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Prepared March 26, 2021 (for April 15, 2021 Hearing)

To: Coastal Commissioners and Interested Persons
From: Jeannine Manna, North Central Coast District Manager
Julia Koppman Norton, Coastal Planner
Subject: **City of Half Moon Bay Local Coastal Program Amendment Number LCP-2-HMB-20-0081-2 (City of Half Moon Bay LUP Update)**

SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay is proposing a complete update of its Local Coastal Program (LCP) Land Use Plan (LUP). The City's LUP was originally approved by the Commission in 1985, and last updated in 1993. The current LCP, including the Implementation Plan (IP), was originally certified with the City assuming coastal development permitting (CDP) authority in 1996. The City intends to update its IP following certification of the proposed LUP update. In the interim, the policies of the updated LUP, if certified by the Commission, would provide the primary standard of review for any proposed new development, and if there were to be any conflicts between the updated LUP and the older IP (and they are to be expected until the IP too is updated), the updated LUP would prevail.

The City of Half Moon Bay is located about 20 miles south of San Francisco along the San Mateo County 'coastside', and the entirety of the City is located within the coastal zone. The City is bisected by Highway 1, with a traditional downtown inland of the Highway and primarily open space and low intensity/density residential development on the seaward side. The City also has a unique and ongoing agricultural heritage, and is home to the Half Moon Bay Pumpkin Festival, one of the oldest and largest such festivals in California, every year. In addition, the City is a popular recreational destination for visitors from all over the Bay Area, due in part to its plentiful beaches, open spaces, and parks, but also due to its proximity to both the San Francisco area and to the Peninsula, San Mateo, the Santa Clara (or Silicon) Valley, and the East Bay via Highway 92 that enters and bisects the City from the east.

Although the City's proposed LUP update is a complete overhaul that would replace the existing LUP, it is probably best understood as refining the existing LUP to better protect coastal resources and to better reflect the City's vision for its community, including as it relies on and builds from existing LUP core principles. Importantly, the update is designed to better address the LCP's "planned development" areas, which are

predominantly undeveloped and have been the subject of CDP confusion in the past, with the update providing a more clear and rational structure for their future, including in terms of future planning if development is to be accommodated there. The update is also structured around the City's vision for a "town center" focused on accommodating and encouraging an enlivened downtown area inland of Highway 1, concentrating development there while limiting it at the periphery of the developed area, and in some ways representing a renewed take on boundaries between more and less intense development areas in the City. On the latter, the large open spaces seaward of the Highway and existing agricultural areas throughout the City are generally intended to be preserved for those uses, and the proposed update includes policies to better protect, manage, and restore ESHA, riparian habitats, and wetlands, including as it relates to buffer determinations. Importantly, the update includes significant policy direction around the issues of coastal hazards, and is focused almost exclusively on non-armoring alternatives, including to ensure that the City's beaches and shoreline recreational areas are resilient in the face of sea level rise. The proposed update also provides updated metrics regarding infrastructure capacities, better policies around protecting public views, and a new environmental justice policy.

Commission and City staff worked extensively and collaboratively on the proposed update as it was being developed, and ultimately as it went through the City's local review processes, and staff very much thanks the City and City staff for their commitment to that inclusive process. Staff believes that the end result of this close collaboration is a robust proposed LUP update that, as submitted, should serve to ably guide development and protect the City's coastal resources into the future. Thus, staff believes that the proposed LUP update is consistent with Coastal Act Chapter 3 policies, and that the Commission should **approve** the LUP update as submitted and without any modifications. Again, such recommendation is borne from and is the fruit of the coordination process to this point, is reflective of its success, and is really a model to be emulated up and down the state in the coastal zone. The motion to implement staff's recommendation is found on **page 4** below.

Staff Note: LCP Amendment Action Deadline

The proposed LCP amendment was filed as complete on January 21, 2021. The proposed amendment affects only the LUP portion of the LCP and the 90-working-day action deadline is June 1, 2021. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until June 1, 2021 to take a final action on this LCP amendment.

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1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** the LCP amendment as submitted. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in certification of the LUP amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Motion: *I move that the Commission **certify** Land Use Plan Amendment LCP-2-HMB-20-0081-2 as submitted by the City of Half Moon Bay, pursuant to the staff recommendation, and I recommend a **yes** vote.*

Resolution: *The Commission hereby certifies Land Use Plan Amendment LCP-2-HMB-20-0081-2 as submitted by the City of Half Moon Bay and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment 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.*

2. FINDINGS AND DECLARATIONS

A. Background

The City of Half Moon Bay is located about 20 miles south of San Francisco along the San Mateo County 'coastside', and the entirety of the City is located within the coastal zone. The City is bisected by Highway 1, with a traditional downtown inland of the Highway and primarily open space and low intensity/density residential development on the seaward side. The City also has a unique and ongoing agricultural heritage, and is home to the Half Moon Bay Pumpkin Festival, one of the oldest and largest such festivals in California, every year. In addition, the City is a popular recreational destination for visitors from all over the Bay Area, both due to its plentiful beaches, open spaces, and parks, but also due to its proximity to both the San Francisco area as well as to the Peninsula, San Mateo, the Santa Clara (or Silicon) Valley, and the East Bay via Highway 92 that enters and bisects the City from the east. See **Exhibit 1** for a location map.

The City's Local Coastal Program (LCP) Land Use Plan (LUP) was originally approved by the Commission in 1985, and last updated in 1993. The LCP Implementation Plan (IP), and full LCP certification, occurred in 1996, and the City assumed coastal development permitting (CDP) authority at that time. Although the LCP has served the City well, it has also been confronted by challenges, including those related to an uneven land use pattern that includes densely developed residential and commercial areas interspersed with agricultural land and large undeveloped open space west of

Highway 1. The City is also in an area of the County's coastsides where public infrastructure is taxed, both in terms of water and wastewater capacities, but also importantly in terms of circulation. On the latter, Highways 1 and 92 are both two lane roads that can be quite congested at times, especially during morning and evening commutes, but also on weekends when inland populations head to the coast.

The existing certified LUP acknowledges these issues, and identifies the three most pressing planning issues for the City: 1) provision of sufficient housing development; 2) achievement of Coastal Act goals including by concentrating development and preserving prime agricultural, open space, and recreational lands; and 3) limiting future residential population growth. While the LCP has been amended since that time in part to address such issues, including to add a residential growth limitation policy (first Measure A, later converted to Measure D), the issues identified above still largely remain the key issues for the City. Thus, the City's proposed LUP update strives to address such issues as well as new and emerging concerns.

B. Proposed LCP Amendment

Although the City's proposed LUP update is a complete overhaul that would replace the existing LUP, it is probably best understood as refining the existing LUP to better protect coastal resources and to better reflect the City's vision for its community, including as it relies on and builds from existing LUP core principles. Importantly, the update is designed to better address the LCP's "planned development" areas, which are predominantly undeveloped and have been the subject of CDP confusion in the past, with the update providing a more clear and rational structure for their future, including in terms of future planning if development is to be accommodated there. The update is also structured around the City's vision for a "town center" focused on accommodating and encouraging an enlivened downtown area inland of Highway 1, concentrating development there while limiting it at the periphery of the developed area, and in some ways representing a renewed take on boundaries between more and less intense development areas in the City. On the latter, the large open spaces seaward of the Highway and existing agricultural areas throughout the City are generally intended to be preserved for those uses, and the proposed update includes policies to better protect, manage, and restore environmentally sensitive habitat areas (ESHA), riparian habitats, and wetlands, including as it relates to buffer determinations. Importantly, the update includes significant policy direction around the issues of coastal hazards, and is focused almost exclusively on non-armoring alternatives, including to ensure that the City's beaches and shoreline recreational areas are resilient in the face of sea level rise. The proposed update also provides updated metrics regarding infrastructure capacities, better policies around protecting public views, and a new environmental justice policy.

The proposed LUP update includes nine chapters, each of which covers a different coastal resource issue area (with some inherent overlap): 1) Introduction and Framework; 2) Development; 3) Public Works; 4) Agriculture; 5) Coastal Access and Recreation; 6) Natural Resources; 7) Environmental Hazards; 8) Cultural Resources; and 9) Scenic and Visual Resources. The chapters are supplemented by five appendices: a) LUP Implementation; b) Buildout and Public Works Capacity; c) Special

Status Species Summary Tables; d) History of LCP Amendments and Coastal Commission CDP Appeals; and e) Public Engagement. In addition, the proposed LUP update includes a glossary, a list of acronyms, and updated maps throughout the document. See **Exhibit 2** for the proposed updated LUP text, maps, and figures.

As proposed, core policy context from the existing certified LUP would be maintained in this proposed LUP update (e.g., such as concentrating development and protecting agricultural and open space land uses; determining appropriate land uses in areas designated for “planned development;” and managing growth and providing public services). At a broad level, the proposed LUP update is structured around concentrating and clustering development areas while protecting more rural and open space lands from the physical and economic impacts of urban growth. This includes protecting agricultural operations, most of which are outside of the Town Center area, and providing an updated planned development program. In addition, the proposed LUP update contains numerous updated and new policies to address a variety of coastal resource issues not covered in the current LUP, as well as to reflect new understandings and improved planning techniques regarding various coastal resource concerns (including related to sea level rise, flood and hazard abatement, ESHA identification and protection, wetland and riparian corridor protection, tribal/archaeological protections, and environmental justice). Ultimately, the City intends to update its IP following certification of the proposed LUP update. In the interim, the policies of the updated LUP, if certified by the Commission, would provide the primary standard of review for any proposed new development, and if there were to be any conflicts between the updated LUP and the older IP (and they are to be expected until the IP too is updated), the updated LUP would prevail.

The City’s proposed LUP update process was initially overseen by an Advisory Committee, which from 2014 through January 2017 developed guiding principles for the LUP. Following those initial efforts, City staff continued to refine the proposed update with guidance and feedback from the City’s Planning Commission and City Council. Throughout the process, the City engaged the local community and solicited feedback on the proposed LUP update. Major concerns raised through the public engagement process that have been addressed in the proposed LUP update include the protection and improvement of community character, including with regard to the historic downtown, neighborhood integrity, and scenic and visual resources. The Planning Commission emphasized the importance of carrying forward elements of the existing certified LUP, the newly proposed Town Center concept, and the regulation of residential, commercial, and agricultural land uses. Meanwhile, the City Council focused their discussions around the Town Center, affordable housing, community-based planning, and sustainability and resilience. Five public hearings, including two Planning Commission and three City Council hearings, took place between August and October 2020, when the City Council approved the proposed LUP update, and the City submitted the proposed LUP update to the Commission in December 2020.

The City has put forth a considerable effort over the past several years to solicit public input and prepare and submit the proposed LUP update, including with substantial grant

funding from the Commission through the Local Assistance Grant program,¹ and City staff has worked closely with Commission staff on all aspects of the proposed LUP update throughout the entire process, starting with collaboration with the Advisory Committee, working collaboratively and iteratively on draft versions of the proposed LUP update, and consistently meeting and communicating prior to and throughout the City's public hearing process as well as during the filing process. Overall, the proposed LUP update constitutes a far more comprehensive, detailed, and robust plan than the City's existing certified LUP, and has been designed to result in better coastal resource protection when implemented in the City.

C. Standard of Review

The standard of review for proposed LUP amendments is consistency with Coastal Act Chapter 3.

D. Land Use and Development

Applicable Coastal Act Provisions

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

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

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

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

30250. *(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public*

¹ The Commission awarded the City \$75,000 in 2014 and \$85,000 in 2016. This funding supported the comprehensive update of the City's LCP overall, specifically including biological technical studies, policy development, outreach, coordination with Commission staff, and local adoption hearings.

services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas. (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

30252. *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

30253. *New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development. (d) Minimize energy consumption and vehicle miles traveled. (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

30255. *Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this*

division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

Analysis

The Coastal Act establishes clear parameters and priorities for the location, intensity, type, and design of new development in the coastal zone as a means of protecting, and enhancing where feasible, coastal zone resources. These parameters and priorities emanate from both specific Coastal Act policies and requirements, as well as the overlap and interplay between them. At a broad scale and fundamentally, Section 30250(a) requires that most new development be concentrated in and around existing developed areas with adequate public services and infrastructure to accommodate it. Within that broader framework, the Coastal Act also provides specific development prescriptions for specific resource types. For example, the Coastal Act provides that new development should be sited where it will not have an adverse impact on coastal resources, protect visual and scenic corridors, maintain public access to the coast, and minimize risks to life and property while ensuring structural integrity. In addition, policies require that oceanfront and private land, as applicable, is protected for visitor-serving commercial uses and public recreation; that coastal-dependent development takes priority along or near to the shoreline; and requires development adjacent to ESHA to be sited appropriately to avoid impacts.

The proposed LUP update identifies land use constraints and opportunities throughout the City, designates appropriate locations and densities of new development, and provides ways to assure that development will not have significant adverse effects, either individually or cumulatively, on coastal resources consistent with these Coastal Act objectives. In general, the proposed LUP update's Development chapter includes foundational policies that prioritize development, in order by Coastal Act priority uses, local priority uses, and non-priority uses, and incorporates growth management strategies including lot retirement, lot mergers, and transfer of development rights. Additionally, the chapter focuses on a new "Town Center" concept and includes modifications to the City's Planned Development (PD) areas to concentrate development specifically in the Town Center, or elsewhere when appropriate, and limit development in areas where resource and other constraints are present.

As demonstrated in the chapter, the City has shifted its vision to a "Town Center" concept where commercial development, mixed-use neighborhoods, and public spaces would be concentrated in the Town Center, which includes the historic downtown and its adjacent mixed use and commercial areas to the north and south, an area situated mostly east of Highway 1 and about at the geographic center of the City, north to south (see Policies 2-4, 2-5, 2-17, 2-18, 2-22, and 2-30 through 2-40 in **Exhibit 2**). The Town Center concept goal is to create a walkable core area with a diverse mix of pedestrian-oriented businesses, shops, housing types, and public spaces to enhance both the local and visitor experience. Policies in the proposed LUP update carry out this vision shift by differentiating appropriate development between land within and outside of the Town Center, and the Town Center policies are divided by its three neighborhoods: Heritage Downtown, which centers on Main Street between the Main Street Bridge and Correas

Street and contains the highest concentration of the City's designated historic resources (see Policies 2-32 through 2-34); North Downtown, which includes the lands north of the Main Street Bridge and around the intersection of Highways 1 and 92 and currently contains primarily single-use commercial, surface-parked shopping centers, and service commercial development (see Policies 2-35 through 2-37); and South Downtown, which includes lands south of Correas Street between Highway 1 to the west and Arroyo Leon to the east and is mostly residential (Policies 2-38 through 2-40).

Thus, as proposed, the Town Center concept and associated policies can be found consistent with Coastal Act Section 30250, which provides that new residential, commercial, or industrial development be located within, contiguous with, or in close proximity to, existing developed areas to accommodate it with adequate public services; Coastal Act Section 30252, which provides that commercial facilities be located within or adjoining residential development to minimize the use of coastal access roads and enable nonautomobile circulation and public transit; and Coastal Act Section 30253(e), which provides that special communities be protected, such as the City's Heritage Downtown that is considered a visitor-serving destination.

The existing LUP includes 18 designated "Planned Development" or "PD" areas. This PD designation was created in an effort to assure comprehensive planning for large undeveloped areas within the City, with the intent to allow for appropriate development intensities consistent with specific polices and development guidelines for each area while assuring community character was maintained and resources, including scenic resources, ESHA, and viable farmlands, were protected. The existing LUP requires areas designated PD to be covered by approved master plans before any part of the PD could be developed. Unfortunately, implementation of the existing PD construct has caused both procedural and substantive confusion, including as master planning has proven difficult for PD's under multiple ownerships. As a result, the majority of PD-designated areas have not yet been designated for specific permitted uses, and instead are still awaiting the required comprehensive master planning efforts that might define same. In addition, PDs that have approved master plans and have been developed are still designated as PDs in the LCP despite the already-existing uses in operation that could fit into the constructs of the LCP's zoning and related designations. Lastly, potential development allowances specified in the PDs do not adequately reflect potential development that might be allowed on-site based on known resource constraints and limited public services, particularly traffic capacity and, as such, would allow for more development than the site constraints would dictate.

In an effort to address these issues associated with the existing PDs while providing the City's vision for each area in a manner that would not prejudice future comprehensive planning efforts, the Commission and City staff engaged in collaborative efforts to streamline, simplify, and modify the PD construct. As a result, the existing PDs were broken out into further refined categories, some were removed from the PD designation, some were classified as "substantially developed PDs," and some were designated "substantially undeveloped PDs".

First, many former PDs were redesignated in this proposed LUP update to reflect their underlying and existing land uses and wholly removed from the PD designation construct, including 8 of the 18 PD areas and the developed portions of 2 other PD areas.² For these former PDs proposed to be redesignated, future development and redevelopment would also be guided by settlement agreements and/or deed restrictions where applicable, the policies of the designated land use and associated zoning requirements, and any relevant conditions of approval of past coastal development permits (CDPs).

Second, new and simplified policies are proposed for the ten remaining “substantially developed” PDs (see Policies 2-41–2-45) or “substantially undeveloped” PDs (see Policies 2-46–2-65). The proposed LUP update provides additional direction on the remaining PDs by identifying the City’s vision for each area, which is intended to help guide the master planning process, and by outlining potentially allowed uses, key characteristics, and known constraints. Of the remaining PDs, three are substantially developed (Pacific Ridge, Matteucci, and Ocean Colony PDs) and seven are substantially undeveloped (including Podesta, Nurserymen’s Exchange, Surf Beach/Dunes Beach, Venice Beach, Carter Hill, West of Railroad, and North Wavecrest PDs).

While considered substantially developed, Pacific Ridge, Matteucci, and Ocean Colony PDs are kept in the PD designation in this proposed LUP update due to complexities regarding their establishment and/or on-going conditions. However, the information presented on these three PDs and the policies governing them have been updated in the proposed LUP to reflect current actual buildout, site conditions and constraints, and allowances and requirements for additional development, where appropriate. New policies for these three PDs provide that additional development is allowed pursuant to the certified master plan for the PD and maximum allowed buildout established in the proposed LUP update and indicate that any proposed redevelopment requires the LUP be amended to reflect that redevelopment and either preparation of a new master plan or redesignation to an appropriate land use designation. Further updated policies are provided specific to each of these PDs, individually tailored based on the relevant settlement agreements, master plans, and/or CDP conditions of approval (see Policies 2-43–2-45).

² The ten PDs proposed to be changed in this way are the Miramar Beach/Casa Mira PD and the developed lands of the Guerrero Avenue PD that are proposed to be designated for medium density residential uses in the proposed LUP update to reflect the actual development pattern there; the deed restricted wetlands of the Guerrero Avenue PD, deed restricted habitat areas of the Pacific Ridge PD, and the Public Facilities PD owned by the City near the Sewer Authority Mid-Coastside (SAM) treatment plant that would be designated open space conservation; the Stoloski/Gonzalez PD that would be low density residential; the Andreotti PD that would include multiple designations to reflect actual uses (i.e., City park, medium density residential, general commercial, and light industrial); the Main Street Park PD that would be high density residential; the L. C. Smith Estate PD that would be general commercial; the Pilarcitos West Urban Reserve PD that would be designated rural coastal; and the southern portion of the Wavecrest Restoration Project PD that would be designated visitor-serving commercial.

The seven remaining substantially undeveloped PDs are the Podesta, Nurserymen's Exchange, Surf Beach/Dunes Beach, Venice Beach, Carter Hill, West of Railroad, and North Wavecrest PDs. Many of these PDs are significantly constrained when considering potential future development, including that they lack infrastructure, are occupied by significant sensitive natural resources, are subject to hazards (including bluff and watercourse erosion, flooding, landslide, and fire), and contain older 'paper' subdivisions that purport to account for a series of substandard-sized lots and/or single lots that appear as multiple lots on old subdivision maps.³ As such, the City determined, and Commission staff agreed, that it would make sense to maintain the PD designation for these sites in order to carefully consider future site planning in a holistic manner, while simplifying the applicable policies. Each PD includes a description of the various known issues and constraint at the current time, and proffer a preliminary vision for what might be appropriate within that area, subject to future master planning to verify and conclude. The City's overarching strategy in developing the policies for the substantially undeveloped PDs, including as articulated in the proposed updated LUP, is preserving ESHA and agricultural land uses, avoiding hazards, facilitating coastal access and recreation, incorporating open space and appropriate infrastructure, providing appropriate locations for needed land uses at appropriate densities and intensities, and concentrating development within the Town Center (and not in significant open space and undeveloped areas of the City otherwise), all while maintaining coastal resource protection and Coastal Act consistency.

Similar to the existing LUP, each substantially undeveloped PD is still required to go through a master planning process for the PD as a whole. New policies for these areas require a site assessment of each PD to be submitted prior to or concurrently with the master plan application to the City in order to ensure the proposed master plan can comply with the LUP (see Policies 2-46 through 2-49). This site assessment is required to evaluate and identify natural resources, agriculture, environmental hazards, open space, infrastructure, access, stormwater management, visual resources, cultural resources, neighborhood design, and any other development constraints consistent with the LUP's vision for that PD to protect and enhance coastal resources. Master plans may be proposed by a landowner or by the City and must include site plan design, development and performance standards, maximum residential and non-residential density, and net land area based on the preliminary site assessment. The master plan may take the form of either a specific plan or a precise plan; regardless of which form the master plan takes, each must be certified by the Commission as part of the LCP before any development on those PDs can be considered. In advance of master plan certification, the proposed LUP update allows for a limited range of uses in PDs, including existing conforming and non-conforming uses; agriculture and agriculture-compatible uses; habitat restoration and conservation projects; lateral and vertical coastal accessways; multi-use trails; environmental hazard mitigation; ancillary facilities to support resource dependent uses and coastal access including small parking areas,

³ In some cases it is not clear whether or not the paper lots have been legally created.

restrooms, wildlife viewing facilities, and similar amenities; and accessory dwelling units within existing single-family homes consistent with State law (see Policy 2-51).

Other LUP policies for these PDs also include provisions for housing affordability (see Policy 2-57), consistency with the policies of the Scenic and Visual Resources chapter (see Policy 2-58), open space requirements of various types (see Policy 2-59), provisions for multi-modal circulation, parking, and ingress/egress (see Policy 2-60), and green infrastructure (see Policy 2-61). Lastly, new policies are incorporated for rezoning after master planning or in lieu of master planning (see Policies 2-64 and 2-65). Considering how the PD process has been refined, streamlined, and clarified, this proposed LUP update represents a significant improvement in the ability to implement the desired comprehensive master planning process that was the intended goal of the original PD construct in the existing, certified LUP. With these improvements, the comprehensive planning of development for these designated PD areas can now be carried out consistent with the City's vision for these areas, while also balancing the protection and preservation of sensitive coastal resources present on these sites, assuring that Coastal Act protections for those resources can be upheld in the planning process.

On this point the representative for the majority owner of the Surf Beach/Dunes Beach PD area has argued that the articulated vision in the LUP for that PD should include visitor-serving commercial as a "potentially allowed use" consistent with that owner's conceptual ideas to develop the site,⁴ and that the lack of such direction is inconsistent with the Coastal Act's visitor-serving commercial use priorities. The existing LUP states that this PD presents opportunities for Coastal Act priority uses, as well as other local land use needs. It also acknowledges that the area consists of prime agricultural soils and that its potential for some priority uses is severely constrained by an existing commercial recreational use south of Young Avenue and existing visitor access to the beach via Young Avenue. In addition, the existing LUP acknowledges that visitor-serving facilities and commercial recreation would be consistent with Coastal Act priorities, but also notes that large-scale visitor-serving facilities could result in added congestion in the area and could also conflict with the protection of visual and scenic resources, especially as viewed from Highway 1 as well as from the beach and coastal trail along the shoreline. The City has evaluated needs and opportunities for Coastal Act priority uses in light of existing constraints as part of this proposed LUP update, and the current proposed LUP articulation for this area is potentially for residential, agriculture, and agricultural compatible uses. Two critical points need to be made here.

One, the proposed LUP text that identifies potential future uses and constraints for each PD area is reflective of the City's current best estimates of same, but is not prescriptive for what is going to be allowed through the LUP master planning process. Rather, that proposed LUP text and information is helpful and informative contextually, but it doesn't mean that that is necessarily what is going to be allowed ultimately. It is the master planning process and the required LUP amendment that goes along with it that will be prescriptive for what is ultimately going to be allowed there under the LCP. Secondly,

⁴ The majority owner is in early planning stages for the site with the City.

and related, in that master planning and LUP amendment process it may well be that different uses and intensities of use are approved, including based on site-specific constraints identified at the time, and based on an evaluation of what is proposed against the Chapter 3 policies of the Coastal Act, including its general land use priorities. In that sense, it is not required that visitor-serving commercial uses be identified as potentially allowable for them to ultimately be accommodated at that PD. At the same time, the City is not convinced they can be consistent with now known constraints, and thus have not proposed such uses as one of the potentially allowed uses for this PD at this time. This seems appropriate in this case.

Thus, overall, the new PD construct would be consistent with the Chapter 3 policies of the Coastal Act in that the PD areas would have to be planned for in a comprehensive manner in order to ensure protection of ESHA, consistent with Coastal Act Section 30240; protection of visual and scenic resources, consistent with Coastal Act Section 30251; maintenance and enhancement of public recreational access, consistent with Coastal Act Section 30210 through 30224; minimization of adverse impacts and risk from hazards, consistent with Coastal Act Section 30253; and the majority of the PD areas prioritize coastal-dependent developments and agriculture, followed by visitor-serving commercial recreational facilities, consistent with Coastal Act Sections 30222 and 30255. Critically, each such area will require such master planning and an LUP amendment that is evaluated by the Commission under the Coastal Act to ensure that any such future development is consistent with the Act based on site specific and then current information about what might be appropriate there.

The proposed LUP update also incorporates a new Workforce Housing Overlay that is unmapped but can be applied to parcels designated for medium- or high-density residential development in the Horticultural Business, Rural Coastal, Regional Public Recreation, and Public Facilities land use designation areas. In the Horticultural Business and Rural Coastal designations where lands are designated for agricultural uses, the overlay would provide affordable farmworker housing for horticultural business workers; and in the Regional Public Recreation and Public Facilities and Institutions designations, the overlay would allow for housing for State Parks employees and other local public employees, all subject to conditions in a CDP, other use permit, deed restriction, and other mechanisms to ensure the housing will be affordable to the associated workforce. While all Workforce Housing Overlay units are considered local priority uses, those that specifically support agriculture are considered an agricultural use and thus are considered Coastal Act priority uses.

Some public comments have raised concerns that the Workforce Housing Overlay is overly broad and vague, which may open up these areas to more intense, non-priority residential uses. However, the density of the Workforce Housing Overlay is dictated by policies in each underlying land use designation. For example, specific requirements for workforce housing in the Rural Coastal designation require that the housing must be located where it will be most protective of prime agricultural soils and stipulates the maximum density to be five units per acre (see Policy 2-92). Further, Rural Coastal designation policies provide that where agricultural operations have a total site area of up to fifty acres, the workforce housing may only take up ten percent of the site area or

one acre, whichever is less; and for sites with agricultural operations over fifty acres, the workforce housing may only take up two acres, assuring appropriate limits on affordable farmworker housing uses in these zones.

In the Horticultural Business designation, workforce housing cannot occupy more than five percent of the area or one acre, whichever is less, and provides a maximum density of sixteen units per acre (see Policy 2-96). Other policies outline a specific number of allowed workforce housing units within the Public Facilities and Institutions designation (see Policy 2-102). And within the Regional Public Recreation designation, workforce housing is limited to 1,500 square feet and a 15-foot or one-story height limit, and up to one-acre may be developed with seven units, including in relation to already existing housing (see Policy 2-105). In addition, the proposed LUP update structures requirements around assuring workforce housing remains related to the base agricultural, priority use designations by requiring conditions in a CDP, other use permit, deed restriction, and other mechanisms, and the City has calculated and accounted for the maximum allowable number of workforce housing units in its buildout analysis and public services projections (see Policy 2-70).

Thus, the Workforce Housing Overlay would be consistent with Coastal Act Section 30250(a) in that it would allow for new residential development to support uses consistent and contiguous with that use, located in either existing developed areas able to accommodate it or in areas that have adequate public services and where it will not have significant adverse effects on coastal resources, all of which will be ensured by the required CDP process necessary to authorize such housing. In addition, the Workforce Housing Overlay would reduce the amount of vehicles on the road as it is intended to provide an alternative housing option for agricultural, horticultural, public facilities and recreation workers working in the area, thereby reducing the amount of commuters entering and exiting the City. Thus, this overlay would be consistent with Coastal Act Section 30252, which provides protections for maintenance and enhancement of public access, in part through locating new development so as to minimize the use of coastal access roads. Lastly, the Workforce Housing Overlay would support the continued viability of agricultural and horticultural uses and, as such, would be consistent with Coastal Act Section 30241, which provides that the maximum amount of prime agricultural land shall be maintained in agricultural production.

Lastly, the proposed LUP update replaces the reserve land use designations of the existing LUP (Urban Reserve and Open Space Reserve). These designations were previously used for lands held in agriculture or open space use, intended to be held until it was determined they would be needed for more urbanized development. Rather than keep lands in "reserve" in perpetuity, the proposed LUP update redesignates those areas as either Rural Coastal, intended for agricultural land uses, or Open Space for Conservation, intended to protect land with habitat value, steep slopes, and/or conservation easements, assuring appropriate designations to protect coastal resources on these sites, consistent with their known resource constraints and the City's vision for protecting these areas, rather than potentially opening them up to unknown development at some future date. Thus, this redesignation would be consistent with the

Coastal Act and coastal resource protection, including with respect to Coastal Act Sections 30240 and 30241 that protect ESHA and agricultural land/activities.

In addition, the LUP serves as the City's Coastal Element to the General Plan, and as such the City includes policies relevant to land use in the City. One such policy requires lot mergers for contiguous substandard lots under common ownership in order to create standard sized lots for the underlying zone (see Policy 2-23). While lot mergers are affected by the *Witt* and *Abernathy* decisions,⁵ and the City's policy is perhaps a bit bare bones with respect to requirements for lot mergers, the City is required to comply with the Subdivision Map Act requirements requiring proof of lot legality for subdivisions, regardless of whether the language of the Subdivision Map Act is in the LCP or not. Therefore, such merger provisions can be found appropriate here, even if it means that site specific analyses in support of requiring any such merger will still be needed in the future.

In conclusion, as proposed, the Development chapter of the LUP is consistent with the policy requirements of the Coastal Act that dictate appropriate development in a number of ways. First, the development of Coastal Act priority uses, where appropriate and possible, is prioritized above local priority uses and non-priority uses, ensuring consistency with Coastal Act policies requiring that coastal-dependent uses and public recreation are prioritized over other types of development. Second, the Town Center concept encourages concentration of development surrounding the already-existing downtown corridor of the City. This ensures new development will have adequate access to public services and will have the least impact on coastal resources, consistent with the Coastal Act. Lastly, the requirements established for the PD planning process provide for ample consideration of potential coastal resource impacts by requiring development be planned in a holistic manner, including accounting for protection of coastal resources such as sensitive habitat areas, agricultural lands, visual and scenic resources, and avoidance of environmental hazards, consistent with similar policies in the Coastal Act, all of which is required to be codified through future LUP amendments.

E. Public Services

Applicable Coastal Act Provisions

The following sections of the Coastal Act pertain to management and provision of public services, including water, sewer, and circulation infrastructure:

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

30231. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of

⁵ These decisions concluded that antiquated subdivision maps could not be the sole basis for determining lot legality.

marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

30250(a). *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

30254. *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted, consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded, except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.*

Analysis

The Coastal Act requires that public works facilities, such as water, sewer, and circulation systems, be appropriately distributed and designed to accommodate needs generated by development so as to mitigate impacts of overcrowding and overuse; that new development should be located in or adjacent to areas with existing public services, or areas able to accommodate such services; and that all coastal waters are to be protected, in part through ensuring that waste water discharge and runoff is properly handled, and groundwater supplies are appropriately managed.

The existing LUP limits public service expansions to growth allowed by the LUP, establishes acceptable levels of service with respect to road capacity, and allows water and sewer capacity to expand to serve LCP-allowed buildout as long as it is phased so as not to induce growth that the LCP does not envision. Water supply and traffic capacity have become even more constrained since certification of the existing LUP, and as a result the City conducted extensive studies of public service constraints and

capacity in developing this proposed LUP update to understand constraints and opportunities in order to design policies in a manner that would meet projected demands while ensuring adequate services for Coastal Act and local priority uses.

The proposed LUP update's Public Works chapter includes an analysis of existing infrastructure capacity, buildout projections, and per capita anticipated infrastructure demands. This analysis is designed both to anticipate necessary infrastructure upgrades for the 2040 planning horizon of the LUP and for the maximum theoretical buildout scenario (MTB) to determine longer-term infrastructure capacity. By factoring in the new growth management and resource protection strategies included throughout this proposed updated LUP, the projected maximum theoretical residential buildout is approximately 1,315 units less than under the existing LUP's projections. Overall, the City's analysis finds that this reduced level of potential growth in the City and in the unincorporated mid-coast, which shares many of the same public service constraints, can likely be supported by existing water and sewer infrastructure through the 2040 planning horizon, including development under the aforementioned Town Center concept. However, regarding traffic, the circulation system has been, and continues to be, overburdened. In addition, beyond the 2040 planning horizon, at full LCP-allowed buildout, the City projects that water supply and sewer system capacities could become overburdened, and the effects of climate change are anticipated to further stress all infrastructure systems. As such, the LUP reserves water and sewer capacity specifically for Coastal Act priority uses, followed in priority order by local priority uses, so that in the event that these services become scarce, reservations for such uses may not be precluded by development of non-priority uses, and identifies methods for improving system capacities (see Policies 3-1 through 3-3).

In terms of water supply, the Coastside County Water District (CCWD) provides water to the City, as well as to the unincorporated areas of Miramar, El Granada, and Princeton. Eighty-percent of CCWD's water supply comes from the San Francisco Public Utilities Commission (SFPUC), which is legally obligated to deliver water to CCWD in perpetuity to meet its supply assurance commitment. In 2019, the SFPUC developed the Alternative Water Supply Program, which is designed to meet future water supply challenges and vulnerabilities in order to fulfill its contractual and legal obligations to its customers, including CCWD. The remaining twenty-percent of CCWD's water supply comes from local sources, including Pilarcitos Creek, Denniston Creek, and the Denniston Wells. Private wells are also used throughout the City, in particular for agricultural and agricultural-compatible uses. The proposed LUP update allows for new wells for public water supply, but limits new private wells to Coastal Act priority uses and Workforce Housing Overlay units associated with Coastal Act priority uses.

For the purposes of the proposed LUP update, the City analyzed CCWD's capacity for 2040 and the MTB scenarios by looking at the daily and annual water supply from CCWD for the service area, the historic proportion of CCWD's supply that the City consumes as compared to the unincorporated areas, population projections, and both current and projected per capita use rates. In conducting this analysis, the City used conservative assumptions including higher than anticipated levels of development for both 2040 and MTB scenarios and twenty-percent higher water demand estimates than

current actual use would dictate. In addition, while the LUP highlights the potential for reclaimed and recycled water use in the City, the analysis does not assume additional water supply from such new sources. As indicated above, calculations show that the actual water supply is projected to be sufficient through 2040 but that demand will likely surpass supply for the MTB scenario beyond 2040 based on this very conservative analytic approach. To account for this, the LUP establishes policies for water conservation for new development, the development of potential new water supply (including reclaimed water systems, water storage tanks, and treatment facilities), and specifically reserves water supply for Coastal Act priority uses and local priority uses (see Policies 3-13 through 3-16, and 3-25).

In addition to the assessment of water supply discussed above, the City also assessed water capacity based on the way in which it is distributed. Specifically, water service is provided by CCWD through a system of water connection allocations that were established by a CDP issued to CCWD from the Coastal Commission in 1985 for the Crystal Springs pipeline project. That CDP limited the number of connections that could be sold, outlined the number of connections available (in order of priority: connections for Coastal Act priority uses, affordable housing connections for local priority uses, and non-priority connections) and provided that an amendment to the CDP would be needed in order for additional connections to be created. Water connections are not equated to a specific amount of water supply but, rather, are allocated based on plumbing fixture unit counts; as such, equating future water demand to the number of necessary water connections is only an estimate based on assumptions about quantity of water use depending on the development type. Thus, using conservative water demand assumptions regarding anticipated development and comparing that to the remaining available water connections, the City's assessment indicates that there will be insufficient water connections for Coastal Act priority uses at 2040 and MTB and for local priority and non-priority uses at MTB. Thus, to address the deficiencies in water connections and align it with the City's overall goals based on an assessment of the actual water supply, new policies are included to support the creation of new water connections for low-water demand Coastal Act priority uses and local priority uses (see Policy 3-14). In addition, new policies also dictate that new connections for non-priority uses would only be permitted after ensuring that allocation of such connections would not preclude development of Coastal Act or local priority uses, in cases where water conservation requirements are met or after a reclaimed water supply is developed, and when a determination is made that other infrastructure capacity is adequate.

Some commenters have argued that it is difficult to quantify and monitor whether projected need for water supply and connections will be sufficient. However, in reviewing development applications, the City routes proposed project materials to CCWD, and CCWD makes a determination regarding available water supply and whether existing water connections are sufficient for the proposed development or if a new water connection is required, based on what is proposed. CCWD reviewed the LUP water supply analysis and provided a letter of support to the City, noting CCWD's commitment to working with the City in planning for water capacity and permit allocation. Further, such water supply evaluation would go through a normal CDP process, and the updated LUP has sufficient provisions to ensure that proposed

development is required to be served by a sustainable water source, thus helping to ensure that coastal resources are appropriately protected during that process, including surface and groundwater sources.

Thus, the proposed water supply policies would be consistent with Coastal Act Section 30250, which requires new development to have adequate public services, including water; Coastal Act Section 30231, which encourages water conservation and wastewater reclamation; and Coastal Act Section 30254, which stipulates that new or expanded public works facilities be designed and limited to accommodate needs generated by development and uses permitted consistent with the provisions of the Coastal Act, and to ensure that service is reserved for essential public services and Coastal Act priority uses.

In terms of circulation, policies emphasize improvements to what the proposed LUP update designates the Town Boulevard, which includes both Highway 1 and Highway 92 within the City limits (see Policies 3-34 and 3-35). Such improvements would address traffic flow in various ways, specific to the characteristics of each segment of the Boulevard. For example, policies indicate these improvements may include lower speed limits, roundabouts, grade separations, safe pedestrian crossings, and multi-modal improvements. In addition, policies discourage new higher trip-generating uses in general throughout the City, as well as more specifically north of Highway 92, where the circulation system is the most constrained, and require that all higher trip-generating uses provide some type of multi-modal improvements as mitigation (see Policy 3-36). Any proposed new development subject to CDP review would include an analysis of potential traffic impacts and necessary mitigation for consistency with LUP public access and circulation policies. Lastly, the proposed LUP update directly references, and thus requires consistency with, Coastal Act Section 30254, which provides that Highway 1 remain a scenic two-lane road in areas such as Half Moon Bay.

With regard to wastewater infrastructure, City studies indicate that treatment capacity for peak wet weather flow is likely sufficient for the 2040 planning horizon but constrained after 2040. As such, policies support system improvements that reduce infiltration and inflow into the collection system pipes (i.e., to fix breaks or deficiencies in the pipes that allow stormwater and/or groundwater to flow into the wastewater collection system and thus increase the amount of wastewater being conveyed (see Policy 3-27)). By reducing infiltration and inflow, actual wastewater capacity would increase. Additionally, policies provide for phased improvements of the treatment plant for potential capacity increases to accommodate LCP-allowed development (see Policy 3-27). Proposed development would be reviewed by the City and by SAM to ensure remaining wastewater treatment capacity is sufficient to meet the needs of the development. Lastly, policies provide that the City's stormwater management system be maintained and improved (see Policy 3-42), that the City update and implement its Green Infrastructure and Storm Drain Plans (see Policy 3-43), and that development projects implement standard best management practices (see Policy 3-44) (i.e., low-impact development practices, limited impervious surfaces, source control and treatment measures, stormwater flow management, water quality measures, etc.).

Thus, the circulation, wastewater, and stormwater policies in the proposed LUP update would be consistent with Coastal Act Section 30252, which provides for accessible coastal access roads and balances the needs of new development with capacity for public access; Coastal Act Section 30254, which provides for new or expanded public works facilities needed to accommodate development and, in particular, Coastal Act priority development; and Coastal Act Section 30231, which requires the protection of the biological productivity and quality of coastal waters.

In conclusion, the proposed LUP update requires that new development must have adequate public services, including with respect to water supply, wastewater capacity, circulation capacity, and stormwater management, including in terms of required mitigation to address any impacts. Further, in the event that public service infrastructure becomes exceedingly constrained, as is expected for the MTB scenario by 2040, new development is prioritized in order by Coastal Act priority uses, followed by local priority uses, and lastly non-priority uses. Finally, the LUP encourages development in the Town Center, which will concentrate the infrastructure for and use of public services. Therefore, the public works chapter of the LUP is consistent with the above-listed relevant sections of the Coastal Act.

F. Agriculture

Applicable Coastal Act Provisions

The following sections of the Coastal Act pertain to protection, and limits on conversion, of prime and nonprime agricultural land:

30241. *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of prime agricultural lands.

30241.5. *(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of “viability” shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:*

(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, “area” means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

30242. *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

30250(a). *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where*

such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Analysis

In terms of agriculture, the Coastal Act requires that the maximum amount of prime agricultural land be kept in agricultural use; that conflicts be minimized between urban and agricultural land uses; that the viability of existing agricultural uses be determined through economic analysis; and that land suitable for agricultural use not be converted to nonagricultural uses unless continued agriculture is not feasible or if such conversion would preserve prime agricultural land. Further, the Coastal Act requires that new development be concentrated in already-developed areas with adequate public services in order to limit urban sprawl and protect rural and agricultural lands.

The existing LUP states that the City is an urban area where new development should be concentrated in order to protect the more rural agricultural lands of San Mateo County outside of the City limits. Simultaneously, the existing LUP also acknowledges the need to protect undeveloped lands within the City and requires that existing agricultural and open space lands be put in “reserve,” limiting development of these lands until infill areas and certain PDs had been developed. The existing LUP also includes protections for existing agricultural use within the City, including policies to protect greenhouses and water supply for horticulture uses, promote agriculture within the City by supporting the Coastal Conservancy’s efforts to retire or transfer development rights for willing property owners, leveraging the partial development of agricultural lands in exchange for preservation of the remainder of the agricultural lands in perpetuity, and deferring development fees for agricultural lands kept in agricultural production.

The proposed LUP update replaces the above-mentioned former Urban Reserve and Open Space Reserve land use designations with a new Rural Coastal land use designation, as discussed in the Land Use and Development section above, which allows expanded primary, ancillary, compatible, and supplemental uses for agricultural operations, thus enhancing protection and assuring preservation of the City’s agricultural land uses. Agricultural ancillary uses include uses providing necessary support to the primary agricultural land use, including barns, animal shelters, farm stands, arenas, stables, storage facilities, wells, parking, and fences. Agricultural compatible uses include uses determined to be compatible with agricultural land uses that effectively preserve prime soils, including recreational uses such as parks and commercial equestrian uses, open space, and habitat restoration. Meanwhile, agricultural supplemental uses include such uses that support the continued economic viability of agricultural land use, operation, or production while preserving agricultural soil, including agritourism, farm stands, small-scale farm lodging, research and development facilities, and temporary and seasonal agricultural uses.

Some commenters have suggested that some of these supplemental agricultural uses may be inappropriate for such lands, or that they are not adequately limited and have the potential to become the “de facto” land use if proper checks are not put into place. However, per the proposed LUP update policies, such agricultural supplemental uses may only occupy up to 20% of the parcel or contiguous parcels under common ownership, and are required to be associated with an existing agricultural operation and effectively preserve prime agricultural soils (see Policy 4-8). In other words, any such uses are required to actually benefit the agricultural use on site to be approvable, and the CDP process allows for the appropriate checks and balances in that regard. As designated in this proposed LUP update, open field agricultural operations primarily occur in the Rural Coastal land use designation as well as within several of the PDs, while greenhouses are primarily located in the Horticulture Business land use designation, both designations of which ensure continued use of, and protections for, agricultural and horticultural-related uses. Thus, the proposed Rural Coastal land use designation and its permitted uses would be consistent with Coastal Act Section 30241, which protects prime agricultural lands, areas’ agricultural economy, and the productivity and viability of agricultural lands.

The proposed LUP provides varying approaches to agricultural conversions occurring inside versus outside the Town Center area. Within the Town Center, agricultural lands are largely limited to the Podesta and the former L.C. Smith Estate PDs, roughly 40 acres. Agricultural conversions within such limited areas of the Town Center would be allowed under the proposed LUP policies so that such areas, currently surrounded by or adjacent to developed areas, can be more fully integrated into the most developed portion of the City that has well established public services to support it, as it is centered around the downtown area and the main intersection of Highways 1 and 92. This approach is consistent with the Coastal Act Sections 30241(b), 30241(c), 30242(2) and 30250 which allow for such conversion to non-agricultural use under certain criteria, and here it appears that those criteria are met.

First, the conversion is allowed if it would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development (Section 30241(b)). In this case, the areas within the Town Center have been identified by the City for downtown expansion for precisely this purpose. Namely, development here helps to cluster these more intensive development types at the downtown City core in a way that both helps logically complete the downtown ‘neighborhood’, and also allows for a more stable urban limit to be identified whereby other such agricultural lands outside of the Town Center are preserved as agriculture. In all cases, any such conversion is also required to be mitigated, and such mitigation can further contribute to stabilizing these distinctions, including through applying new and more protective mitigations directly to other City agricultural lands (e.g., agricultural conservation easements, in-lieu fees to help preserve agricultural viability in the City, etc.).

Second, the conversion is allowed if it is surrounded by urban uses, would concentrate development, and would be consistent with Section 30250 (Sections 30241(c) and 30242(2)). Section 30250 also speaks to focusing development in or near developed areas able to accommodate it provided coastal resources can be protected. Again, and

as discussed in the Land Use and Development section of this report earlier, that is exactly the City's vision with respect to the Town Center concept, including concentrating development and creating a vibrant and walkable downtown core that can also help address other issues (e.g., limiting the need to drive and contribute to traffic, enhancing the downtown for coastal visitors, etc.). Further, by focusing such development in the Town Center, development pressure is lessened at the more rural, open space, and agricultural properties within the City, including the PD areas, helping to protect coastal resources in that way. The required mitigation for any conversion can only further help make that a reality.

In other words, by design, the City has identified a Coastal Act consistent way of addressing its patchwork of agricultural properties in a way that allows for limited conversion (again some 40 acres in the Town Center versus some 3,174 agricultural acres outside of it) in its core developed downtown, with more restrictive protections outside of it. Outside the town center, agricultural lands occur in larger swaths of land in a more rural setting. The proposed policies disincentivize agricultural conversions within such areas and only allow conversions subject to specific criteria, including an assessment of the feasibility of new or ongoing agricultural use, consistent with Coastal Act Sections 30241, 30241.5, 30242, and 30243. Thus, this construct prioritizes development within the Town Center over areas outside the Town Center, helping to establish stable urban and rural boundaries and completing a logical and viable downtown neighborhood contiguous with the main downtown area of the City. Agricultural conversions both within and outside the Town Center would also require mitigation to ensure that there are no individual or cumulative effects on coastal resources consistent with Coastal Act conversion requirements. Further, as indicated above, this is a much more protective LUP with respect to agriculture as compared to the existing LUP (where these areas are actually called out as the next to be developed), and should be able to better protect agricultural uses and operations as a result.

In addition, subdivision of prime agricultural lands is prohibited in the proposed LUP update unless it can be demonstrated that on-site, or adjacent, existing or potential agricultural productivity would not be reduced (see Policy 4-12), consistent with Coastal Act Section 30241(f). Other policies to promote and protect agricultural use within the City include offering Williamson Act contracts and agricultural conservation easements as voluntary incentives for ensuring continued agricultural land use (see Policy 4-3); expedited permitting and reduced permit fees for minor agriculture activities and development with no habitat impacts (see Policy 4-5); and expanded farmworker housing opportunities through the Workforce Housing Overlay (as discussed above in the Land Use and Development section) (see Policy 4-4). Lastly, the proposed LUP update includes performance standards and best management practices for agriculture and horticulture uses, including related to runoff and by-products management policies (see Policies 4-17 through 4-20).

As such, the agriculture policies of the proposed LUP update are consistent with the Coastal Act as they encourage protection of agricultural land and allow conversion of such land in very narrow instances consistent with other LUP and Coastal Act

provisions, and only with the provision of appropriate mitigation. Therefore, the policies ensure conflict between urban and agricultural land uses is generally avoided, consistent with relevant Coastal Act policies.

G. Natural Resources

Applicable Coastal Act Provisions

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

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

30230. *Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

30232. *Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

30233. *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities. (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps. (3) In*

open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. (4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines. (5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas. (6) Restoration purposes. (7) Nature study, aquaculture, or similar resource-dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

(d) Erosion control and flood control facilities constructed on watercourses can impede the movement of sediment and nutrients that would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for these purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

30235. *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.*

30236. *Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where*

such protection is necessary for public safety or to protect existing development or (3) developments where the primary function is the improvement of fish and wildlife habitat.

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

Analysis

The Coastal Act provides protection for natural resources, including on and offshore marine resources, wetlands, ESHAs, and other coastal waters, streams, estuaries, and lakes. Coastal Act policies emphasize the importance of protecting, maintaining, enhancing, and restoring coastal waters, wetlands, and ESHA and stress that development within or adjacent to such areas is only allowed for a very limited number of uses and under exacting criteria as specified in each applicable provision to protect these resources from degradation.

The proposed LUP update includes updated requirements to maintain and incorporate further protections for wetlands, riparian corridors, and other sensitive habitat areas within the City (see Policies 6-10 through 6-15). The proposed LUP update groups habitats into the following categories: terrestrial ESHA (including general Policies 6-16 through 6-18), coastal terrace prairie (see Policies 6-29 through 6-31), non-aquatic habitat for special status and unique species (see Policies 6-32 through 6-35), as well as the marine environment (see Policies 6-19 through 6-21), sea cliffs (see Policies 6-22 and 6-23), and dunes (see Policies 6-24 through 6-28), watercourses (perennial, intermittent, and ephemeral streams and channels with or without riparian vegetation, riparian corridors, etc.) (see Policies 6-46 through 6-55), and wetlands (including perennial and seasonal freshwater marshes) (see Policies 6-36 through 6-45). While the LUP also provides figures that depict where ESHA and potential ESHA may occur based on previous biological studies, known conservation areas, and citywide biological mapping efforts, the ESHA policies have been revised to clarify that site-specific studies shall be required for proposed development in areas in or adjacent to ESHA, areas mapped in the proposed LUP update as “potential ESHA,” or projects for which the preliminary biological inventory indicates the presence or potential for sensitive species or habitat to determine the presence and extent of ESHA, as not all areas have been subject to previous biological study, and as conditions on the ground may change over time (see Policy 6-8). Proposed Policy 6-4 provides that any area not designated on the ESHA maps that meets the ESHA criteria will be treated and protected as ESHA.

In terms of structure, the proposed LUP update generally establishes and defines habitat types, lays out policies protecting each habitat type, enumerates the limited permitted uses in these habitat areas and their buffers, and sets standards for siting and design for development permitted within and adjacent to these habitat types (see

Policies 6-12 and 6-81). In addition, the updated policies set required mitigation expectations for any LCP-allowed impacts to each habitat type and require monitoring and reporting for any required habitat mitigations (see Policies 6-69 through 6-71). The proposed LUP update also lays out policies that set siting and design requirements to assure the water quality of coastal waters is protected (see Policy 6-81), sets required best management practices (see Policy 6-83), and requires drainage and runoff control plans for new development (see Policy 6-84). The protections, requirements, and performance standards laid out in the proposed policies generally mirror the Coastal Act requirements for protection of natural resources, including coastal waters, wetlands, and environmentally sensitive habitat areas.

With respect to required buffers for habitats and carving out exceptions to those buffer requirements, the existing LUP establishes buffers for habitats for rare and endangered species, sand dunes and sea cliffs, riparian corridors, and wetlands. The buffer for habitats for rare and endangered species in the existing LUP is a minimum of 50 feet, for sand dunes is a minimum of 50 feet landward of the most seaward stabilized dune, and for sea cliffs is a minimum of 50 feet from the bluff edge plus the 50-year line of cliff retreat, if no less environmentally damaging alternative exists.

Existing LUP required buffers are different for riparian corridors associated with perennial versus intermittent streams. For perennial corridors, the existing buffer is a minimum of 50 feet from the limit of vegetation, or at least 50 feet from the top-of-bank if there is no vegetation. For intermittent corridors, the required buffer is at least 30 feet from the limit of vegetation, or 30 feet from the midpoint of the stream if there is no vegetation. Exceptions to these riparian corridor buffers include, for perennial corridors, a reduction to at least 20 feet from the limit of vegetation for new structures on existing legal building sites if no feasible alternative exists and if no other building site on the parcel exists, and for intermittent corridors, a reduction to at least 20 feet from the limit of vegetation, top of bank or midpoint of stream for building sites on newly created parcels if no feasible alternative exists. For wetlands, the existing LUP provides a minimum buffer of 100 feet from the high-water point, no buffer for man-made ponds or agricultural reservoirs, and a buffer reduction exception of at least 20 feet for new structures on existing legal building sites if no feasible alternative and no other building site on the parcel exists.

The proposed LUP update generally maintains these buffer requirements, but it actually increases protections for sensitive habitat areas, stipulates that *increased* buffers can be required where necessary for habitat protection, and provides that buffer reductions can be allowed only in very limited circumstances for properties with specified, limited criteria. In general, the proposed language expands buffer sizes both in terms of the required amount and from where the buffer is measured. For example, in the proposed LUP update, terrestrial ESHA buffers are set at a required minimum of at least 100 feet, substantially larger than the existing requirements described above (see Policy 6-17). Exceptions to this standard terrestrial buffer requirement in the proposed LUP update are similar to those exceptions created in the existing LCP for riparian corridors and wetlands and in the proposed LUP update for riparian corridors and wetlands. These exceptions include that buffer minimums may be changed in the following

circumstances: 1) if it is necessary to further protect ESHA from the impacts of proposed development, the buffer may be larger than 100 feet; 2) if the only building site is located entirely within the required buffer, no alternative development site, size, or design is feasible, and the proposed development is compatible with the continued viability of the adjacent ESHA, the buffer may be reduced to no less than 20 feet; and 3) if the only building site is partially located within the required buffer, no alternative building site, size, or design is feasible to accommodate the development entirely outside of the required buffer, no new adverse impacts to the ESHA will occur, and the reduced buffer would provide equivalent protection of the biological integrity of the ESHA, the buffer may be reduced to no less than 50 feet. Thus, the minimum buffer requirements have been increased, are required to be made larger if necessary to protect the resource, and buffer reductions are only allowed when certain conditions can be met, including that the reduction would be compatible with the viability of the adjacent ESHA.

Similarly, all of the updated riparian corridor buffer LUP policies require larger buffers than the existing LUP riparian buffer requirements and provide that all perennial and certain intermittent streams (including Kehoe and Wavecrest) must have a minimum 50-foot buffer from the limit of vegetation or 100 feet from the top of bank, whichever is greater (see Policy 6-49). Meanwhile, the proposed LUP update requires other intermittent and ephemeral streams be buffered a minimum of 35 feet from the limit of vegetation or top of bank, whichever is greater (see Policy 6-49). Paralleling the exceptions for the terrestrial ESHA buffers, the proposed LUP update allows exceptions as follows: if it is necessary to protect the corridor from impacts of proposed development, the required riparian buffer may be larger than the generally established buffer as listed above; if the only building site is located entirely within the required buffer, no alternative development site, size, or design is feasible, and the proposed development is compatible with the continued viability of the riparian corridor, the buffer may be reduced to no less than 20 feet; and if the only building site is located partially within the required buffer, no alternative building site, size, or design is feasible to accommodate the development entirely outside of the required buffer, no new adverse impacts to the riparian corridor will occur, and the reduced buffer would provide equivalent protection of biological integrity of the riparian corridor, the buffer may be reduced to no less than 35 feet from the limit of vegetation or 50 feet from the top of bank, whichever is greater, for all perennial and certain intermittent streams, or no less than 25 feet from the limit of vegetation or top of bank, whichever is greater, for all other intermittent and ephemeral streams (see Policy 6-50). This echoes the buffer reduction minimums in the existing LUP for riparian corridors.

Lastly, the proposed LUP update wetlands buffer is at least 100 feet from the edge of the delineated wetland, thus more robust than if buffered from the high-water point, as is required by the existing LUP, and may be required to be larger if it is necessary to protect the wetland from the impacts of proposed development (see Policy 6-41). The proposed LUP update carves out exceptions to the minimum 100-foot buffer requirement in specific situations: 1) if the only building site is located entirely within the required buffer, no alternative development site, size, or design is feasible, and the proposed development is compatible with the continued viability of the adjacent

wetland, the buffer may be reduced to no less than 20 feet; and 2) if the only building site is located partially within the required buffer, no alternative building site, size, or design is feasible to accommodate the development entirely outside of the required buffer, no new adverse impacts to the wetland will occur, and the reduced buffer would provide equivalent protection of wetland resources, the buffer may be reduced to no less than 50 feet. Rather than requiring no buffer for any man-made ponds or agricultural reservoirs, as is the case in the existing LUP, the proposed LUP update provides that no buffer is required for man-made agricultural-related ponds and impoundments that have been actively used for designated uses within the last year, or agricultural ponds and impoundments that have been actively used for agricultural purposes within the last five years.

Some might argue that buffer exceptions should be further limited, or that they be eliminated entirely. However, the City makes a compelling case for allowing such potential buffer modifications on a case by case basis. First, a rote reliance on a static buffer that can't be modified is sure to lead to situations where the LCP is not equipped to provide guidance, including in terms of potential takings where a resource or its buffer occupies all or most of a site. Second, it has been both the Commission's and the City's experience that when such resources are affected by potential development in the City, it is generally in terms of potential incursions into the buffer area, and not the resource itself, and site specific analyses regarding a buffer width (and not a static distance) provides decisionmakers with better information from which to make a decision that is protective of the resource. The proposed LUP update provides a systematic protocol for this process, making it more effective in better protecting such resources in such cases. Third, questions about buffers are expected to be for a fairly limited number of potential development cases. Lastly, and perhaps most importantly, required buffer distances are required to be established based on the needs of the resource being buffered in any particular case, and thus in *all* cases it is required that the resource be adequately protected by whatever buffer is applied, including as it may require a larger buffer than the minimums identified. In this way, it is required that the resource being buffered is adequately protected, and provides a meaningful and fact-based assessment to be able to draw such conclusions. Based on this evidence, the proposed language guiding buffers is appropriate here.

In terms of potential buffer modifications for terrestrial ESHA, most areas that contain this habitat type are located in either Open Space for Conservation or Regional Public Recreation land use designations where permitted uses are primarily resource-dependent uses and as such would be unlikely to make use of the habitat buffer reduction exception, or in Planned Development land use designations where habitat protections would be addressed through the master planning process. The undeveloped PDs that contain or are in close proximity to known or potential terrestrial ESHA include Surf Beach/Dunes Beach, Venice Beach, West of Railroad, and North Wavecrest PDs. The master planning process for each of these PDs provides the opportunity to identify site constraints and coastal habitat resources such as terrestrial ESHA. This master planning process will allow the City to comprehensively consider methods for protecting these resources, including through re-platting, siting and design alternatives, and flexibility regarding potentially allowed land uses that could be compatible with the

continued viability of a given ESHA. Through this process, the allowable density and intensity at which a PD may be developed requires consideration of the developable portions of a site, which excludes terrestrial ESHA, riparian corridors, wetland areas, or other sensitive areas and their buffers, and areas under public or open space land trust ownership.

In limited circumstances, there may be infill lots in already developed neighborhoods where the terrestrial ESHA buffer reduction might be considered for redeveloped residences or additions. As identified through a comprehensive analysis by the City, these areas are limited to: the developed properties at the western terminus of Mirada Road in the Miramar neighborhood; developed parcels surrounding the Casa del Mar neighborhood; developed parcels in the Grandview neighborhood; two undeveloped parcels in the Grandview neighborhood that are owned by and used as backyards for the properties immediately to the north, respectively; developed parcels along Terrace Avenue, with the exception of one undeveloped parcel that has an active CDP application on file with the City; and the undeveloped Grandview Terrace and Bernardo Station subdivisions. While the Grandview Terrace subdivision contains many parcels, only 10 of those conform to required minimum lot size, and only 23 are permitted to be developed. The Bernardo Station subdivision contains approximately 50 undeveloped parcels, but these parcels are not served by formal roads, cannot easily connect to the wastewater system, and many do not conform to required minimum lot sizes, so may not be of concern when considering potential buffer reductions. In all cases, the analysis described above would be required to be applied in any CDP process to ensure adequate protection of the resource being buffered as well as the buffer itself.

In terms of potential buffer modifications specific to riparian corridors, according to the comprehensive analysis conducted by the City, areas where these exceptions might be considered are primarily limited to infill lots along Roosevelt Creek, Pullman Watercourse, and Pilarcitos Creek. Along the south side of Roosevelt Creek, there are eight undeveloped parcels, four of which are owned by the City; the other four are likely entirely within or mostly within the buffer, and one of the remaining four is possibly within the corridor itself. Along the Pullman Watercourse, 2 lots are currently undergoing CDP review under the existing LCP, and 4 undeveloped parcels remain, 2 of which may be able to build outside of the required buffer area. Along Pilarcitos Creek, there are 14 undeveloped, privately-owned lots that are likely within or mostly within the buffer and several within or partially within the corridor. As such, approximately 20 undeveloped parcels along these riparian corridors might be analyzed through CDP processes for potential buffer modifications. Again, the CDP process would ensure appropriate resource protection, including related to buffers.

Meanwhile, according to the comprehensive analysis conducted by the City, the majority of the known or likely areas containing wetlands are located within the Planned Development, Open Space for Conservation, or Regional Public Recreation land use designations. While four undeveloped PDs contain or are in close proximity to known or likely wetland areas (including Surf Beach/Dunes Beach, Venice Beach, West of Railroad, and North Wavecrest PDs), the master planning process, as discussed above, assures that the wetland and wetland buffer delineations would be appropriately

accommodated. As to the wetland areas in the Open Space for Conservation and Regional Public Recreation land use designations, these designations provide for land uses focused on public access, recreation, habitat conservation, and related resource-dependent uses, and as such aren't likely to implicate any potential buffer reductions.

It appears that areas where modified wetland buffers might be considered are limited to: 1) developed/infill residential parcels including: the Miramar neighborhood area that surrounds the Guerrero wetlands (which includes one undeveloped, privately-owned parcel), the Grandview neighborhood adjacent to the Glen Cree wetlands (which, as discussed above, includes two undeveloped, privately-owned parcels that are owned by and used as backyards for the properties immediately to the north, respectively), and Terrace Avenue, within the Highland Park neighborhood adjacent to the Beachwood wetlands (which includes one undeveloped, privately-owned parcel that has an active CDP application under review by the City, as discussed above); and 2) the Grandview Terrace and Bernardo Station subdivisions, as discussed above.

In addition, the proposed LUP update provides clear direction regarding habitat policy applicability and policy hierarchy for situations in which numerous habitat types coexist. For example, Policy 6-2, "ESHA Policy Applicability," specifies that the ESHA policies of the natural resources chapter apply to all categories of ESHA, except where modified by the more habitat-specific policies of the LCP, and goes on to list the relevant policies for each of the more specific habitat types (e.g., marine environment, sea cliffs, dunes, coastal terrace prairie, non-aquatic habitat for special status or unique species, wetlands, watercourses, etc.). This is a critical improvement to the LUP as both the Commission and the City have been frustrated in CDP processes in the past where the current LUP was unclear as it related to resolving overlapping and different provisions, and that is corrected in the updated LUP.

As proposed, the proposed LUP update requires habitat buffers for all habitat types that are more protective than the existing LUP. This includes expanded buffer sizes, more expansive locations at which the buffer is measured from (resulting in more area being designated buffer), and allowances for increased buffer sizes where necessary to protect the habitat in question. While the proposed LUP update provides for limited buffer reductions in certain circumstances, each of these buffer minimums are more protective than the existing LUP as it regards potential buffer reductions, including in terms of narrowing the locations and circumstances in which they may be applied, as discussed above. Further, due to the detailed, clear language for each of the buffer policies in the proposed LUP update, the policies are designed to be adjustable based on site-specific circumstances and are consistent across habitat types, all of which makes these policies more implementable than those in the existing LCP. Again, in all cases, the CDP process requires site-specific analysis that is keyed to the needs of the resource being protected, including in terms of ensuring adequate buffers, which may actually be *more* than the minimums identified. Lastly, the proposed LUP update incorporates the marine environment (which is defined to include areas of ocean, sandy beach and small estuaries at the mouths of major creeks) and sea cliffs (areas of steep slopes at the interface between the marine environment and land-based habitats) in its classification of terrestrial ESHA, as the existing LCP considers these habitat areas

ESHA as well. Although the Commission's standard definition of ESHA does not include all of the marine environment or sea cliffs, the City's definition is thus more expansive, and more protective, of such habitat areas. In sum, the proposed natural resources policies are consistent with the required protections for these resources in the Coastal Act.

H. Coastal Hazards

Applicable Coastal Act Provisions

Section 30253 of the Coastal Act requires minimization of risks to new development from coastal hazards, including the need for new development to ensure long-term structural integrity, minimize future risk, and to avoid landform-altering protective devices along bluffs and cliffs. Section 30235 identifies the criteria for when shoreline armoring might be allowable. These sections state in applicable part:

30235. *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

30253. *New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...*

Analysis

Coastal Act Sections 30235 and 30253 acknowledge that seawalls, revetments, cliff retaining walls, groins, and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, under Section 30235 shoreline protective devices are required to be allowed only to serve a coastal-dependent use, or to protect existing (not new or redeveloped) structures or public beaches in danger of erosion (subject to the requirement that adverse impacts to local shoreline sand supply are mitigated or eliminated, and per other Coastal Act sections that other coastal resource impacts are also addressed). In other words, new or redeveloped non-coastal-dependent developments cannot rely on shoreline protective devices in their proposed siting and design, and instead must be located safe from coastal hazard threats without reliance on such devices. The Coastal Act provides these limitations because shoreline protective devices can have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on- and offsite, ultimately resulting in the loss of beaches.

As such, for consistency with the above Coastal Act policies, an updated LUP must, at a minimum, include the following: policies that require new development to be safe from coastal hazards risk, including as these hazards may be exacerbated in the future due to climate change and sea level rise; policies that specify which uses are potentially allowed shoreline protective devices, namely coastal-dependent development and other “existing” development that is considered as such because it was built prior to the Coastal Act’s effective date (i.e., January 1, 1977) and not redeveloped since;⁶ and, for such development allowed shoreline protection, specify the requirements and mitigation measures needed to ensure resultant coastal resource impacts are mitigated, including with respect to impacts on sand supply, as well as public access and recreation, public views, beach ecology, and other coastal resources. In short, the Coastal Act requires new development to minimize risks to life and property while ensuring stability and structural integrity without contributing significantly to erosion, geologic instability, or destruction of the site or surrounding area. It also provides that new development that would rely on shoreline armoring is prohibited and that adverse impacts of shoreline armoring to coastal resources such as sand supply be avoided, lessened, and mitigated for where unavoidable. As such, the Coastal Act requires that new development minimize risks to life and property in areas of coastal hazards and prohibits new development or redevelopment that would require armoring to ensure stability at any point during its lifetime.

The City development pattern is atypical as compared to most cities in the coastal zone in that much of the immediate shoreline is sandy public beach and open space, including blufftop recreation areas, which are owned either by State Parks or the City. As a result, and aside from these beaches and blufftop recreation areas, there is limited development at risk of coastal bluff erosion, coastal flooding, wave run-up, and sea level rise impacts over the 2040 planning horizon, which is the focus of this LCP update. By the City’s estimates, seven private developments are in this at-risk area: Sam’s Chowder House, the Beach House Hotel, and Pillar Point RV Park, which are situated north to south, respectively, in the northernmost part of the city, between Pillar Point Harbor and the Half Moon Bay jetty; the multi-unit apartment building at 2 Mirada Road and the Casa Mira townhomes, which are located in close proximity to one another in the northern third of the City, just south of Miramar Beach; the single-family residence at

⁶ As described in the Commission’s 2015 Sea Level Rise Policy Guidance, the Commission interprets the term “existing structures” in Section 30235 as meaning structures that were in existence on January 1, 1977, the effective date of the Coastal Act. In other words, Section 30235’s directive to permit shoreline armoring for structures in certain circumstances applies to development that lawfully existed as of January 1, 1977 and that has not subsequently been redeveloped (i.e., where changes to it since 1977 have been sufficient enough that it is considered a replacement structure required to conform to applicable Coastal Act and LCP provisions). This interpretation is the most reasonable way to construe and harmonize Sections 30235 and 30253, which together evince a broad legislative intent to allow armoring for development that existed when the Coastal Act was passed, when such development is in danger from erosion, but to avoid such armoring for development constructed consistent with the Act, which doesn’t allow shoreline altering armoring development to support same. This interpretation, which essentially “grandfathers” protection for development that predates the Coastal Act, is also supported by the Commission’s duty to protect public trust resources and interpret the Coastal Act in a liberal manner to accomplish its purposes.

16 Thone Avenue and the Ritz Carlton Hotel, which are both located near the southern end of the City, just south of the Wavecrest neighborhood. All of these sites, except for the single-family residence and the Ritz Carlton, have shoreline armoring currently in-place. Of these seven sites, only three are identified by the City as “existing” or built pre-Coastal Act (Sam’s Chowder House, the multi-unit apartment building at 2 Mirada Road, and the single-family residence at 16 Thone Avenue), and of those three, the City estimates that none have been redeveloped since the passage of the Coastal Act (specifically, none have been demolished, renovated, or added to in excess of 50% or more of the major structural components based on the City’s review of available evidence).⁷

In addition, three critical facilities are located in at-risk areas, all of which the City estimates are “existing” as they were built pre-Coastal Act and have not been redeveloped since based on the City’s review of available evidence. These include: the roadway prism of Highway 1 itself, the SAM Plant (which is south of Half Moon Bay State Beach and in close proximity to Pilarcitos Creek’s coastal terminus), and three City sewer mains (which are located between the bluff edge and the Casa Mira townhomes in Miramar, along Highway 1, near Surfer’s Beach, and west of Balboa Avenue near the State Beach Campground). Lastly, the California Coastal Trail, which runs along the coast for most of the City; six State Parks’ employee houses (located close to the shoreline in the Miramar neighborhood at the terminus of Alcatraz and Santa Rosa Avenues); a State Beach campground at Francis Beach; as well as other beach parking lots, beach accessways, and a closed landfill (on the coastal bluffs south of Poplar Street) are also located within the at-risk area, all of which the City estimates were either fully, or partially, developed prior to the Coastal Act.

As part of the LUP update process, the City completed a Sea Level Rise Vulnerability Assessment in 2016 as well as subsequent erosion studies that helped identify potential coastal hazards and potential resources that may be subject to such hazards. The updated environmental hazards policies rely on these studies, which assume up to approximately 2 feet of bluff erosion per year, or roughly 70 feet of erosion by 2050, as well as OPC’s 2018 Sea Level Rise Guidance (that projects up to 1.9 to 2.7 feet of sea level rise by 2050 and 6.9 to 10.2 feet by 2100 based on the medium-high (1-in-200 chance) and extreme sea level rise scenarios). Generally, the proposed policies require hazard avoidance and adaptation measures to protect coastal resources and development in the City (see Policy 7-1). The proposed LUP update includes revised requirements to minimize risks of such hazards and addresses the impacts of both climate change and sea level rise, and their implications on land use and infrastructure planning, which are not clearly and explicitly addressed in the existing LUP.

In terms of shoreline hazards, the proposed LUP update acknowledges that sea level rise projections will likely continue to be revised throughout the 2040 planning horizon based on best available science, and relevant policies have been designed to require the consideration of triggers to address developing hazards over a project’s life,

⁷ The Commission also came to the same conclusion regarding the 2 Mirada Road apartments in its review of CDP No. 2-16-0784 in 2019.

thresholds for such triggers, and consideration of various scenarios rather than specific sea level rise amounts or timing. Proposed coastal hazards policies can be grouped into three categories: 1) policies that require additional long-term planning and continuous study of coastal hazards issues affecting the City overall; 2) policies that require new development to be safe from coastal hazards risk; and 3) policies that specify which types of development and uses are and are not allowed shoreline armoring, and the coastal resource protection requirements that must be addressed as part of the project design/proposal for such allowable armoring to mitigate impacts.

First, with respect to additional long-term planning, the proposed LUP update recognizes the potential threats from coastal hazards and acknowledges that the risk of climate change and sea level rise hazards is expected to increase with the compounding effects of climate change over time. As such, the proposed LUP update indicates that resilience planning, mitigation, and adaptation measures are needed to reduce the anticipated impacts of these coastal hazards. Thus, the proposed LUP update includes policies that commit to additional research over time, including updates to shoreline hazard mapping (see Policy 7-10) and a dynamic sea level rise adaptation strategy (see Policy 7-11), in addition to anticipation of impacts on public facilities (see Policies 7-23 through 7-27), and development of strategies for community-led relocation. Strategies for future adaptive management and potential relocation include the requirement that CDPs include enforceable requirements for property protection plans for properties with a principle structure closer than 100 feet to the blufftop edge or located in an area subject to potential risk of shoreline hazards (see Policy 7-40), incremental removal of development as dictated by triggers for relocation or removal of structures as determined by changing site conditions (see Policy 7-41), and rolling easements for lands within 300 feet of the beach or blufftop edge (see Policy 7-42). The proposed updated LUP also includes a broader call for a shoreline management plan in coordination with Caltrans, San Mateo County, and the Harbor District to address coastal vulnerability of Highway 1 (see Policy 7-43).

To address existing development in hazard areas, the new proposed hazard policies require that when a CDP for any type of development is proposed on properties (a) with a principle structure closer than 100 feet to the blufftop edge or (b) located in an area subject to potential risk of shoreline hazards during the anticipated life span of the structure, that such CDP applications be accompanied by a property protection plan to be reviewed and approved by the City before they can be developed. These plans, recorded against the property, must provide an estimate of when the structure may be permanently unsafe from hazards and identify measures to make the structure suitable for habitation without shoreline protection, including steps and thresholds for retrofitting, removal, and relocation. If the approved plan identifies there is no feasible alternative to make the structure suitable for habitation while the plan is being implemented, shoreline protection may be allowed if it is only in place for the specific amount of time needed to retrofit, remove, or relocate the structure pursuant to the plan and only if all coastal resource impacts are appropriately mitigated and the site is fully restored following its removal. Really, though, the purpose of the plan is to avoid such situations, and rather than the plan provides adequate notice and time within which to take corrective measures, whether that be removal or relocation or both. Therefore, the allowance for

temporary shoreline protective devices for properties with a principle structure closer than 100 feet from the blufftop edge or located in an area subject to potential risk of shoreline hazards during the anticipated life span of the structure in this proposed LUP update would in practice only apply in extremely limited circumstances, and even then only for a limited time while a long-term Coastal Act-consistent property protection plan is being implemented to ensure appropriate adaptive measures are developed, and only as long as impacts are fully and appropriately mitigated per Coastal Act standards. In other words, the plan is intended to avoid such situations, and if unavoidable, to provide a bridge to a Coastal Act and LCP consistent outcome.

The LUP also calls for a broad goal to establish a shoreline management plan, to be initiated by the City, which would take a long-term, comprehensive approach to addressing changes to the shoreline from coastal processes, with an emphasis on soft protection strategies. As proposed, the LUP policies related to future planning requirements for development in hazard areas with appropriate mitigation for impacts ensure that future development minimizes risk and does not, in the long term, rely on shoreline protection consistent with Coastal Act requirements regarding coastal hazards.

Next, with respect to siting new development in such a way that minimizes and assures safety from hazard risk, the proposed LUP requires new development to be sited and designed to minimize risks of and contribution to coastal hazards (see Policies 7-1, 7-8, 7-9, and 7-12). As indicated above, development on and near blufftops and beaches within the City is generally limited, and any new blufftop and beachfront development is required to address the potential for flooding, erosion, and other sea level rise impacts over time, including through analysis of site-specific shoreline hazards including sea level rise impacts (see Policies 7-13 through 7-17). Given the development pattern of the City, as indicated above, these types of projects are expected to be fairly limited in number.

New critical facilities, structures involving high occupancies, and public facilities may not be sited in areas of high geologic hazard (as mapped through the proposed LUP update) unless such location siting is deemed critical to public welfare (see Policy 7-27). If such an exception is made to locate structures in hazardous areas because they are deemed critical to public welfare, the proposed LUP update requires they minimize and mitigate potential impacts. In addition, the proposed LUP update requires such CDP submittals to demonstrate stability of a proposed development site over the anticipated life span without relying on shoreline protective devices (see Policy 7-8).

Updated policies require proposed development to meet performance standards established to prevent runoff and erosion impacts, and require sufficient setbacks to prevent erosion impacts over the life of the development, including taking into account the potential for accelerated erosion from sea level rise (see Policy 7-12). The proposed LUP update establishes that minimum blufftop setbacks and evaluation of blufftop site stability must also further be determined by the appropriate industry standard factor of safety for both static and seismic conditions. Further, the LUP limits subdivisions of land in areas vulnerable to coastal hazards, so as to ensure development potential is not

increased in unsafe areas and/or in areas where it might require shoreline armoring in the future (see Policy 7-15). As proposed, the LUP policies regarding the siting of new development generally mirror the language of Coastal Act Section 30253, including in that they assure adequate analysis, assessment, and siting to minimize risk from such hazards without reliance on shoreline armoring, and are therefore consistent with this policy.

Finally, the proposed LUP update also includes policies that address both existing and future shoreline protective devices, including specifying the types of development for which such armoring may be considered (see Policies 7-28 through 7-39). As indicated above, the Coastal Act limits mandatory allowance for new shoreline protective devices to those that are necessary to protect existing structures (i.e., structures built before the Coastal Act's operative date of January 1, 1977 and that have not been redeveloped since), coastal-dependent development, and public beaches subject to erosion. The proposed LUP update mirrors these requirements, including that shoreline protective devices are allowed only to serve a coastal-dependent use or to protect an existing structure in imminent danger from erosion, and only when found to be the least environmentally damaging feasible alternative and when all coastal resource impacts are appropriately and proportionally mitigated. Policies in the proposed LUP update also require the use of 'soft' and non-armoring shoreline protection where it is both required and feasible, and provide for monitoring and mitigation of the impacts of shoreline protective devices over time. When shoreline protective devices are no longer used, fall into disrepair, or are illegally constructed, the LUP requires that such structures be removed. This approach in the proposed LUP update for shoreline protection device allowances is consistent with the allowances as dictated by the Coastal Act Sections 30235 and 30253.

In addition, the proposed LUP update provides that shoreline protective devices may be permitted on a temporary basis only for at-risk critical public infrastructure and facilities, if needed to continue to provide essential public services to the community while necessary relocation and removal is accommodated. The Commission has typically been faced with these kinds of circumstances when considering CDPs for wastewater treatment plants, sewer lines, significant roads (such as Highway 1), and other such critical public infrastructure. Here, the proposed LUP update is clear that such critical public infrastructure and facilities must also meet the 'existing structure' test to be allowed armoring, and where such infrastructure and facilities don't meet that test, then armoring is not allowed. At the same time, the LUP acknowledges that the types of circumstances identified above may occur, including as it can often take significant time for public agencies to plan, budget, and otherwise accommodate removal or relocation of such infrastructure and facilities when they are not considered existing and if they are threatened by coastal hazards. To provide proper guidance in such scenarios, the LUP provides for a process by which such temporary armoring might be considered if there is no alternative interim feasible solution, and if the public infrastructure and facilities could lead to significant coastal resource degradation if left unprotected (e.g., sewer spills, etc.). It is only in such cases, and the LUP lays out the criteria, that such interim armoring might be allowed, provided it is the least necessary to avoid the potential problems, is limited in duration as much as possible, and includes offsetting mitigation

for any coastal resource impacts. The Commission here finds that this is both good public policy and consistent with the Coastal Act provided that, on balance, the interim solution is the most protective of significant coastal resources (and related to marine resources (Section 30230), water quality (Section 30231), or environmentally sensitive habitat area (ESHA) (Section 30240)), consistent with the Commission's historical approach to this type of issue.⁸

While relocation of critical public infrastructure along the coast is an important adaptation tool in order to provide continued function and viability of essential public services in a manner that does not lead to significant adverse coastal resource impacts, such a strategy is typically a longer-term effort, and this aspect of the proposed LUP update accounts for that. As discussed above, other policies in the proposed LUP update provide that new critical facilities may not be sited in areas of high geologic hazard unless such location is deemed critical to public welfare. If such structures are deemed critical to public welfare, they must minimize and mitigate potential impacts to be consistent with the new LUP policies on this point. Furthermore, any new development, including potential new critical facilities, is required to demonstrate site stability over its anticipated life span, without any reliance on shoreline protective devices. Therefore, the proposed LUP policies regarding shoreline protective devices can be found consistent with the Coastal Act hazard and resource protection policies.

Through these various policies, the LUP will ensure consistency with the hazards policies of the Coastal Act by requiring stringent analysis of blufftop, beachfront, and at-risk properties on or near the shoreline, limiting the location and nature of subdivisions, new development, and redevelopment, requiring sufficient setbacks and construction standards, limiting allowable shoreline armoring, and establishing forward-thinking mechanisms by which the City's shoreline and shoreline-adjacent areas can continue to adapt as needed over time with sea level rise and its anticipated impacts. Further, the proposed LUP update provides legal mechanisms to reasonably manage the risk of anticipated coastal hazards. New policies in the proposed LUP update require, as conditions of approval for all CDPs on properties containing shoreline, geologic, flood, or fire hazards, disclosures of the relevant hazards and deed restrictions to be recorded against those properties to ensure that potential owners understand and assume the risks present, waive claims of damage or liability against the City, waive any rights to future shoreline armoring that may exist, acknowledge the development may need to be removed and the site restored in the future in response to developing hazard conditions, and accept full responsibility in the event that the development is threatened by hazards in the future and needs to be removed or relocated.

The LUP does not attempt to address the issue of defining "existing structures" for armoring purposes, in essence deferring any explicit LCP definition on this term to a future IP update or other LCP amendment. The Commission continues to interpret the term in the way identified earlier in this section regardless, and notes three things. First, most if not all CDP applications related to coastal armoring will actually be located within the Commission's CDP jurisdiction along the immediate shoreline, where the

⁸ See, for example, CDP 3-19-0020 (San Simeon wastewater treatment plant).

Coastal Act is the standard of review. Second, the City's unique development pattern means that most development is set well inland of the immediate shoreline where issues associated with armoring are not likely to be significant for most of the City for many years to come. As detailed above, there are actually quite few locations in the City where armoring issues may be engendered in the shorter term. Third, the proposed LUP update includes a very robust coastal hazards framework structured around shoreline resilience and avoiding armoring, including via requiring that development address and respond to coastal hazards without armoring, and that it include appropriate triggers and disclosures to ensure that appropriate community-led relocation efforts can be applied in the longer term future when and if it becomes problematic. In short, the City values its shoreline, beaches, blufftop open spaces, and coastal trails, and the proposed LUP update provides a robust framework to ensure that these resource areas remain an important part of the City, including fostering its status as a prime visitor destination, but also as part of the City's social, cultural, and economic fabric.

Lastly, the proposed LUP update includes policies intended to allow for protection from coastal hazards while also protecting ESHA. For example, an LUP policy is proposed to require soft or living shorelines where feasible and appropriate, in order to protect and enhance natural resources, such as along creek banks (see Policy 7-32). While the chapter encourages minimization of fire hazards, the proposed LUP update provides for protection of both ESHA and fire protection for development including measures such as sprinkler system retrofits, smart landscaping, ESHA restoration, surrounding ESHA with fire breaks, and limiting activities in areas adjacent to ESHAs (see Policy 7-62).

In addition, the proposed LUP update includes fluvial flood hazard policies that provide that new development, except for uses allowed within a watercourse or its buffer area, be prohibited within the 100-year flood hazard zone of a watercourse. New development adjacent to flood zones is also required to address biological resource concerns (see Policies 7-52 and 7-53).

In conclusion, the coastal hazards policies of the proposed LUP update are consistent with the Commission's Sea Level Rise Guidance, as they provide for community-led resiliency planning and relocation efforts to ensure protection of coastal resources as sea levels rise, limit shoreline armoring, and require robust studies for development proposed in hazardous areas accounting for projected sea level rise, and thus can be found consistent with the Coastal Act hazard requirements. In addition to the proposed LUP update discussion and policies on hazards and climate change, the proposed LUP update also includes policies regarding geologic and seismic hazards, fluvial flood hazards, and fire hazards. Thus, the proposed LUP update as proposed assures new and existing development within Half Moon Bay will be considered consistent with Coastal Act requirements to minimize risks, ensure structural stability without contributing to surrounding hazards, and to only allow shoreline protective devices in very limited circumstances for existing development where appropriate.

I. Other Coastal Resource Issues

Applicable Coastal Act Provisions

The Coastal Act also addresses the protection of coastal resources such as public access, cultural resources, scenic and visual resources, and addresses environmental justice considerations. The following sections of the Coastal Act require preservation and enhancement of public access as follows:

30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

30211. *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

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

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

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

30214. *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in*

the area and the proximity of the access area to adjacent residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

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

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

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

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

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

30252. *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads,*

(3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

30253(e). *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The following Coastal Act policies provide specific protections for archaeological resources and scenic and visual qualities via minimizing the potential for adverse impacts from development as follows:

30244. *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The Coastal Act also provides for environmental justice considerations as follows:

30013. *The Legislature further finds and declares that in order to advance the principles of environmental justice and equality, subdivision (a) of Section 11135 of the Government Code and subdivision (e) of Section 65040.12 of the Government Code apply to the commission and all public agencies implementing the provisions of this division. As required by Section 11135 of the Government Code, no person in the State of California, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination, under any program or activity that is conducted, operated, or administered pursuant to this division, is funded directly by the state for purposes of this division, or receives any financial assistance from the state pursuant to this division.*

30107.3. (a) *“Environmental justice” means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.* (b) *“Environmental justice” includes, but is not limited to, all of the following: (1) The availability of a healthy environment for all people. (2) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities. (3) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use decision making process. (4) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions.*

30604(h). *When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.*

Analysis

The Coastal Act requires that public access and public recreational opportunities to and along the coast must be maximized, that development enhance and/or protect public access and recreation opportunities, and that access and recreational opportunities be provided where appropriate. Public parking and other facilities should be distributed along the coast, and lower-cost visitor-serving facilities are to be protected, encouraged, and provided. The Coastal Act further provides that development shall provide appropriate mitigation if it may adversely impact archeological resources, and that the scenic and visual qualities of coastal areas shall be protected. Importantly, the Coastal Act’s Section 30210 direction to maximize access represents a different threshold than to simply provide or protect such access, and is fundamentally different from other like provisions in this respect: it is not enough to simply *provide* access to and along the coast, and not enough to simply *protect* access; rather such access must also be *maximized*. This terminology distinguishes the Coastal Act in certain respects, and provides fundamental direction with respect to LCP public recreational access planning.

The proposed LUP Coastal Access and Recreation chapter specifically documents existing coastal access conditions and public recreational facilities, evaluates local and visitor demand for such facilities, describes improvements needed to enhance access to the coast for all people, and identifies priority improvements and recreational needs of the community. The proposed LUP update delineates two categories of coastal access routes: primary routes, which provide a direct connection between Highway 1 and/or downtown Half Moon Bay and the coastline through public parking areas and formal vertical access to the beach, and secondary routes, which are not formalized public parking facilities but include direct and long-established access to the coast. Policies ensure maximum coastal access and recreational opportunities are protected, enhanced, and provided where appropriate, that new development provide public

access where applicable and feasible, that public facilities be distributed along the coast so as to maximize opportunity, and that adverse impacts from new development on existing public coastal access be mitigated (see Policies 5-1 through 5-12). In addition, policies consider siting and design of parking for coastal access points (see Policy 5-14); require no-cost and lower-cost user fees and parking fees (see Policy 5-15); require public accessways be adequately setback with appropriate siting and design (see Policy 5-16) and clearly posted signage (see Policy 5-19), all of which is intended to protect and enhance public access. Other policies ensure improvements to bicycle and pedestrian coastal access (see Policies 5-24 through 5-43); appropriate public parking, signage, and transit services (see Policies 5-44 through 5-58); and development and preservation of no-cost and low-cost parks and other visitor and recreational facilities (see Policies 5-59 through 5-78). Thus, the proposed coastal access and recreation policies would be consistent with Coastal Act Sections 30210, 30211, 30212, and 30252, which provide that maximum access and recreational opportunities shall be provided, and that development shall not interfere with, and rather provide and enhance, public access to the shoreline and along the coast; and Coastal Act Sections 30212.5 and 30213, which provide for provision, distribution, and protection of public facilities including parking and lower-cost visitor and recreational facilities.

The proposed LUP update also includes policies intended to ensure the protection and preservation of archaeological, tribal, and cultural resources (including “tribal cultural” resources, which can encompass viewsapes and subsistence areas) in Half Moon Bay (see Policies 8-1 through 8-4). Policies provide for the identification and documentation of archaeological and paleontological resources, call for an archaeological survey for projects located in archaeologically sensitive areas (see Policy 8-9), and require that a qualified archeologist document the resources on a site as well as any potential impacts (see Policy 8-11). The proposed LUP update also includes notification and consultation requirements in order to assure adequate mitigation and monitoring plans to avoid or minimize any identified impacts to tribal or cultural resources (see Policies 8-5 and 8-6) and seeks to protect such resources from potential impacts of rising sea levels where appropriate (see Policy 8-4). Policies establish a requirement for Native American consultation consistent with the provisions of SB 18,⁹ AB 52,¹⁰ and the Coastal Commission’s Tribal Consultation Policy. Both City staff and Commission staff conducted tribal consultation regarding the proposed LUP update, and no comments were received from tribal contacts with regard to the tribal cultural resources policies. Thus, the cultural resources policies of the proposed LUP update would be consistent with Coastal Act Section 30244, which requires identification of archaeological and paleontological resources and reasonable mitigation if development would adversely impact such resources.

⁹ SB18 amended Section 815.3 of the Civil Code, amended Sections 65040.2, 65092, 65351, 65352, and 65560 of the Government Code, and added Sections 65352.3, 65352.4, and 65562.5 to the Government Code, relating to traditional tribal cultural places (Ch 905, Statutes of 2004).

¹⁰ AB52 amended Section 5097.94 of, and added Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to, the Public Resources Code, CEQA, relating to Native American issues (Ch 532, Statutes of 2014).

Finally, proposed LUP update policies identify scenic and visual resource areas including scenic corridors, natural resources, and the built environment and include requirements to protect such areas and public views more generally through review of new development proposals. Policies require development to minimize visual impacts, including by protecting views to and along the ocean (see Policy 9-2), minimizing the alteration of natural landforms (see Policy 9-7), ensuring compatibility with the surrounding setting (see Policies 9-3 and 9-5), and restoring visually degraded areas where feasible (see Policy 9-4). Policies also establish citywide development standards for design review and measures to minimize visual impacts from grading and land divisions (see Policies 9-6 and 9-8). Thus, the proposed scenic and visual resources policies would be consistent with Coastal Act Sections 30251 and 30253(e), which protect scenic and visual qualities of coastal areas including views to and along the ocean, the unique characteristics of popular visitor destination points and scenic coastal areas, compatibility with the character and natural landforms of the surrounding area, and public views of and in the coastal zone more broadly.

Finally, although not a Chapter 3 policy, the Coastal Act also requires that environmental justice be considered in terms of all coastal resource areas, requires that coastal development does not unduly burden any particular segment of the population with adverse coastal resource impacts, especially those communities that historically have been overburdened by such impacts, and reflects a focus on explicitly requiring fair treatment to all people in the application of the Coastal Act and LCP. As such, this proposed LUP update includes a new foundational policy to ensure that Half Moon Bay's planning decisions are viewed through the lens of social equity and environmental justice (see Policy 1-5). This environmental justice policy provides support for the Workforce Housing overlay, low-cost overnight accommodations, tribal consultation, and low-cost public access and recreation opportunities. Thus, the proposed LUP update's incorporation of environmental justice considerations would be consistent with Coastal Act Sections 30013, 30107.3, and 30604(h).

Policies in the proposed LUP update require that public access to the coast is maintained, enhanced, and sustainable; ensure protection of cultural resources; enhance the protection of scenic and visual resources, and public views more broadly; and consider environmental justice implications of new development, and as such can be found consistent with the Coastal Act.

J. 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 LCPs and LCP amendments. Instead, the CEQA responsibilities are assigned to the Coastal Commission; however, the Commission's LCP review and approval program has been found by the Secretary of the Natural 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 or LCP amendment action.

Nevertheless, the Commission is required, in approving an LCP or LCP amendment 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 (see California Code of Regulations Title 14 Sections 13540(f) and 13555(b)). In fulfilling that review, this report has discussed the relevant coastal resource issues with the proposed LCP update, and has concluded that approval is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Thus, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects due to approval of the proposed LUP update that would necessitate such changes. Thus, the proposed LUP update will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A). In addition, the proposed LUP update includes 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 findings represent the Commission's analysis and consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed LUP update, as well as potential alternatives to it.

3. APPENDICES

A. Substantive File Documents¹¹

- Existing LCP
- Existing and Proposed LUP Policy Comparison Tables
- City Planning Commission and City Council Resolutions
- City Planning Commission and City Council Hearing Staff Reports and Associated Documents
- City Planning Commission and City Council Minutes
- City Planning Commission and City Council Notices
- City Tribal Consultation
- Habitat Buffer Policy Comparison
- Riparian Buffer Reduction Analysis
- Terrestrial ESHA Buffer Reduction Analysis
- Wetland Buffer Reduction Analysis

¹¹ These documents are available for review from the Commission's North Central Coast District office.

- Shoreline Hazard Analysis
- Potential Modifications for Future LCP Amendment

B. Staff Contact with Agencies and Groups

- City of Half Moon Bay
- Costanoan Rumsen Carmel Tribe
- Green Foothills
- Sierra Club
- Surfrider