

CALIFORNIA COASTAL COMMISSION

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



W16C

Prepared December 18, 2020 for January 13, 2021 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Brian O'Neill, Coastal Planner

**Subject: San Luis Obispo County LCP Amendment Number LCP-3-SLO-20-0071-3
(Sign Ordinance Update)**

SUMMARY OF STAFF RECOMMENDATION

The proposed Local Coastal Program (LCP) amendment would amend the Implementation Plan's (IP's) existing signage regulations. The primary goal of the amendment is to ensure that the County's sign ordinance is implemented in a content-neutral manner consistent with United States Supreme Court free speech caselaw (see *Reed v. Town of Gilbert* (2015) 576 U.S. 155). The proposed amendment eliminates existing sign regulations that could be construed as content-based and replaces the regulations with those based upon location. Additionally, the proposed amendment includes general principles that direct the County to apply the ordinance in a content-neutral manner; clarifies the signage permitting process; provides guidelines and requirements related to the size, location, and number of signs; prohibits potentially hazardous signage to motorists and pedestrians; and requires maintenance of existing signs.

While the ordinance does generally state that all signs must comply with all LCP standards, the installation of signs raises particular concerns with regard to public access and visual resources. For example, "no trespassing" or "no parking" signs can change the intensity of use of an area and deter the public from utilizing existing public access facilities and areas. In addition, the proliferation of signs in scenic areas and corridors has the potential to significantly degrade public views. The LCP's Land Use Plan (LUP) includes policies that provide strong protections for public access and scenic resources, while generally prohibiting development that would detract from or otherwise degrade existing public accessways or views. As such, and because there is a concern that the sign ordinance may not be adequately clear in this respect, it needs to be modified to ensure that any sign (regardless of content, size, or type) that has the potential to adversely impact existing public recreational access facilities/areas or that has the potential to impact significant public views requires coastal development permit (CDP) review to ensure the sign is consistent with all applicable LCP policies.

As modified, the proposed amendment conforms with and is adequate to carry out the LUP, which is the standard of review for this IP amendment. The County has indicated that it is in agreement with the staff recommended modifications. Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 19, 2020. The proposed amendment affects only the LCP's IP, and the 60-working-day action deadline is February 19, 2021. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until February 19, 2021 to take a final action on this LCP amendment.

TABLE OF CONTENTS

1. MOTIONS AND RESOLUTIONS 4
 A. Deny the IP Amendment as submitted 4
 B. Certify the IP Amendment with Suggested Modifications 4
2. SUGGESTED MODIFICATIONS..... 5
3. FINDINGS AND DECLARATIONS 5
 A. Description of Proposed LCP amendment 5
 B. Evaluation of Proposed LCP Amendment 6
 C. California Environmental Quality Act (CEQA)..... 7

EXHIBITS

Exhibit 1: Proposed IP Amendment

1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make two motions on the IP amendment in order to act on this recommendation.

A. Deny the IP Amendment as submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in denial of the IP amendment as submitted and adoption of the following resolution. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion: *I move that the Commission reject Implementation Plan Amendment Number LCP-3-SLO-20-0071-3 as submitted by San Luis Obispo County, and I recommend a yes vote.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-SLO-20-0071-3 as submitted by San Luis Obispo County and adopts the findings set forth below on grounds that the implementation amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the implementation plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the implementation plan amendment as submitted.*

B. Certify the IP Amendment with Suggested Modifications

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

Motion: *I move that the Commission certify Implementation Plan Amendment Number LCP-3-SLO-20-0071-3 as submitted by San Luis Obispo County if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-SLO-20-0071-3 as submitted by San Luis Obispo County to the San Luis Obispo County Local Coastal Program, if modified as suggested, and adopts the findings set forth in this staff report on the grounds that the implementation plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the implementation plan amendment, if modified as suggested, complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there*

are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified.

2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modification to the proposed IP amendment, which is necessary to make the requisite LUP consistency findings. If San Luis Obispo County accepts the suggested modification within six months of Commission action (i.e., by July 13, 2021) by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format and text in underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission.

1. Modify IP Section 23.04.306(b) as follows:

~~Exempt signs~~ Authorized signs: *The following signs are allowed without a land use permit, and are not to be included in determinations on the allowable number, type or area of signs pursuant to Section 23.04.310 (Sign Area Standards) except that a coastal development permit is required for, at a minimum, any sign that could impact public coastal access, including signs altering public parking timing or availability or potentially restricting the use of existing lateral and/or vertical accessways, or any sign that could detract from public views of scenic viewsheds or views from scenic roads and corridors. Nothing in this subsection shall exempt a sign from the necessity of construction permit approval if an electrical or building permit is required by the Building and Construction Ordinance or Uniform Sign Code. This subsection supersedes Section 303 of the Uniform Sign Code.*

3. FINDINGS AND DECLARATIONS

A. Description of Proposed LCP amendment

The proposed LCP amendment would amend the IP's existing signage regulations. The primary goal of the amendment is to ensure that the County's sign ordinance is implemented in a content-neutral manner consistent with United States Supreme Court free speech caselaw (see *Reed v. Town of Gilbert* (2015) 576 U.S. 155). The proposed amendment eliminates existing regulations that could be construed to be content-based and replaces the regulations with those based upon location. Additionally, the proposed amendment includes general principles that direct the County to apply the ordinance in a content-neutral manner; clarifies the signage permitting process; provides guidelines and requirements related to the size, location, and number of signs; prohibits potentially hazardous signage to motorists and pedestrians; and requires maintenance of existing signs. Please see **Exhibit 1** for the proposed IP amendment text.

B. Evaluation of Proposed LCP Amendment

Standard of Review

The proposed amendment affects the IP component of the San Luis Obispo County LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

Applicable Land Use Plan Policies

Inappropriate signage can affect the public's ability to access public recreational areas. The LUP includes a series of policies that protect existing public access and require new development to provide maximum access, including:

Recreation and Visitor Serving Facilities Policy 1: Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means.

Public Access Policy 1: Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development.

Public Access Policy 2: Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development.

Inappropriate signage can also adversely public views. The LUP also contains several policies designed to protect scenic areas, including:

Visual and Scenic Policy 1: Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.

Visual and Scenic Policy 2: Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors.

Consistency Analysis

The above-cited LUP policies provide strong protections for public access and scenic resources, while generally prohibiting development that would detract or otherwise degrade from existing accessways or views.

The proposed amendment seeks to alter Sections 23.04.300-314 of the Implementation Plan, which encompass all of the IP standards for signs. The amendment eliminates standards based on the content of the sign (e.g., political signs or winery directional signs) and instead implements the same type of standards based on the underlying land use designation where the sign is located. The ordinance does not significantly alter the

substantive sign standards, but rather clarifies and modernizes the existing ordinance to reflect current caselaw.

In addition, the amendment clarifies the permitting process for certain types of signs. Specifically, the ordinance clarifies that most signs that meet the sign ordinance standards require plot plan approval, while variances from the sign standards require a minor use permit. Finally, the amendment authorizes certain limited signs if the signs meet specific size, number, and duration standards.

While the ordinance does generally state that all signs must comply with all LCP standards, the installation of signs raises particular concerns with regard to public access and visual resources. For example, “no trespassing” or “no parking” signs can change the intensity of use of an area and deter the public from utilizing existing public access facilities or areas. In addition, the proliferation of signs in scenic areas and corridors has the potential to significantly degrade public views.

As such, the sign ordinance should reflect the intent of the above-cited LUP policies that require the protection of public access and scenic resources, but the ordinance as currently proposed is not adequate to carry out these policies as it does not explicitly include any specific protections for signs that may impact public access or scenic views. **Suggested Modification 1** is therefore necessary to ensure that any sign, regardless of size or type, that has the potential to adversely impact existing public recreational access facilities/area or has the potential to detract from public scenic views meets all such LUP tests through the CDP process. The permitting review process will ensure that any particular sign is consistent with all LCP policies, particularly those related to public access and scenic resources.

If modified as suggested, the proposed amendment conforms with, and is adequate to carry out, the policies of the certified LUP.

C. California Environmental Quality Act (CEQA)

Section 21080.9 of the California Public Resources Code—within the California Environmental Quality Act (CEQA)—exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission; however, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP action.

Nevertheless, the Commission is required, in approving an LCP submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse

impact which the activity may have on the environment (pursuant to 14 California Code of Regulations Sections 13540(f) and 13555(b)).

The County's LCP amendment consists of an IP amendment. As discussed above, the IP amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the LUP. The Commission has, therefore, suggested modifications to the proposed IP to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP amendment into conformity with the LUP consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts, and the proposed IP amendment, as modified, conforms with CEQA.