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Prepared September 23, 2022 for October 14, 2022 Hearing

To: Commissioners and Interested Persons

From: Dan Carl, Central Coast District Director
Esme Wahl, Coastal Planner

**Subject: San Luis Obispo County LCP Amendment Number LCP-3-SLO-22-0020-1
(Hearst Ranch Cemetery Designation)**

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County, in response to a request by the underlying property owner, Hearst Holdings Inc., proposes to amend its Local Coastal Program (LCP) Land Use Plan (LUP) by changing the land use designation of a 4.98-acre area (part of APN 011-181-018) located within Hearst Ranch from Agriculture (AG) to Rural Residential (RR). The proposal also includes an update to the LCP's North Coast Area Plan to restrict the use of the area to a private family cemetery, passive recreation, and crop production and grazing.

Hearst Ranch is an 83,000-acre cattle ranch located on the north coast area of San Luis Obispo County near the unincorporated town of San Simeon and surrounding State Parks' Hearst San Simeon State Historical Monument (also known as Hearst Castle). The roughly 5-acre area proposed for the new LCP designation is located approximately 3 miles inland of Highway 1 and a half-mile seaward of Hearst Castle itself in an area that is surrounded on all sides by Hearst Castle Road, fenced off, and not currently used for (or even connected to) any ranch related grazing or other uses. The property owner would like to use this area for a private family cemetery; however, the existing AG land use designation does not allow for cemeteries. The proposed designation change would allow for private family cemeteries (as well as passive recreation, and crop production and grazing), subject to further coastal permitting by the County for any necessary development.

The main issue raised by the proposal is that the land in question is designated agricultural, and the Coastal Act contains strong protections for agricultural lands. Here, however, although Hearst Ranch is a major agricultural operation, the largest in the County, and is a valuable asset along the County's North Coast, the roughly 5-acre area in question is not actually used for agricultural purposes nor is renewed agricultural use feasible. Rather, the area is fenced off from the surrounding grazing lands and enclosed by Hearst Castle Road, which frequently becomes a busy thoroughfare that visitors use

to get to and from the Hearst Castle parking lot to tours of the Castle itself high on the hill. The area is essentially an 'island' separated from the surrounding grazing land. Given the physical circumstances of this area and its relation to Hearst Castle operations, renewed agricultural use of the area is not feasible. In addition, allowing this fragmented area to be converted to a non-agricultural use will be compatible with the continued agricultural use of the surrounding agricultural lands, because the proposed amendment as submitted restricts future uses of the 4.98-acre area to private family cemetery, passive recreation, and crop production and grazing, thereby eliminating other incompatible uses of the RR land that might be pursued in the future (such as residential development).

Staff thus recommends that the Commission find the proposed amendment consistent with and adequate to carry out the policies of the Coastal Act, and that the Commission approve the amendment as submitted. The motion and resolution are found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on July 22, 2022. The proposed amendment affects the LCP's LUP, and the 90-working-day action deadline is December 1, 2022. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until December 1, 2022 to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: I move that the Commission extend the time limit to act on San Luis Obispo County Local Coastal Program Amendment Number LCP-3-SLO-22-0020-1 to December 1, 2023, and I recommend a yes vote.

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EXHIBITS

- Exhibit 1: Vicinity Map
- Exhibit 2: Location of 4.98-acre area
- Exhibit 3: Proposed Land Use Category Map Changes
- Exhibit 4: Proposed NCAP Planning Area Standard Amendment

1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **certify the proposed LCP amendment as submitted**. The Commission needs to make one motion in order to act on this recommendation, and staff recommends a **YES** vote on the motion below. Passage of the motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Motion to Certify: *I move that the Commission certify Land Use Plan Amendment LCP-3-SLO-22-0020-1 as submitted by San Luis Obispo County, and I recommend a YES vote.*

Resolution to Certify: *The Commission hereby certifies Land Use Plan Amendment LCP-3-SLO-22-0020-1 for San Luis Obispo County and adopts the findings set forth below on the grounds that the amended Land Use Plan conforms with the policies of Chapter 3 of the Coastal Act. Certification of the amended Land Use Plan 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 amended Land Use 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.*

2. FINDINGS AND DECLARATIONS

A. Background and Proposed LCP Amendment Description

Hearst Ranch is an 83,000-acre cattle ranch located on the north coast area of San Luis Obispo County near the unincorporated town of San Simeon and surrounding State Parks' Hearst San Simeon State Historical Monument (also known as Hearst Castle).¹ Hearst Ranch is one of the oldest ranches in America and is the major agricultural land holding in the County's north coast, including encompassing nearly 50,000 acres within the coastal zone. Historically the Ranch stretched to the ocean along some 18 miles of rocky shoreline punctuated with sandy beaches and coves, but the Hearst Corporation gave almost all of the ranch land seaward of Highway 1 to State Parks in 2005 as part of a land conservation agreement among a number of parties (not including the Commission, and not reflected in the LCP).² The remaining ranch land inland of

¹ The Hearst family gifted Hearst Castle and its immediately surrounding land to the State in the 1950s. Today, State Parks operates tours of the castle, and it is one of the most, if not the most, popular destinations in the entire State Park system.

² Beginning in the 1960's, the Hearst Corporation considered a number of development proposals for the ranch, including large resorts, golf courses, an airport, and a yacht harbor. None of these endeavors were successful, and in the 1990's the Hearst Corporation instead shifted gears to other potential end games for its ranch holdings. Ultimately, in 2005, some 80,000 acres of Hearst Ranch inland of Highway 1 was put into a conservation easement which is held by the California Rangeland Trust (CRT) as part of an agreement involving the Hearst Corporation, CRT, American Land Conservancy, and the State, the latter

Highway 1 transitions from a coastal 'bench' area into gently rolling hills that become progressively steeper and more rugged as they approach the ridgeline of the coastal mountain range some 6-7 miles from the sea.

The amendment proposes to change the LCP LUP's land use designation for a 4.98-acre area (within APN 011-181-018) located in Hearst Ranch from Agriculture (AG) to Rural Residential (RR). The amendment also proposes to update the LCP's North Coast Area Plan to include a standard that would limit the use of the area to a private family cemetery, passive recreation, and crop production and grazing. The area in question is located approximately 3 miles inland of Highway 1 and a half-mile seaward of Hearst Castle itself in an area that is surrounded on all sides by Hearst Castle Road, fenced off, and not currently used for (or even connected to) any ranch related grazing or other uses. The area is currently undeveloped and consists of trees, shrubbery, and grasses on gently sloping topography. The amendment was initiated by the underlying property owner, Hearst Holdings Inc., because they want to use the area for a private family cemetery, which is not currently allowed under the AG land use category. The proposed designation change to would allow for private family cemeteries (as well as passive recreation, and crop production and grazing), subject to further coastal permitting by the County for any necessary development.

See **Exhibit 1 and 2** for location maps and photos, and see **Exhibits 3 and 4** for the proposed LCP changes.

B. Proposed LCP Amendment Consistency Evaluation

Standard of Review

The proposed amendment affects the LCP's LUP, and the standard of review for LUP amendments is that they must conform with Chapter 3 of the Coastal Act.

Applicable Coastal Act Policies

The Coastal Act contains objectives and policies designed to protect, maintain, and enhance the quality of the coastal zone and its coastal resources. This includes balancing utilization of the coastal zone by taking into account the social and economic needs of the state, including by protecting agricultural lands to the maximum extent feasible. The Coastal Act states:

Section 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)*

of which provided \$95 million in tax credits to the Hearst Corporation to purchase the easement. The agreement also included transferring some 1,000 acres along 13 miles of coast to State Parks. Since that time, the Hearst Corporation has not formally pursued any significant development proposals, and the ranch has generally continued to operate as it has for decades.

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 such prime agricultural lands.

Section 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.*

Section 30243. *The long-term productivity of soils ... shall be protected....*

Finally, the definition of prime land is found in Coastal Act Section 30113, which states:

Section 30113. *“Prime agricultural land” means those lands defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.³*

Thus, agricultural protection is a fundamental objective of the Coastal Act, and agricultural uses are highly prioritized.⁴ In particular, Sections 30241 and 30242 require that prime agricultural land be protected, that conflicts between agricultural and urban uses be minimized to protect agriculture, and that standards are established to allow for conversion of any agricultural lands to other uses. In terms of the latter, lands suitable for agricultural use are not allowed to be converted to nonagricultural uses unless: 1) continued or renewed agricultural use is not feasible; or 2) such conversion would

³ Government Code Section 51201(c) defines such lands as: 1. All land that qualifies for rating as class I of class II in the Natural Resource Conservation Service land use capability classifications. 2. Land which qualifies for rating 80 through 100 in the Storie Index Rating. 3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture. 4. Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.

⁴ For example, Coastal Act Section 30222 prioritizes the use of private lands suitable for visitor-serving opportunities to enhance coastal recreation opportunities except when such opportunities would adversely impact agricultural uses.

preserve prime agricultural land or concentrate development consistent with Section 30250.⁵ In either case, any such conversion must be compatible with the continued agricultural use on surrounding lands.

Consistency Analysis

Although some parts of Hearst Ranch support prime soils (Class I and II), generally in narrow zones along the larger creeks, non-prime soils suitable for grazing predominate (Classes III to VII), and the area in question is not prime according to County GIS. Here, the applicable conversion test is Section 30242, and includes a two-part test, where the first part establishes whether the conversion is allowable for one of two reasons, and the second part requires any allowable conversion to be compatible with continued agricultural use on surrounding lands.

In terms of allowable conversion criteria, the first such criterion is whether continued or renewed agricultural use is feasible in the area proposed to be converted. There appears to be little doubt that the Hearst Ranch overall is a viable grazing cattle operation. In fact, Hearst Ranch is the largest single-source supplier of grass-fed beef in all of the United States. The roughly 5-acre area in question is technically part of this larger cattle grazing ranch. Such context might suggest that conversion would not be allowed for this reason. However, the area proposed for the land use designation change is unique from the rest of Hearst Ranch in that it is completely surrounded by Hearst Ranch Road (which is used for bussing visitors back and forth from Hearst Castle) and is thus fenced off from the surrounding land in order to avoid vehicle collisions with cattle with some million State Park visitors per year. In short, this 4.98-acre area has not and will not contribute to the agricultural production at Hearst Ranch due to its location enclosed by Hearst Castle Road. The area is essentially an 'island' separate from the surrounding grazing land. Because there has not historically or currently been any agricultural use of this area for these reasons, the primary Section 30242 question is not about whether continued agricultural use is feasible, but rather whether renewed agricultural use is feasible. Although it may be possible to farm or graze in this area, it would not be feasible in this location given the physical circumstances of this area and its relation to Hearst Castle operations. As a result, the above reasons satisfy the first portion criterion under Section 30242.

⁵ Where Section 30250 states: "(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. (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.

The final Section 30242 question is whether such allowable conversion would be compatible with the continued agricultural use of the surrounding lands.⁶ While the proposed new land use designation would be Rural Residential, residential development would be prohibited by the also proposed North Coast Area Plan changes that would only allow for the area to be used as a private family cemetery, passive recreation, or crop production and grazing. Whereas residential and similar such intensities of non-agricultural development would pose a question of conflict with adjacent agricultural uses,⁷ the limited uses proposed here would be much more benign in terms of their potential to adversely impact surrounding agricultural uses. Not only is the explicitly expressed plan for a private family cemetery that would be left in its natural state, but passive recreation is not likely to affect adjacent agricultural operations were it to come to pass in this isolated area either (and obviously the other allowed uses of crop production and grazing are agricultural themselves, and unlikely to affect adjacent to operations). Thus, there appears to be minimal potential for any impacts to the continued agricultural uses of the surrounding lands, and the proposed uses would be compatible with them. And finally, the California Rangeland Trust, who holds the conservation easement, is supportive of the proposed amendment.

In sum, this LCP amendment is very specific and isolated, which is to say that the proposal for a private family cemetery is not the beginning of some greater non-agricultural development in the area. On the contrary, it is an isolated proposal, and it has been proposed in such a way to explicitly prohibit other non-agricultural development from occurring. As a result, it meets the second test and Section 30242 of the Coastal Act allows the proposal. That all said, the Commission is cognizant of the potential for such additional conversion to create a snowball effect in terms of long-term compatibility with continued agricultural uses of the surrounding land, and thus this action should be seen as something of an exception due to the specific circumstances this LCP amendment presents. Due to this unique fact set, it does not appear that the proposed land use designation will diminish the capacity for agricultural production at Hearst Ranch, nor will it affect the surrounding grazing operation or open the door to inappropriate conversions of agricultural lands at Hearst Ranch.

In Conclusion, the proposed changes appropriately implement the Coastal Act and do not result in significant coastal resource impacts. The Commission thus finds the proposed amendment conforms with the policies of Chapter 3 of the Coastal Act.

⁶ As a general rule, this aspect of the Section 30242 tests is meant to ensure that non-agricultural uses adjacent to agricultural lands are compatible with the productivity and longevity of such agricultural lands. This includes preventing industry, extensive housing development, and any development that could lead to conflicts and/or directly harm agricultural use of the surrounding lands.

⁷ These types of uses are known to lead to conflicts should standard agricultural practices or ongoing agricultural by-products (such as dust and noise from operations) be seen as incompatible and/or a threat to the non-agricultural uses, potentially leading to the suggested need for agricultural operations to be limited, curtailed, or even ended to protect the non-agricultural uses.

C. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are *not* required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the County exempted the proposed amendment from environmental review (citing CEQA Section 15062), stating that it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal (and above findings are incorporated herein in their entirety by reference), has addressed all comments received, and has concluded that approval of the proposed LCP amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).