

CALIFORNIA COASTAL COMMISSION

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



F14a

DATE: July 18, 2019

TO: Commissioners and Interested Parties

FROM: John Ainsworth, Executive Director

SUBJECT: **City of Santa Barbara LCP Amendment No. LCP-4-SBC-18-0062-1 (LUP Update):** Executive Director's determination that action by the City of Santa Barbara, acknowledging receipt, acceptance, and agreement with the Commission's certification with suggested modifications, is legally adequate. This determination will be reported to the Commission at the Friday, August 9, 2019 hearing in Eureka.

On May 9, 2019, the Commission approved Local Coastal Program Amendment No. LCP-4-SBC-18-0062-1 with suggested modifications. The subject amendment comprehensively updates the Land Use Plan portion of the City's certified Local Coastal Program (LCP).

On July 17, 2019, the City Council of Santa Barbara adopted Resolution No. 19-049 (attached) acknowledging receipt of the Commission's certification of LCP Amendment No. LCP-4-SBC-18-0062-1 and accepting and agreeing to all modifications suggested by the Commission. The document was transmitted to Commission staff on July 17, 2019.

Pursuant to Section 13544 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the action taken by the City of Santa Barbara acknowledging receipt and acceptance of, and agreement with the Commission's certification of the above referenced LCP amendment with suggested modifications is legally adequate and report that determination to the Commission. The certification shall become effective unless a majority of the Commissioners present object to the Executive Director's determination.

I have reviewed the City's acknowledgement, acceptance of, and agreement with the terms and suggested modifications to LCP Amendment LCP-4-SBC-18-0062-1, as certified by the Commission on May 9, 2019, as contained in the adopted City Council Resolution of July 17, 2019, and find that the City's action and notification procedures for appealable development are legally adequate to satisfy the terms and requirements of the Commission's certification. I therefore recommend that the Commission concur in this determination.

RESOLUTION NO.19-049

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION (CCC) RESOLUTION OF CERTIFICATION OF A LOCAL COASTAL PROGRAM (LCP) AMENDMENT (PLN2018-00070 / LCP-4-SBC-18-0062-1) AND ACCEPTANCE OF THE SUGGESTED MODIFICATIONS INCLUDED IN THAT RESOLUTION OF CERTIFICATION

WHEREAS, in 1981, the California Coastal Commission (CCC) originally certified and subsequently certified amendments to the Coastal Land Use Plan (LUP) of the City's Local Coastal Program (LCP) including Land Use Maps ("Land Use Plan" dated August 1980 and "Land Use Plan Waterfront" dated December 1980) pertaining to the main body of the City's Coastal Zone (the Airport and Goleta Slough area of the City are covered by a separate Airport LCP and are not subject to this resolution);

WHEREAS, §30514 of the California Coastal Act (Coastal Act) provides that all amendments to a certified LCP shall be submitted to, and processed by the CCC, in accordance with §30512 and §30513 of the Coastal Act;

WHEREAS, on September 30, 2010, the Planning Commission certified the Final Program Environmental Impact Report for the 2011 General Plan Update, made the necessary California Environmental Quality Act (CEQA) findings, and recommended to City Council approval of the 2011 General Plan and associated General Plan Map;

WHEREAS, on December 1, 2011 the City Council considered the certified Final Program Environmental Impact Report for the Plan Santa Barbara General Plan Update and an Addendum to the Final Program Environmental Impact Report for the Plan Santa Barbara General Plan Update, made the necessary CEQA findings, and adopted the 2011 General Plan including the General Plan Map. Implementation of the 2011 General Plan and General Plan Map in the Coastal Zone requires an LCP Amendment and certification by the CCC;

WHEREAS, following adoption of the 2011 General Plan and General Plan Map in 2011, the City Council adopted additional significant plans and policies including further revisions to the General Plan Map in 2013, the 2012 Climate Action Plan, the 2012 Historic Resources Element, the 2013 Safety Element, the 2015 Housing Element, and the 2017 New Zoning Ordinance (Santa Barbara Municipal Code Title 30), and to implement these policies and ordinances in the Coastal Zone requires an LCP Amendment and certification by the CCC;

WHEREAS, on January 8, 2014, the City received a \$123,000 grant from Round 1 of the CCC LCP Local Assistance Grant Program to update the City's LCP consistent with the Coastal Act;

WHEREAS, with acceptance of the CCC grant, the City committed to update the LCP in part by: 1) comprehensively updating the City's Coastal LUP and Land Use Maps to include appropriate recently adopted City plans and ordinances, such as the 2011 General Plan, as well as include climate change adaptation actions; 2) updating a targeted portion of the Implementation Plan (IP); and 3) encouraging citizen participation throughout the planning process;

WHEREAS, other major objectives of updating the Coastal LUP include modernizing and making the Coastal LUP a stand-alone document, and to provide more detailed guidance for certain emerging and controversial issue areas, including sea level rise;

WHEREAS, on March 18, 2014, City Council held a duly noticed public hearing and adopted Resolution No. 14-012 to initiate an LCP Update process to conclude with submittal of an LCP Amendment application to the CCC for certification;

WHEREAS on April 10, 2014, the Planning Commission held a duly noticed public hearing to receive an overview of the LCP Update Work Program;

WHEREAS, in November 2014, an LCP Update Subcommittee was formed and comprised of three members each of the City Planning Commission, Parks and Recreation Commission, and Harbor Commission. The LCP Update Subcommittee periodically met with staff from 2014 – 2017 at duly noticed public meetings to review the Draft Coastal LUP approach, content, and format, and other LCP work products;

WHEREAS, since 2014, Planning Division staff continually consulted with other City staff including those from Parks and Recreation Department, Waterfront Department, Public Works Department, City Administrator's Office, and City Attorney's Office to ensure Draft Coastal LUP policies were supportable throughout the City organization;

WHEREAS, since 2014, the City worked diligently and collaboratively with CCC staff to produce multiple drafts of the Coastal LUP, including a complete submittal of the Preliminary Draft Coastal LUP to the CCC staff in March 2016;

WHEREAS, in April 2016, CCC staff submitted extensive written comments on the Preliminary Draft Coastal LUP, resulting in a delay of the planned public release and outreach effort for the Draft Coastal LUP;

WHEREAS, on June 7, 2016, City Council authorized staff to submit an application for grant funds from Round 3 of the CCC LCP Local Assistance Grant Program;

WHEREAS, on August 12, 2016, the City received a \$285,892 grant from Round 3 of the CCC LCP Local Assistance Grant Program that was subsequently amended to increase by \$10,000 to \$295,892 to allow the City to continue and complete the LCP Update, including a complete overhaul of the Coastal LUP, a public outreach program, a Sea Level Rise Adaptation Plan, and policy development for Lower-Cost Visitor-Serving Accommodation;

WHEREAS, on September 27, 2016, City Council held a duly noticed public hearing to receive a status report on the LCP Update, accept the grant funds from Round 3 of the CCC LCP Local Assistance Grant Program, and direct staff to continue working on the LCP Update;

WHEREAS, on July 7, 2017, Planning Division staff submitted to CCC staff a revised Preliminary Draft Coastal LUP;

WHEREAS, in October 2017, the Public Outreach Program was initiated for the Draft Coastal LUP in preparation of a public Open House including: a mailed postcard notice to approximately 379 owners of properties potentially affected by new shoreline hazard, creek, and/or other policies proposed in the Draft Coastal LUP; a "City News in Brief" announcement; City Land Development Team e-bulletin announcement; an LCP Update webpage; email notifications to interested parties; posted Open House posters in the Coastal Zone and other areas of the City; newspaper display ads; and media release;

WHEREAS, on November 11, 2017, the Public Review Draft Coastal LUP was released for a 60-day public review period, concurrent with a public Open House attended by approximately 50 people;

WHEREAS, in November 2017, the Parks and Recreation Commission, Harbor Commission, and Creeks Advisory Committee each held duly noticed public hearings to receive informational presentations on the Draft Coastal LUP;

WHEREAS, from November 2017 to January 2018, Planning Division staff presented the Draft Coastal LUP at seven stakeholder meetings including local environmental groups, permit planners, architects, and Santa Barbara City College staff;

WHEREAS, on January 10, 2018, mailed notice of availability of the Draft Coastal LUP and March 1, 2018, Planning Commission hearing was sent to approximately 30 federal and state agencies as follow-up to an email notice provided to the local/regional office of the agency in November 2017;

WHEREAS, by January 11, 2018, six written comment letters were received on the Public Review Draft Coastal LUP for consideration by staff in preparing the Planning Commission Review Draft Coastal LUP;

WHEREAS, on March 1, 2018, the Planning Commission held a duly noticed public hearing to consider a recommendation to the City Council on: 1) A General Plan Map Amendment; and 2) An LCP Amendment (PLN2018-00070) comprised of an update to the Coastal LUP and General Plan Land Use Map for the Coastal Zone, and voted 6/1 to adopt Planning Commission Resolution No. 006-18 and forward the LCP Amendment to the City Council with a recommendation for approval;

WHEREAS, following the Planning Commission's motion to adopt Planning Commission Resolution No. 006-18, additional edits were made to the Draft Coastal LUP by City staff based on further consultation with CCC staff and in response to City staff and public comments;

WHEREAS, the City Council hearing originally scheduled for April 24, 2018, was postponed due to certain mailed notification procedures not being adequately met for both the scheduled City Council hearing and the previous March 1, 2018, Planning Commission hearing;

WHEREAS, due to the need to return to Planning Commission to comply with mailed noticing requirements prior to that hearing, Planning Division staff took the opportunity to update the proposed General Plan Map Amendment and LCP Amendment and incorporate changes in response to Planning Commission direction, public comment received, and further consultation with CCC staff;

WHEREAS, the City's Environmental Analyst conducted environmental review and made a determination that the proposed LCP Amendment, composed of a Coastal LUP and an LCP Land Use Map, and City Council action to adopt the LCP Amendment and forward the LCP Amendment to the CCC for certification are exempt from the CEQA pursuant to Public Resources Code §21080.9 and State California Environmental Quality Act Guidelines §15265;

WHEREAS, all public noticing required pursuant to the Santa Barbara Municipal Code, California Code of Regulations Title 14, §13515, and California Government Code §65353 was completed for a June 21, 2018, Planning Commission hearing to consider a recommendation to the City Council on a General Plan Map Amendment and LCP Amendment (PLN2018-00070);

WHEREAS, on June 21, 2018, the Planning Commission held a duly noticed public hearing to consider a recommendation to the City Council on an LCP Amendment

(PLN2018-00070), that shall not take effect until it has been certified by the CCC, to repeal the existing LCP LUP (entitled "Local Coastal Plan"; originally certified by the CCC in 1981 and subsequently amended by the City of Santa Barbara City Council and CCC) in its entirety and approve a new LCP LUP entitled "Coastal Land Use Plan"; and 2) Repeal the existing LCP Land Use Plan Maps and approve a new LCP Land Use Map, which includes various land use designation changes, and voted 5/1 to adopt Planning Commission Resolution No. 018-18 and forward the LCP Amendment to the City Council with a recommendation of approval;

WHEREAS, following the Planning Commission's motion to adopt Planning Commission Resolution No. 018-18, additional minor text and figure edits were made to the Draft Coastal LUP as described below:

Chapter 2.2 text was amended to clarify the extent of the Tidelands Grant and a footnote was added describing the history of the Naval Reserve Center;

Chapter 3.1 text was amended to delete the footnote reference to the mean high tide line;

Figure 3.1-1 and associated text were amended for clarification; and

Figure 4.3-1 was amended for clarification.

WHEREAS, all public noticing required pursuant to the Santa Barbara Municipal Code, California Code of Regulations Title 14, §13515, and California Government Code §65353 was completed for an August 7, 2018, City Council hearing to consider a General Plan Map Amendment and LCP Amendment (PLN2018-00070);

WHEREAS, on August 7, 2018, City Council held a duly noticed public hearing to consider approving a LCP Amendment (PLN2018-00070) to: (1) Repeal the existing LCP Land Use Plan in its entirety and approve a new Land Use Plan; and (2) Repeal the existing LCP Land Use Maps in their entirety and approve a new Land Use Map, which includes various land use designation changes, and unanimously voted to adopt City Council Resolution No. 18-059, which resolved that:

Section 1. The Council of the City of Santa Barbara hereby approves LCP Amendment (PLN2018-00070) that shall not take effect until it has been certified by the CCC to:

A. Repeal the existing LCP Land Use Plan (entitled "Local Coastal Plan"; originally certified by the CCC in 1981 and subsequently amended by the City of Santa Barbara City Council and CCC) in its entirety and approve a new LCP Land Use Plan entitled "Coastal Land Use Plan"; and

B. Repeal the existing LCP Land Use Maps (entitled "Land Use Plan" dated August 1980 and "Land Use Plan Waterfront" dated December 1980; originally certified by the CCC in 1981 and subsequently amended by the City of Santa Barbara City Council and CCC) in their entirety and approve a new LCP Land Use Map entitled "Local Coastal Program Land Use Map," which includes various land use designation changes. Land use designations on the LCP Land Use Map will serve as the General Plan land use designations in the Coastal Zone for the purposes of reviewing non-Coastal Development Permit applications.

Section 2. The City's certified LCP, including this amendment shall be implemented in a manner fully in conformity with the Coastal Act of 1976.

Section 3. The Council of the City of Santa Barbara directs the Community Development Director to prepare the LCP Amendment application for submission to the CCC for review and certification.

Section 4. The LCP Amendment shall take effect automatically upon CCC certification, unless the Coastal Commission proposes suggested modifications to the proposed LCP Amendment. In the event that the CCC certifies the LCP Amendment with suggested modifications, City Council approval of the modified LCP Amendment shall require a separate action by the City Council following CCC certification. In this case, the LCP Amendment would become effective on the date the CCC concurs at public hearing that the City Council properly accepted the modified LCP Amendment with suggested modifications.

WHEREAS, on August 21, 2018, an LCP Amendment application (LCP-4-SBC-18-0062-1) was submitted to the CCC South Coast office for the comprehensively updated Coastal Land Use Plan and updated LCP Land Use Map;

WHEREAS, on September 5, 2018, CCC staff notified the City that, pursuant to Article 15, §13551 and §13552 of the Commission's regulations, additional information on (1) Public Parking and (2) Cumulative Impacts Analysis was required to deem the LCP Amendment application complete;

WHEREAS, on October 23, 2018, the City submitted to the CCC (1) Additional information on parking, (2) Additional specificity of the proposed land use map designation changes and cumulative impacts analysis, and (3) Signed City Council minutes of the August 7, 2018 hearing;

WHEREAS, on November 7, 2018, CCC notified the City that the CCC Executive Director had deemed that the LCP Amendment complied with the submittal requirements of Coastal Act §30510(b);

WHEREAS, pursuant to Coastal Act §30512 and California Code of Regulations, Title 14, §13522, the LCP Amendment was required to be scheduled for public hearing and acted on by the CCC no later than 90 days from the date the amendment was properly submitted;

WHEREAS, on December 14, 2018, the CCC held a duly noticed public hearing to consider, pursuant to Coastal Act §30517 and California Code of Regulations, Title 14, §13535(c), extending the 90 day time limit to act on the LCP Amendment to one year, and voted to approve the time extension;

WHEREAS, on May 9, 2019, the CCC held a duly noticed public hearing to consider the LCP Amendment, and unanimously voted to certify the LCP Amendment with twenty-three (23) suggested modifications;

WHEREAS, on May 15, 2019, the CCC submitted a Resolution of Certification of the LCP Amendment, final suggested modifications, and procedural requirements to make the LCP Amendment certification final and effective;

WHEREAS, the CCC's Resolution of Certification of the LCP Amendment with suggested modifications will expire six months from the CCC's action on May 9, 2019;

WHEREAS, the City's Environmental Analyst conducted environmental review and made a determination that City Council action to acknowledge receipt of the CCC's Resolution of Certification of the LCP Amendment and accept and agree to the suggested modifications included therein are exempt from the CEQA pursuant to Public Resources Code §21080.9 and State California Environmental Quality Act Guidelines §15265;

WHEREAS, all public noticing required pursuant to the Santa Barbara Municipal Code, California Code of Regulations Title 14, §13515, and California Government Code §65353 was completed for a June 20, 2019, Planning Commission hearing to consider a recommendation to the City Council on the CCC's Resolution of Certification of the LCP Amendment with suggested modifications;

WHEREAS, on June 20, 2019, the Planning Commission held a duly noticed public hearing to consider a recommendation to City Council on the CCC's Resolution of Certification of the LCP Amendment with suggested modifications, and unanimously voted to adopt Planning Commission Resolution No. 009-19 and forward the Resolution of Certification of the LCP Amendment with suggested modifications to the City Council with a recommendation of approval;

WHEREAS, all public noticing required pursuant to the Santa Barbara Municipal Code, California Code of Regulations Title 14, §13515, and California Government Code

§65353 was completed for a July 16, 2019, City Council hearing to consider the CCC's Resolution of Certification of the LCP Amendment with suggested modifications;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT:

Section 1. The Council of the City of Santa Barbara hereby:

- A. Acknowledges receipt of the CCC's Resolution of Certification of the LCP Amendment (PLN2018-00070 / LCP-4-SBC-18-0062-1), with twenty-three (23) suggested modifications, a copy of which is attached to this Resolution as Exhibits A and B, incorporated herein by this reference;
- B. Accepts and agrees to the twenty-three (23) suggested modifications included in the Resolution of Certification; and
- C. Agrees to issue coastal development permits for the total area included in the certified Local Coastal Program.

Section 2. The LCP Amendment shall take effect automatically after the following actions occur:

- A. The CCC Executive Director determines that the City's action and notification procedures are legally adequate to satisfy the CCC's certification order.
- B. The CCC Executive Director reports the determination to the CCC at its next regularly scheduled public meeting and the CCC does not object to the determination.
- C. Notice of the certification of the LCP Amendment is filed with the Secretary of Resources Agency for posting and inspection.

Exhibits:

A: CCC Resolution of Certification of LCP Amendment No. LCP-4-SBC-18-0062-1

B: CCC Final Suggested Modifications to LCP Amendment No. LCP-4-SBC-18-0062-1

Exhibit A

**CCC Resolution of Certification of LCP Amendment
No. LCP-4-SBC-18-0062-1**

Due to the volume of the document it may be found on file at the Santa Barbara City Clerk's Office.

CALIFORNIA COASTAL COMMISSION

SOUTHCENTRAL COAST DISTRICT OFFICE
40 SOUTH CALIFORNIA ST. SUITE 200
VENTURA, CA 93001
(805) 385-1827



May 15, 2019

Mayor Cathy Murillo
City of Santa Barbara
P. O. Box 1990
Santa Barbara, CA 93102-1990

RE: Local Coastal Program Amendment No. LCP-4-SBC-18-0062-1 (LUP Update)

Dear Mayor Murillo,

On May 9, 2019 the Coastal Commission approved LCP Amendment No. LCP-4-SBC-18-0062-1 with twenty-three (23) suggested modifications. The Commission's resolution of certification is contained in the staff report dated April 25, 2019. The suggested modifications, as approved by the Commission on May 9, 2019, are attached to this correspondence.

Section 13544 of the Commission's Administrative Regulations requires that after certification the Executive Director of the Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the governing authority, and any interested persons or agencies. Further, the certification shall not be deemed final and effective until all of the following occur:

- (a) The local government with jurisdiction over the area governed by the Local Coastal Program, by action of its governing body: (1) acknowledges receipt of the Commission's resolution of certification, including any terms or modifications suggested for final certification; (2) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and (3) agrees to issue coastal development permits for the total area included in the certified Local Coastal Program. Unless the local government takes the action described above, the Commission's certification with 23 suggested modifications *shall expire six months* from the date of the Commission's action.
- (b) The Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development required pursuant to Article 17, Section 2 are legally adequate to satisfy any specific requirements set forth in the Commission's certification order.
- (c) The Executive Director reports the determination to the Commission at its next regularly scheduled public meeting and the Commission does not object to the Executive Director's determination. If a majority of the Commissioners present object to the Executive Director's determination and find that the local government action does not conform to the provisions of the Commission's action to certify the Local Coastal Program Amendment, the Commission shall review

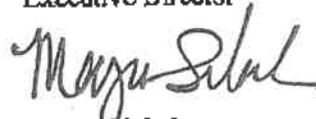
the local government's action and notification procedures pursuant to Articles 9-12 as if it were a resubmittal.

- (d) Notice of the certification of the Local Coastal Program Amendment shall be filed with the Secretary of Resources Agency for posting and inspection as provided in Public Resources Code Section 21080.5(d)(2)(v).

The Commission and staff greatly appreciate the City's consideration of this matter.

Authorized on behalf of the California Coastal Commission by:

John Ainsworth
Executive Director



By: Megan Sinkula
Coastal Program Analyst

cc: Daniel Gullett, Principal Planner, City of Santa Barbara
George Buell, Community Development Director, City of Santa Barbara
Melissa Hetrick, Project Planner, City of Santa Barbara

Exhibit B

Final Suggested Modifications LCP Amendment No. LCP-4-SBC-18-0062-1 City of Santa Barbara Land Use Plan Update

SUGGESTED MODIFICATIONS TO THE LAND USE PLAN

The City's proposed and approved amendment language to the certified Land Use Plan is shown in straight type. Language approved by the Commission to be modified is shown in ~~line-out~~ and underline. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in *italics*.

SUGGESTED MODIFICATION NO. 1

Anywhere in LUP where "psuedostatic" is mentioned, it shall be replaced with "pseudostatic."

SUGGESTED MODIFICATION NO. 2

Figure 5.1-2 Coastal Bluff Edge shall be revised to show the location of the historic bluff edge depicted on Exhibit 5.

SUGGESTED MODIFICATION NO. 3

Policy 1.2-3 Property Takings.

- A. The Local Coastal Program (LCP) is not intended, and shall not be construed as authorizing the City acting pursuant to the LCP or the Coastal Act, to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefore. The LCP and Coastal Act are ~~is~~ not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.
- B. Where full adherence to all LCP policies and standards would preclude a reasonable ~~economic~~ use of a lawfully created property as a whole, the City may allow the minimum ~~economic~~ use and development of the property necessary to avoid an unconstitutional taking of private property without just compensation. An applicant who requests such a takings override must provide, as part of any coastal development permit application, evidence sufficient to support its request and to make the findings required pursuant to subsection C. below. There is no taking that needs to be avoided if the proposed development constitutes a nuisance or is otherwise prohibited pursuant to other background principles of property law (e.g., public trust doctrine). Continued use of an existing structure, including with any permissible repair and maintenance, may provide a reasonable ~~economic~~ use. If development is allowed pursuant to this policy, it must be consistent with all policies and standards of the LCP to the maximum extent feasible.
- C. A Coastal Development Permit that allows a deviation from a policy or standard of the LCP to provide a reasonable ~~economic~~ use of property may be approved or conditionally approved only if the City makes the following findings:

- i. Based on detailed economic, ownership, and land use information provided by the applicant, as well as any other relevant evidence, each use allowed by the policies and standards of the LCP would not provide ~~an economically viable~~ reasonable use of the applicant's lawfully created property.
 - ii. Application of the policies and/or standards of the LCP would unreasonably interfere with the applicant's reasonable investment-backed expectations;
 - iii. The use proposed by the applicant is consistent with the City's Zoning Ordinance;
 - iv. The use and development design, siting, and size are the minimum necessary to avoid a taking;
 - v. The project is the least environmentally damaging feasible alternative and is consistent with all policies and standards of the LCP other than the provisions for which the deviation is requested; and
 - vi. The development will not be a public nuisance or violate other background principles of the state's law of property (e.g., public trust doctrine). If it would violate any such background principle of the state's law of property, the development shall be denied.
- D. The City's Zoning Ordinance should be amended to incorporate the findings listed above for coastal development permits that involve takings override.

SUGGESTED MODIFICATION NO. 4

Policy 1.2-6 Relationship with General Plan. Where there are conflicts between the policies set forth in the Coastal LUP and those set forth in any other element in the City's General Plan or regulations, the policies of the Coastal LUP shall take precedence.

SUGGESTED MODIFICATION NO. 5

Policy 2.1-19 Nonconforming Development. The following apply to development that is nonconforming with relation to the policies of the Coastal LUP:

...

- G. Alterations or additions to a legal nonconforming structure or site development may be permitted ~~as may be reasonably~~ if necessary to comply with any lawful order of any public authority, such as seismic safety requirements, the Americans with Disabilities Act, or a Notice and Order of the Building Official, made in the interest of the public health, welfare, or safety, only if the following criteria are met:
 - i. A nonconforming alteration or addition shall only be allowed if it does not exceed the minimum dimension or extent required by the Building Code and if there is no feasible conforming method for achieving the same or similar result; and
 - ii. An alteration or addition that results in substantial redevelopment of the nonconforming structure or site shall be considered new development that shall conform to all policies of the Coastal LUP.

SUGGESTED MODIFICATION NO. 6

Policy 2.1-27 Substantial Redevelopment³. A substantial redevelopment is defined as follows:

- A. For Areas Within: Potential Shoreline Hazards Screening Areas 1 (City-Owned Low-Lying Beach and Backshore Areas), 2 (Bluff-Backed Beaches), 3 (Coastal Bluff Faces), 4 (Coastal Bluff-Tops), and 5 (Stearns Wharf and Harbor) on Figure 5.1-1 *Interim Shoreline Hazards Screening Areas*; 35' of the top of bank of Mission Creek; 50' of the top of bank of Arroyo Burro, Sycamore Creek, or Laguna Channel; 100' from the portions of Arroyo Burro, Mission Creek, and Sycamore Creek Estuaries south of Cliff Drive and Cabrillo Boulevard; 100' from Andrée Clark Bird Refuge; and the canyons on both sides of Arroyo Honda, Mesa Creek, or Lighthouse Creek as generally depicted on Figure 4.1-4 *Minimum Habitat Buffers for Mesa Creek, Lighthouse Creek, and Arroyo Honda*.
- i. A substantial redevelopment occurs when ~~either one~~ one of the ~~two~~ three conditions below cumulatively takes place following the date of certification of the Coastal LUP:
 - a. More than 50 percent of the structural elements of the roof or roof framing are replaced, structurally altered, or removed;
 - b. More than 50 percent of the structural components of exterior walls (or vertical supports such as posts or columns when a structure has no walls) of a structure are replaced, structurally altered, removed, or are no longer a necessary and integral structural component of the overall structure; or
 - c. More than 50 percent of the foundation system is replaced, structurally altered, removed, or is no longer a necessary and integral structural component of the overall structure, including, but not limited to: perimeter concrete foundation, retaining walls, post and pier foundations, or similar element(s) that connect a structure to the ground and transfers gravity loads from the structure to the ground.
 - ii. Fences, patios, decks, staircases, or similar structures shall be considered to be substantially redeveloped when more than 50 percent of either the lineal feet or area of the structure is replaced, structurally altered, or removed cumulatively following the date of certification of the Coastal LUP.
- B. All other areas not described in subsection A.
- i. A substantial redevelopment occurs when a structure is either completely demolished or at least two of the three conditions below take place within any five-year period:
 - a. More than 50 percent of the structural elements of the roof or roof framing are replaced, structurally altered, or removed;
 - b. More than 50 percent of the structural components of exterior walls (or vertical supports such as posts or columns when a structure has no walls) of a structure are replaced, structurally altered, removed, or are no longer a necessary and integral structural component of the overall structure; and/or
 - c. More than 50 percent of the foundation system is replaced, structurally altered, removed, or is no longer a necessary and integral structural

component of the overall structure, including, but not limited to: perimeter concrete foundation, retaining walls, post and pier foundations, or similar element(s) that connect a structure to the ground and transfers gravity loads from the structure to the ground.

- ii. Fences, patios, decks, staircases, or similar structures, shall be considered to be substantially redeveloped when more than 50 percent of either the lineal feet or area of the structure is replaced, structurally altered, or removed.
- C. The calculation for determining what percentage of a wall has been replaced, structurally altered, or removed will be based on a horizontal measurement of the perimeter exterior wall removed between the structure's footings and the structure's ceiling. The calculation for determining what percentage of the roof or foundation system has been replaced, structurally altered, or removed will be based on the lineal feet of the foundation system, count of post and piers, or overall square footage of that individual element.
- D. When any portion of a structure or site development is located within areas described in subsection A, the entire structure or site development shall be subject to the definition of substantial redevelopment contained in subsection A.
- E. When, in the determination of the Community Development Director, there exists the potential for a project to result in a substantial redevelopment, the applicant shall submit written verification from a registered structural engineer certifying that the roof, exterior walls, and foundation shown to remain are structurally sound and will not be required to be removed or replaced for the project. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the City that they are aware of the City's definition of a substantial redevelopment and the penalties associated with an unlawful substantial redevelopment.

³ The application of the definition of substantial redevelopment contained in subsections A. or B. is dependent upon whether any portion of a structure or site development is within areas subject to potential shoreline hazards relating to erosion (from coastal bluff erosion, slope failure, and beach erosion) or wave impact hazards factoring in the effects of sea level rise, and/or from potential erosion hazards from creeks, as described in subsection A. The definition for substantial redevelopment in these hazards areas is stricter so as to achieve conformance with the hazard related policies of the Coastal LUP as soon as possible.

SUGGESTED MODIFICATION NO. 7

Policy 3.1-2 Lateral Access Along the Coast. ~~Lateral A~~ccess along the beach in the bluff area is a public right, ~~and~~ ~~p~~ublic access opportunities along the coast shall be maximized consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. No attempts to prohibit or interfere with the public's lawful use of the beach area shall be allowed.

SUGGESTED MODIFICATION NO. 8

Policy 3.1-14 Requirements for New City Parking Programs. New City programs for management of on-street parking (e.g., preferential parking programs, priced parking, etc.),

significant reductions in on-street parking, or amendments to Zoning Ordinance off-street parking requirements shall not result in a significant increased use of any Key Public Access Parking Area (see Policy 3.1-35 *Locations of Key Public Access Parking Areas*) ~~with or without mitigation~~. Any mitigation proposed as part of the project or required as a condition of approval to avoid significant increased use of Key Public Access Parking Areas (e.g., addition of public access parking, supplemental methods of public access, etc.) shall be implemented prior to or concurrent with implementation of the new city parking program.

Policy 3.1-30 Preserve Existing Key Public Access Parking. Preserve public parking in existing Key Public Access Parking Areas (see Policy 3.1-35 *Locations of Key Public Access Parking Areas*) where safe, appropriate, and feasible. Permanent restrictions or reductions of public parking in Key Public Access Parking Areas (including seasonal restrictions) shall only be allowed if the restriction or reduction, ~~with or without mitigation (1:1 replacement or comparable mitigation)~~, does not result in a significant adverse impact to public access to the shoreline and coastal recreation areas. Mitigation required to avoid a significant adverse impact to public access shall include the provision of 1:1 replacement parking or a comparable mitigation measure such as providing facilities for active transportation. The evaluation of impact(s) of a restriction or reduction of public parking may include public access mitigation measures proposed as part of the project (e.g. bus stop enhancements, bicycle parking, etc.). Mitigation shall be implemented prior to or concurrent with implementation of the restriction or reduction of public parking.

Policy 3.1-31 Public Use of Key Public Access Parking Areas. Public parking lots in the Key Public Access Parking Areas (see Policy 3.1-35 *Locations of Key Public Access Parking Areas*) shall only be for public use, except as allowed by the City for temporary special events consistent with Policy 3.1-25 *Minimize Impacts of Temporary Events*, for Harbor coastal-dependent and Harbor coastal-related uses, for existing lease space (tenant and use can change) on City owned property in the Waterfront Beaches/Harbor Component Area and County owned property in the Arroyo Burro County Beach Park, and under existing agreements with Santa Barbara City College. Use of Key Public Access Parking Areas to accommodate parking for an expansion of or substantial redevelopment of lease space on City owned property in the Waterfront Beaches/Harbor Component Area and County owned property at Arroyo Burro County Beach Park may be allowed if the new lease area will not, ~~with or without mitigation,~~ result in a net increase parking demand in Key Public Access Parking Areas that results in a significant adverse impact to public access to the shoreline and coastal recreation areas.

SUGGESTED MODIFICATION NO. 9

Policy 3.1-36 Evaluation of Permanent Reductions or Restrictions of Parking in Key Public Access Parking Areas.

- A. An evaluation of impacts to public access to the shoreline and coastal recreation areas shall be required as part of a coastal review process if any of the following permanent restrictions or reductions of public parking in Key Public Access Parking Areas are proposed:
- i. New parking agreements or alterations of Key Public Access Parking Areas that change a Key Public Access Parking Area to a use other than access to the shoreline, coastal recreation areas, Stearns Wharf, the Harbor, or existing lease space on City owned property in the Waterfront Beaches/Harbor Component Area and County owned property at Arroyo Burro Beach County Park;
 - ii. New parking time regulations that would limit the public's ability to park at or near a coastal access area to less than four consecutive hours. ~~New time restrictions of less than 4 hours affecting small portions of the existing parking (considered to be no more than a 10% change in the parking serving a certain coastal access area) would not trigger evaluation.~~ The coastal access areas referred to in this policy include: Cliff Drive Overlook, Arroyo Burro Beach Park, Douglas Family Preserve, Mesa Lane Stairs, La Mesa Park, Thousand Steps, Shoreline Park, Leadbetter Beach, Santa Barbara Harbor, West Beach, Stearns Wharf, East Beach, and André Clark Bird Refuge;
 - iii. New parking time regulations that would permit long-term parking (defined as greater than 72 consecutive hours) in public parking lots within a Key Public Access Parking Area other than the Harbor Main lot; or
 - iv. New substantial increases in hourly parking fees in any Key Public Access Parking Area (defined as more than a \$0.50/hour increase in a five percent increase in any ten-year consecutive period beyond the change in inflation as measured by consumer price index during the same time period).
- B. An evaluation of impacts to public access to the shoreline and coastal recreation shall not be required for actions taken to meet the required minimum driveway access for use of a property or to comply with the minimum requirements of the Americans with Disabilities Act.
- C. Should any permanent restrictions or reductions of public parking in Key Public Access Parking Areas not listed above in Subsection A have the potential to result in adverse impacts to public access to the shoreline and coastal recreation areas, then the Environmental Analyst may require an evaluation of impacts to public access to the shoreline and coastal recreation areas as a part of a coastal review process.
- D. If the City determines, based upon its review of the evaluation completed pursuant to Subsections A and C above, that an adverse impact to public access to the shoreline or coastal recreation areas would occur, then the proposed project shall be considered development that requires either an exemption determination or a Coastal Development Permit. In no case shall the project be considered exempt from a Coastal Development Permit if it would result in a substantial adverse impact to public access to the shoreline or coastal recreation.

SUGGESTED MODIFICATION NO. 10

Policy 4.1-15 ESHA, Wetland, and Creek Habitat Buffers.

Other ESHAs

Monarch butterfly aggregation sites, including autumnal and winter roost sites	100 feet from outer edge of habitat except that where a 100-foot buffer is not feasible, the habitat buffer may be reduced to the largest feasible habitat buffer, but in no case less than 50 feet. The habitat buffer shall be sufficient to preserve the environmental conditions of the grove including light, temperature, humidity, and wind.
Native perennial grasslands	50 feet from the outer edge of habitat.
<u>Oak woodland</u>	<u>50 feet from the outer edge of tree canopy except that where a 50-foot buffer is not feasible, the habitat buffer may be reduced to the largest feasible habitat buffer, but in no case less than 25 feet.</u>
Oak woodland Southern coastal bluff scrub Associations of coastal sage scrub and chaparral meeting the definition of ESHA	25 feet from the outer edge of habitat or tree canopy.

SUGGESTED MODIFICATION NO. 11

Policy 4.1-18 Reduction of ESHA, Wetland, and Creek Habitat Buffers. It is the goal of the City to move as many structures as possible outside of minimum required habitat buffers for ESHAs, wetlands, and creeks. However, there may be existing legally established lots that are severely constrained where reasonable use of the property may not be feasible outside of minimum required habitat buffers. This policy addresses the rare cases when a reduction of minimum required habitat buffers may be allowed for new development and substantial redevelopment on severely constrained lots.

- A. For private development, a reduction of minimum required habitat buffers for ESHAs, wetlands, and creeks shall only be allowed if all of the following findings can be made:
 - i. The reduction in minimum required habitat buffer is necessary to provide reasonable use of a legally established lot that cannot feasibly be accommodated outside the minimum required habitat buffer.
 - ii. There are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, that make it a severely constrained lot; Reduction of minimum required habitat buffers shall be the minimum necessary to accommodate a reasonable use of the lot;

- iii. Reductions of minimum required habitat buffers shall not be granted to accommodate accessory structures;
 - iv. The development allowed on the lot (outside and inside the minimum required habitat buffers) shall only include the following and not exceed:
 - a. A principal structure that is the minimum size necessary to provide a reasonable use of the property but in no case exceeds the square footage of the existing permitted principal structure(s) on the lot or 1,200 square feet in cases where the existing permitted principal structure(s) (excluding garage) is less than 1,200 square feet or there is no existing principal structure;
 - b. A garage or parking area, as applicable, sized to meet minimum parking requirements. Garages shall be integrated into the principal structure;
 - c. The least amount of development necessary to provide ingress and egress to and from the principal structure/garage/parking area; and
 - d. Development allowed within habitat buffers, ESHAs, creeks, and wetlands pursuant to Policies 4.1-6 *Allowed Uses in Terrestrial ESHAs*, 4.1-7 *Diking, Filling, or Dredging of Coastal Waters and Wetlands*, 4.1-9 *Substantial Alteration of Creeks*, and 4.1-17 *Development within Habitat Buffer Areas*.
 - v. All of the findings in subsection C. below.
- B. For public development, reduction of minimum required habitat buffers for ESHAs, wetlands, and creeks shall only be allowed if the reductions in minimum required habitat buffers are necessary for the construction of public works that cannot feasibly be provided outside the required habitat buffer. In order to approve reductions of minimum required habitat buffers, all of the findings in subsection C. below shall be made.
- C. A reduction of minimum required habitat buffers shall only be allowed if all of the following findings can be made:
- i. The granting of the reduction of minimum required habitat buffer will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity;
 - ii. The development conforms to the City's Zoning Ordinance;
 - iii. Reductions of minimum required habitat buffers are minimized to the extent feasible through siting and design, including minimizing the development area and siting of the development as far away from the ESHA, creek, or wetland as feasible.
 - iv. Feasible modifications to required development standards that are not related to ESHA, wetland, and creek protection are included in the project to avoid or minimize impacts to ESHAs, wetlands, creeks, or habitat buffers;
 - v. For creeks, the reduced habitat buffer is of sufficient size to avoid hazards from creek erosion and floodways over the economic life of the structure and the project is consistent with the limitations contained in Policy 4.1-9 *Substantial Alteration of Creeks*;
 - vi. The reduced habitat buffer, in combination with siting, design, or other mitigation measures, will not significantly degrade ESHAs, wetlands, creeks, or other coastal waters; and

- vii. Mitigation measures have been incorporated into the project to avoid, minimize, and/or reduce impacts to ESHAs, wetlands, or creeks. Such measures include, but are not limited to restoration or enhancement of disturbed areas, and removal of non-native and/or invasive plant species. An ESHA, wetland, or creek restoration plan shall be required.
- D. A planner consultation that includes review by a City Environmental Analyst and the City Creeks Division shall be required prior to acceptance of any Coastal Development Permit (CDP) application that includes a request for a reduction of minimum required habitat buffers.
- E. A biological evaluation pursuant to Policy 4.1-42 *Biological Evaluations and Wetland Delineations* to assess short-term, long-term, and cumulative impacts shall be required for all requests for a reduction of minimum required habitat buffers. Some evaluations may require peer review by a qualified biologist or equivalent technical specialist(s) in order to be deemed adequate. The City may impose a fee on applicants to recover the cost of review of evaluations.
- F. For creeks, requests for reductions in minimum required habitat buffers shall also require a soils and hydrology evaluation completed by a hydro-geomorphologist or equivalent technical specialist(s) that analyzes the distance from the top of creek bank that might reasonably be expected to erode over the expected life of the principal structure without new creek bank stabilization. Some evaluations may require peer review by a hydro-geomorphologist or equivalent technical specialist(s) in order to be deemed adequate. The City may impose a fee on applicants to recover the cost of review of evaluations.

SUGGESTED MODIFICATION NO. 12

Policy 4.1-34 Overwintering Western Snowy Plover Roosting Areas. New development consisting of temporary events, public restrooms and showers, beach volley ball courts, and other similar minor, at-grade, easily removable recreational equipment, shall avoid areas typically used by overwintering western snowy plover for roosting during the times that the birds are typically present (overwintering season). The number, size, and location of protected roosting areas shall be determined prior to each western snowy plover overwintering season based on the monitoring data from ~~the~~ all available prior years (with the most weight given to the last three years of data) in consultation with a qualified biologist who has experience working with western snowy plover.

SUGGESTED MODIFICATION NO. 13

Policy 5.1-19 Adaptation in Development. New development and substantial redevelopment shall consider the expected life of proposed development in conjunction with the best available information on climate change effects, particularly sea level rise, and incorporate adaptation measures, as needed, in the location, siting, and design of structures in order to minimize hazards and protect coastal resources for the life of the development.

SUGGESTED MODIFICATION NO. 14

Policy 5.1-23 Slope Stabilization and Protection.

- ...
- iii. The development is designed and constructed to assure stability and structural integrity, including meeting an adequate factor of safety (1.5 static conditions; 1.1 pseudostatic conditions) for the expected life of the structure, factoring in the effects of sea level rise; and

SUGGESTED MODIFICATION NO. 15

Policy 5.1-32 Development Standards for Potential Shoreline Hazards Screening Area 3 (Coastal Bluff Faces) on the Interim Shoreline Hazards Screening Areas Map.

- A. New development and substantial redevelopment on coastal bluff faces (area between the toe of the coastal bluff up to coastal bluff edge) shall be limited to:
 - i. Public trails, walkways, engineered staircases, or related public infrastructure to provide public access to the beach and coast;
 - ii. Habitat creation, restoration, and enhancement;
 - iii. Remediation or removal of hazardous materials;
 - iv. Re-establishment of natural landforms that have been altered by previous development activities;
 - v. Replacement of existing subsurface public utility pipes or lines where no inland siting alternative is feasible;
 - vi. Drainage systems consistent with Policy 5.1-39 *Drainage Systems On Coastal Bluff Faces and Coastal Bluff Edge Development Buffers*;
 - vii. Slope stabilization devices and other geotechnical mitigation measures consistent with Policy 5.1-23 *Slope Stabilization and Protection* that are necessary to protect: development that provides coastal public access; existing public structures; drainage systems consistent with Policy 5.1-39 *Drainage Systems on Coastal Bluff Faces and Coastal Bluff Edge Development Buffers*; replacement of existing subsurface public utility pipes or lines where no inland siting alternative is feasible; existing principal structures; other existing habitable structures; existing garages or required parking areas; and minimum required ingress and egress to these existing structures; and
 - viii. Shoreline protection devices that are consistent with Policy 5.1-44 *Shoreline Protection Device Permitting*.
- B. If compliance with subsection A. above would prohibit a reasonable use of a lawfully created lot, Policy 5.1-36 *Reduction of Coastal Bluff Face and Coastal Bluff Edge Development Buffer Standards* or Policy 5.1-37 *Sea Ledge Lane* may apply.
- C. New development and substantial redevelopment shall be sited outside areas subject to beach erosion, coastal flooding, wave impacts, coastal bluff erosion, and coastal bluff slope failure over the expected life of the development to the maximum extent feasible factoring in the effects of sea level rise. If complete avoidance of hazard areas is not feasible, new development and substantial redevelopment shall be sited and designed to minimize impacts of beach erosion, coastal bluff erosion, coastal bluff slope failure, coastal flooding, and wave impacts to life and property; assure stability and structural integrity; and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area over the expected life of the development, factoring in the effects of sea level rise.

¹ ~~In no case shall new development and substantial redevelopment approved following certification of this Coastal LUP or any unpermitted development be considered "existing structures" in the future for the purposes of interpreting this policy of the Coastal LUP.~~

SUGGESTED MODIFICATION NO. 16

Policy 5.1-33 Development Standards for Potential Shoreline Hazards Screening Area 4 (Coastal Bluff-Tops) on the Interim Shoreline Hazards Screening Areas Map.

- A. New development and substantial redevelopment shall be designed and sited to minimize impacts of coastal bluff erosion and coastal bluff slope failure to life and property; assure stability and structural integrity; and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area over the expected life of the development, factoring in the effects of sea level rise.
- B. Except for allowed development outlined in subsection C. below, new development and substantial redevelopment shall be sited landward of a Coastal Bluff Edge Development Buffer. The Coastal Bluff Edge Development Buffer shall be of sufficient size so as to ensure that new development and substantial redevelopment will not be threatened by erosion or slope instability, will not require the use of existing or new slope stabilization devices (~~except those necessary to protect existing public roads~~), and will not require the use of existing or new shoreline protective devices (~~except for existing public roads providing public access to and along the shoreline and coastal recreation areas~~) over its the expected life of the development, factoring in the effects of sea level rise. Policy 5.1-70 *Coastal Bluff Edge Development Buffer Calculation* provides a detailed methodology for site-specific analysis of Coastal Bluff Edge Development Buffers.
- C. New development and substantial redevelopment within Coastal Bluff Edge Development Buffers shall be limited to:
 - i. Development allowed on coastal bluff faces pursuant to Policy 5.1-32 *Development Standards for Potential Shoreline Hazards Screening Area 3 (Coastal Bluff Faces) on the Interim Shoreline Hazards Screening Areas Map*;
 - ii. Landscaping and other plantings consistent with Policy 5.1-38 *Landscaping, Watering, Weight, and Drainage on Coastal Bluff Faces and Coastal Bluff Edge Development Buffers*;
 - iii. Substantial redevelopment, alteration, or relocation of existing public structures and public parking lots where no inland siting alternative is feasible and provided there is no net increase in overall development area. Relocation shall be to a site that has ~~the same or~~ a smaller threat of erosion. Any needed shoreline protection shall be consistent with the policies of this Coastal LUP, including Policy 5.1-44 *Shoreline Protection Device Permitting*; and
 - iv. Patios (constructed of wood, pavers, stone, brick, tile, or similar material) no more than 10 inches above existing grade, walkways, lighting for public safety purposes, fences limited to 42" in height, and vegetation barriers, if they are minor improvements, easily removable (without the use of mechanized equipment), and conform to the following:
 - a. Shall be located at least 10 feet from the coastal bluff edge (fences or other vegetation barriers for safety purposes could be located as close as 5 feet from the bluff edge if there is no other feasible option on the site);

- b. Shall require an evaluation by a qualified California licensed professional (e.g., Professional Geologist, Engineering Geologist, Geotechnical Engineer, or Civil Engineer, as applicable) that shows that the improvement will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area;
 - c. Shall be designed to be visually compatible with the surrounding area; and
 - d. Shall be subject to the conditions listed in Policy 5.1-42 *Conditions for Development in Shoreline Hazard Areas on the Interim Shoreline Hazards Screening Areas Map* and additional conditions of approval that:
 - i. Require proper maintenance of the improvements so that they do not become a safety issue or begin to affect erosion, geologic instability, or destruction of the site or surrounding area;
 - ii. Require that no mechanized construction equipment is used for installation or removal;
 - iii. Require removal of the minor improvements when erosion reaches less than 5 feet from the improvements or if the improvements are otherwise deemed unusable or unsafe due to imminent threat of damage or destruction from geologic instability, erosion, flooding, wave impact hazards, or other hazards associated with development on a coastal bluff or beach; and
 - iv. Limit the approval of the minor improvements to a maximum 20 years from the issuance of the Coastal Development Permit. When the permit term ends, the minor improvements shall be removed unless re-evaluation of the site shows the minor improvements still meet the standards and conditions listed above and a new Coastal Development Permit is approved to retain the minor improvements; and.
- D. If compliance with subsection A., B., and C. above would prohibit a reasonable use of a lawfully created lot, Policy 5.1-36 *Reduction of Coastal Bluff Face and Coastal Bluff Edge Development Buffer Standards* or Policy 5.1-37 *Sea Ledge Lane* may apply.

SUGGESTED MODIFICATION NO. 17

Policy 5.1-36 Reduction of Coastal Bluff Face and Coastal Bluff Edge Development Buffer Standards. It is the goal of the City to move as many structures as possible outside of coastal bluff face and Coastal Bluff Edge Development Buffer areas. However, there may be existing legally established lots that are severely constrained where reasonable use of the property may not be feasible outside of these areas. This policy addresses the rare cases when a reduction of coastal bluff face and Coastal Bluff Edge Development Buffer standards (Policy 5.1-32 *Development Standards for Potential Shoreline Hazards Screening Area 3 (Coastal Bluff Faces)* and 5.1-33 *Development Standards for Potential Shoreline Hazards Screening Area 4 (Coastal Bluff Tops)*) may be allowed for new development and substantial redevelopment on severely constrained lots. Reductions of coastal bluff face and Coastal Bluff Edge Development Buffer standards may be allowed if all of the following findings can be made:

- A. The reduction of coastal bluff face and Coastal Bluff Edge Development Buffer standards is necessary to provide reasonable use of a legally established lot that cannot feasibly be

accommodated outside the coastal bluff face and Coastal Bluff Edge Development Buffer areas.

- B. There are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, that make it a severely constrained lot;
- C. Reduction of coastal bluff face and Coastal Bluff Edge Development Buffer standards shall be the minimum necessary to accommodate a reasonable use of the lot;
- D. The development allowed on the lot (outside and inside the coastal bluff face and Coastal Bluff Edge Development Buffer areas) shall only include the following and not exceed:
 - i. A principal structure that is the minimum size necessary to provide a reasonable use of the property but in no case exceeds the square footage of the existing permitted principal structure(s) on the lot or 1,200 square feet in cases where the existing permitted principal structure(s) (excluding garage) is less than 1,200 square feet or there is no existing principal structure;
 - ii. A garage or parking area, as applicable, sized to meet minimum parking requirements. Garages shall be integrated into the principal structure where feasible;
 - iii. The least amount of development necessary to provide ingress and egress to and from the principal structure/garage/parking area;
 - iv. Decks attached to the principal structure and not requiring additional caissons, slope stability devices, or other geotechnical mitigation measures;
 - v. Fences and natural barriers;
 - vi. Minimal exterior lighting;
 - vii. Any caissons, slope stabilization devices, or other geotechnical mitigation measures necessary to construct the principal structure, garage, and/or adequate ingress and egress to the site that are consistent with Policy 5.1-23 *Slope Stabilization and Protection*; and
 - viii. Development allowed within coastal bluff face and/or Coastal Bluff Edge Development Buffer areas (as applicable) pursuant to Policy 5.1-32 *Development Standards for Potential Shoreline Hazards Screening Area 3 (Coastal Bluff Faces)* and Policy 5.1-33 *Development Standards for Potential Shoreline Hazards Screening Area 4 (Coastal Bluff-Tops)*.
- E. The granting of the reduction of coastal bluff face and Coastal Bluff Edge Development Buffer standards will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity;
- F. The development conforms to the City's Zoning Ordinance;
- G. Compliance with coastal bluff face and Coastal Bluff Edge Development Buffer Standards (including Policy 5.1-32 *Development Standards for Potential Shoreline Hazards Screening Area 4 (Coastal Bluff Tops)*) is maximized to the extent feasible by minimizing the development area and siting of the development as far inland as feasible.

- H. Feasible modifications to required development standards that are not related to hazards and ESHA, wetland, and creek protection are included in the project to avoid or minimize hazard risks and impacts to coastal resources.
- I. The development is designed and constructed to assure stability and structural integrity, including meeting an adequate factor of safety (1.5 static conditions; 1.1 pseudostatic conditions) for the expected life of the structure, factoring in the effects of sea level rise;
- J. The development will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area for the expected life of the development, factoring in the effects of sea level rise; and
- K. The development shall not rely on existing shoreline protection devices or require new shoreline protection devices for the expected life of the structure.

²Any new development and substantial redevelopment necessitating shoreline protection devices inconsistent with Policy 5.1-44 *Shoreline Protection Device Permitting* does not adhere to the policies of this Coastal LUP, and will require a ~~any reasonable use or~~ property takings analysis pursuant to Policy 1.2-3 *Property Takings*, ~~for these projects would be conducted on a case-by-case basis independent of any provision of this Policy.~~

SUGGESTED MODIFICATION NO. 18

Policy 5.1-37 Sea Ledge Lane.

- A. All existing single-unit residential development on the following parcels on Sea Ledge Lane are considered non-conforming with respect to Policy 5.1-32 *Development Standards for Potential Shoreline Hazards Screening Area 3 (Coastal Bluff Faces) on the Interim Shoreline Hazards Screening Areas Map* due to their location on a coastal bluff face:
 - i. APN 047-082-003 (3511 Sea Ledge Lane);
 - ii. APN 047-082-004 (3501 Sea Ledge Lane);
 - iii. APN 047-082-005 (3443 Sea Ledge Lane);
 - iv. APN 047-082-006 (3433 Sea Ledge Lane);
 - v. APN 047-082-007 (3429 Sea Ledge Lane);
 - vi. APN 047-082-009 (3427 Sea Ledge Lane);
 - vii. APN 047-082-010 (3407 Sea Ledge Lane);
 - viii. APN 047-082-012 (3425 Sea Ledge Lane);³
- B. Maintenance, repair, additions, alterations, and substantial redevelopment on the parcels listed under subsection A. shall be processed according to Policy 2.1-19 *Nonconforming Development*.
New or substantially redeveloped residential developments on the parcels listed under subsection A. may only be allowed if all of the findings contained in Policy 5.1-36 *Reduction of Coastal Bluff Face and Coastal Bluff Edge Development Buffer Standards* can be met. In addition, any new development or substantial redevelopment shall be located as close to Sea Ledge Lane as feasible³.

³Any new development and substantial redevelopment necessitating shoreline protection devices inconsistent with Policy 5.1-44 *Shoreline Protection Device Permitting* does not adhere to the policies of this Coastal LUP, and will require a ~~any reasonable use or~~ property takings analysis pursuant to Policy

1.2-3 *Property Takings*. ~~for these projects would be conducted on a case-by-case basis independent of any provision of this policy.~~

SUGGESTED MODIFICATION NO. 19

Policy 5.1-38 Landscaping, Watering, Weight, and Drainage on Coastal Bluff Faces and Coastal Bluff Edge Development Buffers.

- A. Development, including landscaping and other improvements, shall be located and designed to prevent an increase in water percolation or excessive weight placed on coastal bluff faces and Coastal Bluff Edge Development Buffers, and to avoid increased directed drainage over the coastal bluff edge.
- B. All new plantings on coastal bluff faces and Coastal Bluff Edge Development Buffers shall be native, drought-tolerant vegetation. Sprinkler systems, irrigation plumbing, and in-ground irrigation systems shall not be allowed on coastal bluff faces and Coastal Bluff Edge Development Buffers. Watering shall not be allowed on coastal bluff faces or mapped slope failure areas, except for minimal manual watering needed for establishment of new plantings. Watering within Coastal Bluff Edge Development Buffers shall be limited to the minimum necessary for plant establishment and survival and accomplished via manual watering or easily removable drip irrigation tubing that is designed with a dedicated shutoff valve outside of the Coastal Bluff Edge Development Buffer. Additional limitations to watering in the Coastal Bluff Edge Development Buffer may be required based on the geologic conditions of the site.
- C. When new development or substantial redevelopment is proposed on coastal bluff faces or within Coastal Bluff Edge Development Buffers, existing landscaping and other plantings that are not drought-tolerant (e.g., lawns) shall be replaced with native, drought-tolerant vegetation when appropriate based on the scope and nature of the development.

SUGGESTED MODIFICATION NO. 20

Policy 5.1-42 Conditions for Development in Shoreline Hazard Areas on the Interim Shoreline Hazards Screening Areas Map. Coastal Development Permits for new development and substantial redevelopment located in Potential Shoreline Hazard Screening Areas on Figure 5.1-1 *Interim Shoreline Hazards Screening Areas*, or otherwise subject to reasonably foreseeable beach erosion, coastal bluff erosion, coastal bluff slope failure, coastal flooding, and/or wave impacts over the expected life of the development factoring in the effects of sea level rise, shall include conditions that:

- A. Require removal of the development by owners if any government agency has ordered that the structure(s) is not to be occupied or is otherwise unsafe due to imminent threat of damage or destruction from any shoreline hazard;
- B. Require removal of all recoverable debris associated with the development in the event that portions of the development fall on the bluff face, to the beach, or are swept to another location before they are removed. All such debris shall be disposed of in a lawful manner. Such removal shall require authorization through an emergency and/or regular Coastal Development Permit;
- C. For uses and/or structures not allowed to have shoreline protection devices pursuant to Policy 5.1-44 *Shoreline Protection Device Permitting*, the following condition shall

apply: Prohibit the construction of new or substantially redeveloped shoreline protection devices in the future to protect the new development or substantial redevelopment from any shoreline hazard;

- D. For uses not allowed to have slope stabilization devices pursuant to Policies 5.1-31 Development Standards for Potential Shoreline Hazards Screening Area 3 (Coastal Bluff Faces) and 5.1-32 Development Standards for Potential Shoreline Hazards Screening Area 4 (Coastal Bluff Tops), the following condition shall apply: prohibit the construction of new or substantially redeveloped slope stabilization devices in the future to protect the new development or substantial redevelopment from any shoreline hazard;
- E. Limit the Coastal Development Permit to only that time period that the land underlying the development is under the ownership of the applicant or successor in interest. If the public trust boundary moves landward resulting in the development encroaching onto public trust lands, the Coastal Development Permit will expire and the development on such public trust lands must be removed at the property owner's expense, unless the property owner obtains appropriate legal authorization from the trustee of the public trust lands (e.g., City of Santa Barbara or State Lands Commission) and obtains a new Coastal Development Permit from the CCC to authorize any development of public tidelands. Authorization for such development on public trust lands is restricted by the Coastal Act and Public Trust Doctrine and may not be allowed if the proposed use significantly interferes with public access or other public trust uses. (This condition may not apply to applications for development in Potential Shoreline Hazards Screening Area 6 (Inland Coastal Flooding Area));
- F. Acknowledge that:
 - i. The project site and public services to the site (utilities, roads, etc.) may be subject to beach erosion, bluff erosion, coastal bluff slope failure, coastal flooding, wave impacts, or other hazards associated with development on a coastal beach, coastal bluff face or top, or in a coastal flood and/or wave impact area, now and in the future, factoring in the effects of sea level rise;
 - ii. Public services to the site may not be maintained in perpetuity due to the impacts of sea level rise;
 - iii. The applicant assumes the risks of injury and damage from such hazards in connection with the permitted development; and
 - iv. The applicant waives any claim of damage or liability against the approving entity (the City, or, if the permit is appealed, the Coastal Commission) for injury or damage from such hazards.
- G. Require the applicant to record a deed restriction, in a manner acceptable to the City Attorney (or the Executive Director of the CCC if the permit is appealed), reflecting at a minimum the applicable Coastal Development Permit conditions listed above.

SUGGESTED MODIFICATION NO. 21

Policy 5.1-44 Shoreline Protection Device Permitting.

- A. New or substantially redeveloped shoreline protection devices shall not be permitted unless avoidance measures, including consideration of relocation or removal of the at-risk structure, beach nourishment, dune creation, dune restoration, and other similar techniques are determined to be infeasible. Shoreline protection devices shall be

prohibited unless they are necessary to, and will accomplish the intent of protecting public beaches, coastal-dependent uses, existing public structures, and existing principal structures (main living quarters, main commercial buildings, and functionally necessary appurtenances to those structures, such as wastewater and water systems, utilities, and other infrastructure) in danger from erosion shoreline hazards⁴. Shoreline protection devices shall not be allowed for the sole purpose of protecting private accessory structures or landscape features (e.g., garages, carports, storage sheds, decks, patios, walkways, landscaping).

- B. All shoreline protection devices shall:
- i. Be sited as far landward as feasible where appropriate;
 - ii. Be designed to factor in the effects of sea level rise, including associated changes to beach erosion, coastal bluff erosion, coastal flooding, and wave impacts over the expected life of the development;
 - iii. Be designed to have the smallest footprint possible;
 - iv. Minimize alterations of the natural landform and natural shoreline processes to the maximum extent feasible;
 - v. Avoid encroachment upon any beach area that impedes lateral public access along the beach at any tide condition. If it is infeasible to avoid impeding lateral access along the beach at any tide condition, mitigation shall be required that provides equivalent lateral access to that portion of shoreline in an alternate location;
 - vi. Avoid adverse impact on public access to and along the shoreline and coastal recreation areas to the maximum extent feasible through project siting and design and required mitigation; and
 - vii. Be designed to eliminate or mitigate adverse impacts on local shoreline sand supply to the maximum extent feasible.

⁴~~The interpretation of the definition of "existing structures" that may be allowed to be protected by new shoreline protection devices pursuant to Coastal Act Section 30235 is an unresolved subject of debate in the state as of the date of publication of this Coastal LUP. However, it is agreed that at a minimum new development and substantial redevelopment approved following certification of this Coastal LUP or any unpermitted development shall in no case be considered "existing structures" in the future for the purpose of interpreting Policy 5.1-44 Shoreline Protection Device Permitting of the Coastal LUP.~~

SUGGESTED MODIFICATION NO. 22

Policy 5.1-46 Conditions of Approval for Shoreline Protection Devices for Public Development. Coastal Development Permits for new or substantially redeveloped shoreline protection devices for public development shall, at a minimum, including the following conditions:

- A. Require removal of the shoreline protection device by the applicant when either of the following occur:
- i. The structure or use requiring protection is removed and the shoreline protection device is no longer needed for its permitted purpose; or
 - ii. The existing structure, public beach, coastal recreation area, or coastal dependent uses it is protecting is removed or no longer exists.

- B. Require any mitigation necessary to address impacts to public access and sand supply pursuant to subsections B. vi. and B. vii. of Policy 5.1-44 *Shoreline Protection Device Permitting*;
- C. Require all adverse impacts be monitored periodically and reassessed at the end of the permit term or when improvements are proposed that extend the life of the device, whichever comes first; and
- D. Require reevaluation of the design and necessity of the shoreline protection device when the protected structure is substantially redeveloped.

SUGGESTED MODIFICATION NO. 23

Policy 5.1-64 Potential Shoreline Hazards Screening Area 1 (City-Owned Low-Lying Beach and Backshore Areas) Evaluations for New Development and Substantial Redevelopment. The Potential Shoreline Hazards Screening Area 1 (City-Owned Low-Lying Beach and Backshore Areas) is potentially subject to beach erosion, coastal flooding, and wave impacts. Shoreline Hazard Evaluations for development in this screening area shall be prepared and signed by a qualified California licensed professional (e.g., Professional Geologist, Engineering Geologist, Geotechnical Engineer, Civil Engineer, Soils Engineer, and/or Coastal Engineer, as applicable). The evaluations shall be subject to review and approval by the City's Environmental Analyst. ~~Some evaluations~~ The Environmental Analyst may require peer review of evaluations by a technical specialist in order to be deemed them adequate. The City may impose a fee on applicants to recover the cost of review of evaluations. Evaluations shall analyze the effects of the hazard and the development over the expected life of the project, factoring in the effects of sea level rise, and with and without the effects of any existing or new shoreline protective devices except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices (breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc). The evaluation may assume that existing authorized levels of dredging, sand management, and beach nourishment continue to occur. The following shall be evaluated...

Policy 5.1-65 Potential Shoreline Hazards Screening Area 2 (Bluff-Backed Beaches) Evaluations for New Development and Substantial Redevelopment. The Potential Shoreline Hazards Screening Area 2 (Bluff-Backed Beaches) is potentially subject to beach erosion, coastal bluff erosion, coastal bluff slope failure, coastal flooding, and wave impacts. Shoreline Hazard Evaluations for development in this screening area shall be prepared and signed by a qualified California licensed professional (e.g., Professional Geologist, Engineering Geologist, Geotechnical Engineer, Civil Engineer, Soils Engineer, and/or Coastal Engineer, as applicable). The evaluations shall be subject to review and approval by the City's Environmental Analyst. ~~Some evaluations~~ The Environmental Analyst may require peer review of evaluations by a technical specialist in order to be deemed them adequate. The City may impose a fee on applicants to recover the cost of review of evaluations. Evaluations shall analyze the effects of the hazard and the development over the expected life of the project, factoring in the effects of sea level rise, and with and without the effects of any existing or new shoreline protective devices except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices

(breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc.). The following shall be evaluated...

Policy 5.1-66 Potential Shoreline Hazards Screening Area 3 (Coastal Bluff-Faces) Evaluations for New Development and Substantial Redevelopment. The Potential Shoreline Hazards Screening Area 3 (Coastal Bluff-Faces) is potentially subject to coastal bluff erosion, coastal flooding, coastal bluff slope failure, and wave impacts. Shoreline Hazard Evaluations for development in this screening area shall be prepared and signed by a qualified California licensed professional (e.g., Professional Geologist, Engineering Geologist, Geotechnical Engineer, Civil Engineer, Soils Engineer, and/or Coastal Engineer, as applicable). The evaluations shall be subject to review and approval by the City's Environmental Analyst. ~~Some evaluations~~ The Environmental Analyst may require peer review of evaluations by a technical specialist in order to ~~be deemed them~~ adequate. The City may impose a fee on applicants to recover the cost of review of evaluations. Evaluations shall analyze the effects of the hazard and the development over the expected life of the project, factoring in the effects of sea level rise, and with and without the effects of any existing or new shoreline protective devices or slope stabilization devices except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices (breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc.). The following shall be evaluated...

Policy 5.1-67 Potential Shoreline Hazards Screening Area 4 (Coastal Bluff-Tops) Evaluations for New Development and Substantial Redevelopment. The Potential Shoreline Hazards Screening Area 4 (Coastal Bluff-Tops) is potentially subject to coastal bluff erosion and coastal bluff slope failure. Shoreline Hazard Evaluations for development in this screening area shall be prepared and signed by a qualified California licensed professional (e.g., Professional Geologist, Engineering Geologist, Geotechnical Engineer, Civil Engineer, Soils Engineer, and/or Coastal Engineer, as applicable). The evaluations shall be subject to review and approval by the City's Environmental Analyst. ~~Some evaluations~~ The Environmental Analyst may require peer review of evaluations by a technical specialist in order to ~~be deemed them~~ adequate. The City may impose a fee on applicants to recover the cost of review of evaluations. Evaluations shall analyze the effects of the hazard and the development over the expected life of the project, factoring in the effects of sea level rise, and with and without the effects of any existing or new shoreline protective devices or slope stabilization device, except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices (breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc.). The following shall be evaluated...

Policy 5.1-68 Potential Shoreline Hazards Screening Area 5 (Stearns Wharf and Harbor) Evaluations for New Development and Substantial Redevelopment. Potential Shoreline Hazards Screening Area 5 (Stearns Wharf and Harbor) is potentially subject to beach erosion, coastal flooding, and wave impacts. Shoreline Hazard Evaluations for development in this screening area shall be prepared and signed by a qualified California licensed professional (e.g., Professional Geologist, Engineering Geologist, Geotechnical Engineer, Civil Engineer, Soils Engineer, and/or Coastal Engineer, as applicable). The evaluations shall be subject to review and

approval by the City's Environmental Analyst. ~~Some evaluations~~ The Environmental Analyst may require peer review ~~of evaluations~~ by a technical specialist in order to be deemed ~~them~~ adequate. The City may impose a fee on applicants to recover the cost of review of evaluations. Evaluations shall analyze the effects of the hazard and the development over the expected life of the project, factoring in the effects of sea level rise, and with and without the effects of any existing or new shoreline protective devices, except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices (breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc.). The following shall be evaluated...

Policy 5.1-70 Coastal Bluff Edge Development Buffer Calculation. The methodology to be used by California licensed Geotechnical Engineers or Certified Engineering Geologists for analyzing site-specific Coastal Bluff Edge Development Buffer is described below:

Step 1. Identify the coastal bluff edge consistent with Policy 5.1-69 *Location of Coastal Bluff Edge*.

Step 2. Determine a "slope stability buffer." Evaluate the stability of points along the coastal bluff edge. If a screening-level analysis of the top of the coastal bluff shows a potential for slope instability, then a detailed field investigation and quantitative slope stability analysis shall be conducted to establish a "slope stability buffer." The slope stability buffer is the area landward of the coastal bluff edge line where the minimum factor of safety (1.5 static and 1.1 pseudostatic) cannot be met. When determine the slope stability buffer, the minimum factor of safety is analyzed without the use of existing or new slope stabilization or shoreline protection devices, except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices (breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc).

Step 3. Determine the "coastal bluff erosion buffer." A site-specific evaluation of the long-term coastal bluff retreat rate at the site shall be conducted that considers not only historical coastal bluff retreat data, but also acceleration of coastal bluff retreat caused by sea level rise and any known site-specific conditions. Such an evaluation shall be used to determine the distance from the coastal bluff edge line (or from the slope stability buffer line, if applicable) that the coastal bluff might reasonably be expected to erode over the expected life of the principal structure (assumed to be 75 years for single-unit residences and commercial structures; otherwise determined on a case-by-case basis for public infrastructure), factoring in the effects of sea level rise, and without the use of existing and new slope stabilization or shoreline protection devices, except for existing ~~public roads providing public access to and along the shoreline and coastal recreation areas~~ and major public shoreline protection and flood protection devices (breakwater and other protection devices for the Harbor, Laguna Channel Tide Gate and Pump Station Facility, etc). Historic erosion rates can be determined by examination of historic records, surveys, aerial photographs, studies, or other evidence showing the location of the bluff edge through time. A minimum of 50 years' worth of historic data is generally used to evaluate historic erosion rates.

Step 4. Determine the Coastal Bluff Edge Development Buffer. Development shall be set back from the coastal bluff edge the distance needed to: ensure slope stability (the slope stability buffer), ensure the development is not endangered by erosion (the coastal bluff erosion buffer), and to avoid the need for existing and new slope and shoreline protective devices ~~(except those necessary to protect existing public roads providing public access to and along the shoreline and coastal recreation areas)~~ over the expected life of the structure.

Note: Modifications to the prescribed buffer methodology may be approved by a City Environmental Analyst to reflect updated guidance on sea level rise as it becomes available.

RESOLUTION NO. 19-049

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing resolution was adopted by the Council of the City of Santa Barbara at a meeting held on July 16, 2019, by the following roll call vote:

AYES: Councilmembers Jason Dominguez, Eric Friedman, Oscar Gutierrez, Meagan Harmon, Randy Rowse, Kristen W. Sneddon; Mayor Cathy Murillo

NOES: None

ABSENT: None

ABSTENTIONS: None

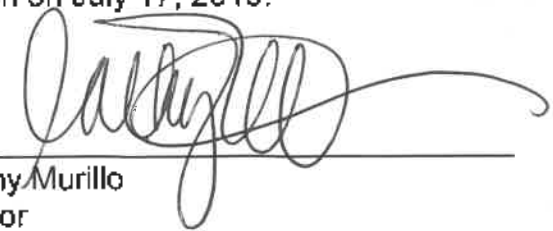
IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on July 17, 2019.



Sarah P. Gorman, CMC
City Clerk Services Manager



I HEREBY APPROVE the foregoing resolution on July 17, 2019.



Cathy Murillo
Mayor