



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

July 12, 2001

As revised August 24, 2001 to incorporate changes  
from the addendum and hearing of July 12, 2001.

TO: Commissioners and Interested Persons

FROM: Peter Douglas, Executive Director  
Tami Grove, Deputy Director  
Periodic Review Project Staff

SUBJECT: **Adopted Report: Periodic Review of the Implementation of San Luis Obispo County's Local Coastal Program.**

### INTRODUCTION

This Report presents the Staff Recommendation on the Periodic Review of the County of San Luis Obispo's certified Local Coastal Program (LCP), pursuant to Section 30519.5 of the Coastal Act. The Coastal Act provisions require review every certified LCP to determine whether the LCP is being effectively implemented in conformity with the policies of the Coastal Act. If the Commission determines that a certified LCP is not being carried out in conformity with any policy of the Act, it is to submit to the local government recommendations of corrective actions that should be taken, including possible suggested amendments to the LCP. Under the law the County has one year to respond to the recommendations that the Commission adopts and if actions are not taken, forward to the commission a report setting forth its reasons for not taking the recommended action.

A *Preliminary Periodic Review Report* was submitted to the County and the Commission in February 2001 (Exhibits A and B). Based on that *Preliminary Report*, the Commission continued the public hearing for additional public comment and instructed the staff to conduct additional outreach to the County and the community on the Preliminary Recommendations.

Since February, the Commission and the County and have undertaken substantial outreach and further investigation. Community workshops were held throughout the county from March 26 through March 30 which were attended by hundreds of citizens. The workshops, which were held in Cambria (for North County) Los Osos (for the Estero Area) and Arroyo Grande (for South County), were also televised by a local cable television station. A fourth workshop was held with the Agricultural Liaison Committee and the agriculture community specific to the issues raised by the preliminary recommendation on Agriculture. An additional informal meeting with organized by the SLO Farm Bureau for staff to meet with agriculturists in a more informal setting to continue the dialogue concerning the effects of the Preliminary Recommendation on agricultural operations. Additional meetings were held with the staff of the

Cambria Community Services District and the Los Osos Community Services District and members of the various Citizen Advisory Councils.

The County staff also provided significant feedback, meeting often with Commission staff. In addition, two meetings were held by the County Board of Supervisors to review the *Preliminary Report* and provide detailed comments to the Commission. These comments are discussed in more detail under specific sections of this report and are provided in full in Exhibit C. In addition to the workshops, over 500 pages of written comments have been received by the Commission staff on the *Preliminary Report* and recommendations (Exhibit D).

This staff recommendation reflects modifications in response to this outreach effort. Although staff have reviewed and considered all of the public comments received, in this report, staff summarizes the public comment, and does not address every comment specifically. In many cases, the report addresses the major comments raised on the specific recommendations, and presents additional information and analysis conducted, errata or specific text corrections needed for the final document, and any suggested revisions to the preliminary recommendations and findings as presented in the February 2, 2001 report.

The extent of the public participation illustrates how strongly the citizens care about the protection and management of the county's coastal resources. The County has shown an equally strong commitment to sound coastal management and the goals of the California Coastal Act through its efforts to comprehensively update the LCP Area Plans in order to assure that the LCP will continue to provide effective guidance for coastal regulation and management. In addition, as indicated in this report, the County has in many cases agreed with the recommendations suggested in the *Preliminary Report* provided financial assistance is available to offset the costs of the planning and implementation called for in the recommendations. It is likely that through the next steps of implementation, including completion of the pending and future Area Plan updates, many of the proposed recommendations will be addressed.

The staff therefore recommends that the Commission find that the certified LCP of the County of San Luis Obispo is not being effectively implemented in conformity with the policies and of the Coastal Act and adopt corrective actions as recommended in this report for transmittal to the County for consideration.

In addition to this report, the following Exhibits were distributed to Commission and the County along with this report and are available from the Commission staff upon request:

- Exhibit A: Preliminary Report February 2, 2001
- Exhibit B: Maps in Preliminary Report, February 2, 2001
- Exhibit C: SLO County Response
- Exhibit D: Public Comment on Preliminary Report
- Exhibit E: Sample of Funding Opportunities

## **A. STAFF RECOMMENDATION**

### **MOTIONS AND RESOLUTIONS**

#### **STAFF RECOMMENDATION**

The staff recommends that the Commission adopt the following resolution and accompanying Preliminary Report to the County of San Luis Obispo on the Implementation of Its Local Coastal Program, as modified by the supplemental report dated July 12, 2001. A majority of those present is needed to adopt the resolution.

#### **MOTION**

I move that the Commission 1) determine that San Luis Obispo County (County) is not effectively implementing its certified Local Program (LCP) in conformity with the policies of the Coastal Act, and, to ensure that the LCP is implemented in conformity with Coastal Act policies, 2) recommend that the County take the corrective actions set forth in the Preliminary Report dated February 2, 2001, as modified by the supplemental report dated July 12, 2001.

#### **RESOLUTION**

The Commission hereby 1) determines that San Luis Obispo County (County) is not effectively implementing its certified Local Program (LCP) in conformity with the policies of the Coastal Act, and, to ensure that the LCP is implemented in conformity with Coastal Act policies, 2) recommends that the County take the corrective actions set forth in the Preliminary Report dated February 2, 2001, as modified by the supplemental report dated July 12, 2001.

## **B. RECOMMENDATIONS FOR CORRECTIVE ACTION**

### **New Development and Public Services**

**Recommendation 2.1: Improve Required Coastal Development Permit Findings for Service Extensions Beyond USL.** Development proposals that require the extension of urban services across the USL should not be approved unless the required findings of Public Works Policy 1 and corresponding ordinances can be made. Amend Policy 1 by adding reference to CZLUO 23.04.430-432 as appropriate implementing ordinances. Add new implementing ordinance(s) to clarify required information and findings to support Public Works Policy 1.

**Recommendation 2.2: Improve County/Commission Coordination.** The County and the Commission should take full advantage of coordinated reviews of development proposals outside of the USL, particularly those that may create new urban development potential.

**Recommendation 2.3: Clarify LCP Authority with respect to New Urban Development proposed outside USL.** Amend LCP (Framework, Policies, Ordinances, Area Plans) as necessary to clarify where and under what circumstances the provision of urban services to new development outside of the USL is appropriate.

**Recommendation 2.4: Reduce Development Potential on Urban Edges.** Evaluate potential for reduction of development intensities on the perimeter of urban areas, including adjusting land use designations, allowable densities, relocating the USL/URL where appropriate, and evaluating consistency of such with Coastal Act section 30250.

**Recommendation 2.5: Consider Policies and Programs to Support Greenbelt Formation and Maintenance.** Consider incorporation of programs and policies to establish or support greenbelt and open space areas on the urban fringe of developed areas (e.g. Los Osos). Build on and integrate with open space and habitat protection proposals already put forth by the County in the Estero Update. Mitigation banking should be further evaluated as a potential implementation mechanism.

**Recommendation 2.6: Encourage Concentration of Development in Urban Areas.** Amend the LCP to provide incentives for development, including broad redevelopment strategies, within the USL. For example, the County should consider developing planning and regulatory mechanisms to transfer development potential from outside the USL to inside the USL.

**Recommendation 2.7: Strengthen Standards to address development potential on Non-conforming Lots.** Amendment of current lot-line adjustments review criteria should be considered that would require adjustments to reasonably comply with all LCP Coastal Plan Policies and Ordinances within the constraints of Constitutional takings jurisprudence. See Agriculture Final Recommendation 5.4.

**Recommendation 2.8: Evaluate Options for Processing Non-conforming lots in Single Ownership.** The County and Commission should evaluate options available for processing non-

conforming parcels in a common ownership, including identification of non-conforming parcels and options for lot merger, to maximize protection of agricultural lands. As part of this effort, the County and Commission should consider policy, ordinance, and program options, including those that would provide incentives to encourage voluntary merger of non-conforming parcels.

**Recommendation 2.9: Update North Coast Area Plan to Protect Coastal Resources of the Hearst Ranch.** Rezone Recreational lands on the Hearst Ranch to Agriculture, update combining designations, and establish LCP standards that require a Land Use Capacity Analysis prior to consideration of any development proposals and LCP amendments for non-agricultural development on the Hearst Ranch. The County should limit the location of such development to concentration in or immediately adjacent to San Simeon Acres if feasible or, if not feasible, to small-scale infill development within the commercial zoning of San Simeon Village. Other than these two locations, no new visitor-serving or other non-agricultural development should be allowed in the public viewshed except for underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events.

A Land Use Capacity Analysis should include at least the following: a comprehensive agricultural viability analysis for any areas proposed for non-agricultural development; a visitor-serving development supply and demand analysis; a comprehensive environmental constraints analysis, including evaluation of sensitive habitats, in-stream flow habitat values, water availability, groundwater basins, highway capacity, cultural resources, scenic resources, community character and hazardous areas. Specific performance standards that address the concerns raised by the Coastal Commission's 1998 NCAP Findings, such as required water monitoring and highway capacity limits, should be incorporated into the NCAP. Standards for protection of agricultural lands and mitigation of development impacts should be developed, including provision for agricultural conservation easements.

**Recommendation 2.10: Require Resource Capacity Studies prior to Major Development Proposals.** See Recommendation 2.9

**Recommendation 2.11: Update LCP to address Large Residential Development.** See Agriculture Recommendation 5.8.

**Recommendation 2.12: Strengthen Implementation of the RMS System and ISCA.** Implement Phase 2 of RMS contemplated in the Framework for Planning: establish an expanded RMS task force that includes Coastal Commission staff and other resource agencies; include CCC staff in review process for Resource Capacity Studies. The ISCA program currently in the LCP needs to be followed in evaluating new development proposals for Los Osos until such time as the Estero Area Plan is updated to address groundwater management issues and the protection of water supply for Agriculture in the Los Osos groundwater basin.

**Recommendation 2.13: Address Cambria Short-term Development Constraints.** Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal development permits for new development that would require a new water connection or that

would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSO on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.

**Recommendation 2.14: Establish Watershed/Basin Management Programs.** Establish Coordinated Resource Management Programs (CRMP) to promote watershed management, including resource identification and water quality monitoring, and to address competing rural and urban uses in North Coast and Estero Area groundwater basins. See also, Recommendation 3.7b.

**Recommendation 2.15: Consider Additional Options for Water Conservation.** Additional LCP policies and standards should be considered that would strengthen requirements for minimizing water use, such as xeriscaping and native drought-tolerant landscaping requirements.

**Recommendation 2.16: Cambria Long-term development (Buildout Reduction).** The LCP needs to be amended to address long-term development potential in Cambria. The County should work to expand the TDC program by identifying other sensitive areas that would benefit from transfer of potential development to more suitable locations. Expansion should include Special Project Area #2, as well as watershed areas, other scenic corridors and other small lot tracts in undeveloped areas that support significant coastal resources, particularly contiguous blocks of sensitive pine forest habitat. More aggressive policy options should be considered as well, including development of an Assessment District to retire lots/create open space and promote forest protection. Other mechanisms should be evaluated such as the ability to use mitigation fees or erosion control fees to address long-term buildout. Further attention could be focused on alternatives for reducing development potential on single and double lots and creating incentives for the minimum lot size of 7000 square feet. As part of this process, the County should establish a task force charged with identifying management options and strategies for reducing buildout in Cambria by a specific deadline.

**Recommendation 2.17: Prohibit Creation of New Development Potential in Cambria and Los Osos.** The County should consider prohibiting subdivisions that create new development potential in the communities of Cambria and Los Osos. Subdivisions that include no net gain in development potential (e.g. includes lot retirement) might be considered

**Recommendation 2.18: Address Cumulative Impacts to Urban Design in Cambria.**

Through community planning and LCP amendments, cumulative impacts to urban design should be addressed, particularly concerning the potential role of TDC use. Consider standards to better address the amount of TDCs any one site can use based on the capability of the lot (size, slope, etc.) to handle the increase in square footage. Address minimum area of landscape that must be preserved, regardless of lot size; as well as a maximum footprint area.

**Recommendation 2.19: Los Osos Short-term Development.** Similar to Cambria, focused attention is needed on pending studies concerning the safe yield of the Los Osos groundwater basin and the role that a future wastewater treatment facility might play in determining this yield. The County should consider policies and standards to assure that new development that relies on the groundwater basin is not allowed until a safe-yield or alternative water source is determined. Policies and mechanisms to ensure basin-wide management of groundwater supplies should be considered.

**Recommendation 2.20: Los Osos Long-term development.** Amend Estero Area Plan, including changes to support a reduction in buildout, to reflect an updated Buildout analysis, preservation of groundwater basins, and sensitive habitat protection needs identified through the HCP. Options that build on the currently proposed TDC approach for habitat protection should be evaluated and incorporated into the LCP (see Chapter 4 ESHA).

**Water Quality and Marine Resources**

**Recommendation 3-1: Modify and adopt the following policies and standards in the LCP.**

Agriculture Policy 8: Proper soil conservation techniques and grazing methods should be encouraged in accordance with Basin Plan receiving water objectives adopted to meet the water quality requirements of the California Regional Water Quality Control Board.

Coastal Watershed Policy 14: Proper soil conservation techniques and grazing methods shall to the maximum extent feasible be employed in accordance with Basin Plan receiving water objectives adopted by the California Water Quality Control Board.

Ordinance 23.08.046 c(2): Application content. Where this section requires land use permit approval for a specific animal raising activity, the permit application shall include the following in addition to all information required by Sections 23.02.030 ...

- (i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.
- (ii) The applicant's plans for animal waste disposal, including plans showing measures to confine runoff, adequate capacity to allow for proper wastewater disposal, and measures to prevent seepage to groundwater.
- (iii)...

e(2): Erosion and Sedimentation control. In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel. ...

Similar requirements should be incorporated into CZLUO 23.08.052.

**Recommendation 3-2: Deleted and replaced with 3-2 a-d.**

**Recommendation 3-2a: Add program to the LCP encouraging the County to continue supporting educational efforts to address resource impacts from agricultural activities.** Efforts should include: a) reducing nonpoint source pollution, including sedimentation, from grazing and other agricultural practices; b) using BMPs and other management strategies to protect habitat areas; c) reducing the contamination of surface waters and groundwater from pesticides; d) reducing water quality degradation from nutrients; and e) reducing nonpoint source pollution caused by irrigation, by encouraging irrigation techniques that conserve water and retain water on-site. The County should use monitoring data and information from watershed planning efforts to target priority locations for educational efforts. In addition, the County should assess and document the effectiveness of educational efforts in preventing and/or minimizing nonpoint source pollution.

**Recommendation 3-2b: Amend Ordinance 23.05.026 (d) to modify the exemptions granted from grading permit requirements for agricultural grading.** The following grading activities could be exempt from requiring a grading permit, except when associated with grading for roadwork or pads for structures:

- grading of less than 50 cubic yards if Planning Director determines there are no potential impacts to coastal resources;
- tillage of existing agricultural fields;
- maintenance of existing agricultural roads, provided maintenance activities do not widen the road;
- grading further than 100 ft. from ESHA;
- grading which removes no significant trees;
- grading which removes ¼ acre or less of native vegetation,;
- grading on slopes under 30%, if designed per NRCS standards;
- grading performed under a program developed by NRCS or another appropriate agency, that has been reviewed and permitted as outlined in Recommendation 3-2d.

**Recommendation 3-2c: Amend Ordinance 23.05.034(c) to allow grading for agricultural cultivation within 100 feet of an ESHA,** consistent with the above exemption, if grading is designed to avoid adverse impacts to the ESHA, including preventing polluted runoff into coastal waters and preventing loss of habitat.



**Recommendation 3-2d: Add program to Chapter 7 of the LCP (Agriculture) encouraging NRCS or other appropriate agencies to develop program(s) to implement BMPs for agricultural grading activities on agricultural lands.** The programs must be certified as consistent with all LCP policies through one of the following mechanisms: a) County review and issuance of a master permit, b) through an LCP amendment, or c) through the Commission's federal consistency review process. Once the program is certified, implementation of specific projects under the program will be exempt from individual grading permits.

**Recommendation 3-3: Area Plan Updates.** The proposed update of the North Coast Area Plan (January 2000) includes a variety of policies to improve the protection of water quality. These management strategies should be incorporated into the Area Plans. Proposed policies and strategies include: Policies to prohibit point-source discharges into the marine environment; Rural Area Program to designate Areas of Special Biological Significance (ASBS) for protection from development of impacts of any future wastewater outfall structure(s); Improved controls on land divisions and lot line adjustments to minimize the impact of water extraction from riparian creek areas for non-agricultural uses and policies and programs specific to Lodge Hill. The proposed revisions to the North Coast Area Plan Standards offer the opportunity to strengthen the water quality protection provisions of the LCP if expanded to address the issues raised through this review.

**Recommendation 3-4: Expanding Erosion Control Studies.** The County has targeted the Lodge Hill area to reduce erosion in the area and proposes to implement recommendations of a 1999 erosion control study. These recommendations generally focus on 1) paving roads, and 2) developing a comprehensive master plan for the community. The master plan should design for buildout of the community and incorporate the street drainage network into the plan. In general, implementing the study's recommendations could reduce erosion and sedimentation, and improve water quality in Lodge Hill. The comprehensive plan, though, should also address drainage issues from road paving, and should encourage infiltration of water and maintenance of the natural flow regime, to the extent feasible, by encouraging dispersal of sheet flow from roads into natural vegetated areas. The County should also incorporate measures to site development to retain forest cover.

**Recommendation 3-5: Address Post-Construction Runoff.** Incorporate into the planning process the following checklist of three questions, developed through the Model Urban Runoff Program, to help coastal planners identify and mitigate water quality impacts of proposed development (see Table 3-2, below).

**Table 3-2: Water Quality Checklist**

1. Would the proposal result in changes in soil infiltration rates, drainage patterns, or the rate and amount of surface runoff?
2. Would the proposal result in discharge into surface waters or wetlands or other alteration of surface water/wetland quality (e.g., temperature, dissolved oxygen, or turbidity)?
3. Would the proposal result in impacts to groundwater quality?

If the proposed project raises water quality issues based on the above questions, or other review, best management practices (BMPs) should be incorporated into the project design to address post-construction runoff.

**Recommendation 3-6: Deleted and Replaced.**

**Recommendation 3-6a and Recommendation 3-11:** Add policy or ordinance to prohibit subdivisions on slopes over 30%, where the subdivision would result in building pads, access roads, or driveways to be located on slopes over 30%, or where grading would result on slopes over 30%. For subdivision requests on slopes over 20%, the applicant should include the location of building pads and access roads, located to minimize erosion and sedimentation, and should require that development maintain pre-development flows by detaining stormwater flows on site.

**Recommendation 3-6b and Recommendation 3-9: Modify criteria citing watercourses on USGS map.** One requirement for sedimentation and erosion control plans is land disturbance activities that are “within 100 feet of a watercourse shown on current 7 ½ minute USGS quad map. Modify Section 23.05.036 of the CZLUO to include the following criteria for requiring a sedimentation and erosion control plan: where a) a watercourse supports fish, or b) has significant flow 30 days after last significant storm. References to watercourses throughout the LCP should include these criteria and meet the criteria under ESHA Recommendation 4.1.

**Recommendation 3-6c and Recommendation 3-12: Deleted and replaced with the following:** Modify the LCP grading and/or drainage ordinance (Sections 23.05.020 through 23.05.038 and/or 23.05.040 through 23.05.050) to require, as requirement for filing a plot plan, minor use permit, or development plan, a water quality control plan for all projects and activities which require land use permits or grading permits. Single family residences on slopes under 20% shall be exempt from this requirement if BMPs to assure the goals and objectives of the Modified Chapter 9 are included in the development plan and sized appropriately to ensure the protection of water quality and to meet the design goal criteria. The water quality plan shall:

- identify the type and size of BMPs necessary to maintain peak runoff rates and volumes similar to pre-development rates, and accommodate runoff from the 85<sup>th</sup> percentile storm runoffs;
- protect or restore natural drainage courses and where feasible use vegetated drainage systems to decrease erosion and filter nonpoint source pollution;
- minimize pollutant loads;
- limit impervious surfaces;
- require the long-term maintenance of BMPs to assure that standards are met.

**Recommendation 3-6d and Recommendation 3-8: Deleted.**

**Recommendation 3-6e: To improve protection of water quality from residential septic systems, update Title 19 to include the following standards and requirements:**

- Add as one of the criteria for siting that septic tank and leach field systems shall avoid poorly drained soils (Ordinance 19.20.222)
- Require inspection and maintenance reports to be submitted by the property owner and/or septic operator at least every three years. The first report should be submitted three years from the date of issuance of the building permit. The property owners and/or septic operators shall be responsible for proposing and undertaking all measures necessary to ensure the continuing proper operation and adequate capacity of the septic tank and leach line systems.
- Add the following setbacks to Ordinance 10.20.222 (c) (2):
  - Storm drainage pipes: 25 ft.
  - Escarpments: 25-50 ft.
  - Property Line: 5-10 ft.
  - Building foundations: 10-20 ft, or 30 ft when located upslope from a building in slowly permeable soils.
- Require that septic systems shall not adversely impact surface waters or cause the groundwater nitrate concentration to exceed 10.0 mg/l N or any such drinking water quality objectives established by the California Department of Health Services or Regional Water Quality Control Board, at any source of drinking water on the property nor on any off-site potential drinking water source. Where groundwater nitrate concentration may exceed the applicable water quality objective or where surface waters may be adversely affected from the septic systems, install denitrification system(s) to reduce total nitrogen loadings by 50%.

**Recommendation 3-7a: Update Chapter 9 (Coastal Watersheds) of LCP to provide the framework for a comprehensive Watershed and Water Quality Protection component of the LCP. The chapter should include the following elements:**

- a revised introduction to reflect the new knowledge and concern of nonpoint source pollution since 1988, including the recently adopted statewide nonpoint source pollution plan, which forms the basis for protection of water quality from nonpoint source pollution;
- a discussion of the need for watershed based policies and programs, including non-regulatory programs, to fully address water quality issues;
- updated goals and objectives for water quality protection (see following list of goals for guidance);
- modifications to existing policies and ordinances, as discussed in modified Recommendations 3-1 through 3-13;
- a program to encourage watershed planning (see discussion below);
- a program that requires the County to participate in water quality sampling and/or monitoring to measure water quality conditions and the effectiveness of management measures taken to reduce nonpoint source pollution.

As guidance for developing the LCP Watershed and Water Quality Component, the Commission suggests the following:

The chapter should include development of findings of fact, for the basis for specific policies, ordinances, and programs. These findings could be developed to include such provisions as the following:

The County finds that uncontrolled drainage and development of land has a significant adverse impact upon the health, safety and welfare of the community. More specifically,

- a) Nonpoint source runoff can carry pollutants into receiving water bodies, degrading water quality;
- b) The increase in nutrients such as phosphorus and nitrogen accelerates eutrophication of receiving waters, adversely affecting flora and fauna;

- c) Improperly channeling water may increase erosion or lead to excess sedimentation;
- d) Construction requiring the alteration of natural topography and removal of vegetation may increase erosion or lead to excess sedimentation;
- e) Excess sedimentation (siltation) of water bodies resulting from increased erosion decreases their capacity to hold and transport water, interferes with navigation, and harms flora and fauna;
- f) Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge;
- g) Improperly managed stormwater runoff can increase the incidence and extent of flooding, damaging habitat, as well as endangering property and human life;
- h) Improperly managed stormwater runoff can interfere with the maintenance of optimum salinity in estuarine areas, thereby disrupting biological productivity;
- i) Substantial economic losses result from these adverse impacts on community waters;
- j) Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.

The chapter should include suggested goals and objectives. These goals and objectives could include such provisions as the following:

- a) To protect, restore, and maintain the chemical, physical and biological integrity of coastal waters;
- b) To minimize harm to the community by activities that adversely affect water resources;
- c) To encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
- d) To encourage the protection of natural systems and the use of them in ways that do not impair their beneficial functioning;
- e) To encourage the use of drainage systems that minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
- f) To minimize the transport of pollutants to coastal waters;
- g) To maintain or restore groundwater levels;
- h) To protect, maintain or restore natural salinity levels in estuarine areas;
- i) To minimize excess erosion and sedimentation;
- j) To prevent damage to wetlands;
- k) To prevent damage from flooding, while recognizing that natural fluctuations in water levels are beneficial; and
- l) To protect, restore, and maintain the habitat of fish and wildlife;

Included in the chapter should be policies such as the following:

- a) New development shall be designed to maintain predevelopment hydrological conditions to the maximum extent practicable.
- b) New development shall protect the absorptive, purifying, and retentive functions of natural systems that exist on a site, and shall, where possible, restore natural drainage systems.
- c) New development shall minimize pollutant loads.
- d) New development shall minimize impervious surfaces.

The chapter should also include standards and ordinance provisions to implement the policies. These standards could include such provisions as follows:

- a) New development shall implement Best Management Practices (BMPs) necessary to accommodate runoff from the 85<sup>th</sup> percentile storm runoffs as defined by the BMP Design Goal, and assure that development maintains peak runoff rates and volumes similar to pre-development rates.<sup>1</sup>
- b) Development shall minimize site disturbance by clustering building site locations and placing roads along contours.
- c) To reduce impervious surfaces, permeable materials shall be used where possible for driveways and walkways. Walkways and driveways shall be limited to the smallest functional size.
- d) A water quality control plan shall be required for projects and activities that require land use permits or a grading permit. (See Recommendation 3-6c, Urban and Rural Development section.)

**Recommendation 3-7b:** The LCP should be updated to include a program to encourage watershed planning, including a finding that watershed planning is necessary to fully address water quality impacts inside the coastal zone. Watershed planning may require the participation and coordination of various agencies. Through this program, the County should facilitate watershed-planning efforts by:

- identifying priority watersheds or subwatersheds for watershed planning, consistent with criteria established for determining critical coastal areas. Priority areas should focus initially on watersheds with known water quality problems, or where development pressures are such that nonpoint source pollution can be anticipated to be a major concern;
- ensuring full public participation in the development of the plan;
- assessing land uses in the priority areas that degrade coastal water quality;
- pursuing funds to support the development of watershed plans; and
- participating in intergovernmental efforts for watershed planning.

General Components of a watershed plan (to guide implementation by many agencies) should include:

- Purpose and Objectives of the Plan;
- Description of approval process, including identification of participating stakeholders, and any required agreements or MOUs;
- Description of the Watershed, including description and data on such items as physical, hydrologic, climatic and natural resource features, land uses, types of land cover, water body use and classification, water body standards, natural and cultural resources, economic base, population demographics, farm demographics, governmental units;
- Resources Inventory
- Problem Identification, describing the specific water resource management problems including the sources and causes of impairment of point sources, nonpoint sources, physical and chemical pollutants, and problem or impediments;
- Problem Analysis, including an assessment of the cumulative impacts of development on water quality and hydrology in order to designate areas to further emphasize on site management of runoff;
- Alternative Management Strategies, including identifying specific measures to minimize the cumulative impact of new development on the watershed and avoiding the alteration of natural drainage patterns; using BMPs, proposed land use changes, structural solutions, and financial incentives; identifying which areas of the watershed which, if restored, could improve water quality; integrating agriculture

---

<sup>1</sup> The BMP Design Goals is the size of a storm event that is used (along with other information) to determine the size of a structural BMP. Considering the long-run records of local storm events, the 85<sup>th</sup> percentile event would be larger than or equal to 85% of the storms. The 85th percentile storm can be determined by reviewing local precipitation data or relying on estimates by regulatory agencies. For example, the Los Angeles Regional Water Quality Control Board has determined that 0.75 inch is an adequate estimate of the 85th percentile, 24-hour storm event for typical municipal land uses within its jurisdiction.

- management measures including developing watershed specific nutrient and pesticide management programs;
- Preparation of Draft Water Resources Management Plan;
- Monitoring and Evaluation Component to evaluate the effectiveness of BMPs used to control polluted runoff;
- Implementation Funding Strategy and Budget;
- Public Participation and Educational Strategy.

**Recommendations 3-8 through 3-12: Deleted and/or incorporated into above modified recommendations.**

**Recommendation 3-13: Deleted.**

**Recommendation 3-13a:** For updated Harbor Plans, require an operation and maintenance component that addresses water quality protection. Update the LCP by adding policies and standards to implement effective runoff control strategies and pollution prevention activities, by requiring, where appropriate, the following best management measures:

- providing buildings and/or enclosed areas where possible for maintenance activities;
- constructing new or restore former wetlands where feasible and practical;
- requiring use of porous pavement where feasible;
- requiring installation of oil/grit separators to capture petroleum spills and coarse settlement;
- requiring use of catch basins where storm water flows to the marina basin in large pulses;
- requiring filters to storm drains that are located near work areas and placement of absorbents into drain inlets.

Where fuel stations are added or redesigned, require them to reduce pollution from discharges through measures:

- writing and implementing a fuel spill recovery plan;
- using automatic shutoffs on fuel lines and at hose nozzles to reduce fuel loss;
- installing personal watercraft floats at fuel docks to help drivers refuel without spilling;

To reduce contamination of surface waters, require, as appropriate:

- sewage pumpout, dump station, and restroom facilities, and require maintenance of facilities;
- establish no discharge zones to prevent sewage from entering waters.
- filter additions to storm drains that are located near work areas;
- removal of old style fuel nozzle triggers that are used to hold the nozzle open without being held;
- install fish-cleaning stations with appropriate sewer hookups at marinas and boat launch sites;
- require a management plan and appropriate facilities to store, transfer, and dispose of liquid materials;
- build curbs, berms, or other barriers around areas used for liquid material storage to contain spills;
- prepare a hazardous materials spill recovery plan and update it as needed.

**Recommendation 3-13b:** Add the following program to Chapter 5 of the LCP (Commercial and Recreational Boating): In partnership with Harbor Districts and other agencies, the County shall

participate in, and encourage, efforts to educate boaters and boating facility operators to implement management measures to reduce water pollution from boating activities. To support public education programs, the County should encourage the development of programs that support the installation of infrastructure that will enable the public to implement appropriate BMPs.

Educational information could include the following:

- Management practices for maintenance activities which minimize in-water work, and encourage maintenance activities in enclosed buildings, within spray booths, or under tarp enclosures.
- The use of vacuum sanders to remove paint from boats and collect paint dust.
- The benefits of absorbents in drain inlets.
- The need to use chemical and filtration treatment systems only where necessary.
- The importance of using low-toxicity or non-toxic hull paints, antifreeze, and coolants, and recycling products when possible.

Infrastructure and facility modifications could include:

- Install easy-to-read signs on the fuel dock that explain proper fueling, spill prevention, and spill reporting procedures. Locate and design boat fueling stations so that spills can be contained, such as with a floating boom, and cleaned up easily.
- Place trash receptacles and recycling containers in convenient locations for marina patrons.
- Provide boaters with trash bags.
- Provide facilities that extract used oil from absorption pads if possible, or for the disposal of it in accordance with petroleum disposal guidelines.

Fueling Facilities and Operations could include:

- Have spill containment equipment storage, such as a locker attached to the fuel dock, easily accessible and clearly marked.
- Promote the installation and use of fuel/air separators on air vents or tank stems of inboard fuel tanks to reduce the amount of fuel spilled into surface waters during fueling.
- Prohibit the use of detergents and emulsifiers on fuel spills.

Sewage Management modification could include:

- Provide sewage pumpout service at convenient times and at a reasonable cost.
- Provide portable toilet dump stations near small slips and launch ramps.
- Provide restrooms at all marinas and boat ramps.
- Establish practices and post signs to control pet waste problems.
- Establish no discharge zones to prevent sewage from entering waters.

## **Environmentally Sensitive Habitat Areas**

### **Recommendation 4.1: Revise the LCP's Definition of ESHA.**

- Revise definitions of SRA and ESHA contained in Section 23.11.030 so that they conform to the Coastal Act definition. Clarify that ESHA, and the application of ESHA protection

standards, is not limited to the areas mapped as Combining Designations. As proposed on page 7-10 of the Estero Update, use the definition of “habitat for rare and endangered species” provided by the CEQA guidelines as an additional tool to define ESHA.

- Determine the presence of ESHA based on the best available information, including current field observation, biological reports, the National Diversity Database, and US Fish and Wildlife Critical Habitat Designations and Recovery Programs. Where the available information indicates that an area may contain ESHA, but that area is not mapped as ESHA by the LCP, a Field Review Team comprised of County staff, project biologist(s), and representatives from involved wildlife agencies and organizations, shall conduct a Site Specific Constraints Analysis.
- As proposed by both the North Coast and Estero Updates, recognize all riparian habitats as ESHA regardless of whether they are mapped by USGS quadrangles.
- Replace the LCP’s definition of streams, currently limited to streams shown by USGS maps, with an alternative definition, such as used by the Department of Fish and Game:

*A stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.*

**Recommendation 4.2:   Revise and Update ESHA Combining Designations.**

- Recognize maps as a tool for identifying potential locations of ESHA, but that the actual presence and extent of ESHA must be determined in the field. Establish Field Review Teams, comprised of County staff, the project biologist(s) and representatives from involved wildlife agencies and organizations, to evaluate sites where the Combining Designation Maps do not effectively address the potential presence of ESHA.
- Incorporate other rare and valuable habitat types into the ESHA Combining Designation Programs. These should include, but not be limited to, the additional sensitive habitats identified by the North Coast and Estero Updates.
- Maintain the Combining Designation maps as a dynamic geographic database that can be routinely updated as new information becomes available. To facilitate such efforts, the County should establish standard formatting requirements for field surveys and biological reports that could be directly incorporated into such a system. Coordination with other resource management entities involved with mapping sensitive habitats (e.g., the Morro Bay National Estuary Project) should also be pursued along with other grant programs and cooperative mapping efforts.



**Recommendation 4.3: Update Requirements for Biological Investigations and Reports.**

- Revise CZLUO Section 23.07.170 so that biological reports are prepared for all development within or adjacent to ESHA, not just those sites that have been mapped as ESHA. Use the Field Review process recommended above to determine the need for biological reports when development is located on a site that has the potential to support ESHA, but is not mapped as ESHA by LCP Combining Designations. Where the Site Specific Constraints Analysis identifies the presence, or potential presence, of any sensitive habitat type, natural community, and/or particular plant or animal species that meets the revised definition of ESHA, a biological report should be required.
- Evaluate particular areas, particularly urban areas, where it may be appropriate to exclude new development from Site Specific Constraints Analyses. Incorporate such exclusions into the LCP based on scientific evidence demonstrating the absence of ESHA in such areas.
- Develop comprehensive habitat conservation and management programs for areas with particular habitat protection needs (e.g., Los Osos dune scrub and maritime chaparral habitats, Cambria Pine Forest, coastal watersheds that support Steelhead trout, and Cayucos Creeks; please see recommendation 4.6). Upon incorporation of such programs into the LCP, development within particular habitat areas may be excluded from the need to provide site-specific biological investigations and reports. Instead, the biological information required at the application stage would be related to implementation of the area wide habitat protection program (e.g., contribution to area wide program that retires development potential in ESHA).
- Update the minimum requirements for biological reports specified by CZLUO Section 23.07.170 in coordination with state and federal resource management agencies.
- The location and extent of ESHA on and adjacent to a development site should be described and mapped by the Biology Report, in a format that allows it to be incorporated into a GIS based Combining Designation map system (see Recommendation 4.2 above). The delineation should not be limited to the particular locations where rare plants or animals are observed at one point in time. Rather, it should consider the full range of the sites physical characteristics (e.g., soil type, vegetation, topographical features) that represent potential habitat for such rare plant and animal species. In addition, where previously disturbed but restorable habitat for rare and sensitive plant and animal species exist on a site that is surrounded by other valuable habitat areas, these areas should be delineated and protected as ESHA as well. Implementation of this recommendation will also require the incorporation of additional standards for Biological Reports within CZLUO Section 23.07.170.
- Biological reports and their accompanying ESHA delineations should be submitted for the review and comment of the California Department of Fish and Game, the US Fish and Wildlife Service, and to the National Marine Fisheries Service (as applicable), as well as to the California Coastal Commission, before applications for development in or adjacent to

ESHA are filed as complete. The incorporation of such a requirement into the LCP (e.g., within Section 23.07.170 of the CZLUO) should be accompanied by a specific time frame for such reviews (e.g., 14 days) to ensure that they would not result in undue delays in the development review process.

**Recommendation 4.4: Identify, and Implement Where Feasible, the Resource Dependent Criteria for Development in ESHA.**

- Revise “Table O”, such as through the addition of a new preamble, to clarify that Resource Dependent Uses are the only principally permitted use within an ESHA or their required setbacks. All other uses that may be permitted to accommodate an economic use should be considered conditionally permitted uses.
- Where non-resource dependent uses are proposed in or adjacent to ESHA, and may be necessary to accommodate to avoid a “taking” (i.e., there are no feasible alternatives that avoid impacts to ESHA), analyze whether there is a reasonable economic backed expectation for the non-resource dependent use (see Recommendation 4.10, below).
- Provide exceptions to the above standards in areas that are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Recommendation 4.6, below).

**Recommendation 4.5: Prohibit Subdivisions that Create new Lots in ESHA.**

- Implement the provisions of 23.07.170c.
- Revise Cluster Division Ordinance to require much smaller building sites, that they be located entirely outside ESHA and its setback, and that all of the ESHA area be retained and protected as Open Space. Make clustered division mandatory, rather than optional, for all divisions on parcels containing ESHA.
- Clarify that the parcel sizes established by CZLUO Sections 23.04.020 – 033 do not apply to sites that support ESHA, within which land divisions are prohibited.

**Recommendation 4.6: Develop Comprehensive Habitat Conservation, Protection and Management Programs for Areas with Particular Habitat Protection Needs and Challenges.**

- In urban areas that contain numerous existing lots within ESHA that has been fragmented or degraded by surrounding development, develop programs allowing for non-resource dependent uses that contribute to the protection of surrounding viable habitat areas threatened by development. The current effort to develop a Habitat Conservation Plan as part of the Los Osos Wastewater Treatment project and Estero Area Update should continue to be pursued, with ongoing coordination between the Los Osos CSD, involved regulatory agencies, and interested parties. As proposed by Preliminary Recommendation 4.36, a

similar approach, involving a comprehensive forest management plan for Cambria would go a long way towards managing cumulative buildout in a manner that will protect the long-term health and survival of sensitive Monterey Pine Forest habitats.

- The constraints and opportunities associated with the protection of the coastal creeks and lagoons within the Cayucos urban area also warrants the incorporation of comprehensive creek protection plans (i.e., within the Estero Area Plan). Such plans could be used to perfect setback standards, and prescribe specific mitigation measures, that enhance the riparian environment and clarify development requirements.
- Comprehensive habitat protection plans may prove to be equally useful for the protection of sensitive habitats in rural areas. The North Coast creeks and arroyos are examples of sensitive rural habitat areas that could benefit from such plans. HCP Planning efforts being initiated by State Parks, Community Services Districts, and others, should be closely coordinated with the County and Commission staff to ensure that they will effectively carry out our Coastal Act and LCP requirements.

#### **Recommendation 4.7: Revise Biological Report Requirements.**

- In addition to the information that is currently required to be included in biology reports pursuant to CZLUO Section 23.07.170, the reports should identify the biological constraints that need to be addressed in designing development that would first avoid, then minimize impacts to ESHA. Biological Reports should identify where revisions to the project are available to avoid and minimize impacts on ESHA, which should be considered by the County in the evaluation of project alternatives.
- County analysis of development in or adjacent to ESHA should include an assessment of the impacts posed by fire safety requirements, such as vegetation clearance and roadway improvements. Where fire safety measures required to accommodate new development may impact ESHA beyond what was anticipated by the project's Biological Report, a supplemental report may be required. In any instances where fire clearance requirements would impact ESHA, project alternatives that avoid these impacts should be identified and pursued. Where impacts to ESHA associated with fire safety precautions can not be avoided, these impacts should be minimized and mitigated in accordance with Recommendations 4.11 – 4.16.
- Biological evaluations should not only insure adequate setbacks for sensitive habitat areas, but should also specify the ways in which the transitional habitat values of the buffer area can be protected. This should include limitations on the types of uses allowed, and requirements for the maintenance of the natural features that protect the adjacent habitat area.

#### **Recommendation 4.8a: Expand Application of Rural Area SRA Standards regarding "Site Planning – Development Plan Projects" Contained in Area Plans.**

- As proposed in both the North Coast and Estero Area Plan Updates, require *all* development (not just those located in rural areas that trigger Development Plan review) to concentrate proposed uses in the least sensitive portions of properties and retain native vegetation as much as possible. Apply this standard throughout the coastal zone.
- Provide flexibility in non-habitat related setback requirements where necessary to avoid and minimize ESHA impacts.

**Recommendation 4.8b: Evaluate all Available Alternative Locations that Avoid and Minimize Impacts to ESHA.** Require all applications for development within an ESHA or its setback to include an overall development plan for all properties that are geographically contiguous and in common ownership<sup>2</sup> at the time of the application.

**Recommendation 4.9: Thoroughly Review and Aggressively Pursue Project Alternatives that Avoid Impacts to ESHA.**

- The full range of project alternatives that would avoid impacts to ESHA, from alternative sites to different designs (including reductions in project sizes) should be pursued and required. This should include a critical analysis of the habitat constraints identified in the biological report and the options available to respond to these constraints (see Recommendation 4.7).
- In accordance with Policy 1 for ESHA, the requirements of CZLUO Section 23.07.170 should apply to development that is further than 100 feet from the ESHA where such development poses adverse impacts to the habitat.

**Recommendation 4.10: Incorporate New Standards and Review Procedures to Implement ESHA and Viewshed Protection Consistent with Coastal Act Section 30010.** To effectively resolve takings concerns where it is not feasible to avoid impacts to ESHA or development in scenic coastal areas (see Recommendations 8.1 and 8.6), incorporate additional standards and review procedures within the LCP that will protect coastal resources to the maximum extent possible consistent with Coastal Act Section 30010. For example, the County should consider developing of a process for evaluating the following when a non resource dependent use is proposed in or adjacent to ESHA, or when structural development is proposed in significant coastal viewsheds, and no alternatives to avoid such development is available:

- a) whether limiting uses within ESHA to those that are resource dependent consistent with Coastal Plan Policy 1 for ESHA would deprive the landowner of all economically beneficial use of the property; and,

---

<sup>2</sup> - Parcels that are owned in fee as well as parcels subject to existing purchase options, even if separated by roads, streets, utility easements or railroad rights-of-way.

- b) whether there is a reasonable investment-backed expectation of approval of such a non-resource dependent use.

Some of the information that should be evaluated as part of such an analysis includes:

1. Date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.
3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in 4 above, that applied to the property at the time the applicant acquired it, or which may have been imposed after acquisition.
6. Any changes to the size or use of the property since the time the applicant purchased it, including a discussion of the nature of the changes, the circumstances and the relevant dates.
7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
9. Any offers to buy all or a portion of the property which the applicant solicited or received since the time of purchase, including the approximate date of the offer and the offered price.
10. The applicant's cost associated with ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt services costs (such as mortgage and interest costs), and operation and management costs.
11. Apart from any rent received from leasing all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

In order to approve a non-resource dependent development within ESHA or its setbacks, or any development that conflicts with the scenic resource protection provisions proposed in Recommendations 8.1 and 8.6, the following findings should be made and accompanied by supporting evidence:

1. Based on the economic information provided by the applicant, as well as other relevant evidence, a resource dependent use would not provide an economically viable use of the applicant's property.
2. Restricting development on the applicant's property to a resource dependent use would interfere with the applicant's reasonable investment-backed expectations.
3. The amount of development represents the minimum necessary to provide the applicant with an economically viable use of his or her property.

Provide exceptions to the above requirements for development on lots where ESHA issues are addressed by a comprehensive habitat conservation program that has been incorporated into the LCP (see Recommendation 4.6, above).

**Recommendation 4.11: Minimize the Intensity of Non-Resource Dependent Development to the Maximum Degree Feasible.**

- In instances where the County concludes that, in order to avoid a taking of private property, a non-resource dependent use must be accommodated in ESHA, or that development must be accommodated within a scenic coastal area contrary to Recommendations 8.1 and 8.6, the County should require that such development be limited to the minimum required to avoid a taking.
- Prohibit access roads that disturb ESHA or encroach within scenic coastal areas unless the road is necessary to provide an economically viable use of the overall development plan area.

**Recommendation 4.12: Establish Maximum Disturbance Limitations.** Incorporate new standards into the Area Plans that establish maximum disturbance envelopes for unavoidable non-resource dependent development in ESHA. Such standards should be customized to the particular circumstances of the area, considering factors such as the size and configuration of lots, biological sensitivity and resource management principles, agricultural viability, and other coastal resources constraints (e.g., visual).

**Recommendation 4.13: Require Conservation Easements/Deed Restrictions Over All ESHA Outside Development Envelope.**

- Where non-resource development must be accommodated within or adjacent to ESHA, minimize the long-term impacts of such development by requiring all ESHA on the project

site outside of the development envelope to be restricted to natural resource management, restoration and enhancement.

- Submit such easements and deed restrictions for the review and approval of the California Coastal Commission Executive Director pursuant to Section 13574 of the California Code of Regulations.

**Recommendation 4.14: Coordinate Review of Projects that Pose Impacts on Listed Species with DFG, USFWS, and NMFS.** Information that should be provided to justify the Findings required by Section 23.07.170b (i.e., that significant adverse impacts to the habitat will be avoided), when not otherwise provided through the CEQA process, includes: concurrence of the Department of Fish and Game and/or U.S Fish and Wildlife Service if species listed under state or federal Endangered Species Act are involved; and, concurrence from the National Marine Fisheries Service if marine habitats are involved. The timing of this review should be coordinated between the County and wildlife agencies to ensure compliance with the Permit Streamlining Act.

**Recommendation 4.15: Specify Mitigation Requirements.<sup>3</sup>**

- Require on-site mitigation for development *adjacent* to ESHA. Where the impacts to ESHA posed by adjacent development have been avoided and minimized, but still pose adverse affects, mitigate by requiring implementation of an on-site habitat management, restoration, and enhancement program proportional to the potential impacts of the development.
- Require on-site and off-site mitigation for development *within* ESHA. Where development directly in an ESHA can not be avoided, and has been minimized to the greatest degree feasible, protect all ESHA outside the development envelope by implementing an on-site habitat management, restoration, and enhancement program that will reduce the adverse impacts of the development to the greatest extent feasible. In addition, require off-site mitigation to offset the reductions in habitat quantity and quality attributable to the development. In most cases, this should be in the form of acquiring and permanently protecting the same type of habitat, in an area otherwise threatened by development. The size and habitat quality of the off-site mitigation area should be proportional to the biological productivity of the area of impact. Incorporation of in-lieu fee programs into the LCP to implement such off-site mitigation is an option.

**Recommendation 4.16: Specify Mitigation Monitoring and Evaluation Requirements.** To ensure mitigation effectiveness, established minimum requirements for monitoring and implementation. In general, this should include: preparation of a 5 year implementation and monitoring plan, for the review and approval of the Planning Director, that identifies the specific mitigation objectives and the performance standards that will be used to evaluate success; and, the submission of a report at the conclusion of the 5 year period, again for the review and

---

<sup>3</sup> E.g, CZLUO Sections 23.07.170a(1) and 23.07.174d(2)(ii)

approval of the Planning Director, that either documents the successful implementation of the mitigation or proposes corrective actions and additional monitoring and reporting that will be implemented until the mitigation objectives have been achieved to the satisfaction of the Planning Director.

**Recommendation 4.17: Pursue changes to Section 23.07.174b of the CZLUO to achieve conformance with Coastal Act Section 30236, as well as with ESHA Policy 23.**

- This ordinance should specifically require that all permitted streambed alterations employ the best mitigation measures feasible, including but not limited to:
  - 1) avoiding the construction of hard bottoms
  - 2) using box culverts with natural beds rather than closed culverts
  - 3) providing for wildlife movement
  - 4) pursuing directional drilling for pipes and cables to avoid stream bed disturbance
- A reference to the updated section of the LCP addressing mitigation requirements, as proposed by Recommendations 4.15 and 4.16, should also be provided.
- Part (1) should state that streambed alterations are limited to necessary water supply projects. The incorporation of specific criteria to define what constitutes a “necessary” water supply project should be considered. A preliminary suggestion is to define such projects as those essential to protecting and maintaining public drinking water supplies, or accommodating a principally permitted use where there are no feasible alternatives.
- Part (4), allowing streambed alterations for the maintenance of flood control channels, should be considered for deletion. Necessary maintenance activities can be accommodated under part (2) of this ordinance, which includes the Coastal Act criteria for such activities (part (4) does not include these important criteria).

**Recommendation 4.18: Delete the exemption for stream diversion structures associated with agricultural stock ponds of under 10 acre feet that may impact stream habitat.**

**Recommendation 4.19: Analyze streambed alterations for conformance with CZLUO Section 23.07.174b.**

**Recommendation 4.20: Improve coordination with the Department of Fish and Game’s Streambed Alteration process.** Where possible, streambed alteration agreements should be obtained prior to or concurrent with the County’s review of the permit application, rather than as a condition of approval. This will provide greater opportunity to make adjustments to the project that would better protect the stream habitat.



**Recommendation 4.21: Pursue Alternatives to Streambed Alterations.** Evaluate alternative access routes to avoid development in a stream. Where alternative routes outside of riparian habitats are not available, pursue designs that avoid fill, culverts, and minimize in-stream bridge supports and disruption of natural creek flows and vegetation.

**Recommendation 4.22: Encourage Additional Research Regarding the Effectiveness of Setback Distances.**

- Such studies appears to be warranted given the apparent decline in the health of riparian resources such as the Steelhead trout, southwestern pond turtle, red-legged frog, and other rare and endangered species. Incorporation of a program that would encourage such studies, potentially in coordination with local universities and/or resource management agencies and organizations, should therefore be considered.
- Pursue individual watershed management programs for coastal streams. Such program could address appropriate setback distances as well as other important riparian and water quality issues.

**Recommendation 4.23: Apply a Minimum Standard Setback of 100 feet in Urban Areas Where Feasible.** Consider applying a 100' standard setback, rather than 50' or less, in urban area where a 100' setback is feasible and would achieve better protection of stream resources. In all cases, development should be setback the maximum feasible distance from riparian vegetation, as determined through a site specific constraints analysis.

**Recommendation 4.24: Improve Implementation of Setback Standards and Adjustments.**

- Explore and require, unless more environmentally damaging, alternative alignments for new or improved roads and other uses allowed in setback areas that conform to standard setback requirements. For example, consider new alignments to existing non-conforming roads where there may be impacts associated with intensified use or fire safety improvements. If realignment is appropriate, abandonment and revegetation of the pre-existing road should also be required.
- In instances where alternative alignments are not feasible or more environmentally damaging, provide more specific guidance on what is required to mitigate adverse effects to the greatest degree feasible (CZLUO Section 23.07.172d(1)(ii), as referenced by 23.07.174d(1)). Please see Recommendations 4.15, 4.16, 4.17, and 4.27a.
- Critically evaluate “after-the-fact” permit applications where development has illegally encroached into setback areas. Before off-site mitigation is considered, evaluate all options of restoring and enhancing the pre-existing on-site habitat values. Off-site mitigation should be an additional requirement where necessary to offset the temporary impacts of the violation and address the potential for restoration efforts to fail.

**Recommendation 4.25: Consider Limiting Pedestrian and Equestrian Trails within Riparian Setback Areas to Passive Recreation.**

- Where intensive recreational activities may adversely impact ESHA, they should be directed to areas outside of riparian setbacks.
- Where trails are allowed within or adjacent to riparian areas or other ESHA, require the provision of interpretive signing.

**Recommendation 4.26: Incorporate Additional Standards for Stream Diversions and Water Wells.**

- Prohibit diversion or extraction of surface and subsurface streamflows where adverse impacts to steelhead or other important riparian resources would result.
- Prohibit in-stream barriers to fish migration unless such structure comply with streambed alteration standards and provide effective fish ladders or by-pass systems.
- Where water supply projects have the potential to impact fish habitat or other stream resources, limit diversions to peak winter flows that exceed the amount the needed to sustain the resources, and require off-stream storage where year-round water supplies are needed.
- To the degree feasible, water diverted from coastal streams should be treated after use and returned to the watershed of origin in like quality and quantity.

**Recommendation 4.27(a): Incorporate Additional Standards for Development In and Adjacent to Streams and other Aquatic Habitats.** All permitted development in or adjacent to streams wetlands, and other aquatic habitats should be designed and conditioned to prevent loss or disruption of the habitat (e.g., smothering of Steelhead spawning gravel and rearing habitats); protect water quality; and maintain and enhance biological productivity. To achieve this objective, CZLUO Section 23.07.174 should be updated in conjunction with updates to Coastal Watersheds Policies and the grading ordinance. These updates should incorporate standards that:

- necessitate flood control and other necessary instream work be implemented in a manner that minimizes disturbance of natural drainage courses and vegetation (e.g., limit the number of access routes to and from the construction area, locate stockpile and staging areas away from drainage courses and sensitive vegetation);
- require that all allowable instream development be designed to mimic natural habitat conditions wherever feasible (e.g., consider bridges that minimize disruption of natural drainage courses as an alternative to culverts, incorporate natural materials such as root wads, gravel, and native vegetation);
- prescribe methods to control drainage in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction (e.g., identify and evaluate location and capacity of silt fences/hay bails, drainage inlets, detention basins; encourage vegetated drainage features, such vegetated drainage swales and created wetland detention areas to facilitate filtration and habitat enhancement; and

- establish standards for the breaching of beach berms that support coastal lagoons (see Recommendation 4.33)

**Recommendation 4.27(b): Develop and Implement Water Quality and Habitat Protection Standards for New Agricultural Development and Habitat Enhancement Projects in Coordination with Voluntary Assistance and Education Programs.**

Improve water quality and habitat protection standards applicable to habitat enhancement projects and new agricultural development within 100 feet of ESHA by updating CZLUO Section 23.07.174e(6) in accordance with the agriculture and water quality recommendations of this report. New water quality and habitat protection standards applicable to such development should be developed and implemented in coordination with voluntary assistance and education programs. To minimize the need for permit review and ensure that habitat restoration activities and agricultural development in and near ESHA complies with Coastal Act Sections 30230, 30231, 30236, and 30240, the new LCP Water Quality Component should encourage:

- The certification of volunteer, education, and assistance programs that ensure habitat enhancement projects and agricultural development within setback areas effectively protect sensitive habitats, water quality, and other coastal resources. Such certification could be accomplished through the issuance of a “master” coastal development permit for program implementation; incorporating a categorical exclusion into the LCP for the implementation of such programs; or through Coastal Commission concurrence with a Federal Consistency Determination submitted by the federal agency responsible for program funding and/or implementation.
- Coastal development permit exemptions for individual projects that are implemented pursuant to certified programs.

**Recommendation 4.28: Complete the Follow-Up Review on D870182 for the Aquaculture Facility North of Cayucos.**

**Recommendation 4.29: Miscellaneous Policy Clarifications.**

- Identify the correct reference for CZLUO Section 23.07.174e(7)
- Delete CZLUO Section 23.07.174e(2)

**Recommendation 4.30: Incorporate Standards for Wetland Delineations.** In addition to pursuing an alternative to the LCP’s current map based system for protecting wetlands and other environmentally sensitive habitats, new standards that facilitate a complete and accurate delineation of all wetlands during the local review process should be incorporated into the LCP. The provisions of Section 13577(b)(1) of the California Code of Regulations, Title 14, should be used as guidance in formulating these delineation

standards. A potential location for these standards would be within the updated biological report requirements (see Recommendation 4.7).

**Recommendation 4.31: Evaluate Biological Significance of Manmade Wetlands.** Where necessary to address competing resource protection interests, consider the biological significance of man made wetlands. Allow adjustments to standard wetland setbacks from biologically insignificant manmade wetlands where the lesser setback will not disrupt sensitive habitats and is needed to achieve a more important resource protection objective.

**Recommendation 4.32: Prohibit Variances to Wetland and Other ESHA Protection Standards Where Variances Can be Avoided.** Consider changes to the variance provisions that would prohibit exceptions to wetlands and other ESHA setback and protection standards where those impacts could otherwise be avoided, unless the variance is needed to achieve consistency with Coastal Act Section 30010.

**Recommendation 4.33: Develop Standards for the Breaching of Coastal Lagoons.** Require a CDP for lagoon breaching activities, and limit such development to situations where it represents the least environmentally damaging feasible alternative for relieving a flood hazard, public health hazard, or water pollution problem. Lagoon breaching should also be allowed and encouraged where man made alterations have interrupted the natural breaching cycle. The decision to breach should be based on a comprehensive assessment of environmental conditions and alternatives available to address the hazard or resource concern.

The LCP should incorporate standards to ensure that where allowed, lagoon breaching mimics natural breaching to the extent feasible, and is carried out in a manner that is the most protective of wetland resources and other environmental resources particular to each site. Such standards should include:

- Coordination with all applicable regulatory agencies, including the California Coastal Commission, California Department of Fish and Game, the US Army Corps of Engineers, the Monterey Bay National Marine Sanctuary, and the Regional Water Quality Control Board.
- Development of a breaching plan based on a scientific assessment of the lagoon environment that addresses the need for breaching and available alternatives; impacts on endangered species and habitats; public health and safety; and public access and recreation
- Requiring the breaching activity to be conducted in a controlled manner that reduces lagoon water levels the minimum necessary to abate the hazard.

- Breaching plans and permits should also include short term and long term monitoring provisions that evaluate the health of the lagoon and the impacts of breaching

**Recommendation 4.34: Provide Standards for Wetland Monitoring and Restoration Activities.** Incorporate specific requirements (e.g., within Sections 23.07.172 and 23.05.034 of the CZLUO) for the monitoring and restoration of wetland resources to enhance effectiveness and ensure that such activities are carried out in a manner that will not harm wetland resources.

For example, the LCP should be updated to require clear performance criteria that relate logically to restoration goals. Where there is sufficient information to provide a strong scientific rationale, the performance criteria shall be absolute (e.g., specified abundance of particular species). Where absolute performance criteria cannot reasonably be formulated, relative performance criteria should be specified. Relative criteria are those that require a comparison of the restoration site with reference sites. The rationale for the selection of reference sites, the comparison procedure, and the basis for judging differences to be significant should also be specified. If any comparison requires a statistical test, the test should be described, including the desired magnitude of difference to be detected, the desired statistical power of the test, and the alpha level at which the test will be conducted. The design of the sampling program should relate logically to the performance criteria and chosen methods of comparison. The sampling program should be described in sufficient detail to enable an independent scientist to duplicate it. Frequency of monitoring and sampling shall be specified for each variable to be monitored. Sample sizes shall be specified and their rationale explained.

The use of independent consultants to evaluate the success of restoration projects and report their findings to the County should also be considered.

**Recommendation 4.35: Review Mosquito Abatement Activities.** Investigate whether mosquito abatement practices are being reviewed and permitted in conformance with ESHA Policy 12 and San Luis Bay SRA Program 8.

**Recommendation 4.36: Coordinate the Management and Protection of Open Space Easements Obtained to Protect Wetlands and other ESHA.** Evaluate ways to better obtain and protect open space easements over sensitive portions of bayfront property per Morro Bay SRA Program 23. This could include partnering with the Morro Bay National Estuary Program, and other qualified agencies and organizations. Similar efforts should be made to ensure that other open space easements obtained to protect ESHA are being effectively managed.

**Recommendation 4.37: Develop a Comprehensive Forest Habitat Management and Protection Program.** As part of the North Coast Update, consider incorporating the Cambria Monterey Pine Forest Management Plan currently being developed by the

Cambria Forest Committee to guide and regulate buildout and forest management so that the long-term conservation of the Cambria pine forest ecosystem can be ensured and enhanced. In coordination with this effort, the North Coast Area Plan should be updated to include standards regarding the location and extent of off-site and on-site mitigation (e.g., tree replacement, contributions towards the acquisition of significant forest habitats); identification of additional TDC sending sites and appropriate receiver sites; and, provisions for the on-going management and preservation of protected forest areas.

**Recommendation 4.38: Aggressively Pursue Project Alternatives That Avoid Tree Removal**

- Require development to be sited and designed in a manner that that first avoids, then minimizes, removal of Monterey Pine. Make full use of flexible setbacks, and allow such flexibility in all areas of the pine forest, not just Lodge Hill.
- Apply an updated version of Pine Forest Preservation Standard 6c for the Cambria Urban Area to all areas with pine forest habitat.

**Recommendation 4.39: Increase Tree Replacement Requirements Where Avoidance is not Possible**

- Protect all native Monterey Pines, not just mature trees, by requiring replacement of all trees required to be removed, including saplings. Where feasible, replant saplings.
- Analyze the location and biological viability of locations and densities of replacement trees during development review.
- For situations where on-site replacement is not possible, develop and implement a framework for off-site replacement that maximizes long-term habitat protection and enhancement.
- Require that all replacement trees be from disease-free local Cambria stock only, and that invasive exotic species be avoided in landscaping.

**Recommendation 4.40: Incorporate Programs and Standards Necessary to Respond to the Threats Posed by Pitch Canker and Sudden Oak Death**

- Prohibit the removal of pine trees that clearly display a resistance to pitch canker (e.g., a healthy tree surrounded by diseased trees).
- Establish standard protocols for handling dead and diseased wood. These should include standard conditions that require: cleaning of cutting and pruning tools with a disinfectant prior to use on each individual tree; covering of all wood material being transported offsite to avoid dispersal of contaminated bark beetles; identification of the location to which the

material will transported (prohibit transfer to areas free of the disease). These conditions should also specify that in situations where wood material cannot be properly disposed of directly after cutting, it shall be cut into small logs and stored on-site under a clear plastic tarp until necessary preparations have been made for their removal. Other tree parts (i.e., branches, small limbs) should be chipped and left as a thin layer on-site.

- Designate location for green waste management and recycling facility.
- Coordinate with CDF and the US Forest Service regarding methods for preserving genetic resources (e.g., seeds and saplings). Potentially combine with green waste facility recommended above.
- Develop and require Forest Management Plan(s), backed by Forest Management District(s), to provide for long term management of the forest.

**Recommendation 4.41: Provide Greater Incentives for Participation in the Cambria TDC Program and other Updates to the Program**

- Reduce maximum size of development in urban areas to provide greater incentive to participate in TDC program and reduce the impact that density bonuses may be having on the forest. Eliminate footprint and GSA bonus available for Lodge Hill. To the degree feasible, implement this recommendation as a component of the Cambria Design Plan currently being developed.
- As part of the Cambria Design Plan or North Coast Update, formulate a more specific structure for allocating density bonuses to ensure that such bonuses provide an adequate contribution towards the protection of forest habitats otherwise threatened by development.
- Identify new “Special Project Areas” (i.e., sender sites) that contain the most biologically significant areas of pine forest habitat in conjunction with the CCSD’s Cambria Forest Management Plan and other forest protection efforts.

**Recommendation 4.42: Develop Additional Methods for Lot Retirement.**

- Recognizing that new development within the forest has both direct and cumulative impacts on forest resources, and that the Monterey Pine Forest is increasingly threatened, a mitigation fee could be required for all new development within forested areas and applied to the acquisition and protection of the most sensitive forest areas.
- Creating an Open Space District could raise funds for the additional acquisitions. Efforts to establish an Open Space District should be coordinated with the Cambria Community Services District.

**Recommendation 4.43: Reduce Buildout Potential.**

- Prohibit subdivisions that create new building sites in or within 100 feet of pine forest habitat.
- Establish very large minimum lot sizes within rural areas comprised of pine forest habitat (e.g., 160 acres).
- Expand clustering standards and revise Cluster Division Ordinance to achieve much more consolidated development envelopes. This should include, but not be limited to: applying Monterey Pine Forest SRA Standard 4 to all development (not just subdivisions and large scale projects); and, reducing the maximum clustered parcel size of 10 acres in the Rural Lands Category.
- Prohibit any lot line adjustment that would result in greater development intensity within forest habitat as compared to the development that would be possible under the existing configuration.

**Recommendation 4.44:** Identify all habitat areas within the urban area that represent Ecologically Significant Units and vigorously apply ESHA protection standards to such areas.

**Recommendation 4.45:** For those urban areas that do not represent long-term viable habitat due to fragmentation, small size, surrounding uses, etc., but still maintain sensitive species habitat, allow development to occur in exchange for participation in a comprehensive area wide off-site mitigation program to be incorporated in the LCP.

**Recommendation 4.46:** To the degree feasible, coordinate the above with the Los Osos Sewer Project and an area wide HCP.

**Recommendation 4.47:** Continue to pursue incorporation of a TDC program as part of the Estero Area Plan Update, with the changes recently proposed in response to comments of Commission staff and further coordination.

**Recommendation 4.48:** Continue to work with beachfront homeowners and State Parks towards the development of a stand stabilization program that will address concerns regarding blowing sand and provide habitat restoration/enhancement.

**Recommendation 4.49:** Refer to the findings recently adopted by the Commission on Oceano Dunes OHVRA regarding vehicles in dunes.

**Recommendation 4.50:** Update LCP provisions related to new and on-going development activities within the Oceano Dunes State Off-Highway Vehicle Recreation Area in conjunction with Coastal Commission actions related to Coastal Development Permit 4-82-300 as well as with the Habitat Conservation Plan currently being developed. Consider prohibiting special off-road events in the Open Space area designated by the area plan intended to be maintained in its natural state and provide a buffer from the OHV area.



**Recommendation 4.51:** Re-evaluate existing and proposed land use designations and development standards in South County dune habitats to ensure protection, and where feasible, enhancement of all ESHA (e.g., RS and Industrial designations over the undeveloped land of the Callendar-Garret Village area south and west of Hwy 1; proposed redesignation of RL land use category to Recreation after termination of oil extraction activities). The evaluation of existing designations, as well as any updates intended to address habitat protection needs, should be coordinated with the community and other involved wildlife management entities.

**Recommendation 4.52:** Resolve lot history and any potentially illegal subdivisions in the Callendar-Garret area that may facilitate non-resource dependent development in areas known to support rare and endangered plant species. Designate and protect such areas as ESHA in coordination with an area wide program that implements ESHA protection consistent with Coastal Act Section 30010 (protecting constitutional private property rights).

**Recommendation 4.53:** Work with the US Fish and Wildlife Service, the California Department of Fish and Game, the California Department of Parks and Recreation, the Point Reyes Bird Observatory and other interested parties to identify all shoreline areas that provide habitat, or potential habitat, for the Western snowy plover and Least tern. Designate and protect these areas as ESHA. Re-evaluate land use designations in and around these habitats, and craft standards for future development to ensure effective protection. Work with land owners/managers to make certain that current and future use of these habitat areas are designed and managed in accordance with habitat continuance and enhancement. Particular emphasis should be placed on the protection of important nesting areas, including but not limited to the Morro Bay Sandspit.

**Recommendation 4.54:** Identify beaches used by Northern Elephant Seals and classify as ESHA.

**Recommendation 4.55:** Establish standards and programs to manage human visitation and observation of beaches used by elephant seals, such as by updating the marine resource provisions of the Coastal Plan Policies and Section 23.07.178d of the Coastal Zone Land Use Ordinance.

**Recommendation 4.56:** Prohibit the installation of new revetments and outfalls on beaches used by Elephant Seals wherever it can be avoided.

### **Agricultural Resources**

**Recommendation 5-1: Amend Agriculture Policy 1** by adding the following language: For any proposed rezoning of agricultural lands to another designation, an agricultural viability report shall be prepared.

**Recommendation 5-2: Modify the CZLUO** to expand the factors that should be considered as part of the required viability studies for proposed rezoning of agriculturally designated lands to include the following:

Incorporate an Agricultural Viability Report **definition**, for example:

*A report that assesses the viability of parcels as agricultural or grazing units, given existing conditions and proposed development. Viability is considered in terms of many factors, including product marketability, soils, parcel size, economic factors and any other factors relevant to the particular parcel. The report shall describe the role that each factor plays as a variable influencing the site and surrounding area's viability for agricultural production. The feasibility analysis should analyze both the site and the larger area's current and past productivity as an agricultural unit for at least the preceding five years, but including **sufficient time to include cycles of weather.***

**Recommendation 5-3: Modify the CZLUO** to expand and specify the contents of the Agriculture Viability Reports for proposed rezoning of agriculturally designated lands.

Expand and specify the contents of the Agriculture Viability Report. For example, CZLUO 23.04.024(a)(1), Existing land uses and (3) Site characteristics...including topography, soils, climate water availability and adjacent land uses, could be expanded to include more specific information, where appropriate, such as:

1. Soils
  - a. The identification of all soil types that are found in the area (As stated in the most recent Soil Survey published by the United States Department of Agriculture).
  - b. Storie index and Capability Classification ratings of all identified soil types (As stated in the most recent Soil Survey published by the United States Department of Agriculture).
  - c. The expected animal unit month (AUM) yield for each identified soil type (As stated in the most recent Soil Survey published by the United States Department of Agriculture).
  - d. The expected net dollar return per acre for crops that are currently cultivated on each soil type.
  - e. An identification of crop types that could be potentially grown on each identified soil type, and also the expected net dollar return for such crops.
  - f. An identification of soil types used exclusively for grazing.
  - g. An identification of agricultural uses in the area that are not dependent upon the soil (e.g., greenhouses), and where identified, a description of their location and nature of operation(s).
2. Geographic
  - a. The description of factors such as slope, temperature, adequate sunlight, length of growing season, precipitation, soil quality (depth, drainage, capability classification rating, storie index rating, texture, development, unique qualities) affecting agricultural operations in the area.
  - b. The description of management techniques that are currently used, or could be used, in order to improve soil quality for agricultural operations.
  - c. An identification of agricultural operations that use more than one parcel for production in the area, and where identified, a description of their current practice and average acreage for each individual operation.
  - d. A description of the relationship or proximity of agricultural and urban land uses.
3. Water
  - a. The availability of water in the area (condition of basin e.g.).
  - b. An identification of the water source (riparian, appropriative, etc.).
  - c. An identification of any water quality problems affecting agricultural operations in the area.
  - d. The current cost of water.
4. Access

- a. Description of whether adequate access to agricultural support facilities (cold storage, equipment repair/sales, markets) in the area currently exist.*
- b. Where access is problematic, an identification of the nature of the conflict; and how the conflict impacts agricultural operation(s).*

CZLUO 23.04.024(a)(2) Present annual income derived from agricultural operations.... and (4) the potential of the site to support future food-producing agricultural uses...could be expanded to include consideration of such factors as, where appropriate:

- 1. History*
  - a. An identification of the types of agricultural operations that have taken place in the area in the past and where have they occurred.*
  - b. An identification of how long agricultural operations have been conducted in the area.*
  - c. An identification of those parcels that have been used for agricultural operations in the area consistently in past, and where applicable an identification of such time periods.*
  - d. An identification of significant past management practices that have been used in the area in order to increase agricultural yields.*
- 2. Risk Factors*
  - a. A discussion of the effect of drought years on agricultural operations in the area and, if so, what the cost of water is during these periods.*
  - b. An analysis of whether the costs of production and labor are predictable for agricultural operations in the area.*
  - c. A discussion of whether commodity prices are consistent or inconsistent from year to year for crops grown in the area.*
  - d. A discussion of whether salt-water intrusion into well water supply is an issue, and if so, how it affects agricultural operations in the area.*
  - e. An identification of whether there is a problem with crop quality in the area.*
  - f. An identification of whether the agricultural market is volatile for crops grown in the area.*
- 3. Economics*
  - a. An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development; and,*
  - b. An analysis of the operational expenses excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of the application for coastal development.*
  - c. Cost shall be determined by, and consist of, the following variables:*
    - 1. Fixed Costs for any given crop are assumed to be constant, regardless of the annual yield. Fixed costs shall include only current costs and shall not speculate on potential future circumstances.*
      - a. Land cost (i.e. rent, lease, property tax, etc.) shall NOT be included into the cost analysis (See Coastal Act Section 30241.5)*
      - b. Capital costs including: 1) land improvements (i.e., fences, roads, clearing, leveling, wells and pumps, etc.); 2) equipment (i.e., trucks, tractors, buildings, special equipment (e.g. irrigation), etc.); 3) herd expenses (i.e., payment for bulls and heifers); and 4) miscellaneous expenses. Cost determination must also include depreciation and interest expenses.*
      - c. Cultivating cost including operating costs for: 1) labor (i.e., the amount of hours necessary for planting and the rate of pay per hour including benefits); 2) materials (i.e., water, seed, feed supplements, salt, fertilizer, and pesticides); 3) machinery; 4) fuel and repair; and 5) outside consultants (i.e., veterinary and management).*
    - 2. Variable Costs are the harvest costs and are based on the amount of yield only. Depending on the crop yield, variable costs fluctuate for any given year. In most cases, this is expressed as the cost per unit of yield (tons, 100 weight, or pounds).*
  - d. Gross Revenue shall be determined by and consists of the following variables:*
    - 1. Gross returns for each crop type.*

2. *Past return figures should factor in the appropriate Producer Price Index (PPI) figure in order to account to inflation over time.*
- e. *Evaluative methods to incorporate the above cost and revenue figures shall include, where relevant:*
  1. *Determination of the net economic impact on private and public sectors and, second, a test for agricultural viability. Net economic impact refers to change in dollar flow within the community brought about by a given change in land use. "Net economic impact" equals total public revenues minus total public costs, plus private sector income. This should be computed according to the existing land use, the proposed development, and any viable project alternatives. This may be accomplished through the following process:*
    - a. *Cost/Revenue analysis that determines public costs associated with conversion of agricultural land and also revenues generated by increases in property tax within the project site. Public service marginal costs should compute the new and/or incremental costs of adding development to the public service system, which includes the cost of capital improvements necessary to accommodate such development. This should also state, and if possible quantify, those costs or externalities not easily accounted for in cost computations. One externality could include the probable change in assessed value of parcels adjacent to the development. Public service revenues are generated by increases in property tax within the project site.*
    - b. *Input/Output analysis that looks at the private sector of the areas economy in terms of its purchases and sales to other sector both locally and from outside the area. From this information, multipliers for each sector should be developed. Determination of the input figures will reveal the affect of removing the subject number of acres, for the subject crop, from agricultural production. This will reveal the effect to the private sector economy.*
  2. *Determination of the minimum acreage for a viable agricultural operation (farm family approach). In order to determine net income, production costs by crop should be computed on a per acre basis and subtracted from gross market receipts expected from that crop. The resulting figure represents the farmer's income per acre of productive land. The per acre income figure should then be divided into the County's Median Income figure to compute the number of acres required to support a farm family.*
  3. *Determination of net return per acre, per crop type, for the area only. By crop type, determine gross revenue per acre for subject crop types then subtract from gross revenue figures the cost per acre associated with each crop type.*

*The report shall include maps and photos (aerial and site photos) of the area being evaluated that, at a minimum, identify the following on all such figures: parcel lines, parcel numbers, farm boundaries, owners and/or leasees of each parcel and/or farm, wells and/or any other water supply lines, storie ratings, capability classifications, slopes, and roads.*

*For purposes of this determination, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the County's certified local coastal program.*

**Recommendation 5-4: Modify CZLUO to add the following criteria for lotline adjustments on agriculturally zoned lands:**

- lotline adjustments shall not create new subdivision potential and shall not increase the number of lots which can support non-agricultural development. To assess the total potential for non-agricultural development, including residential development, the County should consider the original intent of each lot, whether the lot was created to support future development, and whether the lot would otherwise be developable pursuant to identified criteria to protect the public welfare. Lotline

adjustments should not allow future development for those lots which were not originally created to support development;

- lotline adjustments shall not create new parcels where the only building site would be on prime agricultural soils; within ESHA, critical viewsheds, or in a defined hazardous area; or would require significant landform alteration to accommodate future development;
- applications for lotline adjustments shall identify the purpose of the adjustment and the proposed uses for each adjusted parcel;
- lotline adjustments shall not be approved unless the adjustment will maintain or enhance the agricultural viability of the site. To assure the protection of long-term viability, applications for lotline adjustments which support, in part, non-agricultural development must include an economic analysis of agricultural potential, consistent with that required under Ordinance 23.04.024 for land divisions.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, the lotline adjustment or subdivision shall maximize the protection of agricultural lands by clustering and minimizing the area of lots intended for non-agricultural uses, including reducing the parcel size to be less than the 20 acre minimum parcel size required for agricultural lands. Lots for non-agricultural uses shall be clustered where there is less agricultural potential due to the soil types, topography or other site constraints and shall maximize the extent of *undivided* agricultural lands.
- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall identify the location of all access roads and building envelopes, assuring adequate buffers between future residences and associated access uses so as to minimize conflicts with the adjacent agricultural operations, and minimize roadway lengths and site disturbance. Where possible, non-agricultural development shall be sited close to existing roads, while minimizing impacts from access roads or driveways on agricultural operations;
- lotline adjustments or subdivisions which support, in part, non-agricultural development, shall require an agricultural easement over the agricultural parcel(s) which prohibits future subdivision of the parcel(s). In addition, for parcels intended to support non-agricultural uses, a deed restriction should be required prohibiting future subdivision of the parcel(s);
- ensure that all geographically contiguous parcels in common ownership are addressed through a comprehensive evaluation.

**Recommendation 5-5: Deleted**

**Recommendation 5-6:** Undertake a study to identify: 1) existing non-conforming lots on agriculturally zoned lands adjacent to conforming lots, and 2) non-conforming lots which meet the standards under the Subdivision Map Act for potential lot mergers.

**Recommendation 5-7: Processing of Certificates of Compliance.** In the interest of good public policy and avoidance of unnecessary judicial review, amend the LCP with standards such as the following:

- Amend CZLUO 21.02.020(a) to require that within three calendar days of receipt, the County provide to the Coastal Commission [notice/a copy] of all certificate of compliance applications submitted to the County for any property lying wholly or in part outside of an urban area (as defined by the USL for each area).
- Amend CZLUO 21.02.020(c) to
  - 1) require that upon request, the complete application content for a certificate of compliance be provided to the Coastal Commission. Such requests shall be made by the Commission within 7 calendar days of receipt of the [notice/application] submitted pursuant to CZLUO 21.02.020(a).
  - 2) provide an administrative consultation process, through which the Executive Director of the Coastal Commission may consult with the County Planning Director about individual applications for certificates of compliance for which the application content has been requested. The Executive Director shall request consultation within 7 calendar days of receiving a complete certificate of compliance application. No certificates of compliance shall be issued by the Planning Director until such time as a requested consultation has taken place. Any staff reports prepared pursuant to CZLUO 21.02.020(c)(1) shall be provided to the Executive Director.
  - 3) provide an administrative conflict resolution process for cases in which the Executive Director and County Planning Director do not agree on the issuance of a certificate of compliance. For example, provide for review by the Board of Supervisors as currently provided for subdividers pursuant to CZLUO 21.04.020.

**Recommendation 5-8: Develop LCP standards for residential developments on Agricultural Land.** Update the CZLUO to establish performance standards for residential development on agriculturally zoned lands which protect the maximum amount of agricultural lands. Such standards could include the following:

- non-agricultural uses on agricultural lands should be subordinate and accessory to agricultural operations;
- single family residences and associated accessory development should minimize site disturbance;
- roads and driveways shall be the minimum width and length necessary , and shall be designed to avoid unnecessary cut and fill, particularly by conforming to natural landforms;
- residential structures and residential accessory structures shall be sited to retain the maximum amount of agriculturally designated lands available for agricultural production, consistent with all other LCP policies;
- residential structures and residential accessory structures shall be sited and designed to protect ESHA, avoid impacts to critical viewsheds to the maximum extent feasible, and maintain the rural character of the area.

**Recommendation 5-9 Deleted and replaced.**

**Recommendation 5-9a: Amend Table O to define the following land uses as supplemental uses for agriculturally zoned land:**

Bed and Breakfast facilities;  
Eating and Drinking places;  
Outdoor Retail sales;  
Paving Materials;  
Petroleum Extraction;  
Rural Recreation and Camping;  
Stone and Cut Stone Products;  
Warehousing;  
Waste Disposal sites;  
Wholesaling and Distribution;  
Temporary Events which are for profit and non-agriculturally related.

**Recommendation 5-9b: Modify Agriculture Policy 3 (b) to specify that an economic analysis is required for supplemental uses only.** To implement Agriculture Policy 3 (b), modify Ordinance 23.04.050(5) to require the following information as a condition of filing for all supplemental uses:

- existing land uses on the site;
- present annual income derived from agricultural operations
- income generated from other, non-agricultural operations on the site;
- site characteristics affecting agricultural land use and production, including topography, soils, climate, water availability, and adjacent land uses;

- the potential of the site to support future food-producing agricultural uses and estimated annual income from such uses;
- estimated income from proposed supplemental development;
- potential effects of the proposed development on agricultural food production, both short-term and long-term;
- recommendations and conclusions of the development's effects on agricultural production.

**Recommendation 5-9c: Modify Ordinance 23.04.050 (7) and Agriculture Policy 3 (h)** to require agriculture easements and, where appropriate, open space easements for all supplemental uses except temporary events, and for non-supplemental uses where it is determined that an easement is necessary to assure the protection of agricultural lands.

**Recommendation 5-9d:** Modify Agriculture Policy 3 and Ordinance 23.04.050(b) (3) through (6) to clarify that *all* uses identified as special uses under Table O ("S" or "S-P" uses) in agriculturally designated areas, whether also defined as supplemental uses or not, must comply with the existing criteria to: a) obtain permits for development, b) meet the required findings to locate development off prime soils and avoid conflicts with surrounding agricultural lands, c) provide the information currently specified for a permit application, d) comply with the siting and design standards for development, with the following exceptions:

- non-supplemental uses are exempt from economic analysis, as required under Recommendation 5-9b;
- residential and residential accessory structures are exempt from Ordinance 23.04.050 (6) (ii), requiring that non-agricultural uses be limited to a maximum of 2% of the gross site area.

**Recommendation 5-9e: Modify Table O** to exclude as electric generating plants and mining as allowable uses on agriculturally zoned lands.

**Recommendations 5-10 – 5-12: Deleted. Addressed through Recommendation 3-2 a—d.**

### **Public Access**

#### **Recommendation 6.1: Incorporate Comprehensive Access Components into Each Area Plan**

- All of the Area Plans in the LCP should be amended to include a specific access component, consistent with Section 30500 of the Coastal Act. This component should include at a minimum, the following information: (1) Statements of the public access goals, objectives, policies, ordinances, standards, programs, and other management objectives relevant to each planning area; (2) a comprehensive inventory of existing and potential public shoreline access, including a map or maps indicating the specific locations of such access resources.



- The Access Component should include a Public Trails Plan to ensure future implementation of the California Coastal Trail. Development of the Trails Plan should consider guidance outlined in the Periodic Review for development of:
  - Planning objectives
  - Siting and Design policies and standards
  - Acquisition and management policies and standards
- The Comprehensive Public Access Component should consider realignment alternatives as recommended by Recommendation 7.14 and should include a policy that will ensure that any impacts to access from highway realignment are mitigated such that no public access is lost and new access opportunities are maximized.

**Recommendation 6.2: Amend LCP Lateral Access Requirements to Provide for Blufftop Accessways, where superior access would be provided.** Where the area between the MHTL and the toe of the bluff is constrained by rocky shoreline, evaluate whether alternative siting of accessways along the blufftop would maximize public access consistent with the Coastal Act.

**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.

**Recommendation 6.4: Amend LCP to Provide for Direct Dedications of Accessways and Evaluate Performance Standards for these Accessways.** 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 these dedications and other access OTDs should be evaluated to address such issues as coastal erosion and long-term trail maintenance.

**Recommendation 6.5: Develop an LCP Program to Document and Pursue Prescriptive Rights as part of the Access Component.** As part of protecting historic use areas, the County shall develop a program to document informal use and potential prescriptive rights as part of the Access Component. Information developed under this documentation effort shall be used to protect prescriptive rights in future County planning and development reviews. Such a program could be coordinated with the efforts of the Commission's Public Access Program to document prescriptive rights, and could include the participation of other agencies and interested groups.

**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.

**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 coastal 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.

**Recommendation 6.8: Deleted.**

**Recommendation 6.9: Habitat Conservation Plan Access Review.** Ensure that public access management and enhancement consistent with LCP policies is considered as a component of all habitat management and natural community conservation plans within the coastal zone.

### **Coastal Hazards**

**Recommendation 7.1: Modify CZLUO 23.05.090(a)** to define more specifically what existing structures are for purpose of allowing future armoring. For example, as follows: *“existing coastal development” for purposes of this section shall consist only of the principle structure and shall not include accessory or ancillary structures such as garages, decks, steps, eaves, landscaping, etc. No shoreline protection device shall be allowed for the sole purpose of protecting the accessory structure(s).*

**Recommendation 7.2: Revise Coastal Policy 6** to change setbacks to require that they be based on a projected 100-year economic life.

**Recommendation 7.3: Revise CZLUO 23.04.118:** Eliminate the stringline method for determining setbacks, section (a). Modify section (b) to base setback on a projected 100 year economic life of structure. Add requirement to incorporate a safety factor either as a multiplier or as a set distance, as developed through an Areawide Shoreline Management Plan.

**Recommendation 7.4: Modify CZLUO 23.04.118 “Exceptions to Bluff Setbacks Requirements”** section (c) to eliminate subpart (3) roof and wall projections.

**Recommendation 7.5: Deleted and incorporated into 7. 8.**

**Recommendation 7.6: Modify Hazard Policy 1** to ensure that in shoreline areas subject to erosion, subdivisions and lot splits shall not be permitted unless they are within (1) an urban infill area and (2) a region covered by an Areawide Shoreline Management Plan that has been certified into the LCP.

**Recommendation 7.7: Strengthen Measures to ensure no future armoring.**

Modify standards in shorefront areas subject to beach or cliff erosion, inundation, wave uprush, etc., to avoid future shoreline protective devices as a result of new development. For new development on vacant shorefront lots, or for demolition and rebuilding of structures, where geologic evaluations conclude that the development can be sited and designed to avoid the need for a future shoreline protective device, require recordation of a deed restriction that ensures that no shoreline protective device(s) shall be constructed to protect the development approved and ensures waiver of any rights to construct such devices that may exist under Public Resources Code Section 30235.

**Recommendation 7.8: Adopt Areawide Shoreline Management Plans as a program in the LCP:** Pursue funding to develop and implement Area-Wide Shoreline Erosion and Bluff Retreat Management Plans for Cayucos and Cambria, and, if appropriate, for other shoreline hazard areas. The Area-wide Plans should assess specific sections of these coastline areas based on factors including, but not be limited to, geology, wave conditions, and sand budget. The management plans should include:

- A re-examination of regional average annual erosion rates in order to reflect current shoreline changes.
- Standard engineering plans defining the specific types of armoring that would be acceptable for specific areas, and where appropriate, identification of the types of armoring that should never be considered for certain areas in order to minimize risks and minimize impacts from armoring to public access and scenic resources from the shoreline and water recreation areas.

Standard alternatives feasibility analysis worksheet that would be a required element of all hazard response projects and that would require applicants to go through a series of steps to assure that hard protective devices were only created as a last resort. The analysis may require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, etc.), an examination of all other options (removal, relocation, “do nothing”, sand replenishment, etc.), and a conclusion that a shoreline protective device would be the “best option” (most protective of the public trust, best long term solution, etc.) for the subject site.

- Standard conditions and monitoring requirements that may include discussion of mechanisms to ensure shoreline protection effectiveness and public safety with provisions for the removal of ineffective or hazardous protective structures as well as programs to address beach replenishment and sand supply.

- Procedures to address emergency armoring, such as: coordination with property owners and for field inspections before and after storm seasons; guidance for types of temporary structures preferred and a provision for removal of temporary structures if no follow up permit is filed within 30 days.

**Preliminary Recommendation 7.9: Modify CZLUO 23.04.420 (g)** to ensure that the easements are protected against further encroachment by requiring that the easements be mapped in detail in conjunction with recordation.

**Preliminary Recommendation 7.10: Modify CZLUO 23.02.033 ((a)(8) Public Access Locations.** Applications for projects between the ocean and the nearest public road shall include the locations of nearest public access points to the project and the mapped locations of any existing public access easements or recorded offers to dedicate public access easements.

**Recommendation 7.11: Revise condition language for requiring access easements** to provide that access is required unless verification is provided to the Department of Planning and Building that such recorded easement already exists on the property.

**Recommendation 7.12: Deleted and Incorporated into 7.8**

**Recommendation 7.13: Policy 6 should clarify that Highway 1 must comply with setback standards similar to other existing structures.** Establish setbacks based on assuring that the highway will be safe from erosion without need for armoring for 100 years. Policy 4 should be expanded to clarify that consideration of alternatives should include possible relocation of the structure to be protected, including Highway 1.

**Recommendation 7.14: Amend the NCA** to consider alternatives for the Realignment of Highway One to avoid further placement of shoreline protection while protecting the public access and scenic and visual resources of Highway 1.

**Recommendation 7.15: Modify CZLUO section 23.04.118** to update required contents of geologic evaluation reports within the GSA combining designation.

**Recommendation 7.16: Delete and incorporate into 7.8.**

**Recommendation 7.17: Modify LCP** to update seismic mapping and identification and extend GSA CD to new faults identified and traces of faults in order to require complete geologic investigation pending new development. New development should be restricted in the Special Studies Zones resulting from updated mapping.

**Recommendation 7.18: Expand FH Designation** to Arroyo del Puerto, Oak Knoll, Little Pico, Villa Creek and Ellyslly Creek.

**Recommendation 7.19: For areas subject to FH combining designation in Cambria,** no new development except public services shall be approved until the County has approved the recommendations of the flood analysis and management plan for the West Village that is currently being developed.

**Recommendation 7.20: Modify the Coastal Policies or the CZLUO** to provide standards that require:

- 1) that any fire clearance area is shown on the site plan for new development proposals as part of the application content;
- 2) that any proposed new development of structures adjacent to public parklands or lands designated as Open Space be sited and designed such that any required fuel modification for the proposed development is confined to the private property in order to avoid impacts to habitat and recreational resources on public lands;
- 3) where structures cannot feasibly be sited to avoid fuel modification on adjacent public lands, that alternative mitigation is provided which can include measures such as off-site restoration or provision of in-lieu fees for restoration;
- 4) that where feasible, proposed structures are sited so that a natural vegetation buffer of sufficient size is maintained between the necessary fuel modification areas and the public parkland. Development, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation should not be permitted in the buffer areas, except that habitat restoration and invasive plant eradication may be permitted if designed to protect and enhance habitat values.
- 5) These standards should not apply to ongoing fire suppression and management activities conducted on public parklands necessary to minimize fire hazards to adjacent property.

### **Scenic and Visual Resources**

**Recommendation 8.1: Enact a Critical Viewshed Protection Policy for the North Coast Area that applies to any new development within “critical viewsheds” to be designated north of Cayucos (except any location within the Urban Reserve Lines at Cambria or San Simeon Acres, or in San Simeon Village, or the existing community of Harmony) and for the Estero Area that applies to portions of the Morro corridor.** The following actions should be taken to develop this policy:

Designate “critical viewsheds” in these areas by taking into account all public vantage points from:

- State Highway Route One,
- public beaches, shoreline recreation areas and offshore state coastal waters,
- bluff overlooks, turnouts, and designated future public use areas (particularly, between the first public road and the sea outside of the designated Urban Services Lines).

Develop standards for new development within designated Critical Viewsheds that provide:

- no new development will be allowed that can be seen or that could potentially degrade public views (e.g., construction and grading that can be seen by normal, unaided vision from any public vantage points)
- mechanisms to resolve private property takings concerns where it is not feasible to comply with the critical viewshed protection policy and standards (alternatives include incorporating review procedures within the LCP as outlined in Recommendation 4.10 of this report as well as development of a Transfer of Development Rights program.
- all new parcels must contain building sites outside the critical viewshed (i.e., at least one location per parcel that will accommodate a reasonable residential development that will be entirely hidden from public view). Residential development includes any grading needed to provide a driveway or other improvement.
- underground utility placement, restoration, public access improvements and intensification, demolitions, resubdivisions, and temporary events can be allowed within the Critical Viewshed;
- Provide strict design, density and mitigation standards that allow improvements and enhancements of recreational support facilities within existing, isolated commercial visitor serving nodes (Harmony, San Simeon, Piedras Blancas, Ragged Point).

Additional standards should be considered to guide review of development in Critical Viewsheds. For example:

- Provide for project specific visual analysis with story poles or comparable demonstration techniques, including consideration of views from state waters.
- Avoid viewshed impacts through application of sensitive design measures and siting that uses existing topography. Allow landscape screening with planting, earthen berms or other measures only where no building site can be concealed from view and where such measures would be in keeping with the character of the surrounding area and also be consistent with all other resource and protection policies.
- Provide guidelines for preferential use of non-reflective, earth tone building materials for mitigating public view impacts;
- Provide that all exterior lighting (except traffic signals, navigational aids and similar safety devices with no reasonable alternative) shall be concealed or shielded so that no light source is directly visible from public viewing areas, and that no artificial lighting of the shoreline or sea results.
- Require utility extensions to be installed underground or otherwise concealed from public view (e.g., suspended under bridges); pursue all opportunities to remediate existing visually intrusive utility lines (e.g., undergrounding, conversion to shared poles, etc.).
- Where fencing is required, standard range fencing that does not impair public views, nor the passage of light, air, or common native wildlife is preferred. Fencing that interferes with public views should be avoided.
- Address maintenance of landscaping where landscaping could either block important public views or is specifically required to mitigate impacts to public views by screening development.

- Provide exceptions for development that requires a location in the viewshed in order to properly function and no other location is feasible for such things as necessary public facilities (including public access improvements), agricultural improvements needed to support grazing operations and crop production, and necessary resource protection and restoration projects.

In developing the Critical Viewshed Policy and standards, approaches of the Coast Highway Management Plan being developed for the Big Sur Coast in Monterey County under the National Scenic Byways program may provide possible guidance.

**Recommendation 8.2: Create a Scenic SRA Combining Designation.** All highly scenic areas in the Coastal Zone should be mapped and designated as Sensitive Coastal Resource Areas. Creation of a coastal visual SRA could incorporate and expand upon inland standards that require assessing visibility of the project, requiring a site visit as part of the application process and other standards on ridgetop development, slopes, rock outcroppings, building feature and landscaping.

**Preliminary Recommendation 8.3: Strengthen Enforcement Program and Condition Compliance Monitoring.** Develop a project tracking system to facilitate monitoring and enforcement of mitigation measures, and coordination with other affected departments, as funding allows.

**Preliminary Recommendation 8.4: Create a Funding Mechanism For An Open Space District.** The County should consider creating a permanent source of funding for open space acquisitions. A 1/2 cent sales tax, bond initiative or creation of a countywide or coastal zone open space district could provide millions of dollars annually for the purchase of property and retirement of development rights. The County should also strategically pursue grants and other outside funding supplies to augment such a funding mechanism.

**Recommendation 8.5: Pursue National Scenic Byway Designation for Highway One in the Estero and North Coast Planning Areas.** Consider including Highway One north of Cayucos and the scenic Morro corridor (already designated by the County as a State Scenic Highway) for inclusion in the National Scenic Byways program. This will allow implementation funding to be sought under the Federal Highway Administration's scenic byway program.

**Preliminary Recommendation 8.6: Strengthen Public Viewshed Protection Policy Language.** The LCP should be amended to clarify that scenic viewsheds need to be protected from all public viewing areas, including state coastal waters. This could be accomplished through additional language in existing LCP visual policies and ordinances. For example, Policy 2 could be amended as follows:

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to*

*emphasize locations not visible from all major public-viewing areas, including state waters. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.*

*To effectively resolve takings concerns where it is not feasible to comply with the scenic resource protection policies and standards, incorporate additional standards and review procedures within the LCP (as outlined in Recommendation 4.10 of this report) that will maximize protection of coastal resources and conform to Coastal Act Section 30010. Alternatives such as Transfer of Development Rights should also be considered.*

Ordinance 23.04.021 (c)(6) could be modified as follows:

*New land divisions where the only feasible building site would be on a slope or ridgetop where a building would be silhouetted against the skyline as viewed from any public viewing area, including state lands shall be prohibited.*

**Recommendation 8.7: Deleted.**

**Recommendation 8.8: Complete Specific Plans, Rather Than Design Plans to further define and describe area plan standards.**

**Recommendation 8.9: Monitor and Evaluate Current TDC Program to assess the effect of the current TDC program implementation on community character and its overall performance in reducing buildout and preserving forest resources.**

**Recommendation 8.10: Support Continued Undergrounding of Overhead Utilities.** The County Undergrounding Committee should continue to receive strong support for their work, and the Coastal Commission should work with the PUC to ensure that this important program is retained. The committee should consider including the overhead utilities across and along Highway One through the Hearst Ranch on the next priority list submitted to the Board of Supervisors.

**Recommendation 8.11: Evaluate implementation techniques to protect the community character of Harmony including designation as a Special Community of Historic Importance or by applying the Historic Combining Designation.**

### **Archaeological Resources**

**Recommendation 9.1: Update Archeological Resources Overlay Maps.** Updating the LUE maps to reflect a more accurate location of archaeologically sensitive areas will assist with site identification. The proposed Estero Area Plan Update from February, 1999 offers a possible option to update maps:



***Protection of Resources Not Within the AS Combining Designation.*** All land use permit applications that propose development within 100 feet of the bank of a coastal stream (as defined in the Coastal Zone Land Use Ordinance), or within 300 feet of such stream where the slope of the site is less than 10 percent, shall be subject to the standards for the Archaeologically Sensitive (AS) combining designation in the Coastal Zone Land Use Ordinance and in this plan.

**Recommendation 9.2: Evaluate Requirement for Geoarchaeology Surveys.** Through Area Plan Updates, conduct an assessment of potentially buried archaeological resources and identify requirements for undertaking more specific Geoarchaeology Surveys.

**Recommendation 9.3: Evaluate Use of Conservation Easements.** Disturbance to archaeological data could also be avoided on larger sites by requiring a conservation easement over the area containing archaeological resources. Avoiding impacts through such easements where feasible may be more protective of the resources than reliance on data recovery. The LCP should be modified to consider such conservation easements instead of data recovery on larger sites, where possible.

**Recommendation 9.4: Evaluate Permit Exemptions.** The County should consider including standards in permit requirements (CZLUO23.03.040) that development that requires a coastal development permit should not be exempt from permit requirements if archaeological resources may be impacted. Rural lands may contain archaeological resources and exempt development may be destructive to these resources.

## **Energy and Industrial Development**

**Recommendation 10.1: Update LCP to Address Onshore Fiber Optic Cable Projects.** In updating its LCP Area Plans, Land Use designations and/or siting criteria standards should be revised to encourage consolidated cable corridors. Evaluate potential reuse of abandoned oil/gas facilities pipelines for possible alternative use for communication cables. Additional mitigation measures should be developed to address potential impacts from drilling such as requirements for Drilling Fluid Monitoring Plans. Monitoring requirements should be included that provide for qualified monitors onsite with ability to stop drilling should fractures occur which could release bentonite. The CZLUO should be revised to include more specific mitigation for access/recreation impacts, avoidance or minimization of sensitive resources during construction, as well as mitigation measures such as erosion control, revegetation, and other measures necessary to protect scenic resources and habitat values.

**Recommendation 10.2: Update Energy Policies of LCP Area Plans.** As part of the update of LCP Area Plans, the County should update information on current energy demand and ensure that existing policies and standards provide adequate guidance for mitigating the impacts of any potential energy facilities consistent with other LCP and Coastal Act policies.

**Recommendation 10.3: Update LCP to Address Abandonment of Energy Facilities.** As part of the Area Plan Updates the County should update and revise standards and requirements

governing abandonment and clean up of sites in the EX Combining Designation. Updating of standards could include revised requirements that operators submit an Abandonment and Restoration Plan within 60 days of permanently ceasing operations and require bonding or other financial securities to ensure that abandonment and clean up procedures are carried out in an appropriate and timely manner.

### **Commercial Fishing and Recreational Boating**

**Recommendation 11.1: Develop a Program to Educate Boaters on the Sensitive Habitat Values of Morro Bay and Other Aquatic Habitats.**

**Recommendation 11.2: Coordinate the Review of the Proposed Boat Launch Ramp in Baywood Park with Commission Staff, the Department of Fish and Game, and other involved regulatory Agencies and Interested Individuals.** As the design and environmental analysis of the proposed boat launch ramp progresses, continued coordination with Commission staff, as well as with biological experts and other regulatory agencies and interested parties, should be pursued.

**Recommendation 11.3: Update the Port San Luis Master Plan and Associated Sections of the San Luis Bay Area Plan.** Recognizing that circumstances regarding the operation, maintenance, and financing of Port San Luis Harbor facilities have changed since the relevant sections of the LCP were certified, a comprehensive update of the Port San Luis Master Plan and associated LCP provisions is in order. Given the wide range of coastal resource issues raised by future development of uplands owned by the Port San Luis Harbor District, this update should be closely coordinated with Commission and County staff.

The San Luis Bay Area Plan and the Port San Luis Master Plan shall be updated to include a standard to ensure adequate capacity on Avila Beach Road for priority uses under the Coastal Act and LCP. As well, a program should be developed to encourage analysis of the effects of development in Avila Valley on capacity of Avila Beach Road inside the coastal zone. The program should encourage revisions as needed to the General Plan standards for the amount and intensity of development to ensure that adequate road capacity to serve priority uses within the coastal zone will be provided.

### **Procedures**

**Recommendation 12.1: Update LCP and Post-Certification Maps.**

- The County and the Commission staff should coordinate a review of LCP Maps for accurate delineations of coastal zone boundary and sensitive resource areas and update as necessary.
- The Coastal Commission staff, in coordination with the County, should update the Post-Certification maps to accurately reflect permit and appeal jurisdictions. Once updated, the Commission should provide electronic versions of these maps for use in updating LCP maps.

- Recognize that the appealability of development based on geographic criteria (e.g., the presence of an SRA, a location between the first public road and the sea) should be determined according to what is on the ground as opposed to what is shown on the LCP and Post-Certification Maps. An exception to this is that roads constructed without the proper permits should not be considered as the first public road.

**Recommendation 12.2: Increase Coordination for Projects that Cross Jurisdictional Boundaries**

- Coordinate permit jurisdiction determinations when projects may involve development within the Commission's original jurisdiction.
- Develop a coordinated permit review procedure for development that straddles permit jurisdictions to avoid, where feasible, the need for separate coastal development permits from the County and the Commission.

**Recommendation 12.3: Resolve Areas of Deferred Certification.** Update the LCP to eliminate Areas of Deferred Certification (e.g., Sweet Springs Marsh and the Otto property) and establish local permit jurisdiction over future development in such areas.

**Recommendation 12.4: Revise LCP Permit Exemptions.** LCP permit exemptions (Section 23.03.040 of the CZLUO) should be revised so they conform to Coastal Act Section 30610 and associated sections of the California Code of Regulations.

**Recommendation 12.5: Update LCP Provisions Regarding Temporary Events.** LCP provisions regarding temporary events, should be updated consistent with the Commission's guidelines, and as recently incorporated into the San Luis Bay Area Plan, so they apply countywide.

**Recommendation 12.6: Identify and Review Categorical Exclusions.** Clarify where Categorical Exclusions may have been previously approved and how they are being implemented. The Commission staff, in coordination with the County, should evaluate whether these exclusions may be impacting coastal resources and therefore may warrant rescission.

**Recommendation 12.7: Improve Noticing and Processing Procedures.** The Commission staff should coordinate with the County to resolve noticing and processing issues related to CDPs, CDP amendments and extensions, grading permits, emergency permits, and appeals. In some cases, changes to the LCP may be needed to bring LCP noticing and processing requirements in conformance with the Coastal Act and the California Code of Regulations. The Commission too should improve its noticing procedures. In particular, Commission staff should provide the following notice to the County:

- The date on which Notices of Final Action are received. This will inform the County of the Coastal Commission appeal period for those projects that are appealable, and the effective date of the local permit for unappealable development;

- Whether any appeals have been received at the conclusion of the Coastal Commission appeal period. If no appeals have been filed, this notice will confirm the County's ability to release local building permits. If an appeal has been filed, this notice will allow the County to send the Commission a copy of the local file in a more timely manner.

**Recommendation 12.8: Clarify Allowable and Principally Permitted Uses.**

- Revise Table O to identify that allowable uses are further limited by Combining Designations (e.g., resource dependent development is the only principally permitted use in ESHA).
- Update Table O to differentiate the principally permitted land use within each land use designation from conditionally permitted uses. All uses currently subject to special standards and criteria should be identified as a conditional use (i.e., all uses currently listed as "S-#-P";
- Table O should also list Land Divisions, Certificates of Compliance, and Lot Line Adjustments as conditionally permitted development within the particular land use designation where they may be allowed.

**Recommendation 12.9: Update Permit Application Requirements.** Review permit application requirements and current methods for implementing these requirements to ensure that all information necessary to evaluate project consistency with LCP standards is being obtained at the application stage rather than as a condition of approval.

**Recommendation 12.10: Provide Legal Documents for Executive Director Review and Approval.** Enhance coordination regarding the format and content of legal documents related to open space and public access easements and consider changes to permit procedures that would facilitate such coordination.

**Recommendation 12.11: Clarify Appealability of Projects Involving Conditional Uses.** Section 23.01.043c4 should identify that if any component of a proposed development constitutes a conditional use, the entire project shall be appealable to the Coastal Commission.

**Recommendation 12.12: Improve Methods for Ensuring Compliance with Permit Conditions.** Among other means available to achieve effective compliance with permit conditions, the County could develop a tracking system that would be available to all relevant County departments and Commission staff.

**Recommendation 12.13: Increase Coordination of Enforcement Actions.** Coordinate responses to violations with Commission staff and other involved regulatory agencies.

**Recommendation 12.14: Improve Coordination Regarding Emergency Actions.** When time allows, consult with the Commission regarding alleged emergencies. This is critically important when a proposed emergency action may result in development on lands that are within the permit jurisdiction of the Coastal Commission.

To facilitate improved coordination and emergency permit processing, the County should prepare an Emergency Permit Procedure Manual. In addition, the County should initiate a process to identify areas that are susceptible to emergency situations (e.g., the flood plain along Arroyo Grande Creek), and to prepare Emergency Prevention Implementation Plans for these areas focusing on methods for avoiding emergencies.

**Recommendation 12.15: Expand Standards for Approval of Variances.** Incorporate additional standards regarding the use of variances into the LCP. For instance, where a variance is needed to prevent the strict application of ESHA protection standards from resulting in a taking, approval of the variance should be accompanied by information and analyses needed to establish that the variance is warranted under Coastal Act Section 30010.

**Recommendation 12.16: Clarify LCP Provisions Regarding Nonconforming Uses.** Clarify LCP provisions regarding nonconforming uses and structures, and consider incorporating new standards for the development/adjustment/certification of non-conforming parcels as addressed in Chapter 5 of this report. With respect to the adjustment of non-conforming parcels, Section 21.02.030(c) of the County's Real Property Division Ordinance should be revised to require lot line adjustments to conform to all elements of the LCP (not just the zoning and building ordinances). These new standards should be crafted in a way that conforms to all applicable local, state, and federal laws.

**Recommendation 12.17: Provide Additional Opportunities to Efficiently Resolve Appeals**

- Incorporate new procedures into the LCP that would provide additional opportunities to resolve appeals at the local level and use existing LCP provisions that allows the County to modify its approval of a project in order to resolve an appeal filed by two Commissioners.
- Improve procedures for providing Commission staff with all information relevant to appealed projects. The information transmitted must include all documents and materials used by the local government in its consideration of the coastal development permit application. Where the County has a question regarding the need or relevance of particular documents or materials, such questions shall be referred to the Commission staff.
- Provide Commission staff with copies of County staff reports prior to the local hearing.

**Recommendation 12.18: Institute Appeal Provisions for Variances.** Amend the LCP to identify that any development approved by variance is a conditionally permitted use appealable to the Coastal Commission. An appropriate location for this change would be within Section 23.01.045 of the CZLUO.

**Recommendation 12.19: Improve Coordination with Grant Programs.** Commission and County staff should work with local state and federal grant sources, as well as the recipient of grants, in a way that will facilitate the coastal resource protection and planning improvements called for by this report.

**Recommendation 12.20: Seek Additional Funding and Staffing Resources.** Both the Coastal Commission and the County should attempt to secure the funding necessary to further develop and implement the recommendations of the Periodic Review. In particular, the Commission should continue to offer LCP Grants that will facilitate the County's ability to commit staff resources to this effort, and the County should take full advantage of these and other grant opportunities. In addition, the Commission should seek funding to staff the Central Coast District Office at a level that will enhance its ability to assist and coordinate with San Luis Obispo County.

**Recommendation 12.21: Develop an LCP "Quick Reference Guide".** Compile the portions of the LCP that contain the policies, ordinances and standards applicable to new coastal development in a single document that would provide applicants and administrators with a quick reference guide to applicable regulatory standards.

## **C. FINDINGS**

### **1. MAPS.**

The Preliminary Report included several maps illustrating findings of the report (Appendix B in *Preliminary Report* as revised). Public comments from the Cambria Community Services District noted that there were inaccuracies on Map 2-B showing the boundaries of East-West Ranch and depicting the proposed school site on East-West Ranch as a subdivision. In fact, Map 2-B did not depict any boundaries for East-West Ranch; however, on the revised version of the *Preliminary Report* a boundary has been added. Also, the proposed school site is no longer depicted as an approved subdivision.

### **2. NEW DEVELOPMENT AND PUBLIC SERVICES**

Coastal Act section 30250(a) requires that new development be concentrated in and around existing developed areas that have sufficient public services to support such development. Where such areas are not available, development must be located where adequate public services exist, and where the development will not have significant adverse effects, either individually or cumulatively, on coastal resources. The Preliminary Report evaluated three major LCP implementation issues related to this policy: (1) maintaining stable urban-rural boundaries; (2) preventing cumulative impacts to rural lands; and (3) assuring environmentally-sustainable urban development.

#### **A. Concentration of Urban Development: Stable Urban-Rural Boundaries** *(Recommendations 2.1 – 2.6)*

##### **1. Summary of Preliminary Periodic Review Findings (Exhibit A, pp.17-27)**

In terms of the physical location of new development, the *Preliminary Report* concluded that San Luis Obispo County LCP has, in a general sense, met the Coastal Act objective of concentrating development. Over 90% of new single family homes approved in the San Luis Obispo coastal zone between 1988 and 1998 have been located in or around the urban core areas of Cambria, Los Osos, Cayucos, and Oceano. Likewise, 88% of the reported CDPs for commercial development were located in these communities and the town of Avila Beach. To the extent that a significant amount of new development has been located within urbanized areas, the distinction between urban and rural areas of the coastal zone has been maintained, consistent with Coastal Act section 30250.

The *Preliminary Report*, though, also evaluated development patterns on the urban edges of Cambria and Los Osos that did not strictly meet the Coastal Act and LCP requirements to concentrate development. In particular, numerous subdivisions and other residential projects outside of the USL were either approved or considered by the County. In some cases these approvals did not observe the existing LCP requirement to not allow development beyond the