

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 585-1800



Th16a

ADDENDUM

DATE: March 4, 2013

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item Th16a, Santa Barbara County Local Coastal Program Amendment No. MAJ-4-11 (Economic Hardship Time Extensions) Thursday, March 7, 2013

The purpose of this addendum is to amend suggested Modification 1 to include an additional code provision to allow the Director of the Planning and Development Department to approve a time extension subject to conditions of approval to ensure that no impacts to coastal resources will result from the continued delay in construction of a project. This addendum also attaches ex-parte communications.

Note: ~~Double Strikethrough~~ indicates text to be deleted from the February 14, 2013 staff report and double underline indicates text to be added to the February 14, 2013 staff report.

1.) Suggested Modification 1 of the report shall be modified as follows:

Staff recommends the Commission certify the proposed IP/CZO amendment with the modifications as shown below. The language proposed by Santa Barbara County to be inserted into the LCP in this amendment is shown in straight type. Language proposed by Commission staff to be deleted is shown in ~~strikeout~~. Language proposed by Commission staff to be inserted is shown in underline.

Suggested Modification 1

Section 35-179A. Time Extensions Due to Economic Hardship

Section 35-179A.1

In addition to the time extensions provided in Section 35-169 (Coastal Development Permits), Section 35-172 (Conditional Use Permits), Section 35-174 (Development Plans), Section 35-178 (Land Use Permits) and Section 35-179 (Modifications), the Director for good cause may extend the expiration of a planning permit approved or issued in compliance with those Sections for additional 24 month periods in compliance with the following:

Santa Barbara County
Local Coastal Program Amendment STB-MAJ-4-11
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1. The Director has determined that a Time Extension is necessary due to an economic hardship resulting from the continuing economic downturn. Examples of economic hardship may include (but are not limited to):
 - a. Commencement of construction of the project at this time would be unprofitable due to current loan interest rates,
 - b. Loans are not available to fund the construction of the project, or
 - c. The purchase price of the property for which the permit was approved is ~~less~~ greater than the current assessed valuation as determined by the County Assessor.

2. The application for the Time Extension is filed with the Department in compliance with the following:
 - a. The application shall be filed in compliance with Section 35-57A (Application Preparation and Filing).
 - b. The application shall be filed prior to the expiration of the planning permit that is the subject of the time extension request; however, an application may only be filed within the six month period immediately preceding the date that the planning permit would otherwise expire.
 - c. The applicant shall include in the application a written statement and supporting evidence of the reasons for the economic hardship time extension request.

3. Findings required for approval.
 - a. A time extension application shall be approved ~~or conditionally approved~~ only if the Director first finds that:
 - (1) ~~applicable~~ All of the findings for approval that were made in conjunction with the initial approval pursuant to Section 35-169.5 (Findings Required for Approval of a Coastal Development Permit), Section 35-172.8 (Findings Required for Approval of a Conditional Use Permit), Section 35-174.7 (Findings Required for Approval of a Preliminary or Final Development Plan), Section 35-178.5 (Findings Required for Approval of a Land Use Permit) or Section 35-179.6 (Findings Required for Approval of a Modification), as applicable, of the planning permit for which the time extension is requested can still be made, and
 - (2) Approving the application for time extension will not result in impacts to coastal resources including public access to the shoreline or along the coast, recreation, scenic resources, and sensitive habitats, that may result in the continued delay in the construction of the project for which the time extension is sought.

 - (a) If the Director determines that approving the application for the time extension may result in impacts to coastal resources due to the delay in construction of the project, then the Director may approve the application subject to conditions of approval that will allow the director to make the finding required by Section 35-179A.1.3.a.(2), above

b. If the Director cannot make all of the same findings as required in the initial approval in compliance with Section 35-179A.1.3.a, above, (e.g., special conditions or mitigation measures required in the initial approval would not ensure compliance with the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan), then the application for the time extension shall be denied.

4. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).

This Section 35-179A shall expire and be of no further force or effect, on January 12, 2015, unless extended by ordinance.

2.) The following shall be added to the last sentence of the first paragraph on page 12 of the report in Section IV. B. (Consistency Analysis and Findings) of the report :

Suggested Modification 1 also provides that a time extension application shall be approved only if the Director of the Planning and Development Department first finds that approving the time extension application will not result in impacts to coastal resources including public access to the shoreline or along the coast, recreation, scenic resources, and sensitive habitats, that may result in continued delay in construction of the project for which the time extension is sought. If the Director determines that approving the time extension application may result in impacts to coastal resources due to the delay in construction of the project, **Suggested Modification 1** provides that the Director may approve a time extension application subject to additional conditions.

Attachments:

1.) Ex-Parte Communication Form from Commissioner Zimmer

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



Th16a

DATE: February 14, 2013
TO: Commissioners and Interested Persons
FROM: Jack Ainsworth, Senior Deputy Director
Steve Hudson, District Manager
Amber Geraghty, Coastal Program Analyst
SUBJECT: Santa Barbara County Local Coastal Program Amendment No. MAJ-4-11
(Economic Hardship Time Extensions) for Public Hearing and Commission
Action at the March 7, 2013 Commission Meeting in San Diego.

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to its certified Local Coastal Program to amend the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) to: (1) extend the period of time in which the Director of the Planning and Development Department may grant a two-year time extension to the period of permit effectiveness for approved permits due to economic hardship considerations until January 12, 2015, and (2) provide that the Director may grant more than one such time extension until January 12, 2015.

The County of Santa Barbara submitted the subject Local Coastal Program Amendment to the Commission on December 22, 2011 (STB-MIN-4-11). The amendment proposal was deemed complete and filed on February 3, 2012 after the submittal of additional information requested by Commission staff. Pursuant to Section 30514(c) of the Coastal Act and Sections 13554(a) and 13555 of the California Code of Regulations, the Executive Director determined upon submittal that the amendment was minor in nature. However, at the March 8, 2012 hearing, the Commission rejected the Executive Director's determination that the amendment was minor and directed that the amendment be processed as a major Local Coastal Program Amendment. At the April 12, 2012 hearing, the Commission granted a one year time extension to act on County of Santa Barbara LCP Amendment No. MAJ-4-11 pursuant to Coastal Act Section 30517 and California Code of Regulations Section 13535(c).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, reject proposed Santa Barbara County LCP Amendment No. STB-MAJ-4-11, as submitted, and **approve only if modified** pursuant to the suggested modifications. The suggested modifications are necessary to ensure that the County's Implementation Plan/Coastal Zoning Ordinance is consistent with and adequate to carry out the certified LUP. The motions and resolutions for Commission action can be found starting on **page 5**. The suggested modification language can be found starting on **page 7**.

The proposed zoning code amendment would allow the Director of the Planning and Development Department to grant economic hardship time extensions for two-year periods for approved Coastal Development Permits until the zoning code provision expires on January 15,

2015. The intent of the amendment is to allow applicants who are experiencing an economic hardship due to the continuing downturn in the national and local economies to have additional time to comply with permit conditions and commence development. The amendment specifically provides that an economic hardship time extension application shall be approved only if the Planning Director first finds that the applicable findings for approval that were made in conjunction with the initial approval of the permit can still be made. The amendment requires an economic hardship time extension application to be filed in compliance with the existing application preparation and filing requirements of the zoning code and the application is required to be filed within the six month period immediately preceding the date the permit would otherwise expire. The County has indicated that the purpose of this six month time frame is to prevent an applicant from obtaining a two-year hardship time exemption and then immediately submitting and application for an additional two-year hardship time extension.

In addition, the proposed zoning code provision would only be effective until January 12, 2015. The maximum number of years that a permit could be extended under the proposed amendment is two two-year terms, or four years. The Commission approved a similar hardship time extension zoning code amendment in Santa Barbara County Local Coastal Plan Amendment No. 1-09-A (Land Use and Development Code) at the November 2012 Commission hearing. LCPA 1-09-A did not become effective because the suggested modifications were not accepted by Santa Barbara County.

This amendment application was previously agendized as a Minor Amendment and reported to the Commission at the March 8, 2012 meeting. At the March 8, 2012 hearing, the Commission rejected the Executive Director's determination that the amendment was minor and directed that the amendment be processed as a major Local Coastal Program Amendment. The Commission raised concerns that the amendment did not include standards for what the County would consider to be an economic hardship. The Commission also raised concerns that permit extensions could result in a situation where delayed implementation of previously required permit conditions or mitigation measures required pursuant to an approved permit would become less effective if implemented at a future date and could potentially undermine benefits associated with a project serving to protect or enhance coastal resources.

In response to the issues raised by the Commission at the March 2012 meeting, Commission staff has worked with County staff to develop the suggested modifications. Specifically, **Suggested Modification One (1)** includes new provisions to clarify which situations would constitute an "economic hardship" for the purpose of granting an extension and requires the applicant include in the application a written statement and supporting evidence of the reasons for the economic hardship time extension request. In addition, **Suggested Modification One (1)** also adds new provisions to clarify that a time extension application shall be approved only if the Planning Director first finds that the applicable findings for approval that were made in conjunction with the initial approval of the permit can still be made, which would include findings that the proposal is in compliance with Local Coastal Plan policies. **Suggested Modification One (1)** further clarifies that, if the Planning Director cannot make all of the same findings as required in the initial approval (e.g., special conditions or mitigation measures required in the initial approval would not ensure compliance with the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan), then the application for the time extension shall be denied.

The standard of review for the proposed amendment to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program (LCP) is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP. For the reasons above, and as described in this report, the proposed CZO/IP amendment would not be consistent with or adequate to carryout the provisions of LUP with respect to the protection of coastal resources unless modified as suggested.

Additional Information: Please contact Amber Geraghty at the South Central Coast District Office of the Coastal Commission at (805) 585-1800 or 89 S. California St., Second Floor, Ventura, CA 93001

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EXHIBITS

- Exhibit 1. Santa Barbara County Board of Supervisors Resolution No. 11-412 (Case No.: 11ORD-00000-00026)**
- Exhibit 2. Santa Barbara County Board of Supervisors Ordinance No. 4815**
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I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (California Public Resources Code Section 30513)

The standard of review for the proposed amendment to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Sections 30513 and 30514 (“proposed amendments to a certified [LCP] shall be submitted to, and processed by, the commission in accordance with the applicable procedures ... specified in Sections 30512 and 30513...”) of the Coastal Act, is that the Commission must approve them unless any proposed amendment is not in conformance with, or is inadequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified Santa Barbara County Local Coastal Program. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County held a series of public hearings (County Board of Supervisors Hearing 12/6/11 and County Planning Commission Hearing 11/2/11). The hearings were noticed to the public consistent with Sections 13515 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations (“14 CCR”), the County resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves the proposed amendment pursuant to the staff recommendation, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the amendment to become effective (California Code of Regulations, Title 14, Sections 13544 & 13544.5; and Sections 13542(b) and 13537 (b)). Pursuant to Section 13544 of the Code of Regulations, the Executive Director shall determine whether the County’s action is adequate to satisfy all requirements of the Commission’s certification order and report on such adequacy to the Commission. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO) AMENDMENT

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to each resolution.

A. DENIAL OF THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT AS SUBMITTED

MOTION I: *I move that the Commission reject the County of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment STB-MAJ-4-11, as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the County of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment STB-MAJ-4-11, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan Amendment, 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 Amendment 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 Amendment as submitted.

B. CERTIFICATION OF THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission certify County of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment STB-MAJ-4-11 if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

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

RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the County of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment STB-MAJ-4-11, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment 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 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 Implementation Plan Amendment 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.

III. SUGGESTED MODIFICATIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

Staff recommends the Commission certify the proposed IP/CZO amendment with the modifications as shown below. The language proposed by Santa Barbara County to be inserted into the LCP in this amendment is shown in straight type. Language proposed by Commission staff to be deleted is shown in ~~strikeout~~. Language proposed by Commission staff to be inserted is shown in underline.

Suggested Modification 1

Section 35-179A. Time Extensions Due to Economic Hardship

Section 35-179A.1

In addition to the time extensions provided in Section 35-169 (Coastal Development Permits), Section 35-172 (Conditional Use Permits), Section 35-174 (Development Plans), Section 35-178 (Land Use Permits) and Section 35-179 (Modifications), the Director for good cause may extend the expiration of a planning permit approved or issued in compliance with those Sections for additional 24 month periods in compliance with the following:

1. The Director has determined that a Time Extension is necessary due to an economic hardship resulting from the continuing economic downturn. Examples of economic hardship may include (but are not limited to):
 - a. Commencement of construction of the project would be unprofitable due to current loan interest rates.
 - b. Loans are not available to fund the construction of the project, or
 - c. The purchase price of the property for which the permit was approved is less than the current assessed valuation as determined by the County Assessor.
2. The application for the Time Extension is filed with the Department in compliance with the following:

- a. The application shall be filed in compliance with Section 35-57A (Application Preparation and Filing).
 - b. The application shall be filed prior to the expiration of the planning permit that is the subject of the time extension request; however, an application may only be filed within the six month period immediately preceding the date that the planning permit would otherwise expire.
 - c. The applicant shall include in the application a written statement and supporting evidence of the reasons for the economic hardship time extension request.
3. Findings required for approval.
- a. A time extension application shall be approved ~~or conditionally approved~~ only if the Director first finds that ~~applicable~~ all of the findings for approval that were made in conjunction with the initial approval pursuant to Section 35-169.5 (Findings Required for Approval of a Coastal Development Permit), Section 35-172.8 (Findings Required for Approval of a Conditional Use Permit), Section 35-174.7 (Findings Required for Approval of a Preliminary or Final Development Plan), Section 35-178.5 (Findings Required for Approval of a Land Use Permit) or Section 35-179.6 (Findings Required for Approval of a Modification), as applicable, of the planning permit for which the time extension is requested can still be made.
 - b. If the Director cannot make all of the same findings as required in the initial approval (e.g., special conditions or mitigation measures required in the initial approval would not ensure compliance with the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan), then the application for the time extension shall be denied.
4. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).

This Section 35-179A shall expire and be of no further force or effect, on January 12, 2015, unless extended by ordinance.

IV. FINDINGS FOR DENIAL OF THE IP/CZO AMENDMENT, AS SUBMITTED, AND APPROVAL OF THE IP/CZO IF MODIFIED AS SUGGESTED

The following findings support the Commission's denial of the IP/CZO amendment, as submitted, and approval of the IP/CZO amendment if modified as indicated in Section III (*Suggested Modifications*) above. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION AND BACKGROUND

Santa Barbara County is requesting an amendment to its certified Local Coastal Program to amend the Implementation Program/Coastal Zoning Ordinance (IP/CZO) to: (1) extend the period of time in which the Director of the Planning and Development Department may grant a two-year time extension to the period of Coastal Development Permit effectiveness for approved or issued permits due to economic hardship considerations until the provision sunsets on January 12, 2015, and (2) provide that the Director may grant more than one such two-year time extension until January 12, 2015.

The amendment provides that the economic hardship time extension application shall be approved only if the Director first finds that the applicable findings for approval that were made in conjunction with the initial approval of the permit can still be made. Further, the amendment requires an economic hardship time extension application to be filed in compliance with the existing application preparation and filing requirements of the zoning code and an application is required to be filed within the six month period immediately preceding the date the permit would otherwise expire. An economic hardship time extension approved by the Director would be noticed and would be final subject to appeal in compliance with Section 35-182 (Appeals). (**Exhibit 1:** Resolution 11-412 and **Exhibit 2:** Ord. 4815).

The existing IP/CZO allows time extensions of Coastal Development Permit (“CDP” or “permit”) approvals ranging from 1 year to a total of 8 years if the applicant can show good cause and if the decision-maker can make the same findings required for approval that were made when the project was initially approved. The amount of time a permit can be extended depends on whether the permit was processed alone or in conjunction with a Conditional Use Permit or Development Plan.

Coastal Development Permits not processed in conjunction with a Conditional Use Permit or Development Plan (in compliance with Sections 35-169.4.1 and 35-169.4.2), are valid for one year from the date of decision-maker action according to Section 35-169.6.1 of the County’s certified IP/CZO. Prior to expiration of the permit approval, the decision-maker who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 (*Findings Required for Approval of a Coastal Development Permit*) can still be made. Once the permit is issued, it will expire two years from the date of issuance if the use, building, or structure for which the permit was issued has not been established or development has not commenced. Prior to the expiration of the two year period, the Director may extend the period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5 (*Findings Required for Approval of a Coastal Development Permit*), as applicable, can still be made. Therefore, under the currently certified IP/CZO, the maximum number of years a CDP (not processed in conjunction with a Conditional Use Permit or Development Plan) can be extended is 5 years.

Coastal Development Permits processed in conjunction with a Conditional Use Permit (Section 35-172) or Final Development Plan (Section 35-174) are valid for one year from the date of decision-maker action according to Section 35-169.6.2 of the County’s certified IP/CZO. Prior to expiration of the approval, the decision-maker who approved the permit may extend the approval

for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 (*Findings Required for Approval of a Coastal Development Permit*) can still be made. Prior to the expiration of the one year time extension, the decision maker who approved the time extension may approve two additional time extensions for two years each if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 (*Findings Required for Approval of a Coastal Development Permit*) can still be made. Once the permit (approved in conjunction with a Conditional Use Permit or Final Development Plan) is issued, it will expire two years from the date of issuance if the use, building, or structure for which the permit was issued has not been established or development has not commenced. Further, the expiration date for a CDP (approved in conjunction with a Conditional Use Permit or Final Development Plan) that has already been extended either after the initial approval or subsequent to permit issuance will expire at the earlier of: (1) the expiration the most recent time extension or (2) the expiration of the associated Conditional Use Permit or Development Plan. Therefore, the maximum number of years a CDP (processed in conjunction with a Conditional Use Permit or Final Development Plan) can be extended is 8 years.

Under the proposed amendment to allow economic hardship time extensions, an approved or issued CDP (whether or not approved in conjunction with a Conditional Use Permit or Development Plan) may be extended for additional two-year periods until proposed IP/CZO Section 35-179A sunsets on January 12, 2015. The additional amount of time that a permit could be extended under the new proposed amendment is a maximum of two two-year periods, or four years.

This amendment application was previously agendized as a Minor Amendment and reported to the Commission at the March 8, 2012 meeting. At the March 8, 2012 hearing, the Commission rejected the Executive Director's determination that the amendment was minor and directed that the amendment be processed as a major Local Coastal Program Amendment. The Commission raised concerns that that permit extensions could create a situation where unfulfilled permit conditions or mitigation measures required pursuant to an approved permit would become less effective if implemented at a future date and could potentially undermine benefits associated with a project that could serve to protect or enhance coastal resources. The suggested modifications below, as explained in Section IV.B., address these issues.

B. CONSISTENCY ANALYSIS AND FINDINGS

The standard of review for the proposed amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is whether the Implementation Plan, with the proposed amendment, would be in conformance with and adequate to carry out, the provisions of the Land Use Plan portion of Santa Barbara County's certified Local Coastal Program, as amended. The proposed amendment's consistency with the certified LUP is detailed below. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified Santa Barbara County LUP as guiding policies pursuant to Policy 1-1 of the LUP. The applicable certified LCP policies include the following:

LCP Policy 1-1

The County shall adopt the policies of the Coastal Act (PRC Sections 30210 through 30263) as the guiding policies of the land use plan.

LCP Policy 1-2

Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.

LCP Policy 1-3

Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County's Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence.

LCP Policy 1-4

Prior to the issuance of a coastal development permit, the County shall make the finding that the development reasonably meets the standards set forth in all applicable land use plan policies.

The proposed zoning code amendment would allow the Director of the County Planning and Development Department to grant two-year economic hardship time extensions for approved Coastal Development Permits until the zoning code provision expires on January 15, 2015. The intent of the County is to allow applicants who are experiencing an economic hardship due to the continuing downturn in the national and local economies to have additional time to comply with permit conditions and commence development. The amendment specifically provides that an economic hardship time extension application shall be approved only if the Director first finds that the applicable findings for approval that were made in conjunction with the initial approval of the permit can still be made. The amendment requires an economic hardship time extension application to be filed in compliance with the existing application preparation and filing requirements of the zoning code (Section 35-57A) and the application is required to be filed within the six month period immediately preceding the date the permit would otherwise expire. The purpose of the six month time frame, according to the County, is to prevent an applicant from obtaining a two-year hardship time exemption and then immediately submitting and application for an additional two-year hardship time extension.

This amendment application was previously agendized as a Minor Amendment and reported to the Commission at the March 8, 2012 meeting. At the March 8, 2012 hearing, the Commission rejected the Executive Director's determination that the amendment was minor and directed that the amendment be processed as a major Local Coastal Program Amendment. Commission staff has worked with County staff to develop suggested modifications in order to address issues raised at the March 2012 Commission hearing. The Commission raised concerns that that permit extensions could create a situation where unfulfilled permit conditions or mitigation measures required pursuant to an approved permit would become less effective if implemented at a future date and could potentially undermine benefits associated with a project that could serve to

protect or enhance coastal resources. The County's proposed amendment language provides that an economic hardship time extension application shall be approved only if the Director first finds that the applicable findings for approval that were made in conjunction with the initial approval of the permit can still be made, which would include findings that the proposal is in compliance with Local Coastal Plan policies. **Suggested Modification 1** clarifies that, if the Director cannot make all of the same findings as required in the initial approval (e.g., special conditions or mitigation measures required in the initial approval would not ensure compliance with the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan), then the application for the time extension shall be denied. Further, the proposed zoning code provision will only be effective until January 12, 2015. Thus, the maximum number of years that a permit could be extended under the proposed amendment is two two-year periods.

Additionally, to address the concern that that the amendment did not include standards for what the County would consider to be an economic hardship, **Suggested Modification 1** includes new provisions to clarify which situations would constitute an "economic hardship" for the purpose of granting an extension and requires that the applicant shall include in the application a written statement and supporting evidence of the reasons for the economic hardship time extension request.

In conclusion, the proposed amendment to the CZO/IP, as proposed, will not be fully adequate to carry out the certified Land Use Plan, and incorporated Coastal Act policies, for the above-stated reasons and is denied as submitted. With the suggested modification, the proposed CZO/IP amendment can be approved as being consistent with and adequate to carry out the certified land use plan.

V. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the County of Santa Barbara's certified Local Coastal Program Implementation Ordinance. The Commission originally certified the County of Santa Barbara's Local Coastal Program Land Use Plan and Implementation Ordinance in 1981 and 1982, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the applicable policies of the Coastal Act, as incorporated by reference into the Land Use Plan, and the certified Land Use Plan and feasible alternatives and mitigation are available which would lessen any significant adverse effect which the approval would have on

the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment to the Implementation Plan component of the LCP into conformity with the certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF SUBMITTING TO THE)
CALIFORNIA COASTAL COMMISSION)
AN AMENDMENT TO THE TEXT OF THE)
SANTA BARBARA COUNTY LOCAL COASTAL)
PROGRAM REGARDING TIME EXTENSIONS)
DUE TO HARDSHIP CONSIDERATIONS ISSUED)
IN COMPLIANCE WITH THE ARTICLE II)
COASTAL ZONING ORDINANCE OF CHAPTER 35)
OF THE SANTA BARBARA COUNTY CODE.)

RESOLUTION NO: 11 - 412
CASE NO: 11ORD-00000-00026

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Land Use Plan; and
- B. On July 19, 1982, by Ordinance 3312, the Board of Supervisors of the County of Santa Barbara adopted the Santa Barbara County Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code; and
- C. On December 6, 2011, the Board of Supervisors, having deemed it to be in the interest of orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of said County, amended the Local Coastal Program by adopting:

Case No. 11ORD-00000-00026: Economic Hardship Time Extensions Ordinance Amendment, attached as Exhibit A:

An Ordinance (Case No. 11ORD-00000-00026), attached as Exhibit A, amending the Article II Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, by amending Division 35.11, Permit Procedures, to add a new Section 35-179A that will (1) give the Director of the Planning and Development Department the authority to grant a two year time extension to approved permits and projects due to economic hardship considerations until January 12, 2015, and (2) provide that more than one such extension may be granted by the Director.

- D. Public officials and agencies, civic organizations, and citizens have been consulted with and have advised the County and the Montecito Planning Commissions on the proposed amendment in duly noticed public hearings pursuant to Sections 65353 and 65854 of the Government Code, and the County and Montecito Planning Commissions have sent their written recommendations to the Board of Supervisors in compliance with pursuant to Sections 65354 and 65855 of the Government Code.
- E. The Board of Supervisors has held duly noticed public hearings in compliance with Section 65355 and 65856 of the Government Code on the proposed amendment, at which hearings the amendment was explained and comments invited from the persons in attendance.

EXHIBIT 1
STB-MAJ-4-11
County Resolution No. 11-412

- F. This amendment to the Local Coastal Program is consistent with the provisions of the Coastal Act of 1976, the Santa Barbara County Coastal Land Use Plan, and the requirements of state planning and zoning laws as amended to this date.
- G. The Board of Supervisors now wishes to submit this amendment to the California Coastal Commission for certification as a minor amendment to the Santa Barbara County Local Coastal Program in compliance with Public Resources Code Section 30514(c) and Title 14 of the California Code of Regulations Section 13554.
- H. The Board of Supervisors further wishes to submit this amendment as an amendment that will take effect automatically upon the California Coastal Commission's approval in compliance with Title 14 of the California Code of Regulations Section 13551(b)(1).

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. In compliance with Sections 65356 and 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes have been previously adopted as an amendment to the Santa Barbara County Local Coastal Program.
- 3. The Board of Supervisors certifies that this amendment is intended to be carried out in a manner fully in conformity with the California Coastal Act of 1976.
- 4. The Board submits this Local Coastal Program amendment to the California Coastal Commission for review and certification as a minor amendment in compliance with Public Resources Code Section 30514(c) and Title 14 of the California Code of Regulations Section 13554, and requests that this amendment that will take effect automatically upon the California Coastal Commission's approval in compliance with Title 14 of the California Code of Regulations Section 13551(b)(1).
- 5. The Chair and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this resolution to reflect the above described action by the Board of Supervisors.

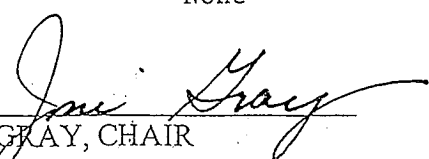
PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 13th day of December, 2011, by the following vote:

AYES: Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Gray, Supervisor Lavagnino

NOES: None

ABSTAIN: None

ABSENT: None



 JONI GRAY, CHAIR
 Board of Supervisors, County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By: 
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

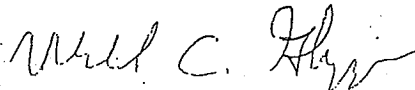
By: 
Deputy County Counsel

EXHIBIT:

- A. Article II Coastal Zoning Ordinance Amendment (Case No. 11ORD-00000-00026)

ATTACHMENT I: 11ORD-00000-00026 ARTICLE II CZO ORDINANCE

ORDINANCE NO. 4815

AN ORDINANCE AMENDING ARTICLE II, THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE, BY AMENDING DIVISION 11, PERMIT PROCEDURES, AND MAKE OTHER MINOR REVISIONS AS NECESSARY REGARDING THE PROVISION OF ADDITIONAL TWO-YEAR, TIME EXTENSIONS FOR APPROVED DEVELOPMENT.

Case No. 11ORD-00000-00026

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

DIVISION 35.11, Permit Procedures, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to add a new Section 35-179A to read as follows:

Section 35-179A. Time Extensions Due to Economic Hardship.

Section 35-179A.1

In addition to the time extensions provided in Section 35-169 (Coastal Development Permits), Section 35-172 (Conditional Use Permits), Section 35-174 (Development Plans), Section 35-178 (Land Use Permits) and Section 35-179 (Modifications), the Director for good cause may extend the expiration of a planning permit approved or issued in compliance with those Sections for additional 24 month periods in compliance with the following:

1. The Director has determined that a Time Extension is necessary due to an economic hardship resulting from the continuing national economic downturn.
2. The application for the Time Extension is filed with the Department in compliance with the following:
 - a) The application shall be filed in compliance with Section 35-57A (Application Preparation and Filing).
 - b) The application shall be filed prior to the expiration of the planning permit that is the subject of the time extension request; however, an application may only be filed within the six month period immediately preceding the date that the planning permit would otherwise expire.
3. A time extension application shall be approved or conditionally approved only if the Director first finds that applicable findings for approval that were made in conjunction with the initial approval of the planning permit for which the time extension is requested can still be made.
4. The action of the Director is final subject to appeal in compliance with Section 35-182 (Appeals).

This Section 35-179A shall expire, and be of no further force or effect, on January 12, 2015, unless extended by ordinance.

EXHIBIT 2

STB-MAJ-4-11

County Ordinance No. 4815

SECTION 2:

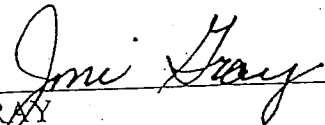
Except as amended by this Ordinance, DIVISION 35.11, Permit Procedures, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 3:

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 6th day of December, 2011, by the following vote:

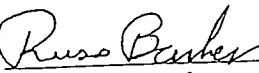
AYES: Supervisor Carbajal, Supervisor Wolf, Supervisor Farr, Supervisor Gray, Supervisor Lavagnino
NOES: None
ABSTAINED: None
ABSENT: None



JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By 

Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By 

Deputy County Counsel