with non-native, invasive plant species such as ice plant and exotic grasses.

**Laguna Grande/Robert's Lake:** Laguna Grande and Robert's Lake are located inland of Highway 1 within the City of Seaside and adjoin the City of Monterey. The lakes are visible from the highway and are known for the regional park that includes the lake system.

Originally a seasonal estuarine body of water, the Laguna Grande/Robert's Lake complex is now a freshwater marsh and two lakes. It is a portion of the Canyon Del Rey Creek that drains the 13.5 square mile Canyon Del Rey Creek watershed to the southeast. The creek flows through Laguna Grande, then into Robert's Lake, and finally into Monterey Bay.

Combined, the water surface of Laguna Grande and Robert's Lake covers approximately 29 acres. Originally it was one lake. Two lakes were formed when the Southern Pacific Railroad bed was constructed on fill through the lake in the 1880's. In the ensuing years, the land on the Monterey side of Laguna Grande was subdivided for primarily residential uses, but actual development occurred slowly. Landfill operations on the shoreline over subsequent years reduced the size of the lake and formed land around the lake that was developed for commercial uses on the City of Seaside side of the lake. Much of the historic extent of wetlands and surrounding riparian vegetation has either been filled/removed for urban development and/or parkland. Pockets of moderate quality habitat do exist, but in general, high-quality wetland

habitat is somewhat limited and fragmented. In any case, though partially degraded, the lakes still provide important wetland habitat.

Small remnant portions of sand dunes are located on the inland slopes of Highway 1 surrounding Robert's Lake. The remaining coastal strand habitat lies at the northern end of Laguna Grande. The natural extent of the Flandrian dune (coastal strand) community has decreased significantly due to man-made alterations by the two State highways (1 and 218), as well as by human traffic across them. Despite the past disturbance to these wetland, coastal strand, and associated communities, these habitats continue to support a variety of vegetation and wildlife. Because of this unusual setting, these coastal zone habitats are biologically and physically significant as a whole in that they represent a unique example of coastal zone plant and wildlife communities. From the sandy beach and dunes of the coastal strand along the Bay, to the marsh and riparian habitats adjacent to Roberts Lake and Laguna Grande, and into the mixed woodlands of oaks and eucalyptus, the planning areas contain a transect of coastal zone resources.

**LUP Analysis:** The proposed LUP's coastal Zone chapter as well as the Laguna Grande and Robert's Lake subarea sections identify the habitat types in the Seaside coastal zone, and include a series of policies that address the preservation and enhancement of these coastal zone habitats. The LUP has a fairly good description of what constitutes ESHA, and includes a recent Biological Inventory Report of the area's plant and wildlife resources. All in all, the proposed LUP policies generally do a good job of ensuring that ESHA is protected pursuant to the Coastal Act policies.

For example with regard to sensitive habitats, Coastal Act Section 30240 requires that ESHA be protected against any significant disruption of habitat values, prohibits all but resource dependent uses, and requires areas adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade ESHA. Thus, the LUP must contain appropriate standards, such as avoidance of ESHA for all but resource dependent uses, maintaining adequate habitat buffers, and full mitigation for all unavoidable impacts. The LUP clearly only allows resource dependent uses in ESHA and the establishment of appropriate habitat buffers. However, it falls short on requiring full mitigation of project impacts. Accordingly, a modification is attached that requires full mitigation, including identification of appropriate replacement/restoration ratios for any unavoidable impacts.

In terms of setbacks, the submitted LUP includes some lack of clarity on this issue. Modifications are provided to ensure that a 50-foot setback is required adjacent to the lakes, however this setback can be reduced if biological evidence indicates a lesser setback is appropriate. In no case is the setback allowed to go below 25 feet. Provisions are included to allow for certain public access trail enhancements within the setback area. These modifications include policies that are consistent with existing development, and were developed with input from the Commission's Senior Ecologist, Dr. John Dixon.

A good number of the LUP Natural Habitat policies are dedicated to the protection and enhancement of lake-fronting wetlands, including a requirement for the preparation of an updated Wetlands Management and Enhancement Program (Program). Most of the stated policies and/or goals center on improving the quality of the water that enters the fresh water lake

system as a means to improve the biological productivity and habitat values of the lakes themselves. These values are reflected in the stated goals of the Program and in general are consistent with Coastal Act resource protection policies. However, the Program has not yet been developed, and it will only be effective if it is included in the LCP governing development within the coastal zone. As such, modifications are suggested that explicitly require the LCP be amended to incorporate and implement the findings of the Program when complete. Additionally, another modification requires the City to continue to participate in the regional Water Quality Control Board Stormwater regulation program and to implement and comply with the final management requirements of that program. And finally, the City has identified several activities designed to improve water exchange and the habitat values between the lakes, including via the removal of excess tules and exotic vegetation in and around lake culverts and outfalls. These activities would not be possible under the strict resource protection policies of the LUP. Thus, a modification based on Coastal Act section 30233 regarding the diking, filling, and dredging of coastal waters and wetlands is recommended to allow for necessary maintenance of flood control and storm water outfall facilities.

The LUP also prohibits any structural development within the Beach subarea and the sand dunes habitat located mainly seaward of the highway right-of-way. LUP policies further require preparation of a dune management plan to be implemented to manage public access, improve drainage from Roberts Lake, develop recreational improvements, and maintenance of existing facilities. However, the identified goals of the plan do not directly address dune stabilization or dune habitat enhancement to improve habitat values for native dune plant and animal species. The dune management plan goals also omit a requirement to ensure that maintenance activities avoid impacts on dune vegetation and its inhabitants during maintenance periods. For these reasons, the protection of dune habitat is not assured and a recommended modification is needed to address this issue.

Finally, a significant portion of the dunes within the Beach subarea are identified as ruderal because they are located within the Highway 1 right-of-way and covered in ice plant or other invasive species. The danger in this is that these significant but degraded dune resources, if not properly identified, will be exempt from the protection and enhancement requirements of the LCP. Though not contiguous with the larger dune formations generally west of the highway, the median strips are large enough to support native dune plant and animal species and may prove to be important in the transfer of seed bank and species diversity between the coastal dune strand and inland areas including around Roberts Lake. A modification is needed to ensure the proper land use designation is applied to these dune resources within the Highway One right of way.

If modified as described above, the Seaside LUP would include a comprehensive and appropriate set of policies to meet the goal of protecting, maintaining, enhancing, and restoring coastal waters, wetlands, and ESHA consistent with the Coastal Act.

#### **D. LAND USE AND DEVELOPMENT**

The following sections of the Coastal Act guide land use and development locations and intensities:



***Section 30221.** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

***Section 30222.** The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

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

***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 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 non-automobile 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.*

**Background:** The City of Seaside coastal zone encompasses approximately 236 acres of land which extends from Monterey Bay to the terminus of Canyon Del Rey creek at the rear of lake Laguna Grande, and includes a narrow commercial corridor adjacent to Del Monte Boulevard, and the Highway 1 right of way north of Fremont Street. Generally speaking, a significant portion of the coastal zone is either covered by lakes, beach, or parkland, or is otherwise already developed. As defined in the LUP, the City's coastal zone is segmented into one Coastal Zone planning area and four planning subareas: Laguna Grande, Robert's Lake, Beach, and Del Monte. The majority of the City's coastal zone is designated as parks and open space. The remaining lands are split between a variety of proposed land uses including visitor-serving commercial, visitor-serving recreational, regional commercial, heavy commercial, West Broadway Urban Village mixed use, and transportation corridor.

Most of the proposed designations reflect existing uses in the surrounding subarea. In general, Monterey State Beach, the inland lakes, and the lakefront property immediately adjacent to Laguna Grande and Robert's Lake are designated for parks and open space. There are two existing hotel sites at the north end of Laguna Grande which are designated as visitor-serving commercial, and two additional undeveloped parcels along Laguna Grande which are also proposed as visitor-serving commercial. Robert's Lake has little structural development along its shores, save for vehicle parking spaces and observation/fishing platforms. The entire lake and shorefront are designated as open space with the exception of two locations, one being along Canyon Del Rey Boulevard and the other near the southeast corner of the lake adjacent to Del Monte, both of which would be designated for visitor-serving recreational uses. In the Del Monte planning area, the proposed designations are more intensive, reflecting the urbanized nature of the existing commercial uses of the properties. Properties generally south of the railroad corridor would be designated for redevelopment under the West Broadway Urban Village/Mixed Use plan portion of the LUP. Across the railroad corridor to the north, the City proposes retaining the current designations, including a mix of heavy and regional commercial, which have been in existence for years.

Finally, the LUP also identifies a potential coastal transportation corridor designation for the former Southern Pacific Railroad right of way, though it is not formally listed as a land use designation or graphically represented on Figure 2-10: Land Use Designations.

**LUP Analysis:** The relevant LUP sections and policies focus on the land use constraints and opportunities in each coastal zone planning area, as well as the appropriate location and intensity of new development, and ways to assure that development will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The LUP has a map and text that designate land use categories throughout the City, consistent with the Coastal Act mandate to indicate kinds, locations, and intensities of land use. Generally, there is the Del Monte subarea with its commercial development, a few parcels adjacent to Laguna Grande, the beach parking lot at Seaside State Beach, and Robert's Lake. Seaside is within the urbanized boundaries of Monterey Peninsula. Thus, except for the current lack of water described below, the proposed intensity of and locations of development is generally consistent with Coastal Act policies to concentrate development in urban areas with available services.

There is one concern, however, regarding the floor area exception for hotels in the coastal visitor-serving commercial district. The text of the LUP authorizes a floor area ratio (FAR) of 1:1 for all commercial uses, with the exception of hotels which would be allowed a FAR of 3:1. Of the two unimproved parcels designated for visitor-serving commercial uses, the site across the channel from the Holiday Inn Express and the Embassy Suites is most likely to be pursued as a hotel development site, according to the City. The site is within the Highway 1 viewshed and there are additional site constraints that otherwise would limit the amount of development that could occur at the site, including the need for habitat buffers to protect wetland and riparian vegetation along the margins of the lake, provision of on-site parking, and public access improvements around the lake. Together the constraints would drive development in a vertical fashion on the unrestricted portions of the site. As a result, a 3:1 FAR could lead to a very tall and boxy structure that could significantly degrade public views, including from Highway 1,

Monterey State Beach, and the Monterey Bay Recreation Trail. The proposed FAR provides for a level of urban development that exceeds the carrying capacity of the site, and it creates a development expectation that exceeds the current development standards implemented in Seaside's coastal zone. Commission staff worked closely with City staff to identify a floor area ratio and supporting text for this site (including in terms of siting and design to limit perceived massing and protect adjacent wetland resources) that would allow for reasonable development of the site while still accounting for protection of coastal resources. Based on site inspection and analysis of surrounding development, modifications are suggested to allow an FAR of 1.5:1 for hotels, and to limit heights via a story limitation that should ensure that heights are no taller than the existing Holiday Inn Express.

Additionally, consideration of the above issue has led to the following proposed modifications to the LUP's Land Use and Development section including modifying the aforementioned FAR for hotels in the visitor-serving commercial district, as well as inserting new policy language which identifies the described development intensities as maximums. To avoid exceeding the carrying capacity of the site, permitted development intensities must adequately address other resource constraints including public access, natural coastal resources and their buffers, hazards, and scenic visual resources. New policy LUD-CZ 2.1E requires all new development to be located in areas where it will not have any adverse resource impacts individually or cumulatively on coastal resources, consistent with Coastal Act Section 30250.

The LUP also considers designating the former Southern Pacific Railroad corridor as a transportation corridor for use as a light rail passenger route, rapid transit bus route, or other forms of non-motorized transportation, but stops short of actually designating the corridor for such purposes. The Transportation Agency of Monterey County owns the rail corridor and is currently planning to restore light rail service between the cities of Marina and Monterey with stops in, among other places, the City of Seaside. Coastal Act Section 30252 encourages new development to maintain and enhance public access, including by facilitating the provision or extension of public transit service and non-motorized forms of circulation. As submitted, the LUP doesn't provide enough direction regarding the opportunity to plan for and site and design new development and re-development in a manner that benefits public access consistent with the Coastal Act in this area. Thus, modifications are proposed to the text of the LUP and the LUP map establishing a Coastal Transportation Corridor (CTC) and designating the railroad corridor for such purposes.

Finally, recent mapping updates have led to coastal zone boundary revisions within the defined city limits of Seaside including roughly a dozen properties in the Del Monte planning subarea south of the railroad right-of-way that were found to be excluded from the coastal zone via legislative action in early 1980 (per Coastal Act Section 30160). In addition, the transfer of federal property, including almost 146 acres of land within the Highway 1 right-of-way north of Fremont Street, has expanded the Seaside coastal zone from the previous configuration. This property was previously owned by the Federal Government but transferred to the City when the military base closed (i.e., the former Fort Ord). These actions have resulted in property without a land use designation or in the case of the dozen properties along Del Monte, inaccurately defined as coastal zone resources when in fact they are not. Accordingly, modifications are needed to the various LUP maps to reflect the changes in the coastal zone boundary alignment as intended by

the legislature, as well as to identify and designate the Highway One corridor through Seaside for Coastal Transportation Corridor purposes.

If modified as described above, the Seaside LUP would include appropriate policies related to land use and development, including related to the kinds, intensities, and densities of uses, consistent with the Coastal Act.

## **E. VISUAL RESOURCES**

Section 30251 of the Coastal Act provides for the protection and enhancement of coastal visual resources and states:

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

**Background:** The elevated Highway 1 freeway runs west of Robert's Lake and provides public viewing access of nearly the entire planning area – including views of Laguna Grande and Robert's Lake, as well as of the beach and shorefront. Del Monte Boulevard bisects Laguna Grande and Robert's Lake. Ground-level viewpoints of the beach, dunes, and lakes are also available from public parking areas and shoulders along Sand Dunes Drive, Del Monte Boulevard, Canyon Del Rey, and other public roads.

**LUP Analysis:** The LUP addresses the protection of views to Monterey Bay and of views to and across Robert's Lake and Laguna Grande in a number of ways. Figure 2-4 identifies view corridors and most of the important views from Highway 1 and other focal points within Seaside. The LUP's Visual Resource section designates public views as important coastal resources and stipulates that the views identified in Figure 2-4 represent a preliminary mapping of visually sensitive areas. The policies generally mirror Coastal Act Section 30251 by requiring development to be sited and designed to protect visual resources, be visually compatible with the character of its surroundings, and where feasible to enhance and restore visually degraded areas. However, even though Figure 2-4 illustrates a minimum of eight important Highway 1 views, the visual representation is not explicitly carried over into the LUP's visual resource protection policies. As such the LUP falls short of achieving full consistency with Coastal Act Section 30251. In addition, the LUP needs further definition of the types of design elements that will help to minimize and/or avoid visual impacts in visually sensitive areas. Relying on the general language of the LUP as the sole means of protecting and enhancing the visual resources of a visually sensitive area is insufficient to ensure consistency with Coastal Act Section 30251.

Accordingly, modifications are necessary that: 1) explicitly state that Highway 1 views are important and must be protected, 2) require in-the-field observations at the time development is proposed, and 3) identify and incorporate design elements such as shape, lighting, color, and

texture into new development to ensure visual resources are adequately protected. Thus, suggested modifications ensure that the scenic views and resources of Seaside's beach, parks, and open space are adequately protected in the LUP. Therefore, as modified, the LUP policies will be adequate to carry out the intent of Coastal Act section 30251

## **F. PUBLIC ACCESS AND RECREATION**

The following sections of the Coastal Act are among those that provide for the preservation and enhancement of public access and recreation in the coastal zone.

***Section 30210.** In carrying out the requirement of Section 24 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people, consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211.** 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.*

***Section 30212(a).** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby; or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

***Section 30214(a).** The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics; (2) The capacity of the site to sustain use and at what level of intensity; (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses; (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter. (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution. (c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and*

*encourage the use of volunteer programs.*

The following sections of the Coastal Act are among those that pertain to the protection, enhancement, and provision of recreational opportunities:

***Section 30220.*** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

***Section 30221.*** *Oceanfront land suitable for recreational uses shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for the area.*

***Section 30222.*** *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

***Section 30213.*** *Lower cost visitor and recreational facilities shall be protected, encouraged and, where feasible, provided. Developments providing public recreational opportunities are preferred. The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

***Section 30212.5*** *Wherever appropriate and feasible, public facilities including parking areas or facilities, shall be distributed throughout an area so as to mitigate against impacts - social and otherwise - of overcrowding or overuse by the public of any single area.*

***Section 30224.*** *Increased recreational boating use of coastal waters shall be encouraged in accordance with this division by developing dry storage areas, increasing public launch facilities, providing additional berthing space in existing harbors, limiting non-water dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

***Section 30234.*** *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

**Background:** The LUP's Laguna Grande, Robert's Lake, and Beach subareas contain diverse public access and recreation opportunities for both local residents and visitors. Among those features include Seaside State Beach and access to the Monterey Bay Recreation Trail – an

important link in the California Coastal Trail. Seaside State Beach is located just north and east of the Best Western Beach Resort in Monterey. There is free public parking, portable restrooms, and access to miles of uninterrupted sandy beach. This is the most popular and accessible beach access point in the southern Monterey Bay area.

Inland of Highway 1, recreational opportunities consist of public park land with lakefront access trails for pedestrians and cyclists, playground equipment, bbq areas, restrooms, picnic tables, etc. The area is popular with walkers, bird watchers, and model boat enthusiasts. Children enjoy playing on the playground equipment. The support facilities around Laguna Grande are often used to host local festivals.

The LUP includes a number of objectives to develop and enhance public recreational access improvements that: 1) enhance public opportunities for observation and enjoyment of the aesthetic qualities of wetlands; 2) complement the natural character of wetlands and riparian areas consistent with protection of these areas, and; 3) are compatible with existing recreational facilities at Laguna Grande, Roberts Lake, and Seaside Beach. Proposed improvements include further enhancement and connectivity of pedestrian and bicycle pathways, opportunities for environmental education through directional and interpretive signing, development of a Peninsula Visitors Center, and expanded use of area lakes for fishing, paddle boating, and observation platforms and piers, etc.

**LUP Analysis:** The proposed LUP includes, among other things, the goals, objectives, and policies designed to protect, maintain, and improve a multitude of public access and recreational opportunities along the Seaside shoreline and lakefront parks. The LUP discussion of public access and recreational issues appears on pages 2.24 – 2.27 and includes policies that are to a great extent, consistent with Coastal Act policies 30210, 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222, 30223, and 30252.

The proposed LUP policies identify and maintain the current variety and number of public access points and recreational support facilities along the beach and 1.5 miles of lakefront shoreline. Development activity is limited to public information signing and facilities that support active and passive recreational activities, beach access, designation of public parking areas, and designation of the trail and park network as part of the Monterey Bay Recreation Trail (MBRT) and California Coastal Trail (CCT) system. The plan recognizes the Humboldt Street parking lot as the principal vertical access point to Seaside Beach (Monterey State Beach) with free public parking spaces and easy access to the shoreline trail system. The LUP also identifies and acknowledges the various public access and recreational amenities along Robert's Lake and Laguna Grande including parking areas, access points, restrooms, pathway system, and picnic areas. LUP policies provide additional protection and maintenance of these access and recreation amenities requiring they be repaired or maintained if damaged.

A 10-foot wide pedestrian path follows the undulating lake front around both Robert's Lake and Laguna Grande. The City has adopted LUP policies to maintain the City's system of pathways as a public recreational resource and has recommended that the trail network be designated as a local segment in the California Coastal Trail. LUP policies were also developed to allow a balance of uses with the City's inland parks and open space land. The LUP contains policies that provide for public access and passive enjoyment of City parks while maintaining and preserving

sensitive habitat and natural resource areas. In summary, the City's LUP policies address the access and recreation policies of the Coastal Act by: maintaining Seaside State Beach in public ownership, retaining existing public restroom facilities at Laguna Grande, designating the shoreline and lakefront pedestrian path as a segment of the California Coastal Trail, and providing public parking.

The proposed LUP is silent, however, on preserving low-cost visitor-serving amenities. Coastal Act Section 30213 requires that lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. These facilities provide access and recreation opportunities to a segment of society that is oftentimes being incrementally shut-out of central coast recreational amenities due to increasing costs. The LUP could also use additional direction on maximizing public parking at area parks and beaches, including with regard to ensuring that the MBRT and CCT are able to adapt to changes in the shoreline configuration and sea level rise. Similarly, as discussed above, the LUP needs to acknowledge the former Southern Pacific Rail Road (SPRR) right-of-way as an alternative transportation corridor for use by light rail, bikes, and pedestrians. To address these issues, modifications are required. For example, a new policy is added that requires a management approach/strategy for the MBRT and trail alignment. A management strategy is necessary to ensure that the MBRT can adapt to changes in the shoreline configuration which might be expected to occur given the projected estimates of sea level rise and increased coastal erosion. A new policy is also added that would ensure lower cost visitor and recreational facilities are protected, encouraged, and provided, and yet another to ensure that the SPRR be designated as a transportation corridor with an emphasis placed on expanding alternative forms of transportation, including those that enhance public access such as light rail, bus rapid transit, pedestrian and bicycle transport. Please see Exhibit A for the language of the modifications.

As modified, the City's LUP policies for the protection and provision public access and recreational amenities are consistent with Chapter 3 of the Coastal Act.

## **G. PUBLIC SERVICES \ WATER SUPPLY**

The following sections of the Coastal Act are among those that pertain to the management of available water supplies:

***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 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 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 reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.*

**Water Background:** Following severe drought conditions in the late 1970's, voters approved the formation of the Monterey Peninsula Water Management District (MPWMD) to regulate water resources on the Monterey Peninsula. The MPWMD regulates the collection, storage, distribution and delivery of water within the 170-square mile area of the district. All of the water used within the MPWMD comes from the Carmel River, from wells in the Carmel Valley, and the Seaside Basin. The MPWMD allocates water from these sources to the various water companies and smaller local jurisdictions.

The largest water distribution system in the Monterey Peninsula is operated by the California-American Water Company (Cal-Am), which provides water to nearly 95 percent of the 112,000 residents in the MPWMD. Cal-Am provides the vast majority of its water to its users through groundwater extractions and diversions from the Carmel River, including via the Los Padres Dam. Current Cal-Am water withdrawals have documented adverse impacts on the Carmel River. The river, which lies within the approximate 250 square mile Carmel River watershed, flows 35 miles northwest from the Ventana wilderness in Big Sur to the Ocean. Surface diversions and withdrawals from the river's alluvial aquifer have had significant impacts on riparian habitat and associated species, particularly in the lower reaches.<sup>1</sup> This includes adverse impacts to two federally threatened species, California Red Legged Frog (*Rana draytonii*), listed in 1996, and steelhead (*Oncorhynchus mykiss*), listed in 1997. In particular, water diversions and withdrawals reduce the stream flows that support steelhead habitat and the production of juvenile fish, especially during dry seasons.

In 1995 the State Water Resources Control Board (SWRCB) issued Order 95-10, in response to complaints alleging that Cal-Am did not have a legal right to divert water from the river and that the diversions were having an adverse effect on the public trust resources of the river. The Board found that Cal-Am has a legal right only to withdraw about 3,376 acre-feet per year (afy), and that the Cal-Am diversions were having an adverse effect on the lower riparian corridor of the river, the wildlife that depend on this habitat, and the steelhead and other fish inhabiting the river. SWRCB thus ordered Cal-Am to extract no more than 11,285 afy from the River, and to implement measures to minimize harm to public trust resources and to reduce withdrawals. Existing withdrawals continue to have adverse effects on the coastal resources of the river and it has not been determined what the "safe yield" of the Carmel River might be so as to assure protection of the River's habitat resources.<sup>2</sup>

<sup>1</sup> See, for example, Instream Flow Needs for Steelhead in the Carmel River: Bypass flow recommendations for water supply projects using Carmel River Waters, National Marine Fisheries Service, June 3, 2002.

<sup>2</sup> Neither Cal-Am's legal right (3,376 afy) nor the Order 95-10 maximum (11,285 afy) is meant to imply safe yield.

In October 2009, SWRCB issued Order WR2009-0060, which prescribes a series of additional cutbacks to Cal-Am's pumping from Carmel River from 2010 through December 2016. Specifically, it includes a schedule for Cal-Am to reduce diversions from the Carmel River, bans new water service connections, bans increased use of water at existing service connections resulting from a change in zoning or use, and establishes a requirement to build smaller near-term water supply projects. If a new water supply does not come on line by the end of 2016, the California Public Utilities Commission (which regulates Cal-Am as a water utility), may require water rationing and/or a moratorium on new water permits for construction and remodels. Various agencies and stakeholders are actively pursuing alternative water supply projects, including desalination project options, groundwater recharge, conservation, and other options for the Monterey Peninsula, so that withdrawals from the Carmel River could be reduced or perhaps even be eliminated. However, none of these projects has come to fruition, and there have been significant challenges in identifying an acceptable project for all stakeholders, including one that could be successfully permitted by state and local entities.

Cal-Am water withdrawals are also adversely impacting the Seaside Basin. A recent technical report completed for MPWMD shows consistently declining water levels and deficit water budgets over an 8-year period, indicating that the Basin is in a state of overdraft since groundwater extractions exceed the sustainable yield. Because it is being over-drafted, the Basin is at risk of seawater intrusion, as well as other negative outcomes such as basin subsidence, chronically declining groundwater levels, and water quality degradation.<sup>3</sup> According to the MPWMD-sponsored report, in the event of a prolonged drought, storage in the Seaside Basin could not be relied upon to sustain current levels of production for very many years in a row.<sup>4</sup> Most recently, existing and potential withdrawals from the Basin have been adjudicated in the Superior Court of Monterey County.<sup>5</sup> The adjudication resulted in a court-ordered physical solution to the Basin's groundwater problem. The operating yield for three years beginning in 2007 for the Basin as a whole was defined as 5,600 afy, including both Cal-Am and other users. The Court concluded that the "natural safe yield" of the Seaside Basin is between 2,581 and 2,913 afy. The judgment requires a 10% decrease in operating yield for the coastal subareas every three years beginning in 2010, where the decreases are to continue until production reaches 3,000 afy, as established under the judgment. All things being equal, at this rate of reduction, the Basin would reach equilibrium in approximately 20 years. Cal-Am's current (2011) allocation for the Seaside Basin aquifer is 3,448 afy, and its ultimate adjudicated allocation is 1,474 afy. The Court concludes that while there is some uncertainty, all parties were in agreement that continued production from the Basin beyond the safe yield will ultimately result in seawater intrusion and deleterious effects to the basin in the foreseeable future.

Given the state of both the Carmel River and the Seaside Basin and the current SWRCB Orders, there is little or no water to allocate for new development. Consequently, Seaside (as well as the County and the other cities within the Cal-Am service area) maintains a waiting list for new water hookups.

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<sup>3</sup> Yates, Eugene, Martin Feeney & Lewis Rosenberg, *Seaside Groundwater Basin: Update on Water Resources Conditions* April 2005 for MPWMD. The estimated sustainable yield of the Seaside groundwater basin has been estimated to be about 2,880 afy while average extractions are about 5,600 afy.

<sup>4</sup> Id (Yates et al 2005, page 28).

<sup>5</sup> *California American Water v. City of Seaside*, Monterey County Superior Court Case M66343.

At this time, there is no definite new supply of water on the horizon. Cal-Am and the MPWMD, however, are currently searching for additional water supplies. Possible alternative strategies include implementation of groundwater injection (e.g., storage of excess water from the Carmel River in the Seaside Coastal Basin during winter months), desalinization of seawater, wastewater recycling (i.e., using reclaimed wastewater for irrigation purposes), and additional water conservation efforts that include retrofitting or replacing water-using appliances and fixtures and drought resistant landscaping.

Given that water is an important coastal resource, especially within the Monterey Peninsula area where water supplies are extremely limited, it is vitally important that the LUP contains policies that adequately regulate development to protect water resources. These policies must be consistent with Coastal Act policies requiring that new urban development be located in urban areas with adequate public services, and that give priority to certain types of development when public services are limited.

**Wastewater Background:** Wastewater treatment and disposal for Seaside is provided by the Monterey Regional Water Pollution Control Agency (MRWPCA). The MRWPCA wastewater treatment plant is located two miles north of the town of Marina. Each day 21 million gallons of wastewater is processed at the plant; total plant capacity is approximately 30 million gallons per day (mgd). Additionally, MRWPCA operates a water recycling facility at the regional treatment plant and manages the distribution system under contract from the Monterey County Water Resources Agency. Sixty percent of incoming wastewater is recycled. In recent years, as much as 13,400 acre feet of water was delivered to farmers in the Northern Salinas Valley.

**LUP Analysis:** The proposed new language in the LUP acknowledges the resource problems with the Cal-Am water supplies on the Monterey Peninsula, including the adverse impacts on resources from Carmel River and Seaside Basin withdrawals and subsequent SWRCB actions to curb such problems. The new key policy NCR-CZ 3.1A states:

*New development shall be sited in areas with adequate public utility services (i.e., water treatment and delivery) and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

*Where existing public utility services, including water, can accommodate only a limited amount of new development, priority uses including essential public services, public recreation, and visitor-serving commercial land uses shall have priority over other development/uses.*

This proposed new policy ensures that not only should scarce water go to priority uses, it should also avoid adverse effects on coastal resources. In addition, it is imperative that projects not rely on unsustainable sources of water that lead to other coastal resource impacts, instead they must demonstrate the availability of adequate long-term supplies for development. The LUP conforms to Coastal Act requirements in this regard. That said, additional refinements such as tying CDP approval to a demonstration of a sustainable water supply are necessary to bring the LUP into full conformance with Coastal Act requirements. Towards those ends, Commission staff has worked together with the City to develop policy modifications that link development approval with a demonstrated adequate and sustainable water supply. These policies will ensure that the

existing resource impacts associated with the Cal-Am water supply are addressed consistent with the intent of coastal act policy 30250 and 30254.

The LUP also includes new language regarding current wastewater collection, conveyance, and treatment, and adds explicit policies for demonstrating/verifying adequate wastewater services, including alternatives for demonstrating additional waste water treatment capacity. The proposed LUP policies specific to wastewater treatment include:

*Policy LUD-CA 3.4Ai: Prior to the approval of any new development within the coastal zone, adequate sewage treatment facility capacity shall be demonstrated consistent with the provisions and requirements of the California Regional Water Quality Control Board.*

*Policy LUD-CA 3.4Aii: Capacity for additional wastewater collection, conveyance, and treatment shall be verified.*

*Policy LUD-CA 3.4Aiii: Alternatives for demonstrating additional wastewater treatment capacity for permitted development may be considered, including but not limited to, (a) construction of a package treatment plant at the Seaside treatment facility to handle all projected sewage for the City's LUP land use designations; or (b) the construction of a new sewer line to the Monterey treatment facility to handle the same sewage capacities.*

Accordingly, the proposed modifications to the LUP's wastewater policies are consistent with the Coastal Act's public services requirements because they ensure that development must show that it will be served by adequate, long-term wastewater treatment capacities before it can be approved.

**Transportation/Circulation:** Finally, the proposed LUP includes the identification of a transportation corridor through the City of Seaside along the alignment of the former Southern Pacific Railroad right-of-way. As written the policy establishes the corridor for use by motorized and non-motorized forms of transportation. The LUP otherwise does not address circulation or the larger question of adequate public services. Thus, in order to address Coastal Act requirements regarding the provision of adequate public services, it is necessary to modify the LUP to include new policies that recognize State Highway Route One as a separate and vitally important transportation corridor, that ensure there is adequate circulation and parking facilities, that prohibit development that would interfere with future reuse of the SPRR right-of-way for transportation purposes, and that provide for maintenance of said corridors with a coastal development permit. These proposed new policies will ensure that future development will not lead to additional circulation impacts or concerns. The proposed LUP modifications include appropriate policy requirements that will ensure all new development addresses traffic issues, that alternative forms of transportation are encouraged and transportation routes protected, that future maintenance activities first obtain CDP's and that any expansion of the highway or highway capacity first obtain an amendment to the LCP.

In conclusion, the proposed LUP, if modified as proposed, would be consistent with the relevant Coastal Act policies related to the provision of public services, and ensures that new development and its attendant service requirements will be consistent with all relevant Coastal Act policies. The proposed LUP with modifications ensures that new development will not be

approved unless an applicant can demonstrate that there are adequate public services available to serve the development without causing an adverse impact to coastal resources as directed by the Coastal Act.

## **H. ANALYSIS OF PROPOSED IP SUBMITTAL**

The Commission may only reject a proposed IP submittal if it does not conform with or is inadequate to carry out the Land Use Plan (Section 30513). When the Commission is considering both an LUP and an IP amendment at the same hearing, and the Commission approves the LUP amendment, the standard of review is whether the IP conforms with and is adequate to carry out the newly certified LUP.

In this case, the proposed IP elements are essentially identical to the proposed LUP, with the exception of several implementing standards that are not in the LUP. All of the same general policy updates that are proposed to the LUP are proposed to the IP. For the same reasons as articulated above, the IP needs to be modified in the way the LUP needs to be modified (see Exhibit C). These modifications will ensure that the portions of the IP that are similar to the proposed LUP policies are modified in the same way to be in conformance with them, and to be adequate to carry them out, consistent with the requirement in Section 30513.

The only remaining issue is the adequacy of the additional implementing details in the IP. These include requiring applicants to include specific reports when applying for a CDP (for ESHA, wetlands, hazards, public viewshed identification, archaeological resources, public access management, etc.), storm water discharge requirements, parking, landscaping, and sign regulations, and the criteria for the City's few remaining redevelopment sites. These new and updated implementing details originate from the new LUP policies and provide additional detail to support those policies. For example, LUP Policy NCR-CZ 1.2.B requires biological surveys and reports to be completed for any potential development in or near ESHA. The corresponding IP Section 2.7.B.1 lists the specific things that are required of such reports, including preparation by a qualified biologist, field surveys during times when documented or expected habitat evidence is most likely to be detected, and a map that depicts any sensitive species or habitats, the development footprint, setbacks, and landscape areas. Similarly, the natural hazards resources section of the LUP includes general policies related to the avoidance of hazards and the need to protect life and property in general. The corresponding IP section specifies that development must analyze the hazard constraints associated with any project and demonstrate via technical reports that all hazards will be fully mitigated. IP requirements further compel a finding that the site is suitable for the proposed development without reliance on seawalls, deep piers, or similar engineering measures over the life of the development. All technical reports must be prepared by qualified professionals and be submitted as part of any permit application. In each of these cases, the additional specificity included in the IP ensures proper implementation of the policies found in both the LUP and IP.

Because the proposed IP, as modified, is mostly the same or derived from the proposed amended LUP as modified, it does not raise issues of consistency with the new LUP as modified. The additional standards included in the IP are intended to add detail and specificity that will guide implementation of the policies in the LUP. In other words, the proposed IP, as modified, does not

introduce any standards or requirements that are different and/or that did not emanate from the new LUP as modified. As such, the IP, as modified, is in conformance with and adequate to carry out the new LUP as modified.

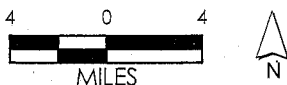
## **I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by 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 City, acting as lead CEQA agency, found the proposed LCP amendment to be exempt under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

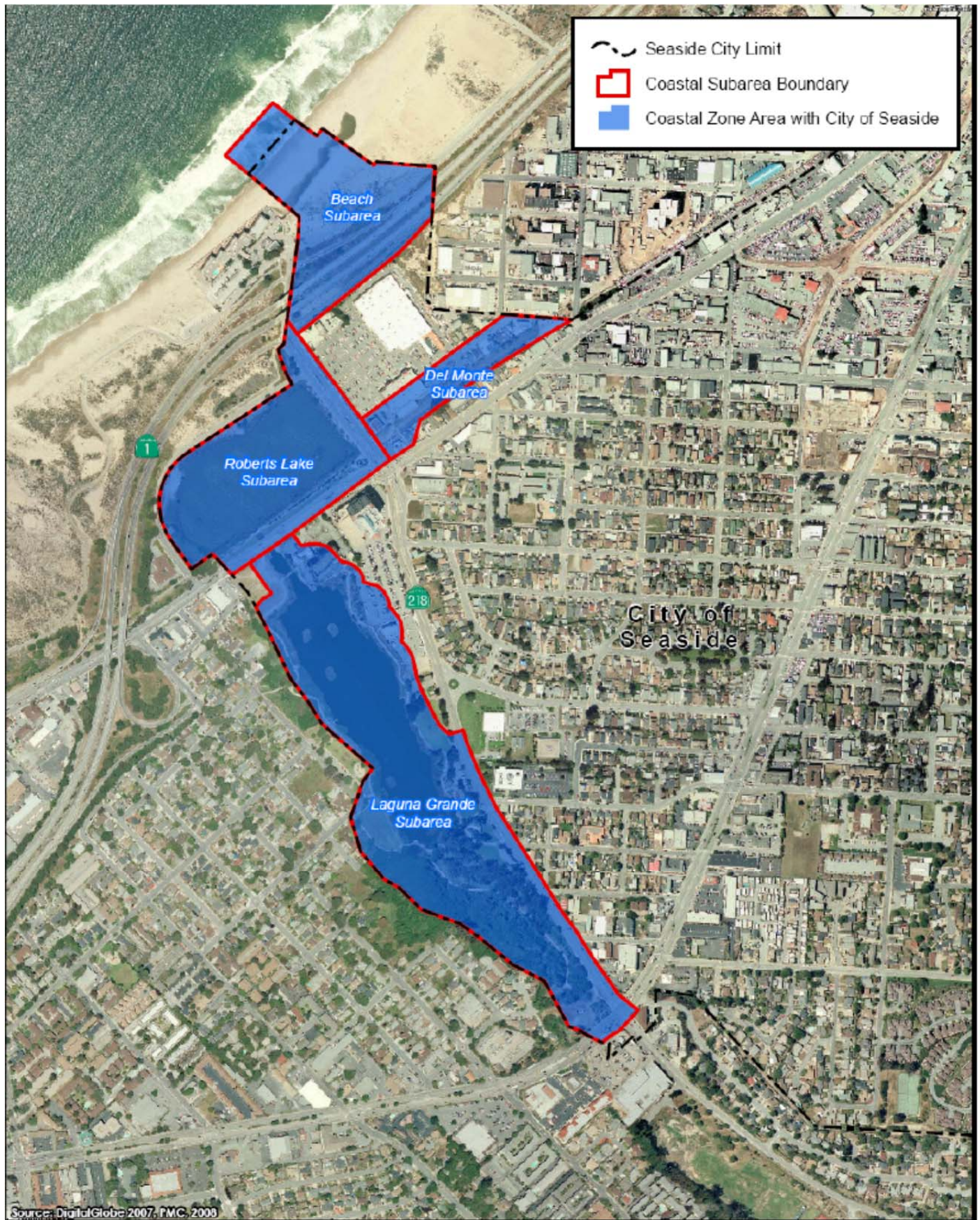
The Commission has included modifications to the LUP Amendment and IP that would ensure that they are each consistent with Coastal Act requirements. There are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, 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).

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PMCS





SEA 1-11 (City of Seaside LCP Certification) **Figure 2a**  
Coastal Zone Subareas Page 2 of 3



# Exhibit A: Location Maps



**Figure 2b**

Coastal Zone Subareas



## Robert's Lake and Laguna Grande



Source: California Coastal Records Project, Slide 200402094

Th15a  
Seaside 1-11 (LUP and IP Certification)  
Slide 1 of 2



## Seaside Beach



Source: California Coastal Records Project, Slide 201004981

Th15a  
Seaside 1-11 (LUP and IP Certification)  
Slide 2 of 2