



CALIFORNIA COASTAL COMMISSION

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

PRELIMINARY REPORT

PERIODIC REVIEW OF THE SAN LUIS OBISPO COUNTY

CERTIFIED LOCAL COASTAL PROGRAM

EXHIBIT A IN REPORT OF JULY 12, 2001



CALIFORNIA COASTAL COMMISSION

FEBRUARY 2, 2001

**(AS REVISED TO INCORPORATE ERRATA/CLARIFICATIONS OF THE
JULY 12, 2001 ACTION)**

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Executive Director Peter Douglas
Deputy Director Tami Grove

Project Staff: Allyson Hitt, Leslie Mendez, Steve Monowitz, Tania Pollak

Contributors: Kristin Brown, Marina Cazorla, Sarah Christie, Ross Clark
 Lisa Nunes

Cartography and Graphics: Allyson Hitt, Doug Macmillan, Tania Pollak

Project Managers: Elizabeth Fuchs, Charles Lester

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CHAPTER 1: INTRODUCTION

STAFF RECOMMENDATION: The Staff recommends that the Commission **open and continue** the public hearing for the Periodic Review of the San Luis Obispo Local Coastal Program for a minimum 30 day comment period.

INTRODUCTION TO THE REVIEW

Purpose and Authority

This is the preliminary report for the first Periodic Review of Local Coastal Program (LCP) implementation by San Luis Obispo County. Section 30519.5 of the Coastal Act requires the Commission to conduct a periodic review of a government's local coastal program at least once every five years. The basic purpose of the review is to determine whether the LCP is being effectively implemented in conformity with policies of the Coastal Act. Section 30519.5 states:

(a) The commission shall, from time to time, but at least once every five years after certification, review every certified local coastal program to determine whether such program is being effectively implemented in conformity with the policies of this division. If the commission determines that a certified local coastal program is not being carried out in conformity with any policy of this division it shall submit to the affected local government recommendations of corrective actions that should be taken. Such recommendations may include recommended amendments to the affected local government's local coastal program.

(b) Recommendations submitted pursuant to this section shall be reviewed by the affected local government and, if the recommended action is not taken, the local government shall, within one year of such submission, forward to the commission a report setting forth its reasons for not taking the recommended action. The commission shall review such report and, where appropriate, report to the Legislature and recommend legislative action necessary to assure effective implementation of the relevant policy or policies of this division.

In addition, under provisions of Section 30501 of the Coastal Act, the Commission may recommend specific uses of more than local importance for consideration by any local government for inclusion in its local coastal program. Thus, the Coastal Act requires that the Commission assure that the ongoing implementation of a certified Local Coastal Program is effectively meeting the statewide policy goals of the Coastal Act.

Benefits of Conducting a Periodic Review

Although there is an explicit statutory basis for a periodic review, such a review is also a natural step in the ongoing partnership between the Coastal Commission and local governments in coastal resource management. This partnership does not end with the certification of an LCP. Rather, the challenging task of implementing, monitoring, enforcing and updating a coastal

program only begins at that point. A periodic review of an LCP provides a valuable opportunity to enhance the coastal management program at the local level in a number of ways. It enables the Commission, in cooperation with the local government, local residents and others, to assess the community's progress in carrying out its coastal plan. It also provides a chance to update relevant coastal resource information, especially concerning cumulative effects and emerging issues that perhaps were not fully known or appreciated when the LCP was originally prepared. Finally, it provides a means to work with the local government to identify changes that may make the LCP work better, consistent with the requirements of the Coastal Act.

A periodic review reflects experience gained in the implementation of the LCP through planning and regulation at the local level. But it also can reflect the outcome of other implementation actions such as acquisition and operation of beach accessways, restoration of wetlands, execution of habitat conservation or resource management plans, and conduct of educational programs, all of which bring to reality the programs and recommendations of the LCP. Program enhancements recommended through a periodic review can include suggested amendments to plan designations, policies or zoning standards or procedures, but may also include intergovernmental coordination measures or actions by other state or local agencies to improve implementation of the certified LCP.

Monitoring, reviewing and updating a certified LCP is a critical component of effective coastal management. When the Commission reviews the implementation or zoning component of an LCP the standard of review is consistency with the certified land use plan. When the Commission reviews a project on appeal, the standard of review is consistency with the certified LCP and Coastal Act access policies. It is therefore very important that certified LCPs are continually reviewed and updated in order for the LCP to continue to function as an effective standard for sound coastal resource management decision-making.

Local Coastal Program History

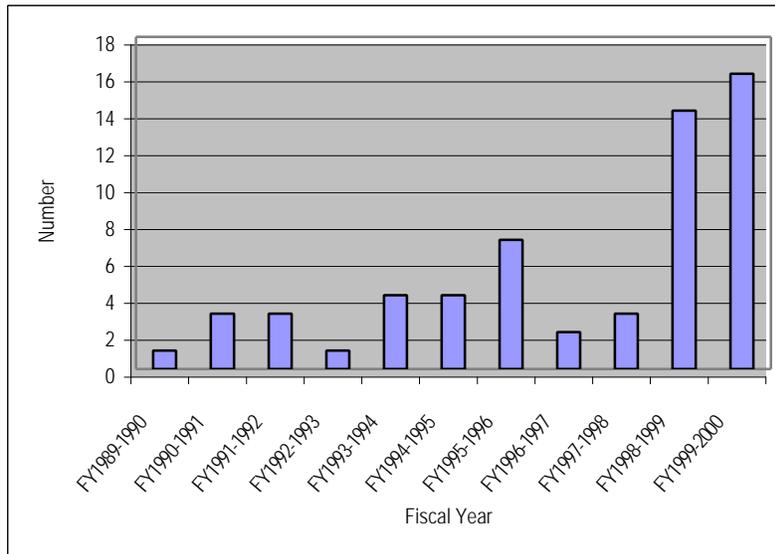
San Luis Obispo County received an initial LCP grant to begin the background studies for LCP planning in February 1978. The County's Land Use Plan (LUP) was submitted to the Commission in early 1982 and approved with suggested modifications. After additional planning, the LUP portion of the LCP was certified on April 12, 1984. A categorical exclusion for single-family homes was approved on January 9, 1985. The Local Implementation Program (Land Use Ordinance) was certified as submitted on October 7, 1986 and the total LCP was certified on July 8, 1987. The County did not immediately assume permit-issuing authority and submitted an amendment package (LCP No. 1-87 (Major)) to "clean up" the Land Use Ordinance. The Commission on February 25, 1988 certified this amendment. The County assumed permit-issuing authority on March 31, 1988. Since certification, the Commission has approved 26 major and minor amendments to the County's LCP. Five other amendments were reviewed by the Commission but did not result in additional certifications. At least one amendment proposed a comprehensive update of the North Coast Area Plan, which the Commission approved with the modifications in January 1998. The County did not fully agree with the Commission's modifications but instead is currently in the process of producing a new North Coast Area Plan Update. The County is also in the midst of an update of the Estero Area Plan. In December 1998, the Commission identified the County as one of the 5

highest priorities for periodic LCP review and a year later the Commission voted to undertake a periodic review.

Post-Certification Appeals

The number of appeals to the Commission of coastal permits approved by the County has steadily increased since certification, as shown in Figure 1-1.

Figure 1-1: SLO Appeals Filed through November 2000



San Luis Obispo County leads all coastal jurisdictions in the number of post-certification appeals. However, of the eight jurisdictions with the most appeals as shown in Figure 1-2 and Table 1-1, the Commission determined that the appeals raised a Substantial Issue (SI) with regard to conformance with policies of the certified LCP and the access policies of the Coastal Act in only 35% of the appeals in SLO. This is a lower percentage of Substantial Issue determinations than in the other jurisdictions with the highest overall appeals.¹

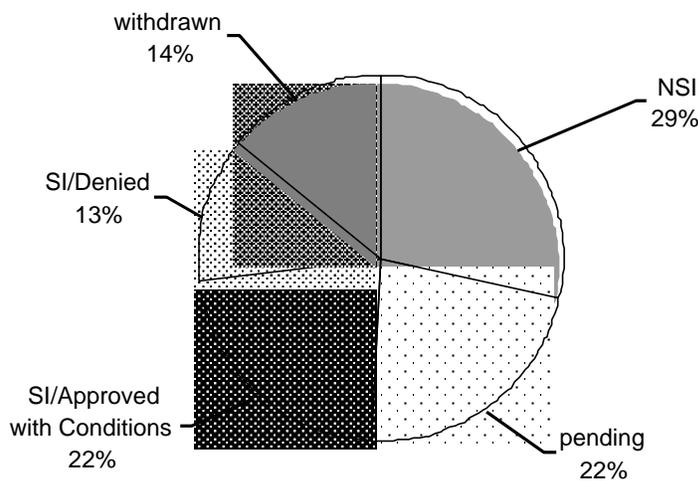
Table 1.1: Appeals Filed and SI Determinations in top 8 jurisdictions through November 2000

Jurisdiction	Number of Appeals	Number found SI	Percentage found SI
San Luis Obispo County	63	22	35%
San Mateo County	43	16	37%
Monterey County	43	9	21%
Santa Barbara County	41	10	24%

¹ About 24 % of these SLO appeals filed are currently pending. The CCC has found substantial issue on 2 of these and final action is pending. The others are pending SI determination.

Jurisdiction	Number of Appeals	Number found SI	Percentage found SI
Santa Cruz County	36	17	47%
City of San Diego	35	14	40%
Mendocino County	29	15	52%
Pismo Beach	26	14	54%

Figure 1-2: CCC Actions on SLO Appeals through November 2000



In reviewing the appeals where Substantial Issue was found, some issues were raised more often than others. Of the appeals determined to raise a substantial issue, public access and availability of services to support development were the issues raised most often.

Table 1-2: Frequency of Issues Raised in SLO Appeals where SI Found

Issues Raised in SI Appeals	Number of Appeals	% of 22 SI Appeals
Access	9	41%
Sewage / Water Capacity	9	41%
Scenic and Visual / Landform Alteration	7	32%
ESHA - Other	7	32%
Agriculture	6	27%
Concentration / Location / Intensity of Development	6	27%
Recreation / Visitor Serving	5	23%
ESHA - Wetlands	5	23%
Water Quality/ Polluted Runoff	4	18%
Hazards	3	14%
Shoreline and Streambank Structures / Alteration / Processes	3	14%
Archaeological / Paleontological	2	9%

Issues Raised in SI Appeals	Number of Appeals	% of 22 SI Appeals
Other	2	9%
Special Communities	1	5%
Traffic / Transit / Road Capacity	1	5%
Parking	1	5%

Public Participation

Following the Commission’s December 1999 decision to review the SLO LCP, the Commission staff held initial start-up meetings with County staff. On February 1, 2000 initial public workshops were held in cooperation with County staff. The purpose of the workshops was to discuss the LCP review process with the public and to solicit comments on any planning, development, access, or resource protection issues that may have arisen since certification of the City's Local Coastal Program. Results of these initial workshops were summarized for the Commission in March, 2000. In addition, Commission staff met with County staff and members of the community on various issues of concern related to key development projects or LCP Area Plan Updates during the review process. Commission staff workload and time constraints precluded more extensive coordination with the county staff as initially envisioned. Therefore, this Preliminary Staff Report and Recommendation is intended to initiate a more extensive public comment period. A final report and recommendations will be submitted to the Commission for action following the completion of the public comment period and staff’s final analysis.

Organization of the LCP

In reviewing this report it is helpful to understand how the San Luis Obispo County LCP is structured. The programs, policies, ordinances, and standards of the San Luis Obispo County LCP intended to carry out Coastal Act policies can be found in the Framework Document, the Coastal Plan Policies document, LCP Ordinances (including the Coastal Zone Land Use Ordinance (CZLUO) and other related ordinances), and four Area Plans. These Area Plans are: North County, Estero, San Luis Bay and South County. (See Map 1-A).

In general, the Framework Document contains goals and Table “O”, which defines allowable land uses in each Land Use category. The Coastal Plan Policies Document provides general coastal protection policies that are implemented by more specific zoning ordinances. The Planning Area Standards, contained in each of the four Area Plans, contain the most specific standards, as they have been designed to address the particular characteristics of distinct geographic areas of the county.

The LCP also includes “Official Maps”, reduced versions of which can be found in each of the area plans. These include Zoning designations, including “Combining Designation” maps that delineate where special combining designation standards, such ESHA protection policies, apply.

The various LCP provisions are divided into 2 different categories:

- **Programs** are non-mandatory actions that may be initiated by the county or other identified public agency to achieve specific community or areawide objectives. County implementation of programs is based on consideration of community needs and support for the program and its related cost. Notwithstanding their advisory nature, the LCP Programs provide important recommendations regarding coastal management.
- **Standards** are mandatory requirements for development planning and construction. They are found in the Coastal Plan Policies Document, the various ordinances that are a part of the LCP (particularly the Coastal Zone Land Use Ordinance), and the four Area Plans.

The LCP establishes the following hierarchy for the application of LCP standards:

- **Policies Implemented by Ordinance.** Most LCP policies are implemented by a corresponding ordinance referenced at the conclusion of the policy. Because the ordinances are typically more specific than the policies they are intended to implement, the LCP provides that ordinances supersede policies in the event of a conflict.
- **Ordinances.** Ordinances apply Land Use Element policies to land development. In addition to implementing policies, the LCP ordinances also establish important procedures for the review of projects as well as procedures for adjusting, waiving, and granting variances to these ordinances. In addition, ordinances are superseded by LCP “Standards” (see below) if there is a conflict between an ordinance and standard.
- **Policies that are Standards.** Where a Coastal Plan Policy or portion thereof, is not implemented by a specified ordinance and is not a Program, it is considered to be a standard. Policies that are standards represent mandatory requirements for new development that can only be superseded by standards contained in the four Area Plans (see below).
- **Planning Area Standards.** The Planning Area Standards contained in each of the four Area Plans were developed to address the particular circumstances and unique resources of the specific urban and rural planning areas. Therefore, they are at the top of the LCP’s regulatory hierarchy, and represent mandatory requirements for new development that supersede all other policies and ordinances in the event of conflict.

A Note on Some of the Data Used in the Report

The primary data for reviewing the implementation of a Local Coastal Program are the permits acted on since certification. This includes both permits authorized by the local government and by the Commission on appeal from a local decision. A variety of new and revised environmental studies and other information regarding protection and management of coastal resources are also considered.

In this SLO LCP review, the Commission staff relied on two main sources of data for reviewing permit actions: the county’s records of permit actions and the database developed by the Commission staff of all post-certification Final Local Action Notices (FLANs) which the county

is required to file with the Commission pursuant to the LCP implementation regulations. The Commission staff collected data for actions from the 1988 date of certification through 1998, and also a few key cases from 1999 and 2000.² But both of these sources had limitations that made it difficult to compare the permit information and to compile a complete and consistent dataset of post-certification actions. In general, unless the county data is specifically noted, the Commission's database is the primary information relied on in the evaluation.

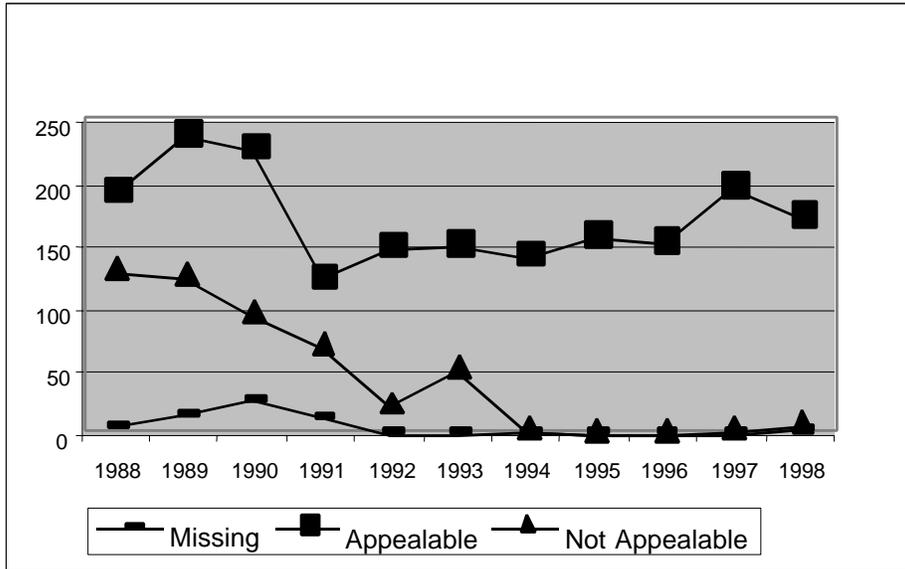
The limitations of each database vary. Both sources tracked data somewhat differently. For example, both contain a field for project description but the county data "Description" field is very general. It identifies projects using only terms such as "development project", "subdivisions project", "ag exempt building", "fast track ag" or "front counter projects". Therefore the county data was not as useful in understanding the number or location of different *types* of development authorized. The Commission database contained both a full project description as well as a field categorizing "development type". Also, neither database tracks whether the development actually was built, although the county database does track that a permit was issued. And, the county's database contains duplicate entries for the same project and makes entries for actions that may not necessarily be a coastal development permit. For example, there are entries for "Hazard tree determination"; "land use violations", "zone clearances", and "Area Plan Updates.

However, while the Commission database contained more specificity, it contains only the actions for which Final Local Actions Notices were submitted by the County and therefore does not represent a total picture of development authorized. For example, it does not include exemptions or development excluded from permits. In addition, in the time following certification, the County initially notified the Commission on *all* permit actions – both appealable and non-appealable, but early in the 1990s, the county began to submit FLANs for only *appealable* development.³ As noted in Figure 1-3, there is some error inherent in the numbers presented in the review. It appears that from 1988 through 1993 the ratio of non-appealable projects to total projects varies from about 40% to around 13%. After 1993 there are, on average, 27% fewer reported items. Thus it appears that in this LCP review the coastal permit data evaluated using the Commission's database is an estimate only and likely represents an *underreporting* of actual permits issued. The number is likely to be closer to 2700 instead of the 2480 reported.

² As FLANs were continually submitted, development of a database was a moving target. Entering data into the database is also an extensive time commitment, for which the Commission has no permanent, dedicated staffing resources. In order to begin project analysis, it was necessary to define limits to data entry. Since database development started in 1999, it was decided to have a complete data set through the end of 1998 and supplement it with identified cases from 1999 and 2000.

³ The LCP Implementation regulations section 13568 requires notice of nonappealable projects only when the project requires a public hearing under the local ordinances and the project is not categorically exempt.

Figure 1.3: Appeal Status of Reported CDPs, 1998-1998



As the Commission staff found in previous projects, an LCP evaluation is more difficult because of the lack of good, consistent monitoring data⁴. Because of these limitations, in reporting actions where both databases were consulted, the staff may, in some cases, present the data as a range. And, the Commission staff did not rely solely on either database, but focused evaluation in most cases on general assessments of trends, major case examples and other information gathered in order to document the overall effects of LCP implementation. This review reinforces the need to improve coordinated and consistent monitoring; the Commission will continue to work with the county to address these issues.

REGIONAL OVERVIEW

San Luis Obispo County is a rural county along California's scenic Central Coast, with roughly 100 miles of shoreline and a wealth of significant natural resources and agricultural lands. Urban development is concentrated in the communities of San Simeon Acres, Cambria, Cayucos, South Bay-Los Osos, Avila Beach and Oceano. The unincorporated county area abuts the incorporated cities of Morro Bay, Pismo Beach and Grover Beach, all of which have certified LCPs. (Map 1-A: General Regional Location Map). Coastal transportation access is provided by the north-south routes of Highway 1 and 101 and the east-west routes of Highways 46 and 41. The County is divided into four areas for LCP purposes: The North Coast, Estero Bay, San Luis Bay and

⁴ CCC, *Regional Cumulative Assessment Project Pilot Project, Findings and Recommendations, Monterey Bay Region*, September 1995, pgs.147-157.

South County. Each of four planning areas in the county is distinguishable by their own unique character and resources.

The North Coast Area extends from the Monterey/San Luis Obispo County line on the north to Point Estero on the south. It is a rural, pristine landscape, and forms a natural extension of the Big Sur coastline. The forested Santa Lucia Mountains form the backdrop and numerous perennial streams flow across narrow, grassy marine terraces. The shoreline is predominately rocky with prominent headlands at Ragged Point, Point Sierra Nevada, and Piedras Blancas. Highway 1 parallels the shoreline and runs through the large rural grazing landholdings of the Hearst Ranch, south to the gradually broadening coastal terrace and small communities at San Simeon Acres and Cambria. Small-scale tourist facilities are located along Highway 1, along with the Hearst Castle, a State Park and a major visitor destination.

In the Estero Bay Area, Morro Bay is at the midpoint of the County coast, and its watershed and estuary is a significant natural resource. South of Morro Bay, Montana De Oro State Park provides access to a largely undisturbed landscape, rare geologic formations, and remote canyons. The coast south of the headland of Point Buchon is virtually inaccessible as far as the northern rim of San Luis Bay, except for limited trail access at the Pecho Coast trail near the Diablo Canyon Nuclear Power Plant. At Morro Bay Highway 1 turns inland, skirting the northern flanks of the seven volcanic peaks, referred to as the "Seven Sisters," that forms a chain southeast to the city of San Luis Obispo. From the city of San Luis Obispo, Highway 101 joins Highway 1, which turns west again and reaches the coast at San Luis Bay. The San Luis Bay Area extends from Montana de Oro on the north to the Nipomo Mesa on the south and includes the "Five Cities" urban areas of Pismo Beach, Grover Beach, Arroyo Grande, Oceano and Halcyon, the urban area of Avila Beach, Port San Luis and rural agricultural lands.

The South County Area extends from the edge of the incorporated cities of Pismo Beach and Grover Beach on the north to the Santa Maria River on the south. In this area the coast broadens into a wide plain edged with sandy beaches, extensive dune systems and rural agricultural lands. This area contains the Nipomo/Guadalupe Dunes and the Ocean Dunes State Vehicular Recreation Area.