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# F16d

**Prepared January 21, 2022 for February 11, 2022 Hearing**

**To:** Commissioners and Interested Persons

**From:** Kevin Kahn, Central Coast District Manager  
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**Subject: San Luis Obispo County LCP Amendment Number LCP-3-SLO-20-0059-2 (ADUs)**

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## SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to modify the Local Coastal Program's (LCP) Land Use Plan (LUP) and Implementation Plan (IP) to modify existing regulations governing accessory dwelling units (ADUs), including to update the LCP consistent with recent changes to state housing law. The primary changes in the proposed LCP provide for streamlined ADU review and permit processing, add more lenient ADU development standards (e.g., for requirements related to minimum parcel size, property line setbacks, Junior ADUs (JADUs), etc.), allow for both an ADU and a JADU on a single residential parcel, allow for ADUs in several new land use categories (including in agricultural and multi-family residential land use categories), and modify parking requirements by eliminating off-street parking for all ADUs throughout the County's coastal zone.

The proposed amendment generally provides for relaxed ADU (including JADU) development standards consistent with state law (e.g., reduced setbacks, excluding ADUs from lot coverage and density calculations, etc.), all of which are aimed at facilitating ADU construction in the County, including to help create more housing opportunities. The changes proposed are mostly straightforward and should help to facilitate the development of ADUs. And since the LCP's existing tools to address core coastal resource issues (e.g., related to ESHA, wetlands, riparian corridors, public views, natural landforms, coastal hazards, etc.) remain in effect, the LCP as proposed to be amended should serve to ensure ADUs are appropriately sited and designed in most cases.

However, as described in more detail in this report, the proposed amendment does not adequately address certain geographically specific coastal resource issues and constraints that apply in parts of San Luis Obispo County, particularly related to more rural/agricultural lands, water supply and public service capacities, and public coastal accessways. In other words, the proposed amendment requires additional tailoring on these points to appropriately facilitate ADU development without significant adverse

resource impacts in these specific areas. In light of these concerns, Commission staff engaged in a productive dialogue with County staff on potential solutions, and reached a consensus on a modified approach.

First, the proposed amendment would allow ADUs on rural agricultural lands where they are not currently allowed by the LCP, even though primary residential development is tightly controlled by the LCP so as not to impair agricultural use and productivity. Additionally, the proposed amendment provides an exception to allow both guesthouses and ADUs/JADUs in Agricultural and Rural Land use categories, while in all other land use categories ADUs/JADUs and guesthouses are not allowed on the same parcel. While well intentioned, the end result would be to encourage additional residential units in more rural and agricultural areas as opposed to more developed parts of the County where such units can be adequately served. If not better controlled, this would lead to non-agricultural development that would likely adversely impact agriculture. Fortunately, the existing LCP provides a roadmap to resolving this issue since it already includes a series of findings that are necessary to allow residential development on rural agricultural lands to protect agricultural and rural coastal resources. These same standards can be applied to ADUs to offer the same level of protection. In other words, ADUs should be allowed consistent with other residential uses in agricultural and rural areas as already specified by the LCP.

Second, as proposed, the amendment does not differentiate between areas with significant service constraints and those where infill development can likely be accommodated without significant coastal resource impacts. In particular, the lack of a sustainable water supply in Cambria and Los Osos is well known to the Commission and the County. There, even existing water extractions to serve existing development has led to coastal resource degradation (e.g., groundwater overdraft, seawater intrusion, fishery impacts, ESHA degradation, etc.), and both communities continue to be designated a Level of Severity (LOS) III under the LCP in terms of water supply.<sup>1</sup> Due to these problems, the LCP currently does not generally allow for new residential units within these communities because there is a lack of sustainable water to serve them, and the provision of additional water would lead to significant coastal resource impacts. This would be just as true for ADUs in these communities.<sup>2</sup> As such, suggested modifications are included to not allow for ADUs in Los Osos and Cambria for the time being.<sup>3</sup>

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<sup>1</sup> At LOS III, the LCP indicates “that the capacity (maximum safe yield) of a resource has been met or exceeded and creates a deficiency of sufficient magnitude that drastic actions must be taken to protect public health and safety.”

<sup>2</sup> State ADU law explicitly identifies that such water service constraints are an appropriate arbiter of where ADUs are and are not appropriate (see Government Code Section 65852.2(a)(1)(A)), and thus acknowledges that areas with such constraints may not be suitable for ADU development, as is the case here.

<sup>3</sup> If, in the future, sustainable long term water sources are identified for these communities, these provisions can be appropriately reconsidered.

And finally, the proposed amendment broadly eliminates off-street parking requirements for ADUs, but doesn't differentiate between areas where this is unlikely to lead to significant public coastal access impacts versus where it is. In particular, the County's coastline is home to a number of very popular visitor destinations where on-street parking along the shoreline is a key part of the available parking supply for many visitors, and is often the only available way to access the coast. Fortunately, and as has been done in a number of other LCPs across the state, these issues are readily addressed by identifying the specific areas where on-street public coastal access parking is particularly important and, accordingly, where ADUs must satisfy their parking needs on-site so as not to compete with public parking opportunities. That is not to say that ADUs would not be allowed in these areas, because they would, rather it is to ensure that they are allowed in a way that does not lead to significant adverse impacts to public access for those not fortunate enough to live in these key areas.<sup>4</sup>

In sum, Commission and County staffs have carefully crafted suggested modifications that reflect the County's unique coastal zone attributes and, at the same time, include standards for ADUs overall to help incentivize and facilitate their construction. The result is a set of provisions that will protect coastal resources as required by the Coastal Act and LCP while leading to an increase in ADUs, and by extension an increase in housing stock, in the County's coastal zone. County and Commission staff are in agreement on the suggested modification language. Both staffs have also coordinated with State Department of Housing and Community Development (HCD) staff on the proposed amendment, and HCD staff has not registered any objections to the amendment as modified. Staff thus recommends that the Commission approve the proposed amendment with suggested modifications. The motions and resolutions are found on pages 6 and 7 below.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on January 10, 2022. The proposed amendment affects the LCP's LUP and IP, and the 90-working-day action deadline is March 19, 2022. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until March 19, 2023 to take a final action on this LCP amendment.

Therefore, if the Commission does not take a final action in this case at the February 2022 Commission meeting (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.

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<sup>4</sup> And the affected area is just a very small portion of the County's coastal zone within which ADUs would be allowed, and the effect on ADU construction is expected to be minimal.

LCP-3-SLO-20-0059-2 (ADUs)

*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-20-0059-2 to March 19, 2023, and I recommend a yes vote.*

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**EXHIBITS**

- Exhibit 1: Proposed LCP Amendment
- Exhibit 2: New LCP 'Coastal Zone ADU Parking Required' Map
- Exhibit 3: Cambria Area Where ADUs not allowed
- Exhibit 4: New LCP 'Map of Areas within the Los Osos Groundwater Basin boundary and/or within the Los Osos Groundwater Basin Plan Area' Map

## 1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LUP amendment as submitted and approve the proposed IP amendment with suggested modifications. The Commission needs to make the following three motions in order to act on this recommendation.

### **A. Certify the LUP Amendment as Submitted**

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

***Motion 1:*** *I move that the Commission certify Land Use Plan Amendment Number LCP-3-SLO-20-0059-2 as submitted by San Luis Obispo County, and I recommend a yes vote.*

***Resolution 1:*** *The Commission hereby certifies Land Use Plan Amendment Number LCP-3-SLO-20-0059-2 as submitted by San Luis Obispo County 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 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 Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Amendment may have on the environment.*

### **B. Deny the IP Amendment as Submitted**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in the rejection of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion to reject the amendment as submitted passes only by an affirmative vote of a majority of the Commissioners present.

***Motion 2:*** *I move that the Commission reject Implementation Plan Amendment Number LCP-3-SLO-20-0059-2 as submitted by San Luis Obispo County, and I recommend a yes vote.*

***Resolution 2:*** *The Commission hereby denies certification of Implementation Plan Amendment Number LCP-3-SLO-20-0059-2 as submitted by San Luis Obispo County and adopts the findings set forth below on grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment as submitted.*

### C. Certify the IP Amendment with Suggested Modifications

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

**Motion 3:** *I move that the Commission certify Implementation Plan Amendment Number LCP-3-SLO-20-0059-2 as submitted by San Luis Obispo County if it is modified as suggested in this staff report, and I recommend a yes vote.*

**Resolution 3:** *The Commission hereby certifies Implementation Plan Amendment Number LCP-3-SLO-20-0059-2 if modified as suggested and adopts the findings set forth below on grounds that the Amendment, with the suggested modifications, conforms with and is adequate to carry out the provisions of the certified Land Use Plan as amended. Certification of the Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Amendment 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 Amendment if modified.*

## 2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed Implementation Plan amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the Commission certifies the LCP amendment as submitted, no further Board of Supervisors action will be necessary pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the Board of Supervisors, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the Board of Supervisors may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the Board of Supervisors' acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the Board of Supervisors' action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-3-SLO-20-0059-2 is legally adequate. If the Board of Supervisors does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone. Where applicable, text in ~~cross-out~~ and underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross-out~~ and double underline denotes text to be deleted/added by the Commission's suggested modifications.

1. **Modify IP Section 23.08.169 as follows:**

For the purposes of this chapter (i.e., 23.08.169 et. seq.), all references to an “Accessory Dwelling” shall apply to both Accessory Dwellings Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

Accessory dwellings may be allowed, pursuant to this section, in addition to the primary residential use on a site, as allowed by Coastal Table “O” (Allowable Uses) in the Framework for Planning Excerpts – Coastal Zone. For the purpose of this Section, primary residential use shall mean a single-family dwelling or multi-family dwelling.

2. **Add IP Section 23.08.169(b)(5) as follows:**

(5) ~~Agriculture—Prime Soils and Agriculture—Non-Prime Soils Land Use Categories.~~ Accessory Dwellings must meet all applicable findings and requirements that pertain to single-family dwellings in the Agriculture—Prime Soils and Agriculture—Non-Prime Soils land use categories. Accessory Dwellings shall not be allowed on any site containing a guesthouse/home office established pursuant to Section 23.08.032.

3. **Add IP Sections 23.08.169(c)(iii) and 23.08.169(c)(iv) as follows:**

(iii) Within the Cambria Community Services District boundary (see Figure 3-3 of the North Coast Area Plan).

(iv) Within the Los Osos Groundwater Basin boundary and/or within the Los Osos Groundwater Basin Plan Area, as shown in the figure below titled “Map of Areas within the Los Osos Groundwater Basin boundary and/or within the Los Osos Groundwater Basin Plan Area”

4. **Delete IP Section 23.08.169(g)(4) and renumber IP Section 23.08.169(g)(5) as 23.08.169(g)(4).**

5. **Modify IP Section 23.08.169(e) as follows:**

**e. Establishment of accessory dwelling.** A lot or parcel shall be limited to establishing accessory dwelling(s) in accordance with Subsections g, h, j, or k. Only one (1) of the accessory dwelling developments described in the five (5) Subsections (g, h, i, j, or k) may be established on a single lot or parcel. To establish accessory dwelling(s) in accordance with Subsections g, h, i, j, or k, all standards of the respective Subsection shall be satisfied. The standards of Subsections g, h, i, j, or k shall not be combined or interchanged. All other provisions of this Section, including parking standards under Section ~~23.08.169(g)(4)~~ 23.08.169(l), shall apply to all accessory dwelling development.

6. **Add IP Section 23.08.169(l) as follows:**



**I. Off-street Parking.** The off-street parking standards for ADUs are as follows (these standards do not affect the amount of required off-street parking spaces for the primary residential use):

(1) Development within the designated areas shown in LCP Figure “Coastal Zone ADU Parking Required”.

(i) One off-street parking space shall be required for each accessory dwelling.

(ii) All off-street parking requirements associated with all other residential uses on the site shall be satisfied onsite, including replacement parking spaces if any parking spaces are removed to accommodate an accessory dwelling or junior accessory dwelling.

(2) Parcels not within the designated areas shown in LCP Figure “Coastal Zone ADU Parking Required”.

(i) Zero off-street parking spaces shall be required for each ADU.

(ii) Off-street parking spaces for the primary residential use shall be maintained. However, off-street parking spaces for the primary residential use that are demolished or converted in conjunction with the establishment of an accessory dwelling or junior accessory dwelling are not required to be replaced.

7. Add the figure titled “Coastal Zone ADU Parking Required” (see Exhibit 2) after IP Section 23.08.169(I).
8. Add the figure titled “Map of Areas within the Los Osos Groundwater Basin boundary and/or within the Los Osos Groundwater Basin Plan Area” (see Exhibit 4) after IP Section 23.08.169(c)(iv).
9. Modify IP Section 23.08.032.e(1)(ii) as follows:

A guesthouse/home office shall not be allowed on any site containing an accessory dwelling established pursuant to Section 23.08.169 of this title, ~~except that in the Agriculture and Rural Lands land use categories, one guesthouse or home office may be allowed on any site containing one accessory dwelling and two primary dwellings.~~

### 3. FINDINGS AND DECLARATIONS

#### A. Description of Proposed LCP amendment

San Luis Obispo County proposes to modify the Local Coastal Program’s (LCP) Land Use Plan (LUP) and Implementation Plan (IP) to update existing ADU provisions, including to update the LCP consistent with recent changes to state housing law (including changes established by Assembly Bills 68, 587, and 881, and Senate Bill 13, which all took effect on January 1, 2020). The primary proposed LCP changes provide

for streamlined ADU review and permit processing, add more lenient ADU development standards (e.g., for requirements related to minimum parcel size, property line setbacks, Junior ADUs (JADUs), etc.), allow for both an ADU and a JADU on a single residential parcel, allow ADUs in several new land use categories (including in agricultural and multi-family residential land use categories), and modify parking requirements for ADUs. Specifically, the proposed amendment would make the following LUP changes:

- Modify the LUP's Coastal Table O in the Framework for Planning document, which lists the various land use categories and allowable uses within them. The amendment would expand ADUs to be newly allowed in all land use designations that allow for single-family residences, including in the Agriculture—Prime Soils, Agricultural—Non-Prime Soils, and Residential Multi-Family land use categories (where they are not currently allowed).

In addition, the proposed amendment would make the following IP changes:

- Replace the existing 'secondary dwelling unit' ordinance in Section 23.08.169 with a new ordinance that regulates 'Accessory Dwellings,' as well as replace all references to "secondary dwellings" with "accessory dwelling units" or "accessory dwellings" (i.e., ADUs), as well as define junior accessory dwellings (JADUs) consistent with the definition found in Government Code Section 65852.22 (i.e., a unit that is no more than 500 square feet in size and contained entirely within a single-family residence).
- Allow up to one ADU and one JADU on lots designated to allow single-family residential use, and/or with existing or proposed detached or semi-detached single-family dwellings, with no minimum parcel size requirement for the ADU/JADU and where such units are not be counted toward the overall density of the lot.
- Allow up to two detached ADUs and allow conversion ADUs<sup>5</sup> for up to 25% of the number of multifamily units (e.g., for a 100-unit multifamily complex, up to 25 conversion ADUs would be allowed) where multifamily residential dwellings (e.g., apartments, condominiums, or townhomes) exist or are proposed.
- Reduce setback requirements such that detached accessory dwellings must meet the same setback requirements as residential accessory buildings and structures, provided that minimum setback requirements shall not exceed 4 feet from side and rear property lines. Attached accessory dwellings must comply with the same setback requirements applicable to the primary residential structure.
- Eliminate off-street parking requirements for any ADU or JADU, and eliminate the replacement parking requirements should parking be converted to accommodate an ADU/JADU.

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<sup>5</sup> Conversion ADUs in multi-family residential developments must be converted from areas not previously used as living space (including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages) (see proposed IP Section 23.08.169(j) in Exhibit 1).

- Prohibit short-term rental use within ADUs.
- Ensure that new construction ADUs are designed to be compatible with the primary residence on a site.
- Maintain the prohibition on sites having an ADU and a guesthouse.
- Prohibit ADUs on any parcel that contains tract/parcel map conditions that prohibit ADUs, as well as any area with a development moratorium per the Regional Water Quality Control Board.

See **Exhibit 1** for the text of the proposed amendment.

## **B. Evaluation of Proposed LCP Amendment**

### **1. Standard of Review**

The proposed amendment affects the LCP's LUP and IP. The standard of review for LUP amendments is that they must conform with Chapter 3 of the Coastal Act, and the standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

### **2. Proposed Land Use Plan Amendment**

#### ***Applicable Coastal Act Policies***

The Coastal Act contains objectives and policies designed to protect, maintain, and enhance the quality of the coastal zone and coastal resources. This includes balancing uses and development in the coastal zone in a way that takes into account the social and economic needs of the state, the use of infill residential development as a means of simultaneously limiting such development in more rural areas to protect agricultural lands and scenic natural landscapes, and the need to ensure that coastal resources are protected through all LCP and CDP processes and outcomes. Relevant provisions include:

***Section 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.*

***Section 30241:*** *The maximum amount of prime agricultural land shall be maintained in agricultural production 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 such prime agricultural lands.*

**Section 30241:** *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 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. ...*

**Section 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.*

While not part of Coastal Act Chapter 3 and thus not technically part of the legal standard of review for this proposed LUP change, the Coastal Act also provides

relevant direction regarding this proposed amendment, including encouraging the provision of affordable housing and ensuring environmental justice in the coastal zone.

**Section 30604(f):** *The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.*

**Section 30604(g):** *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

**Section 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.*

### **Consistency Analysis**

As the Commission is aware, the state has a housing crisis, and in particular an affordable housing crisis, and these issues are only more acute in the state's coastal zone. To address this critical need, the state legislature has enacted a number of housing laws in the last several years that are designed to eliminate barriers to providing housing, and to help foster additional housing units—particularly critically needed affordable units—where they can be appropriately accommodated by adequate public services and where, in the coastal zone, they will not adversely affect coastal resources. Toward this end, recent legislative sessions have included a series of changes to state housing law designed to facilitate more ADUs and affordable housing units. Those changes have triggered local governments in the coastal zone to update their LCPs to address new changes that would affect the development of ADUs. Importantly, the changes in state law continue to explicitly require that the Coastal Act's (and by extension LCPs') coastal resource protections are incorporated into the process when considering ADUs, and thus updated local government ADU provisions must continue to ensure coastal resource protections. In short, the goal of updating LCPs related to ADUs is to harmonize the state ADU housing law changes with the Coastal Act in a way that continues to protect coastal resources while also reducing and eliminating barriers to ADUs.

It is in this context of encouraging more housing through infill development while still protecting coastal resources that the Commission reviews this and other ADU provisions in LCPs. It should also be noted that while there is a serious lack of affordable housing throughout the State (including in San Luis Obispo County where the median home price in the unincorporated areas is around \$1 million, pricing all but the most fortunate financially out of the market altogether, including service workers who are the engine of the County's coastal tourist economy), ADUs themselves are not likely to be enough to correct such an imbalance. However, ADUs can provide what is typically a more affordable housing option in the County than a single-family residence,<sup>6</sup> and can at least provide some relief in terms of the availability of smaller housing stock. In that sense, ADUs can help implement Coastal Act housing provisions, albeit related to diversification of housing stock and not so much to affordable housing.

The proposed LUP amendment is limited to adding ADUs as allowable uses in all land use designations that allow for single-family residences. The detailed standards that regulate ADUs are located in the IP. Thus, the LUP review here is a broad one regarding the appropriateness of adding housing units to these areas, perhaps most consequentially in rural/agricultural areas. As proposed, such units would now be allowed in rural agricultural areas as well more urban settings. While allowing for intensified residential development in rural areas certainly raises issues in terms of conformity with the Coastal Act, including in terms of agricultural land preservation and concentrating development within existing developed areas more broadly, the amendment must be understood holistically, including that all ADUs must be consistent with all applicable LCP standards, including the specific ADU standards specified in the IP. As such, and as discussed in the subsequent IP analysis, allowing for ADUs in this manner (i.e., when reviewed against the entire LCP, including the ADU IP provisions as suggested to be modified in this report) in all land use designations that allow for single-family residences (including agricultural lands and urban lands) can be found Coastal Act consistent.

### **3. Proposed Implementation Plan Amendment**

#### **A. Rural and Agricultural Land Protection**

##### ***Applicable Land Use Plan Provisions***

The LUP, like the Coastal Act, includes provisions designed to protect rural agricultural lands and agricultural economies, including protecting both prime and non-prime lands

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<sup>6</sup> To be clear, however, new smaller housing stock, like ADUs, in less affordable areas like the coastal areas of unincorporated San Luis Obispo County may be less expensive than other housing options, but they are still quite expensive. For example, the current average rental cost for a one-bedroom unit in these County areas ranges from \$1,300 to \$2,800 per month (per Apartments.com). So, while ADUs are often seen as a proxy for 'affordable housing', they must be understood in terms of the actual market in which they are located, and they do not actually constitute affordable housing. Rather, they are probably better understood as additional housing stock that can help alleviate housing stock shortages overall, especially at the smaller unit side of the market, but, absent being required to be affordable, they will become market rate housing.

against inappropriate conversion to non-agricultural uses and development. These policies include:

***Agriculture Policy 1: Maintaining Agricultural Lands.*** Prime agricultural land shall be maintained, in or available for, agricultural production unless: 1) agricultural use is already severely limited by conflicts with urban uses; or 2) adequate public services are available to serve the expanded urban uses, and the conversion would preserve prime agricultural land or would complete a logical and viable neighborhood, thus contributing to the establishment of a stable urban/rural boundary; and 3) development on converted agricultural land will not diminish the productivity of adjacent prime agricultural land.

Other lands (non-prime) suitable for agriculture shall be maintained in or available for agricultural production unless: 1) continued or renewed agricultural use is not feasible; or 2) conversion would preserve prime agricultural land or concentrate urban development within or contiguous to existing urban areas which have adequate public services to serve additional development; and 3) the permitted conversion will not adversely affect surrounding agricultural uses.

All prime agricultural lands and other (non-prime) lands suitable for agriculture are designated in the land use element as Agriculture unless agricultural use is already limited by conflicts with urban uses.

***Permitted Uses on Prime Agricultural Lands.*** Principal permitted and allowable uses on prime agricultural lands are designated on Coastal Table O - Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on the prime agricultural soils, that the least amount of prime soil possible is converted and that the use will not conflict with surrounding agricultural lands and uses.

***Permitted Uses on Non-Prime Agricultural Lands.*** Principal permitted and allowable uses on non-prime agricultural lands are designated on Coastal Table O - Allowable Use Chart in Framework for Planning Document. These uses may be permitted where it can be demonstrated that no alternative building site exists except on non-agricultural soils, that the least amount on non-prime land possible is converted and that the use will not conflict with surrounding agricultural lands and uses.

***Agriculture Policy 3: Non-Agricultural Lands.*** In agriculturally designated areas, all non-agricultural development which is proposed to supplement the agricultural use permitted in areas designated as agriculture shall be compatible with preserving a maximum amount of agricultural use. When continued agricultural use is not feasible without some supplemental use, priority shall be given to commercial recreation and low intensity visitor-serving uses allowed in Policy 1.

*Non-agricultural developments shall meet the following requirements:*

*a. No development is permitted on prime agricultural land. Development shall be permitted on non-prime land if it can be demonstrated that all agriculturally unsuitable land on the parcel has been developed or has been determined to be undevelopable.*

*b. Continued or renewed agricultural use is not feasible as determined through economic studies of existing and potential agricultural use without the proposed supplemental use.*

*c. The proposed use will allow for and support the continued use of the site as a productive agricultural unit and would preserve all prime agricultural lands.*

*d. The proposed use will result in no adverse effect upon the continuance or establishment of agricultural uses on the remainder of the site or nearby and surrounding properties.*

*e. Clearly defined buffer areas are provided between agricultural and non-agricultural uses.*

*f. Adequate water resources are available to maintain habitat values and serve both the proposed development and existing and proposed agricultural operations.*

*g. Permitted development shall provide water and sanitary facilities on-site and no extension of urban sewer and water services shall be permitted, other than reclaimed water for agricultural enhancement.*

*h. The development proposal does not require a land division and includes a means of securing the remainder of the parcel(s) in agricultural use through agricultural easements. As a condition of approval of non-agricultural development, the county shall require the applicant to assure that the remainder of the parcel(s) be retained in agriculture and, if appropriate, open space use by the following methods: ...*

**Agriculture Policy 4: Siting of Structures.** *A single-family residence and any accessory agricultural buildings necessary to agricultural use shall, where possible, be located on other than prime agricultural soils and shall incorporate whatever mitigation measures are necessary to reduce negative impacts on adjacent agricultural uses.*

### **Consistency Analysis**

The LUP mirrors the Coastal Act in terms of agricultural protection. It is fiercely protective of agricultural soils and the agricultural economy by, among other things, limiting the types of uses allowed in agricultural lands and ensuring such development does not adversely impact agricultural production. The LUP also requires non-agricultural development on agricultural lands to meet a series of tests and



requirements, including that there is adequate water to serve it, that the development is needed to help augment/supplement agricultural production, and that the development will not affect the continuation of agriculture on the remainder of the site or on adjacent sites. And finally, the LUP also includes specific requirements for single-family residences on agricultural lands, including requiring such residences be located off of prime agricultural soils where possible and to mitigate potential negative agricultural impacts. In short, the LUP includes a detailed policy construct whereby the maximum amount of prime agricultural land is to be maintained capable of agricultural production to assure the protection of the County's agricultural lands and its agricultural economy. Conflicts between agricultural and non-agricultural/urban land uses are to be minimized through the careful siting and design of structures on agricultural lands.

The proposed amendment does not identify any of these requirements as being applicable to new ADUs on agriculturally designated lands. Rather, it is silent on how these requirements apply to ADU development, thereby raising confusion as to how ADUs are or are not subject to agricultural protection requirements. Thus, the proposed amendment creates the potential for inappropriate agricultural conversion and impacts. Additionally, the proposed amendment provides an exception to allow both guesthouses and ADUs/JADUs on land within Agricultural and Rural Land use categories, while in all other land use categories ADUs/JADUs and guesthouses are not allowed on the same parcel. While well intentioned, this would result in encouraging additional residential units in more rural and agricultural areas as opposed to more developed parts of the County where such units can be adequately served. It would lead to non-agricultural development that is likely to adversely impact agriculture if not better controlled. While one way to address this issue and to ensure protection of these rural agricultural resources is to not allow ADUs on agricultural lands at all, the LUP does currently allow for single-family residences subject to specific criteria intended to protect such lands. In other words, the existing LCP provides a roadmap to resolving this issue by including a series of findings that are necessary to allow residential development on rural agricultural lands to protect agricultural and rural uses, and these same standards can be applied to ADUs to offer the same level of protection. This includes where the square footage limits on ADUs (i.e., they can be no larger than 1,200 square feet) can also help address the issue of large 'estate' forms of development on agricultural properties and their resultant pressure on agricultural economies (e.g., through speculative residential development that drive up land costs, etc.).

Thus, **Suggested Modification 2** makes clear that ADUs are subject to and must meet all applicable findings and requirements that pertain to single-family dwellings on agriculturally designated lands. In other words, these same residential standards can be applied to ADUs to offer the same level of protection to these agricultural lands, and to make sure that ADUs can be allowed where it is possible to allow such residential uses, but otherwise protecting these coastal resources as the LCP currently does. Further, the LCP already doesn't allow ADUs and guesthouses on the same property, and this prohibition is even more important on agricultural lands to avoid the proliferation of structures that diminishes the amount of land usable for agriculture. Thus **Suggested Modification 9** ensures that either a guesthouse or an ADU/JADU are allowed on rural/agricultural lands, but not both. As modified, the proposed IP amendment can be

found consistent with the amended LUP with respect to rural/agricultural requirements and protections.

## **B. Public Services**

### ***Applicable Land Use Plan Provisions***

The LUP requires new development to be served by adequate water and sewer capacities.<sup>7</sup> LUP Public Works Policy 1 indicates projects can only be approved if there are adequate services to serve such projects. This policy is then carried out by IP Section 23.04.430, requiring the County to find that adequate water and sewage disposal capacity exists prior to approving any new development. And LUP Coastal Watershed Policies 1 and 2 protect the integrity of groundwater basins, including by requiring that the basin's safe yield is not exceeded. These provisions state:

***Public Works Policy 1: Availability of Service Capacity. New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. (emphasis added)***

***Policies for Coastal Watersheds Policy 1: Preservation of Groundwater Basin. The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted.***

***Policies for Coastal Watersheds Policy 2: Water Extractions. Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the data base for the Resource Management System and shall be supplemented by all available private and public water resources studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for optimum populations of marine organisms, and for the protection of human health.***

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<sup>7</sup> The Commission in its past LCP and CDP actions associated with the San Luis Obispo County LCP has consistently understood "adequate" services in relation to water to mean that a sustainable water supply exists to accommodate new development in a manner that will not lead to adverse coastal resource impacts, and applies that understanding again in this analysis.

These general provisions are then augmented by additional standards that apply to specific communities and their unique public service capacity constraints. The North Coast Area Plan (NCAP), which is also part of the LUP, includes additional guidance for the areas in and around Cambria, and includes an extensive policy framework meant to protect the area's rich coastal resources. This includes through policies that protect groundwater and associated riparian areas, require an adequate water supply to serve new development, limit growth to areas with adequate public services, and direct development to existing developed areas best able to accommodate it. The NCAP acknowledges that Cambria has a severely limited water supply that has long been recognized as inadequate to serve new development, and provides clear protection for its creek resources, stating:

***NCAP Combining Designations Policy 5: North Coast Creeks.*** *Portions of Santa Rosa, San Simeon, Pico, and Little Pico, Arroyo de la Cruz, Arroyo del Padre Juan, and San Carpoforo Creeks are anadromous fish streams which should be protected from impediments to steelhead migration and spawning. Adjacent riparian and wetland areas provide important wildlife habitat. Ground water and surface waters are linked, and maintenance of the creek habitats is essential to protect many coastal resources. These creeks support a number of declining species, such as the Tidewater Goby, Striped Garter Snake, Western Pond Turtle, Red-legged Frog, and Steelhead Trout.*

***NCAP Planning Area Standard B.4(A): Limitation on Development.*** *Until such time as may be otherwise authorized through a coastal development permit approving a major public works project involving new potable water sources for Cambria, new development not using CCSD connections or water service commitments existing as of November 15, 2001 (including those recognized as "pipeline projects" by the Coastal Commission on December 12, 2002 in coastal development permits A-3-SLO-02-050 and A-3-SLO-02-073, shall assure no adverse impacts to Santa Rosa and San Simeon Creeks.*

Thus, the applicable provisions that apply to Cambria require that development be served by adequate services, including in terms of water supply (Public Works Policy 1) and creek protections (NCAP Planning Area Standard B.4(A)), and requires development that cannot be so served to be denied (IP Section 23.04.430)<sup>8</sup>. The LCP also requires the long-term integrity of groundwater basins to be protected, prohibits extractions or other measures that exceed groundwater basin safe yields, and requires groundwater levels and surface flows to be maintained in such a way as to provide "optimum" habitat conditions (Coastal Watershed Policies 1 and 2). In addition, the LCP explicitly requires that Santa Rosa and San Simeon Creeks be protected against fisheries impediments, and recognizes their value otherwise, including the link between

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<sup>8</sup> *IP Section 23.04.430: Availability of Water Supply and Sewage Disposal Services. A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section.*

ground and surface waters as they relate to protection of creek-related resources, and including explicitly in relation to several sensitive species found in the Creeks' ecosystems (i.e., steelhead, goby and red-legged frog) (NCAP Combining Designations Policy 5).

Finally, NCAP Standard B.4(A) provides further protection of Santa Rosa and San Simeon Creeks by explicitly requiring another prerequisite to allowable development in certain cases. Namely that new development, such as ADUs (other than certain qualifying pre-2001 projects inside the URL), also are explicitly not allowed to adversely affect these two creeks. These provisions apply an additional level of protection to Cambria's creek resources, including to help carry out the Cambria Community Service District's (CCSD) water moratorium (in place since 2001 in recognition of the extremely limited amount of water available for urban and environmental needs) and to not allow any new development in Cambria which could adversely affect the Creeks. In sum, Cambria has longstanding water supply problems and known impacts to coastal resources from existing water extractions, and thus the LCP currently does not generally allow new water serving development within the community.

In addition to Cambria, the LCP recognizes similar public service capacity problems within Los Osos. The Estero Area Plan (which is a component of the LUP and provides more specific planning guidance for Los Osos and the surrounding areas) contains additional provisions that speak to protecting the Los Osos Groundwater Basin, as well as protecting against adverse impacts to wetlands, streams, riparian areas, marine habitats, and water supply and quality that are affected by the Basin, and that generally limit development so as to ensure protection of coastal resources. These provisions state:

***EAP Public Facilities, Services, and Resources: Areawide Water Supply.***

*Monitor water demand through the Resource Management System to assure that new development can be supported by available water supplies without depleting groundwater supplies and/or degrading water quality.*

***EAP Environmental, Cultural Resources Policy A: Areawide Water Quality.***

*Maintain, and where feasible, restore the quality and biological productivity of coastal waters, streams, wetlands, estuaries, and lakes in order to protect human health and maintain optimum populations of marine and other wildlife.*

The EAP recognizes that Los Osos has long suffered from inadequate services, particularly related to water supply and wastewater capacity. The EAP states that “[p]erhaps no factor is of greater concern today than the future availability of potable water for Los Osos” and that “Los Osos is confronted with two basic problems[:] Groundwater extraction levels are rapidly increasing while groundwater quality is showing indications of possible deterioration.” Because Los Osos wastewater needs were traditionally handled through septic disposal within the same groundwater basin that supplies the community's potable water, the EAP states the two issues are “closely interrelated” due to a combination of highly permeable soils, high groundwater tables, and extensive community development that led to inadequately treated septic

discharges into ground and surface water. As a result, water supply and wastewater service questions are generally inextricably linked in Los Osos.

To help begin to address these issues, the County ultimately approved the Los Osos Wastewater Project (LOWWP), which provided for the construction and operation of a community sewer and wastewater reclamation system, including a treatment plant on 30 acres located about one-half mile inland of Morro Bay, collection/disposal/reuse facilities, and all associated development and infrastructure. The County's approval of a CDP and a CDP amendment for the LOWWP project were appealed to the Coastal Commission and, upon a finding of substantial issue, the Commission subsequently approved the project with a series of special conditions in 2010 (CDP A-3-SLO-09-055/069).<sup>9</sup>

Although the Commission recognized the immediate need for the LOWWP to resolve issues of groundwater contamination caused by existing individual septic systems, the Commission also noted that the County had not done the planning necessary to determine the appropriate level of additional future development and growth within Los Osos that could be accommodated while avoiding coastal resource impacts. As noted in the EAP, and in the Commission's approval of the LOWWP, the issues of water and wastewater are interrelated due to their impacts to the groundwater basin. Thus, a sustainable basin management program is critical to ensure that future development is limited to an environmentally sustainable level.

The Commission was concerned with several potential growth inducement impacts of the LOWWP, including on a water supply for which sustainable pumping/use limits and the amount of development that could be supported within those limits had not been identified. The Commission was also concerned with potential growth-inducement impacts to ESHA resources and found that there was a need to proactively and comprehensively plan for growth and mitigate impacts (including via a United States Fish and Wildlife Service-approved Habitat Conservation Plan (HCP)). With these concerns in mind, the Commission required (as a condition of LOWWP approval) that the EAP be updated "to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats"<sup>10</sup> as part of its LOWWP CDP action. In other words, unless and until the EAP is updated to identify appropriate and sustainable development parameters (which it currently has not been), new residential unit development is not allowed to

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<sup>9</sup> Due to the way the County acted on the CDP for the LOWWP (an overall approval action followed by an amendment action to modify a portion of the project), there are two Coastal Commission permit numbers associated with the project.

<sup>10</sup> Adopted Commission findings from CDP A-3-SLO-09-055/069.

connect to the LOWWP, cannot satisfy wastewater needs,<sup>11</sup> and thus is not currently allowable under the LCP.

In sum, the LUP, mirroring the Coastal Act, requires a finding that new development can be served by adequate public services, including water and wastewater. And that broad finding that applies throughout the coastal zone is augmented by more specific policies to Cambria and Los Osos that address the particularly acute problems those communities face. Notably, the LUP does not generally currently allow for new residential unit development in either community due to these public service capacity limitations.

### ***Consistency Analysis***

The proposed amendment does not differentiate between these two areas with significant service constraints and those where infill development is likely to be able to be accommodated without significant coastal resource impacts. In particular, the lack of a sustainable water supply in Cambria and Los Osos is well known to the Commission, where even existing water supplies to serve existing development has led to coastal resource degradation (e.g., groundwater overdraft, seawater intrusion, fishery impacts, ESHA degradation, etc.), and both communities continue to be designated a Level of Severity III under the LCP in terms of water supply.<sup>12</sup> Due to these problems, the LCP currently does not generally allow for new residential units within these communities because there is simply a lack of sustainable water to serve them, and the same would apply to ADU development.<sup>13</sup>

#### *Cambria*

As described previously, the LUP includes a strong policy framework meant to address Cambria's water supply problems. Cambria's water supply depends entirely on the groundwater aquifers associated with Santa Rosa and San Simeon Creeks (collectively "the Creeks"). Santa Rosa Creek flows through the middle of the community, while San Simeon Creek is located some two miles or so to the north of town. The Creeks flow from their respective headwaters and both terminate into lagoons, which ultimately connect to the Pacific Ocean. In addition to domestic and agricultural demands for water from the Creeks, environmental demand in the form of adequate instream flows is necessary to sustain the Creeks' high-quality habitat for a variety of aquatic and terrestrial species. The United States Fish and Wildlife Service (USFWS) designates the Creeks as critical habitat because they provide habitat for multiple federally threatened

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<sup>11</sup> The vast majority of the community is under a RWQCB septic prohibition ban, and thus septic is likewise not allowable to satisfy such wastewater needs.

<sup>12</sup> At LOS III, the LCP indicates "that the capacity (maximum safe yield) of a resource has been met or exceeded and creates a deficiency of sufficient magnitude that drastic actions must be taken to protect public health and safety."

<sup>13</sup> State ADU law explicitly identifies that such water service constraints are an appropriate arbiter of where ADUs are and are not appropriate (see Government Code Section 65852.2(a)(1)(A)), and thus acknowledges that areas with such constraints may not be suitable for ADU development, as is the case here.

species, such as the South-Central Coast steelhead and California red-legged frog, and for the federally endangered Tidewater goby.<sup>14</sup>

Since the time of its initial 1977 approval of CCSD's CDP for water extractions from the Creeks, the Commission has continually expressed concern regarding Cambria's capacity to maintain a reliable and environmentally sustainable water supply.<sup>15</sup> In fact, as the Commission has made clear and in multiple LCP, appeal, and CDP cases,<sup>16</sup> the existing water supply does not represent an adequate and sustainable supply that can serve even existing development in Cambria without significant resource harm, consistent with applicable LCP policies, and certainly is not an adequate water supply to also serve new development in addition to that.<sup>17</sup> It has been well understood for many years that an additional water supply is required for CCSD to provide reliable water supply service to its existing users without significant environmental degradation, and the same necessarily holds true for new water service to support new users. Because CCSD's sole source of water is the Creeks' underground aquifers, the water supply is also particularly vulnerable to annual and seasonal fluctuations in rainfall. Further, because of the nature and configuration of the aquifers (i.e., they are narrow, shallow, porous, and surrounded by bedrock with little capacity for water storage), even in times of abundant rain the maximum storage capacity of these aquifers is inherently limited and is significantly reduced in dry months. Thus, unless and until a new water supply is secured, the sustainability and long-term security of Cambria's existing water supply cannot be improved with increased rainfall and is particularly susceptible to even short-term periods of drought.

As described earlier, the LUP includes a series of both broad and specific policies that require new development to be served by adequate public services, as well as more

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<sup>14</sup> All listed species under the Federal Endangered Species Act, and the California red-legged frog is also designated by the California Department and Fish and Wildlife (CDFW) as a State Species of Special Concern (meaning it is vulnerable to extinction) with a CDFW S2S3 ranking (meaning this species is designated as "vulnerable" and "imperiled" with a moderate to high risk of extinction). South-Central Coast steelhead and Tidewater goby are ranked by CDFW as S2 and S3 (meaning steelhead are designated "imperiled" and at a high risk of extinction, and goby are designated "vulnerable" and a moderate risk of extinction, respectively).

<sup>15</sup> See, for example, analyses associated with the Commission's findings for the 1998 LCP North Coast Area Plan (NCAP) Update and for the 2001 San Luis Obispo County LCP Periodic Review, in which the Commission analyzed the issues and the problems in some depth, including identifying the need for additional studies and measures to assure protection of the Creeks given they were being over-drafted for municipal purposes.

<sup>16</sup> See, for example, the 1998 LCP NCAP Update, the 2001 LCP Periodic Review, and LCP Amendment SLO-MAJ-1-06 Part 1; and see, for example, A-3-SLO-01-122 (Cambria Pines Lodge Expansion); A-3-SLO-02-050 (Monaco SFD); A-3-SLO-02-073 (Hudzinski SFD); A-3-SLO-13-0213 (Kingston Bay Senior Living); A-3-SLO-14-0044 (Fox SFD); A-3-SLO-19-0199 (Hadian SFD); A-3-SLO-20-0047 (Settimi SFD); A-3-SLO-21-0065 (Bookout SFD); and A-3-SLO-21-0066 (Hadian SFD).

<sup>17</sup> Note that CCSD is currently in violation of its Coastal Commission CDP that authorizes such creek withdrawals in the first place because that CDP approval was contingent on terms and conditions that required instream flows to be maintained at a level that protects fishery resources, and that required irrigation to ensure that riparian habitat was maintained, and available evidence suggests that neither is the case (see Commission Violation Case Number V-3-21-0105).

specific policies applicable to Cambria that currently do not permit new residential unit development in recognition of its acute water supply inadequacies. The proposed LCP amendment allows for new ADUs in this community and will lead to additional coastal resource degradation that cannot be found consistent with and adequate to carry out the above policies of LUP. Thus, **Suggested Modification 3** does not allow ADUs within CCSD's service boundary in Cambria (see Exhibit 3).

### *Los Osos*

And similar to Cambria, the LUP (and LOWWTP CDP) reflect the public service capacity issues facing Los Osos. Los Osos too is entirely depending on local water supply, in this case the Los Osos Groundwater Basin ("the Basin"). The Basin was designated by the California Department of Water Resources (DWR) as a high priority basin due to its "condition of critical overdraft." The overdraft has resulted in poor water quality from seawater intrusion and high salinity levels, and also from decades of septic system discharge that has resulted in elevated nitrate levels. In short, the issue of achieving a sustainable water source to serve Los Osos, including both in terms of water quality and quantity, remains acute. The County has also designated water supply constraints in Los Osos at the highest level of constraint (i.e., LOS III) in the LCP's Resource Management System.<sup>18</sup> The goal of the resource management system is to determine population growth based off the resources required to support that growth. Water supply LOS III occurs when the maximum safe yield of a resource has been met or exceeded and requires intervention in order to protect public safety and the environment.

To help better understand and manage the Basin, the Los Osos Basin Management Committee<sup>19</sup> was formed in 2015 to oversee the implementation of the Los Osos Basin Plan. The Basin Plan is intended to establish appropriate safeguards and triggers that would help to determine when the Basin was no longer being over drafted and could be considered to be an available and sustainable water source, including because extraction no longer exceeded safe yield. The goal is to use the data obtained by the Basin Plan's annual monitoring reports to develop future growth rates and limits in Los Osos that can be implemented through a new Los Osos Community Plan (which would be added to the EAP). The Basin Plan identified that the two main threats to the groundwater basin are water quality degradation and seawater intrusion. To address these threats, the Basin Plan has identified a series of basin metrics (such as nitrate levels, chloride levels, seawater intrusion, and groundwater levels) as a basis for understanding the health of the Basin. The Basin Management Committee releases an annual groundwater monitoring report, which includes monitoring of these metrics and provides recommendations based on the results. The three water purveyors as well as

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<sup>18</sup> The LCP's Resource Management System, or RMS, is used to identify the degree of various constraints in the County, including in terms of water supply, and uses a system ranging from Level of Severity (LOS) I (i.e., Resource Capacity problem) to LOS III (i.e., Resource Capacity Met or Expected). At LOS III, the LCP indicates "that the capacity (maximum safe yield) of a resource has been met or exceeded and creates a deficiency of sufficient magnitude that drastic actions must be taken to protect public health and safety." And Los Osos has been at LOS III since the inception of the RMS.

<sup>19</sup> The Los Osos Basin Management Committee is comprised of three Los Osos water purveyors and San Luis Obispo County.



the County, the Basin Management Committee, the public, and regulatory agencies can use these metrics and the annual Basin Reports to help to objectively assess the health and sustainability of the Basin. Currently, the target level set by the Basin Plan for groundwater elevation is 8 feet or higher; the chloride level target is 100 mg/L or lower; and the nitrate level target is 10 mg/L or lower. Based on the 2020 Annual Report, none of the metrics have been met. Accordingly, the County continues to designate water supply constraints in Los Osos at the highest level of constraint (i.e., LOS III) in the LCP's Resource Management System. This indicates that the maximum safe yield of the basin has been met or exceeded, and that any further development will impact public health and safety.

Again, similar to Cambria, allowing for ADUs in Los Osos cannot be found to conform with or adequate to carry out LUP's policies.<sup>20</sup> Thus, **Suggested Modification 3** does not allow ADUs within Los Osos<sup>21</sup> for the time being.

In conclusion, the suggested modifications do not allow ADUs in Los Osos or Cambria due to known and well-documented water supply inadequacies.<sup>22</sup> As modified, the proposed IP amendment can be found consistent with the amended LUP with respect to water supply and public service requirements and protections.

## **B. Public Coastal Access**

The LUP also includes policies that encourage and protect public coastal access, including with respect to protecting public parking along the coast and providing for and protecting lower cost public recreational access opportunities. For example:

***Shoreline Access Policy 1: Protection of Existing Access.*** *Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development.*

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

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<sup>20</sup> Additionally, any ADU projects that could be built under the proposed LCP amendment would also run afoul of the LOWWTP's conditions that require updates to the EAP to identify sustainable development parameters, and does not allow for new development until that happens. On this point, the County has drafted and submitted an update to the LCP's EAP addressing Los Osos (via a Los Osos Community Plan that would be added to the EAP) to the Commission for review, and it is expected to come before the Commission in early 2022.

<sup>21</sup> More specifically within the Los Osos Groundwater Basin boundary and/or within the Los Osos Groundwater Basin Plan Area, which is more expansive than just the urban community and encompasses the entire groundwater basin (see **Exhibit 4**)

<sup>22</sup> If, in the future, sustainable long term water sources are identified for these communities, such provision would be appropriately reconsidered.

***Shoreline Access Policy 9: Restoration and Enhancement of Shoreline Access Areas.*** Areas that have been severely degraded through overly intense and unrestricted use should be restored by such techniques as revegetation with native plants, trail consolidation and improvement and through the provision of support facilities such as parking, defined trail and/or beach walk stairway systems, trash receptacles, restrooms, picnic areas, etc. In extremely degraded areas (especially sensitive habitat areas), a recovery period during which public access would be controlled and limited may be necessary. This should be determined through consultation with the property owner and appropriate public agencies to establish the means of controlling public access that is reasonable and cost effective. Any limitation of use shall be evaluated periodically to determine the need for continued limited use.

The County's coastline is home to a number of very popular visitor destinations, including numerous public coastal access points and blufftop walking routes and overlooks. Much of the publicly available parking to access these resources is located on public streets and rights-of-way. As such, it is important to ensure that there is adequate on-street public parking for visitors as a means of meeting Coastal Act and LCP public access and recreation provisions, particularly in terms of ensuring that no-cost and lower-cost public access opportunities are both adequately provided for and ultimately maximized. This is particularly important here given that public transit options are limited, and it appears that coastal access visitors to the unincorporated County area predominantly arrive via personal vehicle. This is also due to the limitations associated with transit for such purposes (e.g., for bringing beach and surf equipment, etc.) as well as the distances involved. Thus, as a general rule coastal visitors to San Luis Obispo County must drive and park to be able to enjoy the public resources available there. And other than a few public parking lots, including at Morro Strand State Beach and Sand Dollars Beach, which both provide a limited amount of public beach parking in Cayucos, there are few public parking lots near the County's beaches and shoreline, and most coastal visitor parking is on-street. Although state housing law generally seeks to avoid the need for off-street parking to serve ADUs when located within one-half mile walking distance of a standard transit stop, it also explicitly requires compliance with the Coastal Act, and by extension LCPs, and thus it is appropriate in cases like this to identify where ADU on-street parking needs would compete with/crowd out scarce public coastal access parking needs as well.

To this point, the LCP, like most LCPs, includes requirements that residential properties account for their parking needs on their own properties, often referred to as "off-street" parking requirements (e.g., typically in garages, carports, covered parking, driveways, etc.). The LCP currently requires ADUs to have one off-street parking space per bedroom, up to a maximum of two spaces. This ADU off-street parking requirement is in addition to the primary residence's off-street parking requirements. The proposed amendment would eliminate off-street parking requirements for ADUs everywhere in the County, including the coastal zone, specifically stating that "No off-street parking spaces are required for accessory dwellings." The recent slate of state housing law changes restricted the circumstances in which local governments can require that ADU parking be accommodated off-street, including when it converts a space already used to

accommodate a site's parking needs (e.g., garage conversion). At the same time, although such additional private parking needs can often be accommodated on-street in inland areas away from prime visitor destinations, allowing all or even most parking associated with ADU projects on-street near prime coastal visitor-serving destinations could significantly reduce public visitor access there, especially in coastal San Luis Obispo County where much of the visitor parking demand is met with on-street parking. As such, the proposed LCP cannot be found to conform with or adequate to carry out the LUP's Shoreline Access Policies listed above.

In order to allow for ministerial actions to be taken on ADUs, as also directed by state ADU law, the decision regarding where parking issues may arise must be accounted for at the LCP amendment stage, and cannot be deferred to consideration of an individual ADU (because that would introduce a discretionary decision regarding on-street parking availability). Thus, and as has been the case for multiple LCP ADU cases in the past year or so,<sup>23</sup> Commission and County staff worked together to help identify these key areas where ADUs served only by street parking raise potential issues with respect to public access parking on-street. These identified areas are generally limited to areas directly inland of popular shoreline visitor destinations and include Avila Beach near the Avila Pier, Morro Strand State Beach along Pacific Avenue and Studio Drive in Cayucos, and the areas along Strand Way in Oceano. In these areas (see Exhibit 2), there is a limited supply of, and a high demand for, on-street parking for coastal visitors. Thus, **Suggested Modifications 4 and 6** require off-street parking for ADUs located within the areas identified in the new LCP 'Coastal Zone ADU Parking Required' Maps (shown in **Exhibit 2** and incorporated through **Suggested Modification 7**).

Specifically, **Suggested Modification 6** describes the ADU parking requirements for residential parcels in the coastal zone that are within the mapped area and for residential parcels in the coastal zone that are outside of the mapped area. For parcels within the mapped area, one off-street parking space would be required for an ADU and all off-street LCP parking requirements for the primary residence would need to be maintained, including a requirement for replacement parking spaces if any are removed to accommodate an ADU. For parcels in the coastal zone but outside of the mapped area, no off-street parking spaces would be required for ADUs and no replacement parking would be required if any existing parking (e.g., a carport or a garage) is removed or converted to accommodate an ADU.<sup>24</sup> As modified, the proposed amendment targets the most important public visitor parking areas so as to ensure that ADUs do not adversely affect public coastal access, including lower cost access, in conformance with the LUP. As modified, the proposed IP amendment can be found

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<sup>23</sup> For example, see LCP amendments related to ADUs in San Mateo and Santa Cruz Counties, and the Cities of Pacifica, Santa Cruz, Capitola, Pismo Beach, and Grover Beach.

<sup>24</sup> Thus, outside of the mapped areas, ADU-related parking needs would be expected to lead to a loss of on-street public parking. While such outcome will reduce public parking availability in these areas, the suggested modifications address key visitor parking areas, to hone in on the critically important visitor parking areas and ensures that these are protected for public access parking use.

conform with and be adequate to carry out the amended LUP with respect to public coastal access requirements and protections.

Accordingly, the IP amendment with the suggested modifications can be found consistent with the certified LUP and will provide for streamlined ADU development while also protecting the County's rich coastal resources, which include agricultural land, important ESHA, limited water resources, and public coastal access.

### **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 15282(h) (i.e., where the project is covered by a specific statutory exemption for the adoption of an ordinance regarding secondary dwelling units in a single-family or multi-family residential zone to implement the provisions of Section 65852.2 of the Government Code).

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, has addressed all comments received, and has concluded that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein (all above findings are incorporated herein in their entirety by reference). Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified 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).