

CHAPTER 6: PUBLIC ACCESS AND RECREATION

A. Policy Framework

The Coastal Act requires that maximum public access opportunities be provided, consistent with public safety and the need to protect private property owners' rights and natural resource areas from overuse. The Act further requires that development not interfere with the public's right of access to the sea. The provision of public access, however, is to take into account whether or not adequate public access exists nearby, or if agriculture would be adversely affected. With regard to Local Coastal Program requirements, the Coastal Act provides that each LCP shall contain a specific public access component.

To implement the Coastal Act, the San Luis Obispo County LCP requires the protection of existing access and requires that new development provide maximum public access to and along the shoreline, consistent with public safety needs and the rights of private property owners. To carry out this policy, the LCP requires accessways be established at the time of development where prescriptive rights may exist, and specifies how to acquire, measure, and establish accessways. It requires that support facilities and improvements shall be provided and states that a uniform signing system program should be developed. The LCP also addresses impacts of public access on agriculture and sensitive habitats and states that in some cases, access may be limited and controlled. In each of the area plans, accessways are mapped and differentiated between type of accessway (vertical, lateral, viewpoint, etc.) and status (proposed, open, etc.).

B. Background

The San Luis Obispo County coastline offers tremendous opportunities for public access and recreation for residents and visitors alike. Quaint towns such as Cambria and Morro Bay are a distinct appeal of the County, but the coastline also offers a variety of stunning physical topography, from the rugged Big Sur coastline to wide sandy beaches to idyllic farmland and grazing lands. Residents and visitors are drawn to the coast for a wide range of access and recreation activities, including camping, hiking, nature viewing and boating. According to the California Division of Tourism, beach and waterfront activities are second in popularity only to general touring and sightseeing for visitors to California.¹

A significant portion of San Luis Obispo County's economy stems from its status as a tourist destination. In 1997, travel expenditures in the County were \$856 million.² According to the 1998 Economic Outlook for San Luis Obispo County as detailed by the UCSB Economic

¹ California Travel Impacts by County, 1992-1998 prepared by Dean Runyan Associates, for the California Division of Tourism. March, 2000, from <http://gocalif.ca.gov/research/county.html>.

² Ibid.

Forecast Project,³ the County as a whole attracted over 5.3 million visitors in 1997, including 4.5 million overnight visitors.

Along the 96-mile shoreline of San Luis Obispo County, there are 10 state parks and a number of smaller local parks providing access to the coast. Public parklands provide both vertical and lateral coastal access. (See Maps 6-A through 6-D for locations of public parks and other coastal accessways.)

Within the County, the state owns more than 14,500 acres of coastal parklands, which are designated as parks, beaches, historical monuments, vehicular recreation areas, reserves, or preserves.⁴ The ten State Park units range from Montana de Oro State Park's 7,828 acres with over 21 miles of bay and ocean frontage to the relatively small 15 acres of Cayucos State Beach. In addition to these state parks, there are several smaller parks and natural areas maintained by San Luis Obispo County. These include such sites as Oceano Memorial Park, Elfin Forest Natural Area, and Lampton Cliffs Park. Six of the 10 State Parks⁵ and one county park⁶ in coastal San Luis Obispo County provide overnight camping opportunities. In San Luis Obispo County public parks account for 30 miles of available public lateral access, close to one-third of the 96-mile shoreline. Since LCP certification, an additional 275 acres of land known as the Estero Bluffs has been acquired for public use; ownership of the property is currently being transferred to the California Department of Parks and Recreation. In Cambria, the shorefront 407-acre East-West Ranch also has been acquired for public use.

In addition to the parks, there are other types of smaller coastal accessways, principally access easements acquired through Offers to Dedicate Public Access (OTDs).⁷ As discussed in more detail in Section C.1, OTDs are a primary tool used to mitigate for new development in the coastal zone. Including OTDs required by the Commission prior to LCP certification, there have been 193 lateral and 12 vertical OTDs required as permit conditions along the San Luis Obispo coastline. As discussed below, planning for the opening and management of these potential accessways is critical task for the County and the Commission in the on-going effort to maximize public access to the coast.

³ <http://ucsbuxa.ucsb.edu/efp>.

⁴ Parks and Recreation Element, Public Review Draft, SLO County Dept. of Planning and Building, August 1996.

⁵ San Simeon State Beach, Morro Strand State Beach, Morro Bay State Park, Montana de Oro State Park, Pismo State Beach, Oceano Dunes State Vehicular Recreation Area.

⁶ Oceano Memorial County Park.

⁷ OTDs are recorded legal documents which offer easement interests in private land to a government agency or nonprofit organization. The interest offered runs with the land, meaning that subsequent owners of the parcel are legally bound to the recorded "offer" to provide for future public access. Typically the offers expire 21 years after the recording date if they have not been accepted by a managing agency. Once an OTD has been accepted, the accepting entity becomes the holder of the easement, which then remains in the public domain. Access OTDs can be of three types: vertical, lateral and trail. Generally, areas lying below the Mean High Tide Line (MHTL) are always in public ownership and may be accessed any time by the public. However, in many cases the dry sandy beach landward of the MHTL is privately owned, and as such, is not available to the public.

C. Preliminary LCP Implementation Issues

C.1. Maximizing Public Access Through New Development.

Overview: The Coastal Act and the LCP require that maximum public access to the California shoreline be provided. One of the primary ways that public access is provided is through the regulatory program via mitigation requirements for new coastal development that impacts access to the beach. Typically this mitigation has taken the form of Offers to Dedicate (OTD) access to and along the shoreline. To be effective, though, OTDs must be located to provide practical physical access opportunities. They must also be accepted by a public or other non-profit agency willing to take on the management responsibilities of these potential accessways. Providing maximum public access also requires systematic and comprehensive planning both to protect future public access opportunities, such as identifying optimum trail locations, and to provide the planning and resource rationale for requiring new development to provide public access.

LCP Implementation: Access Policy 2 of the LCP requires that vertical and lateral access be provided in new development. Exceptions are allowed in cases where 1) access is inconsistent with public safety, military security needs, or protection of fragile resources; 2) adequate access exists nearby; or 3) agriculture would be adversely affected. The LCP defines “adequate access” where vertical access exists within one-quarter mile in urban areas, and one mile in rural areas. These requirements are implemented through LCP Ordinance 23.04.420.

The Area Plans also have additional policies related to lateral and vertical access. For the North Coast, the area plan requires that public access be provided for each phase of any future development at Hearst Ranch, specifically at San Simeon Village, San Simeon Point, San Carpoforo, and Arroyo de la Cruz lagoon. Access is required at East-West Ranch (now under public ownership) and San Simeon Acres as a condition of new development. Under the Estero Area Plan, lateral access is required for new development between the first public road and the sea within the Cayucos Urban Reserve Line and in the GSA combining designation. Access is also required in new development at Cuesta Inlet. The San Luis Bay Area Plan requires that new development at Mallagh Landing incorporate means to ensure that public access will be permitted on a permanent basis, with a minimum requirement being a means to ensure public use of the sandy beach and a blufftop area for parking. At Port San Luis the plan requires that new development provide public access along the landfill and the sandy beach adjacent to the landfill which extends to Avila State Beach.

Offers to Dedicate Public Access

Since certification of the LCP in 1988, the County has approved approximately 190 permits for shorefront development. While some of these permits were for expansions of existing development, the majority of them were for new residential and commercial development. This growth – and the growth throughout the coastal zone and County – has increased the demand for, and use of, existing access and recreation areas.

Prior to LCP certification, the Coastal Commission had required 141 OTDs to be recorded in San Luis Obispo County. In 1986, San Luis Obispo County accepted 63 lateral and 2 vertical OTDs.⁸ Then, in 1996, the County accepted an additional 57 lateral and 2 vertical OTDs (see Table 6-1). These actions by the County in these two years account for the greatest number of acceptances; however, the County has accepted a smaller number of OTDs at other times since certification. Based on a review of the Commission's Public Access database and a list provided by the County, only four Commission-required OTDs remain unaccepted. San Luis Obispo County was the first coastal county in California to reach almost 100% acceptance of outstanding OTDs (other counties include Santa Barbara and San Mateo as well as the City of Pismo Beach and San Diego). Due to these exemplary actions, public access to the shoreline has been permanently protected and/or will be enhanced at these locations. Recently the County's Park and Recreation Commission has undertaken development of a coastal accessway plan detailing where vertical access is necessary to guide future acceptance of additional vertical accessways.⁹

Table 6-1: Status of Commission-Required OTDs in San Luis Obispo County¹⁰

	Recorded and Unaccepted	Accepted	Total
Vertical	2	5	7
Lateral	4	129	133
Other	0	1	1
Total	6	135	141

Since LCP certification, the County also has generally required access mitigation for new development along the shoreline, or has made findings that adequate access already exists, as required under the LCP. In an estimated 37%, or 71 of 190 cases where the County has authorized development along the shoreline, the County has required access mitigation through easement dedications or OTDs (see Figure 6-1).

Through these actions, the County required 60 lateral OTDs, and 5 vertical OTDs. For inland development five trail OTDs were required. However, of the 71 OTDs required by the County, ten appear to be duplicative; that is, they are on parcels which already had OTDs recorded *prior* to certification of the LCP through the Coastal Commission's permit process. Eleven of the 71 OTDs appear to have been recorded, and in another 17 the recordation process has been initialized, but the final recordation status remains unknown. For the remaining 33 OTDs required by the County, the Coastal Commission has no evidence that the recordation process has begun. Like the OTDs required by the Commission prior to LCP certification, these

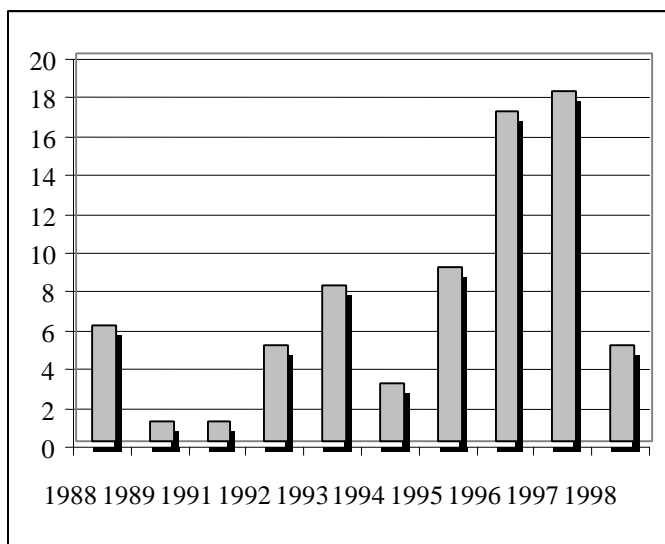
⁸ An OTD may consist of a vertical and a lateral offer; thus the numbers for OTDs recorded may not add up precisely.

⁹ Draft Coastal Accessway Plan Workscope, San Luis Obispo County Parks Dept., July 2000.

¹⁰ Numbers based on a combination of Access Inventory Database, CCC, May 24, 2000, and a list of OTDs provided by Jan DiLeo, Dept. of General Services, SLO County. The status of County OTDs has not yet been determined.

requirements may significantly increase the potential public access opportunities in the County once recorded, accepted and opened for use.

Figure 6-1: Access OTDs Required by San Luis Obispo County by Year



As shown below in Table 6-2, the vast majority of the OTDs required by the County through its coastal development permitting were in the urban areas of Cambria, Cayucos, and Los Osos. This table, and Figure 6-2, next page, also show that the type of project most often associated with OTD or access easements was new or expanded residential development (58%). Shoreline or bluff protection projects were also likely to have a public access requirement, making up approximately 18% of the projects with such conditions. More detailed discussion of these projects is provided in Chapter 7 (Coastal Hazards).

Table 6-2. Development Type and Location of OTD/Easement Requirements

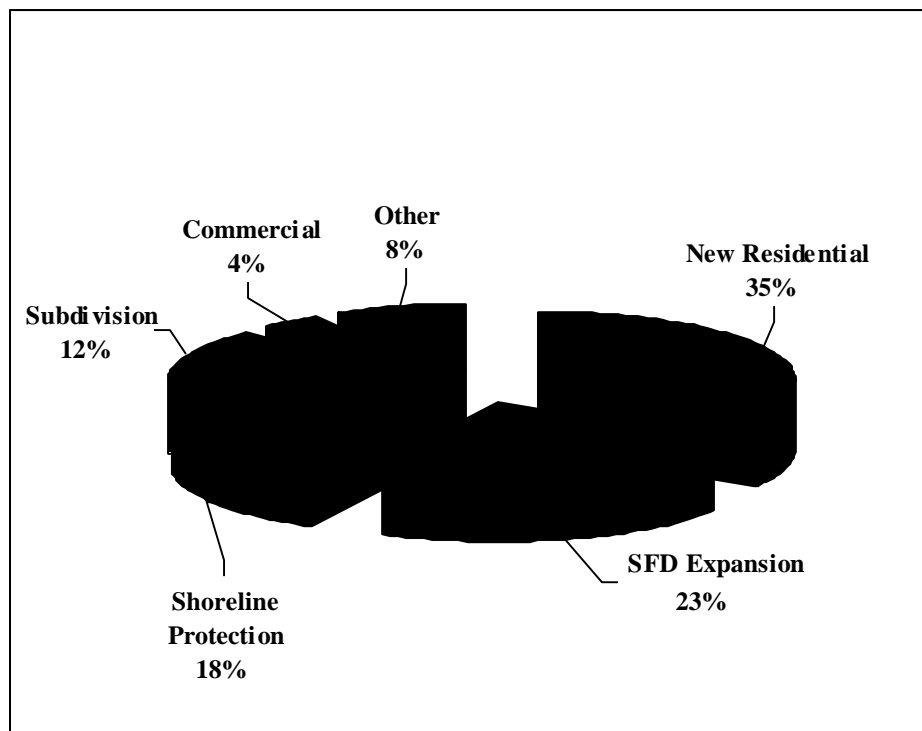
<i>Development Type</i>	<i>Cambria</i>	<i>Cayucos</i>	<i>Los Osos</i>	<i>Rural Areas</i>	<i>Other</i>	<i>TOTALS</i>
New Residential	10	8	2	3	2	25
SFD Expansion		11	5	1		17
Shoreline/Bluff Protection	5	7			1	13
Subdivision	2	2	4			8
Commercial	1	1	1			3
Other	2	1		3	1	7
TOTALS	20	30	12	7	4	73

Although many of the accepted OTDs are located on sandy, accessible beaches, and thus are available for public use, there is not yet a comprehensive inventory of the location and status of all of the OTDs required by the Commission and the County in San Luis Obispo. As discussed

later in this chapter, there is a need, therefore, for the County and the Commission to share information, and for the County to develop comprehensive access inventories and resource management plans for each area of the coastal zone.

In many projects, including most of the new lodging development approved, the County has found that existing access is available, and has not required additional provision of access through OTDs, consistent with LCP Access Policy 2. Most of this development has been approved along the Moonstone Beach area in Cambria. The coastline in this area is available for public use as it is a state park.

Figure 6-2. Distribution of Development Types with OTDs/Easements



For still other development projects, the County has required other access mitigation: in two permits for the expansion of Ragged Point Inn, for example, the County required the applicant to improve an existing accessway to maximize its use for public access.¹¹ Overall, the County has increased the availability of access through implementation of coastal permits. Nonetheless, as discussed below, review of reported local permits shows that there are cases of local permits for development along the shoreline where the County has not consistently applied Access Policy 2 or Ordinance 23.04.420, including use of condition language that weakens the implementation of Access Policy 2 and Ordinance 23.04.420, and the siting of OTDs in locations that may not maximize public access.

¹¹ FLANs 3-SLO-92-124; 3-SLO-94-131

Application of Policies: In a number of permits for both new residential development and for additions and/or remodels of existing residences, the County either required access OTDs or included findings that access is not required because adequate access exists based on the standards in Ordinance 23.04.420.¹² However, there were several actions for new residential development between the first public road and the sea in which lateral or vertical access was not required but where the access findings were missing or did not specify why access was not required.¹³ For example, in one project, the findings did not discuss that access already existed on the property and therefore wasn't necessary. In at least two cases, no access findings were made at all for development occurring on shorefront parcels.¹⁴ These cases raise concern because without specific analysis and discussion of access issues in the permit findings, it is more likely that access opportunities may be lost. It is also more difficult to assure, through the monitoring of local coastal development permitting decisions, that the access policies are being effectively carried out. The Coastal Act Section 30604(c) requires specific access findings as one way to assure that actions carry out access policies.

The Commission has raised access issues with County actions on appeal, based on the lack of implementation of access requirements. For example, in the appeal for a proposed desalinization plant, the Commission found that "based on the Coastal Act, CZLUO, and the significant increase in beach use which will occur as a result of this project, it is necessary to require a lateral access dedication".¹⁵ Had the project not been appealed, impacts to public access would not have been adequately mitigated as called for in the LCP, in a North Coast area where access is already limited.

For an abalone farm project west of Cayucos,¹⁶ the County's findings state that "shoreline access has been determined to be inappropriate due to the sensitivity of the particular land use and the value of the abalone." In 1989, when this permit was approved, there was no existing formal public access between Cayucos and the intersection of Highways One and 46, a distance of almost 10 miles. Thus this area did not meet the standard of Ordinance 23.04.420 d(1), which states that in rural areas vertical access should be available every mile. Additionally, Access Policy 2 states that "within agricultural holdings, new vertical access shall be required only where the access can be sited along a property boundary (to minimize impacts on the agricultural operation) unless a more appropriate location exists." Agriculture Policy 12 notes that trails shall be located along parcel lines that would not significantly disrupt the agricultural operations and that improvement and management practices shall include developing access trails with fences or other buffers to protect agricultural lands. However, in acting on the project the County did not make adequate access findings to explain why alternatives for siting vertical access consistent with the LCP was not feasible. The abalone farm development is concentrated at the southern portion of the parcel (nearest the shoreline); the remainder of the parcel is open

¹² E.g. FLANs 3-SLO-93-102; 3-SLO-95-133; 3-SLO-95-073; 3-SLO-95-101; 3-SLO-95-118; 3-SLO-95-148; 3-SLO-95-156; 3-SLO-96-131; 3-SLO-96-132; 97-003; 37-047; 97-091; 97-103; 97-129; 98-123; 90-221.

¹³ FLANs 3-SLO-94-143, 3-SLO-94-133, 3-SLO-95-086, 3-SLO-95-067, 4-89-273NB.

¹⁴ 3-SLO-94-143 and 3-SLO-94-133

¹⁵ A-3-SLO-95-069, pg. 19.

¹⁶ 5-SLO-89-099

space, therefore a vertical accessway along either the western or eastern property may not have impacted the abalone production. The County's findings do not explain the impact either a vertical or lateral accessway might have on abalone production. The County's action on this permit does not appear to maximize public access in new development consistent with either Access Policy 2 or Agriculture Policy 12.

In another project (4-SLO-90-022), a staff note indicates that the project requires a lateral OTD; however, it is unclear whether the permit was conditioned according to Access Policy 2. The County findings in this action generally stated that the project "satisfies all applicable provisions of this title" and/or that the project "is in conformance with the access and recreation policies ... because it will not inhibit access to coastal waters and recreation areas." However, the County findings did not explain why the proposed project would be exempt from access requirements under Ordinance 23.04.420 (e.g., conflicts with sensitive habitat, agricultural practices, public safety, or military needs). Access Policy 2 requires that new development along the shoreline that will impact public access provide access if those findings cannot be made.

Conditions Implementing Access Requirements: Some of the conditions requiring access easements appear to conflict with the language in the LCP, and appear to limit the intent of the access policies. In a number of cases, the County has conditioned the permit to require access "if applicable."¹⁷ These projects appear to be between the first public road and the sea. The County does not define what conditions would make it "applicable" to require the access easement, and does not indicate that the proposed development or location of the development meet any of the criteria for excluding an access easement. As such, it appears that some of the County's actions as conditioned do not fully carry out requirements of Access Policy 2 and Ordinance 23.04.420 of the LCP.

Another case highlights the tension between meeting the Coastal Act goal of providing access and the protection of private property rights. For the Estero Bluffs site, the County required both a lateral and a vertical access OTD for a proposed lot-line adjustment.¹⁸ In its action, the County found that the vertical access was necessary to comply with the standards under Ordinance 23.04.420, since the parcel itself was over one mile long. The County also found that access would not conflict with sensitive habitat resources or agricultural practices. However, in its final action, the Board of Supervisors conditioned the permit to record the access OTD for access to and along the shoreline "provided the applicant and the County agree to a fair market value, and terms for the County's payment of said value."

Although the LCP requires access easements as mitigation for new development, this type of requirement is always subject to challenge by those who may feel there is no regulatory nexus, following the reasoning of the *Nollan* Supreme Court case, to require an OTD. By allowing the County to negotiate a "fair value" for the easement, and, in effect, remove the access requirement if a fair value could not be negotiated, the County's actions in this case may not have met the letter of the LCP requirements. This case, though, may also illustrate the chilling effect that

¹⁷ E.g., FLANs 3-SLO-95-110, 3-SLO-95-156, 3-SLO-96-132

¹⁸ FLAN 3-SLO-97-008

legal challenges to the regulatory requirements can have on public agencies charged with their implementation. It also points to the need to develop better information and methodology for assessing the impacts of new development on public access and recreation resources, to provide the basis for future access mitigation.

Finally, and more generally, the Commission's *Public Access Action Plan* (June, 1999) identified the use of OTDs as not the most suitable program for local governments to secure maximum access. This is because most local governments can and do require direct land dedications for public access through the development process. The Action Plan recommends replacing the OTD mechanism in LCPs with a direct dedication requirement. This change would provide for more timely mitigation by allowing for the opening of the accessways more quickly. Moreover, it would eliminate unnecessary paper work, legal processes, and tracking of documentation. It would also eliminate expenses associated with the OTD process, as well as the common situation where a second or third generation property owner is surprised and unhappy to discover the presence of an OTD on their parcel, about to be accepted. Land dedications would avoid what is sometimes a cumbersome and unnecessary delay.

Siting of OTDs: In other instances the County has, in many cases, mitigated for impacts to public access as called for in the LCP, but has sited the OTDs in a manner that may not maximize public access. For example, in staff's review of aerial photographs and maps, the County required 15 lateral OTDs in Cambria, but all of them appear to be sited on rocky shores where access is difficult, or on publicly owned land where the public may already have access. Thus, while it might appear in certain findings that impacts to public access had been mitigated, the OTDs may not actually provide additional access opportunities.

In another example, the County issued a permit for the adjustment of nine lots located between Cambria and Cayucos on the Harmony coast. This case was appealed to the Commission partly on the grounds that public access impacts had not been adequately mitigated.¹⁹ In the County's approval, a lateral access dedication was required. However, along this stretch of coast, there is no vertical access for approximately six miles to the south and five miles to the north, thus public access to the lateral easement was not assured. Also, the proposed lateral dedication was between the Mean High Tide Line (MHTL) and the toe of the bluff, which, in this area, is mostly rocky shoreline with little or no sandy beach. Through the appeal process, the applicant ultimately offered both vertical and lateral accessways on the project site. The vertical accessway OTD runs from Highway One to the MHTL, and a 200-foot wide lateral access dedication was offered that could be adjusted over time in response to erosion to ensure maximum public access. This would allow siting of the public access along an upper terrace as an alternative. While the LCP states that lateral accessways should be sited between the MHTL and the toe of the bluff, in some geographic situations assuring maximum public access may require ordinance provisions requiring easements encompassing blufftop areas to allow flexibility in siting public accessways.

¹⁹ A-3-SLO-99-032; A-3-SLO-99-014

In an appeal in Cayucos, the County had approved shorefront development with a condition of recording a lateral OTD.²⁰ However, the Commission, in its findings on appeal of the project, noted that the area to be dedicated was already publicly owned as part of Morro Strand State Beach, and therefore would not provide any additional mitigation to public access. Siting of the OTD therefore did not fully mitigate impacts of the development and as a result did not meet the intent of Access Policy 2. In another permit for a shoreline protective device across three parcels²¹, the County required that an offer of lateral access be recorded; however, records provided by the County itself, as well as the draft North Coast update indicate that two of the parcels already contain *accepted* lateral OTDs. Additionally, the proposed seawall would have covered approximately 960 square feet of the easement. Ultimately, this action was appealed to the Coastal Commission, which found substantial issue with the project. The *de novo* hearing has not occurred yet at the request of the applicant. In this case, although the County's conditions of approval at first blush might appear to mitigate for development along the shoreline, public access opportunities may actually have been impacted.

In each of these cases, the County has indeed followed the policies of the certified LCP in requiring lateral access. It should also be noted that many of the laterals in Cambria and other locations where they may not be entirely usable were required by the Coastal Commission prior to LCP certification. However, one benefit of an LCP's periodic review is that it allows for the effectiveness of policies to be evaluated. Should the policy not have the desired effect of maximizing public access, it should be revised to better achieve consistency with the Coastal Act. Additionally, alternative means of mitigation can be suggested.

In addition to determining the best location for an easement to maximize public access, it is critical that both the County and Commission improve tracking of existing easements to avoid encroachment of development on the easements. The current LCP maps show generalized locations of access. The County requires as part of permit filing that existing easements on a site be identified. However, the management of these easements, and the siting of future easements, would benefit from a more comprehensive public access component in the LCP showing all existing and potential accessways. As a result of this Periodic Review project, the County and the Commission worked together to develop a parcel base map for use in GIS mapping. This will provide a useful tool in helping to identify the location of parcels with any existing access easements or OTDs and in helping the County in completion of an updated comprehensive access component.

Upland Support Facilities

In addition to providing physical access to and along the shoreline through the OTD mechanism, upland support facilities such as directional signing, parking and over-night visitor facilities are important elements in assuring that the public will have maximum access to shoreline recreation areas. As the population in general and the number of visitors increase, these elements need to be factored into public access planning.

²⁰ A-3-SLO-98-074; 3-SLO-98-02.

²¹ 3-SLO-99-018; A-3-SLO-99-019, still pending with the Commission.

The County's LCP states that a signing system program *should* be developed, but it is not a mandatory element of the LCP's access component. Certain areas in the County, such as Los Osos, have been identified as failing to maximize public access, not because the accessways do not exist, but because they are not clearly signed.

At the time of LCP certification, most of the state parks were identified as lacking sufficient parking for day use. Since certification, two of the parks, Montana de Oro and Morro Strand, were able to gain additional parking areas as a result of agreements with developers of adjacent parcels; however, lack of parking continues to be a problem. At Morro Strand State Beach, visitors park on neighboring streets, while in rural Montana de Oro State Park, cars are parked on the unpaved shoulder along the road. At Montana de Oro, park regulations limit the number of visitors that may participate in events due to lack of parking availability.

Upland support facilities are also important to address changing demands in public recreation. Within San Luis Obispo County, types of recreation uses and level of use vary, from high-intensity use of off-highway vehicles (OHVs) at Oceano Dunes State Vehicular Recreation Area to low-intensity uses at relatively pristine open space areas. The county also offers a diverse selection of recreational opportunities such as nature-viewing, hiking, camping, and boating. However, since LCP certification, recreational needs have been changing within the County. Demand is quickly growing for kayaking, windsurfing, and mountain biking activities. Kayakers and windsurfers are present within Morro Bay as well as all along the outer coast. And one of the most popular locations for windsurfing is along the North Coast, near Piedras Blancas. The recreational use of personal watercraft is also occurring; however, anecdotal evidence suggests that the use is not widespread.²² A small number of users have been noted in Morro Bay, and almost none on the outer coast. As access and recreation needs in the coastal zone have changed and increased, concerns have grown about protecting existing access opportunities, provision of adequate access in rural areas, and conflicts between public use and sensitive habitats.

Overall, there is a need to assess changing access and recreation demands and identify needed upland support facilities such as parking, signage, and other management concerns. For example, the U.S. Forest Service has recently acquired property at the northern County line, which might provide new access facilities and amenities along this stretch of coastline.

Distribution of Coastal Access Opportunities.

Another key issue in providing maximum public access is ensuring that access opportunities are well-distributed throughout any area, consistent with habitat protection and agricultural constraints. As discussed, the use of OTDs can be an important component in distributing access opportunities throughout the County. By requiring OTDs for access where new development has been permitted, the supply of access is distributed to where demand grows as a result of new development, and helps to mitigate the impacts of overuse by the public of any single area. However, because OTDs are required as mitigation for development, they tend to cluster in urbanized areas, thus limiting their effectiveness in rural areas, where lack of public

²² Phone conversations with Diane McGrath, Interpretive Specialist, DPR, and Neil Havlik, City of San Luis Obispo.

access is most problematic. Impacts to public access have been mitigated for to a great extent in San Luis Obispo with the use of OTDs, but a number of areas in the County remain with limited public access opportunities.

Within San Luis Obispo County two stretches of shoreline, each covering approximately 15 miles, exist with no available vertical access. In the North Coast, between Ragged Point and the overlooks south of Piedras Blancas, there are 16 miles of shoreline with no formal vertical access to the bluffs and shoreline. There is also a 14-mile expanse of coastline where no vertical access is provided between Montana de Oro State Park and Port San Luis, although the Pecho Coast Trail provides limited lateral blufftop access through docent-led tours. The Diablo Canyon Nuclear Power Plant is located on this isolated expanse of coast. It is projected that the plant will be phased out in the next five years, offering potential opportunities for additional vertical and lateral coastal access in this area. In March, 2000, the County passed Measure A, an advisory vote which recognized Diablo Canyon as “an exceptionally precious coastal resource.” It further stated that the canyon area should be maintained for “habitat preservation, sustainable agricultural activities, and public use and enjoyment consistent with public safety and property rights once the lands are no longer needed as an emergency buffer for the Diablo Canyon Nuclear Plant after its remaining operating life.” Most recently, an ecological conservation easement was placed over more than 2,000 acres in this area through an agreement between the Regional Water Quality Control Board and the Diablo Canyon Plant to address water impacts from the plant’s cooling system.

Another long stretch of shoreline with limited public access is between Cambria and Cayucos. The recent acquisition of the Estero Bluffs property will provide access at the southern end of this area, once it is transferred to the State Department of Parks and Recreation. Along the Harmony coast, though, there a number of OTDs, but no accessways are yet open. As discussed in Chapter 2, this stretch of coast is undergoing a cumulative transformation from historic grazing lands to a more developed residential character. This relatively undeveloped coastline, though, could provide incredible public access opportunities, as long as they were developed consistent with sensitive resource protection concerns.

Other than the general requirement to maximize access, the policies in the LCP do not specifically speak to the issue of *distribution* of access. Section 30212.5 of the Coastal Act states that “wherever appropriate and feasible, public facilities ... shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.” The area plans include programs that specify areas to be improved or acquired for public access needs. These programs may help with access opportunity distribution.

As discussed above, review of the local permits shows that the vast majority of access OTDs were required in the urban areas of Cambria, Cayucos, and Los Osos; only seven were located in the rural areas. The County required one OTD in both the San Luis Bay and South County planning areas. Obviously, the distribution of Offers to Dedicate Public Access closely

corresponds to areas experiencing the most development. This pattern illustrates that sole reliance on OTDs is inadequate to assure maximum distribution.

California Coastal Trail: Since certification of the County's LCP, the importance of completing a coastal trail along the length of the state has been identified by the Commission as a statewide public access priority. The California Coastal Trail (CCT) is a work-in-progress, with the goal of providing trail access to and along the entire length of California's 1,100-mile coastline, as specified in the California Coastal Plan of 1975. In 1999, the national importance of the California Coastal Trail was recognized by its designation under a federal program as California's Legacy Millennium Trail, a part of the nationwide Millennium Trail. In San Luis Obispo County, approximately 37% of the coast is open for lateral access, although work remains to be done to officially designate these stretches as the "California Coastal Trail". These percentages, though, are approximations, based on general assessments of accessways, public lands, beaches, and OTDs that provide public access. There also remains a need to conduct comprehensive and specific trail planning and implementation. For example, one of the ingredients necessary for the completion of the CCT is ensuring that all offers to dedicate lateral easements for either beach or blufftop access are accepted and opened.

One of the largest gaps in the CCT is located in the North Coast area of San Luis Obispo County. Other than at San Simeon Acres, there are no lateral OTDs in this region to enable trail completion (see Map 6-A). In this area, another mechanism for completing the CCT should be identified as part of the comprehensive, updated Public Access Component.

Consistency Analysis: The Coastal Act requires that maximum public access be provided to and along the shoreline (Section 30210). Sections 30211 and 30212 also require that development not interfere with existing access opportunities, and requires that new development along the shoreline provide access, consistent with public safety, military security, and the protection of fragile resources, unless adequate access is available nearby. The San Luis Obispo LCP has policies that closely reflect the Coastal Act sections. However, as discussed above, several of the County's past actions did not result in access mitigation for new development along the shoreline, and, therefore, failed to maximize public access opportunities. Commission findings on at least 16 separate appeals of local permits also indicate that the County's actions did not adequately protect access opportunities, and were inconsistent with the access policies of the Coastal Act.

As the Commission found in its review of the North Coast Update in 1998, the County's LCP lacks a comprehensive and cohesive access component to the LCP. The Commission found that without this component "it is difficult to identify and protect existing and potential access resources It is also difficult to plan for future access resource development and management or understand the precise access policy requirements for new development in the coastal zone".²³ The Coastal Act requires the protection of existing access, and that access be maximized to and

²³ California Coastal Commission findings LCPA 1-97 (North Coast Area Plan Update). January, 1998. Pg. 159.

along the coast. Without knowing the full range of existing and potential access resources, the County cannot adequately protect those access opportunities.

By improving its conditions and findings on projects along the shoreline and incorporating a comprehensive access program into the LCP, the County could improve its implementation of the LCP and compliance with Coastal Act policies.

Coastal Act Section 30212.5 states that public facilities shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area, wherever appropriate and feasible. The County has implemented its LCP to assure provision of public access but distribution of access cannot be assured solely through mitigation of new development. Appropriate LCP designations, acquisitions and other implementing tools as part of a comprehensive Access Plan are necessary to assure such distribution. Further, expanding the siting of lateral access opportunities to include easements along bluffs may provide a means to contribute to completion of the CCT and thus maximize coastal access consistent with the Coastal Act.

Distribution of access must take into account the type of access and recreation proposed. Distribution of higher intensity recreation may not be consistent with the protection of resources and with other coastal policies. Concentrating higher intensity commercial recreation uses in nodes while assuring broad distribution of lower intensity pedestrian oriented accessways may be most protective of coastal resources. In particular, access facilities should be located consistent with an area's ability to accommodate them, so that only low-intensity or passive recreational uses are located in areas with limited resources to support them (such as water) or where sensitive resources need to be protected (see below for more discussion). Upland facilities, such as parking for surfing, kayaking, windsurfing, and other coastal recreation activities, need to be located and managed to provide maximum opportunities.

Preliminary Policy Alternatives:

There are several ways the County could improve measures implementing public access requirements. The County should ensure that all permits between the first public road and the sea include adequate access findings as required by CZLUO 23.04.420, 23.02.034(c)(4) and 23.01.033.

Preliminary Recommendation 6-1: Incorporate Comprehensive Access Components into Each Area Plan

In response to the Commission's 1998 NCAP findings, the County has positively responded by drafting a comprehensive access component for the current North Coast Area Plan Update Project Description. The County has also begun work on a similar program for the Estero Area Plan. The Access component should include a discussion of access goals, policies, standards, programs, and other relevant management objectives and should include a complete inventory of

existing and potential access. The County has also prepared a Request for Proposal for a project whose purpose is to complete a coastal accessway plan for the County's coastal areas, including incorporated coastal cities. The plan is proposed to consist of County coastal zone policies and programs, area-specific policies and programs, general development standards for vertical accessways, an implementation chapter, and maps depicting existing and proposed access. This plan will provide extensive information for the Comprehensive Access Components of the LCP's Area Plans. Such a plan can also include strategies for increasing public acquisition of areas and ensure existing public areas are used for access and recreation. The County should also identify areas where the requirements for lateral access might be expanded to include provision of blufftop access in locations where the Comprehensive Access Component indicates maximum public access should be provided through a blufftop trail system. Other components to address include: identification of specific coastal areas for particular uses, including amending the LCP to incorporate such policy advisories as Measure A; concentration of more intense access and recreation uses in urban areas; and, provision and management of passive recreation in sensitive rural areas.

Preliminary Recommendation 6-2: Amend LCP Lateral Access Requirements to Provide for Blufftop Accessways

Although blufftop access dedications are not precluded by the existing LCP, current language directs decision-makers to dedications between the Mean High Tide Line (MHTL) and the toe of the bluff. This may lead to access mitigation requirements that don't actually provide practical or functional access, such as along rocky shorelines. The LCP should be amended to clarify that optimum access should be evaluated and provided, consistent with Coastal Act policy to maximize public access.

Preliminary Recommendation 6-3: Continue Efforts to Accept and Open Outstanding Access OTDs

The County should continue efforts to ensure all outstanding OTDs are accepted and opened.

Preliminary Recommendation 6-4: Amend LCP to allow Direct Dedications; Evaluate Accessway Performance Standards

As discussed in the Commission's Public Access Action Plan, the County should amend the LCP to allow for direct dedication of public access to the County where appropriate. Performance standards for access OTDs and dedications should be evaluated to address such needs as coastal erosion and long-term trail maintenance.

C.2. Protecting Existing Public Access

Overview: Many coastal access and recreational opportunities are provided by numerous public parklands within the County. In addition to the parks, there are several other formal accessways in the County, many provided by the County's acceptance of Offers to Dedicate Public Access.

However, there also informal accessways, such as the street ends leading to the shoreline in Cambria, Cayucos and Los Osos, some of which may be threatened by quiet title actions on behalf of private property owners. Other types of informal access include areas of historic use, where prescriptive rights may exist.²⁴ These historic use areas may provide a great deal of public access opportunity, especially in the North Coast area of the County.

Existing access and recreation opportunities are also protected through zoning. The County LCP designates over 17,000 acres in the coastal zone as Recreation, which limits the types of development allowed in that category.²⁵ Some of these lands in the rural North Coast, though, should be redesignated to reflect the viability of existing agricultural land uses (see Chapter 2).

LCP Implementation: Access Policy 1 of the LCP states that public prescriptive rights may exist in parts of the County and that development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. Recreation Policy 1 states that coastal recreational and visitor-serving facilities shall be protected, encouraged, and where feasible provided by both public and private means. Recreation Policy 2 states that recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use.

The County's Access and Recreation policies strive to protect access and recreational opportunities. The implementation of these policies, though, may not have fully protected some access opportunities. Threats include losses of access due to quiet title actions and lack of protection of prescriptive rights.

Quiet Title Actions:

An emerging issue in the County affecting the availability of historically used access areas is the use of quiet title actions to privatize lands that may have been previously dedicated to the public. A quiet title action is a judicial process that permits a party to quiet any suggestion of public title to property that was previously dedicated to the public by actions such as the filing of a subdivision or tract map. In order for a plaintiff to prevail in such an action, they must establish all of the following: (1) that the property was dedicated by map only; (2) that the property was never formally accepted by the governing entity within 25 years of the dedication; (3) that the property was never used by the public within 25 years of the dedication for the purposes for which it was dedicated; and (4) that after the property was dedicated, it was sold to a third party and used as if free of the dedication.²⁶

²⁴ Prescriptive rights refer to public rights that are acquired over private lands. These rights occur as the public uses the land for recreational purposes, such as a trail to the coast. Prescriptive rights may only be established by a court of law, with very specific findings. Prescriptive rights findings must include that (1) people have used the land for a five year period, without permission and without effective interference; (2) the use has been substantial; (3) the land has been used by members of the general public, not only neighbors or friends of the fee owner; and (4) the use of the area has been with the actual or presumed knowledge of the owner and without significant objection or attempts by the owner to prevent or halt such use.

²⁵ Acreages are North Coast: 1607, Estero: 5472, SLB: 732, South County: 9747 (from each of the area plans of the LCP, and the Estero Draft Update, February 1999).

²⁶ Code of Civil Procedure section 771.010 et seq.

A loss of public access is evident in the Los Osos area through quiet title actions on street ends leading to Morro Bay. The street ends in Los Osos provide both visual access as well as vertical access for both kayak launching at higher tides and, at some places, connecting to a lateral trail along the bayfront. Quiet title actions have also affected access opportunities in Cayucos, although to a lesser extent.

In the last decade, at least eleven quiet title action lawsuits against the County have occurred, with three resulting in permanently lost public coastal access. In the County's review of the proposed actions, it is unclear to what extent they are reviewed for uses other than transportation. If public access is not taken into account it may be in conflict with Policy 1, which states that development shall not interfere with the public's right of access to the sea where acquired through historic use. Moreover, inadequate review of quiet title actions reduces opportunities to develop and implement a more coordinated program of habitat and access management over public lands.

In other quiet title actions, the judgments have resulted in offers to dedicate access, usually in narrow ten foot strips. Unfortunately, most offers have not yet been accepted by a managing agency, so are not yet available to the public. Even after the accessways have been opened, many are not signed, so all but the most informed of the public are unaware of their existence. And, in some cases, property owners have landscaped on or directly adjacent to the narrow accessways, further concealing their existence. These actions serve to reduce the extent of public access.

Currently, the County has no complete inventory of locations of potential quiet title actions that could result in lost coastal access. The County's LCP also has no policies specifically addressing loss of access through quiet title actions. A recommended program for quiet title actions is included in the *Circulation* chapter of the draft Estero Area Plan Update. This proposed program would recommend that all requests to County Engineering for road abandonment and all requests to the County Counsel for quiet title actions be referred to the Los Osos Community Services District and the Los Osos Community Advisory Council for review and comment. However, since programs are not mandatory, it does not guarantee that these actions would be referred to the above-mentioned groups. And, it does not provide criteria for such groups, or the County, to adequately consider public access needs in the review. Another proposed program states that the County should protect or develop street ends along Morro Bay for public access and habitat value; five sites are specified.

These proposed programs clearly indicate the County's intent to try to protect public access from loss through quiet title actions. However, as programs, their implementation is not assured. Policies to specifically address these access issues should be incorporated into a comprehensive Public Access Component of the LCP. To assure the protection of access opportunities, as required under Access Policy 1, the Public Access Component should also have a complete inventory of existing and potential accessways, and should ensure that actions such as quiet title actions will not reduce the extent of access opportunities.

Prescriptive Rights: The Commission, and the County through its LCP, are required by Section 30211 of the Coastal Act to protect historic public access use. Although a comprehensive evaluation has not been done of every area where prescriptive rights may exist, some areas in San Luis Obispo County have been identified where there has been historic use, including the South Bay area of the Estero Planning Area and Mallagh Landing (Pirate's Cove) in the San Luis Bay Planning Area.²⁷ However, Hearst Ranch, in the North Coast Planning Area, is by far the largest area where historic public use may exist. None of these areas has yet been subject to a prescriptive rights study.

Review of the Commission's public access files revealed that Sweet Springs Marsh was the subject of an Attorney General's Implied Dedication Report in July and August of 1978. The report documented extensive and continuous use since 1950. The property is now part of Sweet Springs Marsh Natural Preserve, owned by the Audubon Society. For Cuesta Inlet a study was initiated; however it has not yet been completed.

The portion of Hearst Ranch lying within the North Coast Planning Area of San Luis Obispo County encompasses approximately 48,000 acres, including several miles of oceanfront property. Currently and historically, most of the land has been used for cattle-grazing. This part of the coast has great potential for enhanced public access. The numerous informal trails that currently extend from a variety of automobile pullouts along Highway One down to attractive beaches reflect this potential for future formalized public access on the North Coast. The legal status of these informal public accessways and associated recreational uses has not been determined, and in 1972, the Hearst Corporation filed a Notice of Permissive Use that affected future claims of public access rights. The legislature has declared that such recorded notices are sufficient evidence to preclude a finding of prescriptive use for any time period after the filing of such a notice.

In the Commission action on the North Coast Area Plan Update (LCP Amendment 1-97), it was noted that evidence suggests that the public has used various areas along the North Coast including the Hearst Ranch for at least 40 years, from 1957 onward. There is a considerable amount of informal recreational use of the rural north coast shoreline. The numerous activities include fishing, diving, kayaking, windsurfing, surfing, boating, boat launching, picnicking, sitting on the beach, playing on dunes, walking, jogging, bonfires, walking dogs, collecting shells/driftwood, building sand castles, sunbathing, photography, painting, and watching marine mammals.

The County has not engaged in a formal prescriptive rights study on the Hearst Ranch. In other cases, though, the County has approved development in areas where prescriptive rights might exist, without evaluation of this possibility. For example, the County approved a development for the demolition and rebuild of a single-family residence in Cuesta Inlet. One of the standards in the Estero Area Plan specifically states that new development in Cuesta Inlet shall be required to provide public access consistent with existing prescriptive rights. While the County action

²⁷ San Luis Obispo Co. Dept. of Planning, North Coast Update Project Description, January 2000, p. 8-28.

notes this standard, it goes on to assert that “[I]t appears that this project is surrounded by public access ways. A public access is not necessary across this site.”²⁸ Nonetheless, the LCP directs that any prescriptive rights that may exist be protected. However, if no studies are completed to establish the likelihood of such rights, they cannot be protected through permit actions. Unfortunately, accomplishing such studies requires resources; the Commission also has not been able to pursue prescriptive rights as vigorously as called for by the goals of the Coastal Act. Only recently has the Commission been able to provide staff resources to evaluate potential prescriptive rights. Without such evaluations, public access may not be fully protected.

Consistency Analysis: The Coastal Act requires that development shall not interfere with the public’s right of access to the sea where acquired through use or legislative authorization (Section 30211). With regard to protecting recreational opportunities, the Coastal Act provides that oceanfront land suitable for recreational use shall be protected for recreational use and development (Section 30221). It also states that the use of private lands suitable for visitor-serving commercial recreation facilities shall have priority over private residential, general industrial or general commercial development. While the policies in the County’s LCP generally reflect these Coastal Act sections, some of the County’s actions fail to meet the intent of the policies, and public access opportunities have been lost.

As the Commission found in its findings for the North Coast Update, the County’s LCP lacks a comprehensive and cohesive access component to the LCP. The Commission found that without this component “it is difficult to identify and protect existing and potential access resources... . It is also difficult to plan for future access resource development and management or understand the precise access policy requirements for new development in the coastal zone.”²⁹ The Coastal Act requires the protection of existing access, and that access be maximized to and along the coast. Without knowing the full range of existing and potential access resources, the County cannot adequately protect those access opportunities. The County LCP contains provisions to protect historic public use. However, as noted, loss of access through quiet title actions can contribute to a loss of maximum public access.

Preliminary Policy Alternatives

Protection of existing public access can be enhanced through consideration of the following policy options:

Preliminary Recommendation 6-5: Develop an LCP Program to Document and Pursue Prescriptive Rights

As part of protecting historic use areas, the County should develop a program to document informal use and potential prescriptive rights as part of the Access Component. Such a program

²⁸ 3-SLO-93-052

²⁹ LCPA 1-97, January 1998, pg. 159.

could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights.

Preliminary Recommendation 6-6: Develop LCP Program to Assure Protection of Existing and Potential Public Rights

The County should develop a program to assure comprehensive review of quiet title actions and other changes in intensity of land use, including potential abandonments of public rights-of-way, that may adversely impact public access. A more expanded review of potential loss of historic offers to the public should be pursued. The County has recognized this concern in the proposed Estero Area Plan Update Circulation Chapter regarding Los Osos: "Preservation of all rights-of-way and offers of dedication for roads, ways, vertical and other accessways." The County could further protect public access opportunities by accepting all dedicated street ends within Los Osos. The County and Commission should discuss options for coordinating and pooling resources to evaluate quiet title actions, to maximize protection of public access opportunities.

C.3. Providing Low-Cost Visitor-Serving Access and Recreation

Overview: Coastal Act section 30213 requires the protection and provision of lower-cost visitor-serving and recreational development. Since 1988, the County has issued 57 permits for new development on parcels zoned for recreation. Forty-five of these permits were for public recreation facilities or other types of visitor-serving development and therefore appropriate for preserving the area for recreational uses. However, public demand for lower-cost visitor uses has increased since certification, and more attention is needed on protection and provision of such uses in San Luis Obispo. In addition, lower-cost visitor recreation is more suitable for areas of the coastal zone where resources to support new development are limited, and where the sensitive resources such as habitat and scenic views, need to be protected.

LCP Implementation: *Campgrounds:* Six of the 10 State Parks³⁰ and one county park³¹ in coastal San Luis Obispo County provide overnight camping opportunities. Generally there has been a higher demand for camping opportunities than the parks have been able to provide; at the time of LCP certification this concern was noted and it continues to be the case today.

When background studies were being prepared for LCP planning in 1979, the County identified 987 existing public campsites in the coastal zone. In 1988 when the LCP was certified there were over 1,800 campsites available in both public and private campgrounds. The LCP notes that the State Park plans proposed development of 554 additional campsites. This includes Montana de Oro and Morro Bay State Parks, whose plans, both adopted in 1988, called for 120-200 additional campsites. However, only San Simeon State Beach and Oceano Memorial County Park have been successful in adding campsites to their facilities. The efforts to expand

³⁰ San Simeon State Beach, Morro Strand State Beach, Morro Bay State Park, Montana de Oro State Park, Pismo State Beach, Oceano Dunes State Vehicular Recreation Area

³¹ Oceano Memorial County Park

overnight camping were substantial in the years leading up to certification. Since certification, the current facilities number 1,739, a slight decrease from certification. In addition, other proposals have been made that would potentially decrease the availability of future camping, such as the San Luis Harbor proposal to site a commercial hotel on an area designated for camping at Harbor Terrace.

Some of the campsites in the parks provide water and electrical hookups for RVs; in addition to those, several private resorts offer overnight opportunities for RV enthusiasts. Currently there are 1,469 sites in private resorts offered for RVs, up from 900 in 1979. These, too, are usually fully occupied, especially if water and electrical hookups are supplied.

There continues to be unmet demand for both tent and RV camping in coastal San Luis Obispo County. On weekends between April and October virtually all the campgrounds are fully booked in advance, and potential campers are turned away. However, the number of coastal campsites may have already reached capacity; an increase at current locations could mean undue impact on sensitive coastal resources.

Overnight Accommodations: As noted, visitor use of the coast has increased dramatically since LCP certification and the number of overnight lodging units approved by coastal development permits also increased. In 1979, it was noted that coastal San Luis Obispo County contained approximately 880 overnight units in 39 hotels and motels.³² Since certification, the County has approved the development of over 700 additional hotel, motel, and bed and breakfast units in the coastal zone. The proposed North Coast Area Plan update notes a 110% increase in the number of visitor-serving accommodations between 1982 and 1997.

For the North Coast, the occupancy rate was estimated to be approximately 55% in 1997. Certainly, there are peak times with higher occupancy rates, but the overall rate of 55% is considered to be low by hotel and motel industry standards.³³ Data from the City of Morro Bay also support the findings of this relatively low occupancy rate. In 1998 the occupancy rate for that city was 54%. Generally, an annual occupancy rate of 60 to 65% is regarded as breakeven for an investment-quality lodging establishment. A hotel market is considered ready for new development when overall occupancy rates reach 65 to 70%.³⁴ Despite this apparent lack of need for additional hotel developments, a number have been proposed over the years, most notably within the Hearst Ranch landholdings and also at Harbor Terrace on lands owned by the Port San Luis Harbor District. Limitations at both of these locations include lack of existing infrastructure, such as lack of access to water along the North Coast, and road capacity in Avila (see Chapter 2 for more discussion).

Since certification of the LCP, the population and visitor-serving economy of San Luis Obispo County has continued to grow, placing increased demands on existing public access and

³² San Luis Obispo County, Shoreline Access, Work Task 403, June 1979.

³³ North Coast Planning Area update, 1998

³⁴ *Evaluation of Development Potential for Visitor-Serving Uses, Caratan/Colmer Site, Morro Bay*, prepared for City of Morro Bay by Bay Area Economics, December 1999.

highlighting the continuing need to expand public access and coastal recreation opportunities. Population has increased 20% since 1988 and is projected to increase an additional 49% by 2015. Attendance at the 10 state parks in the County for both camping and day-use has increased about 3% since 1988, from approximately 6.9 million to approximately 7.1 million in 1998/99. Within the County park system, attendance has increased 22% between 1988 and 1995. Additionally, changed conditions since LCP certification compound the need for increased attention to the provision of coastal recreation and public access opportunities.

Preliminary Policy Alternatives

Preliminary Recommendation 6-7: Comprehensive Public Recreation Planning

Through a comprehensive Public Access planning process, long-term supply and demand and opportunities for low-cost visitor-serving recreation should be analyzed. The LCP should be evaluated for potential amendments to provide for such uses. In addition, the LCP should be further evaluated to ensure that an adequate level of limited public services is being reserved for priority visitor-serving uses, including that which may be needed in the future.

C.4. Balancing Access and Recreation with Protection of Sensitive Habitats.

Overview: As discussed in Chapter 4 (ESHA), San Luis Obispo County has a wealth of environmentally sensitive habitat areas. Although the Coastal Act requires that public access be maximized, it also requires that the provision of access be balanced with the protection of sensitive habitats. Since certification of the LCP, new information and changed circumstances have emerged, highlighting the need to revisit policies regarding the balance between sensitive resource protection and the provision of public access. For example, the snowy plover was listed as a threatened species and a new colony of elephant seals was established at Piedras Blancas.

LCP Implementation: Access Policy 2 of the LCP notes that maximum public access within new development may be inconsistent with the protection of sensitive habitats. It also notes that limited forms of access and mitigation methods should be considered to optimize public access while protecting resources and land uses. This policy is implemented by Ordinances 23.04.420 c and k. Additionally, ESHA Policies 29 and 38 address the design of trails in and adjoining sensitive habitats and limiting the use of coastal access to minimize impacts on marine resources.

With regard to Oceano Dunes State Vehicular Recreation Area (ODSVRA), the South County Planning Area standards provide that camping areas be limited in number to allow for adequate environmental protection throughout the dunes and that natural buffer areas for sensitive habitat areas shall be identified and fenced. Issues concerning visitor use and the protection of sensitive resources at the ODSVRA are currently being addressed in a separate staff recommendation (see 4-82-300-A5).

Generally, the County has been successful in balancing the provision of public access with the protection of sensitive resources in their regulatory program. Three county actions illustrate this.³⁵ In 1991, Montana de Oro's General Plan was submitted to the County; the findings indicated that while most of the plan was to be approved, they had concerns with other areas including camping and parking density.³⁶ Ultimately, the majority of the plan was approved; however, the County acted appropriately in reducing the number of proposed campsites and parking spaces in order to limit the impact on sensitive resources at the park.

Two other permits approved by the County were for public access trails in sensitive habitat areas, one at Los Osos Oaks State Reserve,³⁷ and one at Oso Flaco Lake.³⁸ At Oso Flaco Lake, a kiosk and boardwalk for pedestrian access through Oso Flaco Lake Natural Area were proposed. The purpose of the project was to limit vegetation and sand disturbance in the project area to allow the dunes to become restabilized. The County action notes that the proposed project is located within a sensitive resource area, and that a botanical survey concluded that the boardwalk would be a step toward directing use away from the fragile dunes and sensitive vegetation in the area. It is also noted that the two planning area standards that relate to the project site, dune stabilization and limitation on use, are met by the proposed project. This project illustrates the County's success at balancing public access needs with protection of sensitive resources.

Oceano Dunes State Vehicular Recreation Area: An area of ongoing concern regarding the balance of providing public access and protection of sensitive resource areas is at Oceano Dunes State Vehicular Recreation Area (ODSVRA). Specific issues concerning ODSVRA are addressed in a separate staff recommendation concerning condition compliance and protection of sensitive resources at the Park (see 4-82-300-A5). It is important to note, though, that since the Commission's original involvement in resource management at the ODSVRA, and since certification of the LCP, new sensitive resource information has emerged: in 1993, the snowy plover, which nests in the area, was listed as a threatened species, thus increasing the need to address conflicts between vehicles and habitat protection.

Critical habitat for the snowy plover has been designated at Point Sur Beach, Arroyo Hondo Creek Beach, Arroyo Laguna Creek Beach, Toro Creek Beach, Morro Strand State Beach, and the Morro Sandspit, as well as Pismo Beach and points south.³⁹ As the number of visitors to the beaches increases, the need for the County and Commission to address these impacts grows. Additional research and coordination is needed to ensure that all beaches that provide habitat for the plover are planned for and managed appropriately.

Piedras Blancas: New sensitive resource areas have also been identified at Piedras Blancas since LCP certification in 1988. An elephant seal colony was established in the small cove just south of the Piedras Blancas lighthouse in late 1990 when less than two dozen elephant seals were

³⁵ FLANs 4-SLO-90-211, 4-SLO-91-185, and 3-SLO-92-120

³⁶ 4-SLO-91-185

³⁷ 3-SLO-92-120

³⁸ 4-SLO-90-211

³⁹ USFWS, Federal Register: December 7, 1999 (Volume 64, Number 234)

counted. The colony has grown steadily. In 1999 the total elephant seal population for Piedras Blancas was estimated to be around 7500. Since it is speculated that elephant seals return to mate on the same beaches where they were born, the colony will likely continue to expand.

As the colony rapidly expanded, conflicts with visitors arose. Dangerous conditions were developing; visitors were parking illegally on both sides of narrow Highway One, then traversing through private property to view the seals. In 1995 Caltrans applied for a permit from the County to realign a portion of Highway One near Piedras Blancas. As part of that permit, a trade of property between the state and the Hearst Corporation was approved by the County so that a formal accessway to the south of the project area was closed, and two informal ones at Twin Creeks Beach were formalized and improved.⁴⁰

Since the late 1990s, an interpretive program has been implemented through county, state, and federal efforts at the Caltrans vista points through which docents are available to the visiting public. This program has been tremendously successful and has helped to balance the conflicts between public access and sensitive elephant seal habitat. The colony, though, may be growing and spreading south, which highlights the importance of planning for and managing potential future conflicts between this habitat and public access.

Another area where more focused attention is needed concerns the development of Habitat Conservation Plans (HCPs) and Natural Community Conservation Plans (NCCPs) in locations such as Los Osos. This is particularly true where habitat protection efforts may overlap with open space protection goals, as with the Greenbelt program in Los Osos (see ESHA and Development chapters). Opportunities for accounting for appropriate public access in areas where sensitive habitats or open space are proposed for protection will need to be carefully evaluated.

Consistency Analysis: Section 30210 of the Coastal Act provides that maximum access and recreational opportunities shall be provided consistent with the need to protect natural resource areas from overuse. Section 30214 states the need to take into account the access site's capacity to sustain use and at what level of capacity. It also notes that the appropriateness of limiting public access depending on such factors as the fragility of the natural resources in the area.

The LCP contains adequate policies and standards to balance the provision of public access and recreation with the protection of sensitive resource areas. And thus far, through its permitting actions, those policies generally have been implemented well. However, because of development pressures within the County, and statewide, as well as new information on sensitive resources, the need to maintain this balance becomes ever more critical. It is important that the County include in its LCP a comprehensive public access component, showing where existing and potential accessways are located, in addition to noting where potential conflict exists with regard to sensitive resources. The Access Component could also identify management options to

⁴⁰ A-3-SLO-95-70

control and monitor access and, should an accessway ever need to be temporarily or permanently closed, identify appropriate alternative access locations.

Preliminary Policy Alternatives:

There are some options for the County to strengthen LCP provisions to maximize access and protect sensitive resources in light of new scientific information and increasing recreational demands. The development of a Comprehensive Access Component could include maps designating locations of known potential areas of conflict between public access and sensitive resource protection, and potential management measures. The County's proposed draft North Coast Update includes a standard that lists and restricts allowable development within an ESHA.⁴¹ Similar standards could be developed in the rest of the County.

The draft North Coast Update also includes proposed policies for managing the balance between elephant seals and providing public access. It states that a joint planning initiative will be undertaken with the Monterey Bay National Marine Sanctuary (MBNMS) and National Marine Fisheries Service (NMFS) to establish a management program, which will incorporate the interim management program initiated by Caltrans pursuant to A-3-SLO-95-070. Another policy proposes observation facilities to be provided only after the impacts of these facilities to elephant seals and their habitat have been considered. The provision of lateral access for the California Coastal Trail is addressed also. The policy proposes that where the CCT is on a beach that is seasonally occupied by the seals, a supplementary blufftop trail should be provided. All of these proposed policies and standards are worthy of consideration for maintaining the balance between protecting sensitive resources at Piedras Blancas and providing needed public access; similar standards could be developed for other areas of the coast as part of the Access Component. In addition, the County is encouraged to continue to work with USFWS, DFG, and DPR to develop strategies to manage sensitive habitats in recreation areas.

Preliminary Recommendation 6-8: Review New Access Developments for Appropriate Habitat Management Measures

In reviewing proposals that include public access in sensitive areas, consider the full range of management measures and use limitations that could be put in place to ensure protection of the resource, while at the same time allowing for maximum public access.

Preliminary Recommendation 6-9: Habitat Conservation Plan Access Review

Include public access management and enhancement as a component of all habitat management planning and conservation plans.

⁴¹ San Luis Obispo Co. Dept. of Planning and Building, North Coast Update Project Description, January 2000, pg. 7-19.