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Prepared September 27, 2019 for October 18, 2019 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Kevin Kahn, Central Coast District Supervisor

Subject: De Minimis Amendment Determination for City of Morro Bay LCP Amendment Number LCP-3-MRB-19-0140-1 (Cloisters Subdivision)

City of Morro Bay's Proposed Amendment

The City of Morro Bay is proposing to amend the Land Use Plan (LUP) component of its Local Coastal Program (LCP) to modify the number of residences allowed in the Cloisters subdivision on the northern part of the City. The Cloisters is a residential neighborhood seaward of Highway 1 that was originally approved via a subdivision by the Commission in 1992 (CDP A-4-MRB-91-044), and subsequently developed through City CDPs since then. The Commission's 1992 approval authorized the subdivision of an 84.4-acre parcel into 120 residential lots, three open space lots, one 0.99-acre lot (intended at the time for future development of a fire station), and internal roads and other infrastructure. The LCP (which was amended through a project-driven LCP amendment prior to the subdivision and the subsequent development at the Cloisters) limits residential units in the neighborhood to a maximum of 120 units. The proposed amendment would change the 120-residential-unit cap to up to 125 units to allow for additional residential development in the Cloisters. These additional five units would be located on the 0.99-acre parcel that was previously City-owned and envisioned for a fire station, but which has since been sold by the City. The amendment also corrects a typographical error that referenced a subdivision map recorded in the year 1015, when it was actually recorded in 1915. See **Exhibit 1** for the text of proposed amendment.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis." In order to qualify as a de minimis amendment, the Executive Director must determine that the amendment meets the following three criteria:

1. The proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and it is consistent with the Chapter 3 policies of the Coastal Act
2. The proposed amendment does not propose any change in use of land or water or allowable use of property.

3. The proposed amendment was properly noticed by the local government at least 21 days prior to submittal to the Commission by at least one of the following methods: posting notice on-site and off-site in the affected area, publishing notice in the local newspaper, or mailing notice to owners and occupants of affected and contiguous properties.

If the Executive Director determines that an amendment is *de minimis*, that determination must be reported to the Commission. If three or more Commissioners object to the Executive Director's *de minimis* LCP amendment determination at that time, then the amendment shall be set for a future public hearing. If not, then the amendment is deemed approved and it becomes a certified part of the LCP ten days after the date it is reported to the Commission (in this case, on October 28, 2019).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is *de minimis*. Each of the *de minimis* criteria is discussed briefly below:

1. **No impact to coastal resources and consistency with Coastal Act Chapter 3:** The proposed amendment would modify the LCP's development standards for the Cloisters subdivision to allow for up to 125 residences, up from the existing LCP cap of 120 residences. That existing cap was based on an overall assessment of the then-undeveloped Cloisters site prior to its initial development beginning in the 1990s, wherein the most sensitive portions of the overall site were protected as open space and the remainder allowed to be subdivided into 120 residential lots and developed. In the time since, the 0.99-acre site originally allotted to fire station development in the original assessment is no longer needed for that purpose (i.e., the City has accounted for applicable fire safety needs for this area through alternative means). Instead, the City would like to use this land for additional residential development, including as a means of helping increase scarce housing supply in the City.

The LCP already allows residential development on this 0.99-acre site. Further, the LCP's 6,000-square-foot minimum parcel size requirement applies to the site. Thus, allowing for five additional residences at this site is well within the allowed level of development intensity, and it is appropriate to modify the residential cap to accommodate same (and this site is the only site within the subdivision to which the additional units could feasibly be applied). In addition, allowing for such potential residential development by modifying the LCP would provide for infill development in an area with adequate infrastructure to accommodate it, and would represent good planning for efficient use of land located within a developed area of the City, consistent with Coastal Act Section 30250(a). Furthermore, the 0.99-acre parcel targeted for such future development does not front the beach or other sensitive resources, but rather is located adjacent to existing residential development and Highway 1 at the inland-most extent of the subdivision, where development is already allowed under the LCP. Thus modifying the LCP cap to allow this residential development does not raise significant coastal resource issues, such as those related to sensitive habitat, coastal hazards, or public coastal access. And finally, the amendment only authorizes the *potential* for additional residential units. Any future residential development project would need to first be authorized by an amendment to CDP A-4-MRB-91-044 (to modify the 120-unit cap requirement that is also reflected in the CDP's conditions), and then by City CDP(s)

to authorize any residential development, both of which would be required to meet applicable LCP coastal resource protection requirements based on site constraints and the particulars of the proposed development, including related to views from Highway 1. As such, the proposed amendment will not adversely affect coastal resources, and it is consistent with Coastal Act Chapter 3, meeting the first de minimis criterion.

2. **No change in use of land or allowable use of property:** The proposed amendment would not change allowable land/property uses because all developable parcels in the subdivision (including the 0.99-acre site) are currently LCP-designated Coastal Resource Residential, which allows for residential use, and the proposed amendment would not change this designation. Rather, the amendment simply increases the number of potentially allowed residential units in the overall subdivision from 120 to 125 residences. Because it does not include a change in use of land or allowable use of property (rather instead it changes the density/intensity of allowable use), the proposed amendment meets the second de minimis criterion.
3. **Provision of public notice:** The City provided public notice via newspaper notice in advance of both the Planning Commission hearing (held on July 16, 2019) and the City Council hearing (held on August 13, 2019) where the proposed amendment was considered, and ultimately approved locally by the City Council on August 13, 2019. The amendment submittal was subsequently received by the Commission and filed as complete on September 23, 2019, approximately six weeks later. Therefore, the minimum 21-day noticing time frame requirement has been satisfied, and the proposed amendment meets the third and final de minimis criterion.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are *not* required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the City exempted the proposed amendment from environmental review under CEQA (citing Title 14 of the California Code of Regulations (CCR) Section 15061(b)(3)).

The Coastal Commission is *not* exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, and has concluded that approval of the proposed amendment is not expected to result in any significant adverse environmental effects, including as those terms are understood in CEQA. Thus, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects due to approval of the proposed amendment that would necessitate such changes. Thus, the proposed amendment will not result in any significant adverse environmental

effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its October 18, 2019 meeting at the Chula Vista City Council Chambers, 276 Fourth Avenue, Chula Vista, CA 91910. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Kevin Kahn at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by 5:00 p.m. on October 11, 2019.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on September 23, 2019. The proposed amendment affects the LCP's LUP, and the 90-working-day deadline for the Commission to take action on it is February 4, 2020. Thus, unless the Commission extends the action deadline (it may be extended by up to one year by the Commission per the Coastal Act), the Commission has until February 4, 2020 to take a final action on this LCP amendment.

Exhibit

Exhibit 1: Proposed LUP Amendment