ADOPTED

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STAFF REPORT: REGULAR CALENDAR

Application No.:	**SLO-1-10**
Applicant:	**County of San Luis Obispo**
Location:	Countywide
Project Description:	Proposed major amendment to the San Luis Obispo County certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's August, 2012 meeting. The amendment updates the LCP's stormwater and grading ordinances.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to amend both its certified Land Use Plan (LUP, or Coastal Plan) and its certified Implementation Plan (Coastal Zone Land Use Ordinance, or CZLUO) to include new stormwater and grading requirements. The amendment is to comply with the County's Phase II National Pollutant Discharge Elimination System (NPDES) permit and includes a new stormwater management section and a repeal/replacement of the existing grading ordinance.

The proposed LUP amendments are minor in scope and include changes to the Coastal Plan's Coastal Watershed and Visual and Scenic Resources policies that update the references to the implementing ordinances to reflect changes to section numbers and titles, as modified by the proposed IP changes. The amendment also proposes to add a new standard to the North Coast Area Plan by clarifying that all new development and redevelopment within the Lodge Hill area of Cambria is subject to the IP's proposed Stormwater Management ordinance. The LUP amendments, as proposed, clarify and enhance the LCP's water quality protection policies and are adequate to carry out applicable Coastal Act policies. Therefore, Staff recommends the Commission certify the proposed LUP amendments, as submitted.

The proposed IP amendments also relate mostly to water quality protection, and generally enhance the LCP's existing ordinances. The stormwater ordinance adds a new section to the CZLUO to implement the Design Standards for the NPDES General Permit to control stormwater runoff from new development projects. The ordinance also describes the types of development subject to the stormwater provisions, including single-family residences that involve any site work on slopes of 10 percent or greater, gas stations, restaurants, and certain parking lots. These developments are required to prepare a Stormwater Quality Plan that includes a description of Best Management Practices (BMPs) in order to reduce pollutant loadings in stormwater runoff to the maximum extent practicable. Additionally, projects subject to the stormwater ordinance would be required to prepare a Drainage Plan that incorporates BMPs to match post-development stormwater discharge rates as closely as possible to the estimated pre-development discharge rates, and an Erosion and Sedimentation Control Plan that includes both construction and post-construction phase BMPs that eliminate the potential of slopes and channels from eroding and impacting stormwater runoff, watercourses, ESHA, and/or ocean waters. Additionally, any project subject to a Grading Permit, construction permit, or subdivision, and which results in site disturbance of one acre or more, is required to submit a Stormwater Pollution Prevention Plan (SWPPP).

The grading ordinance sets forth standards to control all grading, excavations, and earthwork; establishes a tiered permitting/review system for compliance and implementation of those standards; and defines what types of development are subject to the appropriate permit/review. Unless exempt, all grading requires a Grading Permit. The Grading Permits are to be accompanied by a Grading Plan, which includes general site information, work schedule information, existing topography, volume of earth removed, finish elevations, site improvements and locations of surface and subsurface drainage, and description of soils. Some projects would also be required to submit a Drainage Plan, an Erosion and Sedimentation Control Plan, a Stormwater Pollution Prevention Plan, and an Engineered Grading Plan. Some types of projects are exempt from Grading Permits, including flood control maintenance, vegetation clearance for fire safety, and restoration projects. Additionally, in non-appealable areas of the coastal zone, the ordinance exempts from Grading Permits grading for ongoing food and crop production and grazing on lands that have been cultivated in the past 10 years, as well as certain new agricultural projects and associated agricultural infrastructure. Instead, these projects may be reviewed under the Alternative Review Program, which allows the applicant to obtain an administrative CDP from the County, as well as technical assistance, inspection, and sign-off by either the Natural

Resources Conservation Service or the Resource Conservation District that the grading performed meets sound land management standards.

In general, the stormwater and grading ordinances enhance the requirements of the certified IP to ensure water quality and other coastal resources are protected consistent with LUP requirements. However, certain modifications are necessary to remove inconsistencies with Coastal Act permitting requirements, and to ensure LUP policies related to water quality, ESHA, agriculture, hazards and visual resources are clearly and adequately carried out in all instances. Specifically, **Suggested Modification 1** addresses the County's current broad CDP exemption for crop production and grazing, which is inconsistent with Coastal Act requirements, by limiting the exemption to ongoing crop production and grazing. In addition, **Suggested Modification 8** clarifies, as intended by the proposed amendment, that all grading, even if it is otherwise exempt from the grading ordinance, requires CDP approval. Finally, various other modifications, including Suggested Modifications 3, 18, and 21, remove certain projects with high potential for water quality and ESHA impacts from the ordinance's exemption list; while Suggested Modifications 2, 16, and 17 expand the ordinance's applicability to all projects in and adjacent to sensitive coastal resources. The suggested modifications will ensure that the ordinance is consistent with and adequate to carry out relevant policies of the Coastal Act and the County's certified LUP policies.

Therefore, Staff recommends denial of the IP amendment as submitted, and approval with modifications designed to ensure appropriate CDP requirements are implemented and to ensure clear and adequate protections for coastal resources, including water quality and ESHA. As modified, the proposed amendment can be found consistent with and adequate to carry out the LUP, and Staff recommends that the Commission **approve** the IP amendment with suggested modifications.

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EXHIBITS

Exhibit A: Board of Supervisors Resolution
Exhibit B: Proposed Coastal Plan Policy Amendments
Exhibit C: Proposed Stormwater and Grading Ordinance
Exhibit D: Proposed Stormwater and Grading Ordinance with Suggested Modifications

I. MOTION AND RESOLUTION

Motion (1 of 3):

*I move that the Commission **certify** Land Use Plan Major Amendment SLO-1-10 as submitted by the County of San Luis Obispo.*

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

Resolution:

Resolution to Certify Land Use Plan as Submitted. The Commission hereby certifies Land Use Plan Major Amendment 1-10 as submitted by the County of San Luis Obispo and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

Motion (2 of 3):

*I move that the Commission **reject** Implementation Plan Major Amendment Number 1-10 as submitted by the County of San Luis Obispo.*

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

Resolution:

Resolution to Deny. The Commission hereby denies certification of Implementation Plan Major Amendment Number 1-10 as submitted by the County of San Luis Obispo and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation

measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

Motion (3 of 3):

I move that the Commission ***certify*** *Implementation Plan Major Amendment Number 1-10 if it is modified as suggested in this staff report.*

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

Resolution:

Resolution to Certify with Suggested Modifications. The Commission hereby certifies Implementation Plan Major Amendment Number 1-10 to the County of San Luis Obispo Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Implementation Plan consistency findings. If the County of San Luis Obispo accepts each of the suggested modifications within six months of Commission action (i.e., by February 9, 2013), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in cross-out format denotes text to be deleted and text in underline format denotes text to be added.

1. **Modify subsection 23.03.040.d(9) [crop production exemption] as follows: (9)** Ongoing ~~C~~crop production and grazing where designated allowable by Coastal Table 'O', Part I of the Land Use Element, except where more than one-half acre of native vegetation is proposed to be ~~mechanically~~ removed. Ongoing crop production is limited to grading, planting, and cultivation activities for crop production on land that has been used for crop production, including at a minimum planting or harvesting crops, within at least the previous five years.

and may include preparing a field for crops, repair or restoration of existing fields, and removal of vegetation. Ongoing grazing is limited to range management for livestock production on land where livestock grazing has occurred within at least the previous five years.

2. **Add new subsection 23.04.450.b(9) as follows:** All projects increasing impervious area by more than 2,500 square feet and located within 200 feet of ESHA.

3. **Modify Section 23.04.450.c, as follows:** This Section shall not apply to existing development when there is an application for redevelopment that increases impervious surface area by less than 50%. ~~that results in an increase of less than fifty percent (50%) of the impervious surfaces of a previously existing development if the existing development was not subject to this Section. In this circumstance, this Section shall apply only to the addition, and not to the entire development~~. When 50% or more of a structure is proposed to be redeveloped, this ordinance shall apply to the entire structure.

4. **Modify the Stormwater Ordinance, as follows:**

   Modify Section 23.04.450.g(1), as follows:
   Stormwater Quality Plan (SWQP). In order to demonstrate compliance with this Section, applicants shall complete an SWQP application. Best Management Practices (BMPs) shall be designed to achieve maximum water quality protection, including through Low Impact Development (LID) measures ~~in compliance with the Low Impact Development (LID) Handbook~~.

   Modify subsection 23.04.450.g(3) as follows: Stormwater pollutants of concern. Stormwater runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, trash, paint, ~~and~~ pathogens, etc., to the stormwater conveyance system. The development must be designed so as to minimize the introduction of pollutants that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the stormwater conveyance system as approved by the Building Official. In meeting this specific requirement, "minimization of the pollutants of concern" will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the maximum extent practicable. Pollutants of concern include, but are not limited to, those which ~~consist of any pollutants that~~ exhibit one or more of the following characteristics:

   (i) Current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water.

   (ii) Elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein.

   (iii) The detectable amounts of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

Modify Section 23.04.450.g(4) as follows:
Drainage plan required. All projects subject to this Section shall require preparation of a Drainage Plan, pursuant to Section 23.05.040 . ~~Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak stormwater discharge rate will result in increased potential for downstream erosion.~~ Drainage Plans required under this Section shall incorporate site design Best Management Practices (BMPs) and, if necessary, structural and/or treatment control BMPs in order to match estimated post-development discharge rates as closely as possible to the estimated pre-development discharge rates.

5. **Modify Section 23.04.450.g(5) as follows:** Erosion and sedimentation control plan required. All projects subject to this Section shall require the preparation of an erosion and sedimentation control plan pursuant to Section 23.05.042. Project plans shall include both construction phase and long-term, i.e. post-construction Best Management Practices (BMPs) consistent with this Title to ~~decrease~~ eliminate the potential of slopes and/or channels from eroding and impacting stormwater runoff, watercourses, ESHA and/or ocean waters, including the following:

   (i) Safely convey runoff away from the tops of slopes and stabilize disturbed slopes.

   (ii) ~~Maximize the use of u~~Use natural drainage systems, where appropriate.

   (iii) Stabilize permanent channel crossings.

   (iv) Vegetate slopes with native, ~~or~~ drought tolerant vegetation.

   (v) Design outlets/drains/etc such that erosion of unlined channels, watercourses, wetlands, bluffs or beaches is prevented. When energy dissipaters must be utilized, follow the recommendations and specifications of the BMP Manual to ensure erosion is minimized to the maximum extent practicable. ~~Install energy dissipaters (such as riprap) at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion.~~ Approval of all agencies with jurisdiction (e.g. U.S. Army Corps of Engineers, California Department of Fish and Game, etc.) is required.

6. **Modify Section 23.04.450.g(8)(iii) as follows:** Limited exclusion. Regulated development, restaurants and automobile service stations/gas stations, where the land area for development or redevelopment is less than 5,000 square feet, are excluded from the numerical structural or treatment control BMP design standard requirement only. Such development must still comply with the remaining standards of this section, including the standards of the drainage plan and erosion control and sedimentation plan.

7. **Modify Section 23.04.450.h, as follows:**
   Standards for specific uses.

(1) Outdoor material storage. Where proposed projects include outdoor storage areas for storage of materials that may contribute pollutants to the stormwater conveyance system, the following structural or treatment Best Management Practices (BMPs) are required:

(i) Materials with the potential to contaminate stormwater must be:

(a) placed in an enclosure such as, but not limited to, a cabinet, shed or similar structure that prevents contact with runoff or spillage to the stormwater system; or

(b) protected by secondary containment structures, such as berms, dikes, or curbs.

(ii) The material storage area shall be sufficiently impervious to contain leaks and spills.

(iii) Where secondary containment is necessary, storage area shall have a roof or awning, <u>with gutters to control flows to the ground,</u> to minimize collection of stormwater or other approved method.

(iv) For storage areas involving the storage of motor vehicles, site design shall comply with Section H.5.

<u>(v) Trash storage areas shall comply with the requirements of Section 23.04.280.</u>

(2) Regulated development. Regulated development, as defined by this Title, includes, but is not limited to, multi-family <u>residential</u>, commercial, institutional, and light industrial developments. Regulated development with cumulative impervious square footage of 100,000 square feet or more is subject to the following requirements:

(i) Loading/unloading dock areas. To minimize the potential for material spills to be transported to the stormwater conveyance system, the following is required:

(a) Loading dock areas shall be covered, or drainage shall be designed to minimize run-on or runoff of stormwater.

(b) Connections to storm drains from depressed loading docks (truck wells) are prohibited. An approved structural source control measure and/or treatment control measure shall be used to prevent stormwater pollution.

(ii) Repair/maintenance bays. To minimize the potential for oil/grease, car battery acid, coolant, and gasoline to be transported to the stormwater

conveyance system, design plans for repair/maintenance bays shall include the following:

(a) Repair/maintenance bays shall be indoors or designed in such a way that does not allow stormwater run-on or runoff.

(b) The drainage system for the repair/maintenance bays shall be designed to capture all washwater, leaks, and spills. Drains shall be connected to a sump for collection and disposal. Direct connection to the storm drain system is prohibited. If required by the Regional Water Quality Control Board, an Industrial Waste Discharge Permit shall be obtained.

(iii) Vehicle/equipment wash areas. An area for washing/steam cleaning of vehicles and equipment shall be included on the plans. To minimize the potential for metals, oil/grease, solvents, phosphates, and suspended solids to be transported to the stormwater conveyance system, the area for washing/steam cleaning of vehicles and equipment shall be designed <u>to prevent any wash waters from running off and entering the storm drain system(s) and</u> to the following specifications:

(a) Self-contained and/or covered, equipped with a clarifier, or other pre-treatment facility; and

(b) Properly connected to a sanitary sewer or other appropriately permitted disposal facility.

8. **Clarify that CDP authorization is required in addition to grading permit authorization, as follows:**

23.05.024. ...Agricultural grading, whether exempt or required to be permitted by the Grading Ordinance, <u>requires CDP authorization, but</u> may be exempted from NPDES Phase II requirements, pursuant to Section 23.05.044.b(3)....

23.05.028. ...<u>In addition to the requirements of the Grading Ordinance, all grading activities require CDP authorization, except those that are exempt from CDP requirements pursuant to Section 23.03.040(d). Where a grading permit application proposes a project that is not otherwise subject to land use permit requirements of Chapters 23.03 or 23.08 or other applicable sections of this Title, grading permit approval certifies that the proposed project will satisfy applicable provisions of this Title and thereby constitutes approval of a Coastal Development Permit. Where a grading permit or application for coverage under the Alternative Review Program is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033. Authorization of an Alternative Review Form to permit Alternative Review grading, pursuant to Section 23.05.034, shall occur only when the Director finds that the project is in compliance with all applicable sections of this Title, the Local Coastal Program and the</u>

California Coastal Act. Such authorization shall constitute a CDP plot plan pursuant to Section 23.02.030(f) and shall be appealable to the Coastal Commission, where applicable. Grading activities are not exempt from grading permit requirements under Subsections 23.05.032.b and 23.05.032.c in the coastal zone, except under the following circumstances: (i) A prior coastal development permit has been issued for the proposed activity; or (ii) The activity is not considered development under Section 23.03.040.a. (iii) Activities which are described in Subsections (i) and (ii) may be authorized through the Alternative Review Process (Section 23.05.034), where authorization for alternative review constitutes issuance of a coastal development permit...

23.05.032. Note: While the activities under this section are exempted from a grading permit for the purposes of this County's ordinance, they are not exempted from coastal development permit requirements. In addition, the owner and/or applicant should understand that permits may be required by other regulatory agencies, including, but not limited to, the California Department of Fish and Game, Regional Water Quality Control Board, Army Corps of Engineers, U.S. Fish and Wildlife Service, or the California Department of Forestry (Cal Fire)...

23.05.032.a

...

(4) Grading activities are not exempt for any site work occurring within 100 feet of ~~mapped~~ Environmentally Sensitive Habitat Area...except under any of the following circumstances:

(i) A prior land use permit and coastal development permit have been issued for the proposed activity and are still valid; or

(ii) The activity is not considered development under Section 23.03.040.a ~~or is needed to accommodate a use that is exempted from land use permits and coastal development permits under Section 23.03.040.d.~~

(5) Grading activities are not exempt from grading permit requirements under Subsections b and c in non-appealable areas, except under the following circumstances:

(i) A prior coastal development permit has been issued for the proposed activity; or

(ii) The activity is not considered development under Section 23.03.040.a or ~~is needed to accommodate a use that is exempted from land use permits and coastal development permits under Section 23.03.040.d.~~

(iii) Activities which are described in Subsections b and c may be authorized through the Alternative Review Process (Section 23.05.034), where authorization for alternative review constitutes issuance of a coastal development permit.

23.05.032.b. Exempt grading. The following grading does not require a grading permit if it meets the minimum requirements of Section 23.05.032.a…

23.05.032.c. This Subsection may apply~~ies~~ to agricultural grading…Exempt agricultural grading must meet the minimum requirements to determine exempt status in 23.050.32.a…

23.05.034 Note: While the activities under this section are exempted from a grading permit for the purposes of this County's ordinance, they are not exempted from coastal development permit requirements. In addition, the owner and/or applicant should understand that permits may be required by other regulatory agencies, including, but not limited to, the California Department of Fish and Game, Regional Water Quality Control Board, Army Corps of Engineers, U.S. Fish and Wildlife Service, or the California Department of Forestry (Cal Fire)…

…

Authorization of an Alternative Review Form shall occur only when the Director finds that the project is in compliance with all applicable sections of this Title, the Local Coastal Program and the California Coastal Act. Such authorization shall constitute a plot plan pursuant to Section 23.02.030(f) and shall be appealable to the Coastal Commission, where applicable.

9. **Modify the definition of grading in 23.05.030(a), as follows:** Grading. For the purposes of the Grading Ordinance, "grading" is defined as all ~~new~~ earthwork, ~~that~~ which may involve~~s~~ one or more of the following activities: excavations, cuts, fills, dams, reservoirs, levees, impoundments, diking, dredging, borrow pits, stockpiling, compaction of fill, or removal of vegetation. Although they may constitute grading, c~~C~~ultivation activities, including disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling are not considered grading for purposes of this grading ordinance and are not regulated under this ordinance. This exception for cultivation activities does not affect the LCP's definition of grading nor does it apply to any other sections of the LCP. A grading permit is required ~~in any of the following cases,~~ unless the project qualifies for an exemption or constitutes agricultural grading as set forth in Section 23.05.032, or unless the project goes through the alternative review process as set forth in Section 23.05.034.~~:~~

   ~~(1) 50 cubic yards. The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities exceeds 50 cubic yards.~~

   ~~(2) Work in a watercourse. The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned operations exceeds 20 cubic yards and involves altering or obstructing a drainage way or watercourse.~~

   ~~(3) Removal of vegetation. Projects which would involve more than one acre of vegetation removal.~~

~~Vegetation removal is calculated based on the total area of a site which will lack soil cover (i.e. "bare soil") at any given time. Areas subject to previous vegetation removal are not included in this calculation where permanent revegetation has already achieved a minimum of 70 percent coverage.~~

~~Note: The grading thresholds specified in Subsections a(1) and a(2) above are to be measured cumulatively for each project. A project may not be broken down into smaller components with the intention of avoiding a grading permit. Activities progressing towards a common endeavor are considered a single project.~~

Add the following to 23.05.030.b(2):

Slopes. Grading shall be limited to slopes of less than 20 percent, except where any of the following occur:

Modify section 23.05.030.b(iii):

Agricultural use. ...While ~~this~~ Subsection b(2)(iii) exempts the above agricultural uses...

10. **Add the following subsection to 23.05.032.b (Exempt Grading):**

(1) Projects involving minimal site disturbance. Small projects which adhere to all of the following limitations:

(i) No more than 50 cubic yards. The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the activities described in Section 23.05.030.a is less than or equal to 50 cubic yards.

(ii) Work in a watercourse. If the project involves work which would alter or obstruct a drainage way or watercourse, the amount of material, measured cumulatively (adding together all proposed earthwork) for any of the activities described in Section 23.05.030.a is less than or equal to 20 cubic yards.

(iii) Removal of vegetation. No more than one-half acre of vegetation removal would occur.

Vegetation removal is calculated based on the total area of a site which will lack soil cover (i.e. "bare soil") at any given time. Areas subject to previous vegetation removal are not included in this calculation where permanent revegetation with native plants has already achieved a minimum of 70 percent coverage.

Note: The grading thresholds specified in Subsections b(1)(i) and b(1)(ii) above are to be measured cumulatively for each project. A project may not be broken down into smaller components with the intention of avoiding a grading permit. Activities progressing towards a common endeavor are considered a single

project.

11. **Modify the definition of ongoing agriculture in Section 23.05.032.b(12), as follows:** Ongoing crop production and grazing. Grading for the ongoing production of food and fiber, the growing of plants, and the management of rangeland shall be exempt when all of the following are true:

    (i) For grading activities related to crop production, the proposed grading is limited to preparing a field for a crops, repair or restoration of existing fields, removal of vegetation, and associated drainage improvements on land that has been previously cultivated within the previous five ~~ten~~ years ~~or covered under a conservation plan prepared as part of the Conservation Reserve Program~~. Previously cultivated land shall include any land where the following practices have occurred: disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling. Activities covered under this exemption are not limited to these cultivation practices.

    (ii) For grading activities related to range management for livestock production, the grading is limited to the following activities: vegetation management, such as reseeding, removal, or vegetation modification; or livestock watering systems and associated drainage improvements other than ponds or reservoirs. To qualify for this exemption, these activities shall take place only on land where grazing has occurred within the previous five ~~ten~~ years ~~or on lands covered under a conservation plan prepared as part of the Conservation Reserve Program~~.

    ...

    (v) The grading does not involve construction of or modification to dams, ponds, reservoirs, or roads; however farm roads used for ongoing agricultural operations located entirely within or on the edge of existing fields may be modified or re-oriented under this exemption.

12. **Modify Section 23.05.032.c(2)(i), as follows:** New crop production and grazing. Grading to prepare new land for crop production or grazing purposes, including drainage improvements and vegetation removal, on slopes with a natural gradient less than thirty percent and in areas that are more than 100 feet from any watercourse or ESHA...

13. **Modify Section 23.05.034.a, as follows:**
    a. Alternative review program standards.

    ...

    (2) Within 60 days of County verification that the project qualifies for Alternative Review, the NRCS or RCD shall provide written verification that the project can meet Alternative Review requirements, including compliance with appropriate Field Office Technical Guide (FOTG) management practices. An extension of this period may be approved upon applicant request and agreement by the

Director and the NRCS/RCD. The NRCS/RCD's written determination shall be made and considered by the Director prior to the authorizing a proposed project to proceed under the Alternative Review Program.

...

(5) For projects involving roads or ponds, the Agricultural Commissioner's office shall make a written determination that the extent of the existing agricultural use or a proposed agricultural use of the property justifies the need for the road or pond. The Agricultural Commissioner may consider such features as length, width, capacity, and extent of the proposed road or pond in determining whether it is justified. The Agricultural Commissioner's written determination shall be made and considered by the Director prior to the authorizing a proposed project to proceed under the Alternative Review Program.

14. **Modify 23.05.036.c, as follows:**

(1) Correction to hazardous condition... Corrections, remedies, and repairs made necessary by a hazardous situation may be made as required before permits are applied for or issued, at the discretion of the Director and pursuant to the procedures for emergency permitting as set forth in Section 23.03.045. Upon receipt of written notice from the Director, the owner or agent shall within the period specified therein:

...

(ii) Comply with the requirements of this Code, which may entail preparation of a grading plan, erosion and sedimentation control plan, Stormwater Pollution Prevention Plan, and obtaining any necessary permits, including emergency permits.

(2) Emergency work. Section 23.03.045 establishes the procedures for issuance of emergency permits in situations that constitute an emergency. Corrections, remedies and repairs made necessary by an emergency situation involving the sudden, unexpected occurrence of a break, rupture, flooding or breach of an existing facility which presents an immediate threat to life, health or property, may be made as required before the grading permits are applied for or issued, in compliance with the standards in Section 23.03.045.

...

(vi) If the engineer of record identifies a potentially hazardous condition as a result of the unpermitted site work, the engineer may recommend pursuing emergency permits for immediate remedial action subject to Subsection c(1).

(vii) In the event that no grading permit or land use permit can be issued for such operations, the site shall be restored to an acceptable condition as determined by the Director under a restoration permit pursuant to Subsection c(4).

(4) Denial of unpermitted grading and site restoration.

15. **Modify 23.05.036.e(2)(xii), as follows:** Groundwater recharge measures ~~if the project site is known as a valuable groundwater recharge area~~.

16. **Modify 23.05.040.a(8), as follows:** Involves land disturbance or placement of structures within 200 ~~100~~ feet of the top bank of any watercourse ~~shown with a blue line on the most current USGS 7 ½ minute quadrangle map.~~

17. **Modify 23.05.042.a(2)(iv), as follows:** Within ~~100~~ 200 feet of any watercourse ~~shown on the most current 7 ½ minute USGS quadrangle map.~~

18. **Modify 23.05.040.b, as follows:** Exemptions. Preparation of a drainage plan is not required where grading is exclusively for ~~an exempt agricultural accessory structure,~~ crop production, or grazing. Drainage plans may also be waived where ~~authorized by~~ the Public Works Director has determined that there is no potential for adverse impacts.

19. **Modify 23.05.040.d, as follows: Drainage plan content.** Drainage plans shall be legible and accurately drawn, at an appropriate scale that will enable ready identification and recognition of submitted information. Drainage plans shall be developed in conformance with the drainage standards in section 23.05.048.b....

20. **Modify Section 23.05.040.d(1)(vi), as follows:** For projects where the Director or Public Works Director determines that increased discharge rates and durations could result in off-site erosion or other impacts to beneficial uses, the project shall incorporate appropriate site design Best Management Practices (BMPs) and, if necessary, structural and/or treatment control BMPs in order to match estimated post-development discharge rates as closely as possible to the estimated pre-development discharge rates ~~hydromodification measures as identified in the Low Impact Development (LID) Handbook~~. Such measures shall be clearly depicted on the drainage plan.

21. **Modify Section 23.05.042.a(2), as follows:** Site disturbance activities. Any site disturbance activities involving removal of one-half acre or more of ~~native~~ vegetation...

22. **Modify Section 23.05.042.d, as follows:** Erosion and sedimentation control plan content. ...The plan shall be in conformance with the erosion and sedimentation standards in Section 23.04.048.c.

    The plan shall consist of graphic and narrative information of sufficient clarity to indicate the nature, extent, location and placement recommendations (including installation procedures and requirements) of the erosion and sedimentation control measures proposed and show in detail that they will conform to the provisions of the Grading Ordinance and the LCP.

    ...

    (3) Estimates of sediment yields before, during, and after construction of the project for a three year period or until revegetation with native plants is established. (One acceptable method is the "Universal Soil Loss Equation" developed by the USDA Agricultural Research Service.)

...

(8) Proposed methods, application technique, seed and fertilizer rate, sequence, and description of final erosion control practices for native revegetation of all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity, unless covered with impervious or other improved surfaces authorized by the approved plans. A schedule for maintenance and upkeep of revegetated areas shall be included. To the extent feasible, non-structural erosion techniques must be ~~utilized~~ used to control run-off and reduce sedimentation. ~~Erosion control methods may include a combination of approved mechanical or vegetative measures.~~

23. **Modify Section 23.05.044.e, as follows:** County SWPPP review. At the discretion of the Director and/or Building Official, the County may review and request modifications or amendments to the SWPPP in order to ensure compliance with the County Code and/or the General Construction Permit requirements. At the Director's discretion, a SWPPP may be required to be submitted as part of any discretionary permit review, where a project will meet the thresholds of Subsection a, and where such information is needed to ensure all construction and post-construction measures are appropriately evaluated pursuant to the California Environmental Quality Act (CEQA) and consistent with the LCP.

24. **Modify Section 23.05.048.a(4), as follows:** Grading, vegetation removal, and other landform alterations shall be minimized on sites located within ~~areas determined by the Planning Director to be a~~ public view corridors ~~from collector or arterial roads~~...

25. **Modify Standards in 23.05.048, as follows:**

    Modify Section 23.05.048.b(23), as follows: Hydromodification control. If the Director or Public Works Director has determined that the project could cause off-site erosion or adverse impacts to beneficial uses as a result of an increase in runoff rates and/or duration, the project shall incorporate site design Best Management Practices (BMPs) and, if necessary, structural and/or treatment control BMPs in order to match estimated post-development discharge rates as closely as possible to the estimated pre-development discharge rates. ~~hydromodification control measures in compliance with Low Impact Development (LID) Handbook requirements~~.

    Modify Section 23.05.048.d(2)(iii)(a)(5), as follows: An implementation schedule for corrective actions that describes the actions taken to eliminate or reduce the pollutants causing or contributing to the exceedance.

26. **Modify Section 23.05.050.a, as follows:** Modifications to approved plans. No work based upon any modifications to the approved plans shall proceed unless and until such modifications have been approved by the Building Official, and where applicable, the County Public Works Department, and any necessary permits or permit amendments have been obtained. The proposed change shall not result in greater environmental impacts than those considered in the approved environmental document.

27. **Modify the definition of Excavation in Section 23.11.030, as follows:** Excavation. Any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting thereof. ~~Excavation excludes activities associated with crop production, such as cultivation, disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.~~

28. **Add the definition of Maximum Extent Practicable to Section 23.11.030, as follows:** Maximum Extent Practicable (MEP). A standard for water quality Best Management Practices (BMPs) established as part of the National Pollutant Discharge Elimination System (NPDES) that requires consideration of technical feasibility, cost, and benefit derived. The burden of proof is on an applicant to demonstrate compliance with MEP by showing that a BMP is not technically feasible or that BMP costs would exceed any benefit to be derived.

29. **Throughout the document, delete references to the LID Handbook, as shown on Exhibit B and including deleting Sections 23.04.450.g(9), 23.05.026.b, and 23.11.030, which state:**

    23.04.450.g(9). ~~Hydromodification control. Projects shall comply with the County's hydromodification control requirements, once developed and established in the Low Impact Development (LID) Handbook. Waiver of or modification to the hydromodification control requirements may only be granted as specified in Subsection i.~~

    23.05.026.b. ~~Low Impact Development (LID) Handbook. Low Impact Development requirements shall be imposed, and updated from time to time, by resolution of the Board of Supervisors after a noticed public hearing. Requirements imposed in the LID Handbook shall include any required LID Best Management Practices. Additionally, the LID Handbook may be used to implement other measures as required in the County's Stormwater Management Program. Requirements of the LID Handbook when imposed, shall be a condition of the issuance of permits for, or the approval of, development projects.~~

    ~~23.11.030. **Low Impact Development (LID) Handbook.** The County of San Luis Obispo Low Impact Development Handbook, which has been adopted by resolution of the Board of Supervisors after a duly noticed public hearing. Until such a time as the LID Handbook is adopted, the reference manual(s) identified by the Director of Planning and Building may be used to guide Low Impact Development design.~~

30. **Throughout the ordinance, require native plants where revegetation is required, as shown on Exhibit D.**

31. **Throughout the ordinance, replace references to mapped ESHA with references to all ESHA, as shown on Exhibit D.**

32. **Throughout the ordinance, replace references to streams and blue line streams shown on the latest USGS 7-1/2 minute topographic quadrangle with 'watercourse', as shown**

on Exhibit D.

33. **Renumber sections throughout the document, as necessary, and as shown on Exhibit D.**

34. **Modify Section 23.05.054.a(2) as follows:**
No relief shall be granted unless the relief requested is consistent with the purpose and intent of the Grading Ordinance and does not diminish the environmental, coastal resource, and health and safety benefits that would be obtained in the absence of a grant of relief.

35. **Throughout the document, delete references to the "LID Handbook" and replace them with the following:**

BMPs designed to achieve maximum water quality protection, including through LID measures

III. FINDINGS AND DECLARATIONS

A. Description of Proposed LCP Amendment

The amendment proposes changes to both the Land Use Plan (LUP) and Implementation Plan (IP, or Coastal Zone Land Use Ordinance). Specifically, the LUP amendment proposes minor changes to the Coastal Plan's Coastal Watershed and Visual and Scenic Resources policies by changing the references to the implementing ordinances to reflect changes to section numbers and titles, as modified by the proposed IP changes. The amendment also proposes to add a new standard to the North Coast Area Plan by clarifying that all new development and redevelopment within the Lodge Hill area of Cambria is subject to the IP's proposed Stormwater Management ordinance.

The amendment modifies the Coastal Zone Land Use Ordinance to provide additional regulations for stormwater management and to update existing regulations for grading, drainage, and erosion and sedimentation control, to comply with the County's Phase II NPDES permit. With regard to stormwater regulations, the amendment adds a new Stormwater Management ordinance (See Section 23.04.450), and a requirement for a Stormwater Pollution Prevention Plan (SWPPP) (See Sections 23.05.044 and 23.04.048.d, within the Grading Ordinance) and it repeals and replaces sections of the existing CZLUO that provide requirements for drainage plans and erosion and sedimentation control plans (See Sections 23.05.040, 23.05.042, 23.05.048.b and 23.05.048.c within the Grading Ordinance). With regard to grading, the amendment repeals and replaces the existing grading ordinance with a new grading ordinance (See Sections 23.05.020 through 23.05.058).

A brief description of the major sections of the ordinance are as follows:

Section	Title	Description
23.04.450	Stormwater Management	In conformance with the County's Phase II NPDES permit requirements, requires additional water quality protections for priority

		level projects.
23.05.020 – 23.05.058	**Grading Ordinance**	
23.05.028	Grading Permit Required	Explains when a grading permit is required.
23.05.030	Grading	Defines grading for the purposes of the grading ordinance; explains grading permit requirements; restricts grading adjacent to ESHA
23.05.032.a	Exemptions from Grading Permits – Minimum requirements to determine exempt status	Clarifies that although some grading is exempt from grading permit requirements, it is not exempt from CDP requirements unless it is not considered development or is otherwise exempt from CDP requirements pursuant to the certified LCP.
23.05.032.b	Exemptions from Grading Permits – Exempt grading	Specifies grading that is exempt from grading permit requirements. Many of the items are carried over from the existing certified grading ordinance.
23.05.032.c	Exemptions from Grading Permits – Agricultural grading	Defines agricultural grading that is exempt from grading permit requirements. It includes a section requiring agricultural management measures and practices that prevent off-site drainage and erosion and sedimentation impacts, as well as effective erosion and sedimentation control measures such as revegetation.
23.05.034.a.	Alternative Review Program – Alternative review program standards	Clarifies that projects must obtain any necessary CDPs, and that if the Alternative Review process is the only approval required, besides a CDP, then the Planning Director's review and approval of the project functions as a Plot Plan, and thereby constitutes approval of a CDP and is appealable to the Coastal Commission, where applicable.
23.05.034.b	Alternative Review Program – Projects allowed under the alternative review program	Identifies projects that may be reviewed under the Alternative Review Program. The Alternative Review Program was developed in coordination with the RCD/NRCS, and is structured similar to the RCD/NRCS Partners in Restoration program which has been implemented in various coastal counties in California through a Master CDP.
23.05.036	Review, Approval and Permits	Outlines the process for review and approval of grading permits and components of grading permits, such as drainage and erosion control and sedimentation plans.

23.05.038	Grading Plan Requirements	Identifies requirements for who can prepare a grading plan, what the grading plan must contain and when engineered grading plans are required.
23.05.040	Drainage Plan Required	Identifies when a drainage plan is required and what the plan must contain.
23.05.042	Erosion and Sedimentation Control Plan Required	Identifies when an erosion and sedimentation control plan is required and what it must contain.
23.05.044	Stormwater Pollution Prevention Plan (SWPPP) Required	Identifies when a SWPPP is required and what it must contain.
23.05.046	Groundwater Recharge	Requires all projects that require a grading permit to include groundwater recharge elements to mitigate the impacts on recharge caused by the reduction of permeability in soil areas on the site.
23.05.048.a	Standards – Grading standards	Specifies standards that grading plans must conform to.
23.05.048.b	Standards – Drainage standards	Specifies standards that drainage plans must conform to.
23.05.048.c	Standards – Erosion and sedimentation control standards	Specifies standards that erosion and sedimentation control plans must conform to.
23.05.048.d	Standards – SWPPP standards	Specifies standards that SWPPPs must conform to.
23.05.050	Construction procedures	Requires construction to be performed in conformance with the approved plans; limits grading hours; requires air quality controls.
23.05.052 – 23.05.058	Inspections; Request for relief from Ordinance Provisions and Standards; Enforcement and Interpretation; Education and Outreach; Fees	Provides details on inspection requirements; allows grading ordinance requirements to be waived in certain circumstances; provides an enforcement mechanism; provides for a program to educate the public about the ordinance; and provides for permit and plan review fees.

Stormwater Management
The proposed stormwater regulations have four components:

(1) The Stormwater Management ordinance addresses the water quality impacts of completed projects but applies only to specific projects that have a higher potential to cause water quality impacts;

(2) The Drainage Plan requirement addresses water quality impacts of completed projects and applies to almost all new development projects;

(3) The Erosion and Sedimentation Control Plan addresses the water quality impacts of construction and also applies to almost all new development projects;

(4) The Stormwater Pollution Prevention Plan (SWPPP) requirement addresses the water quality impacts of large construction projects.

The Stormwater Management ordinance section identifies the types of projects that are subject to priority review, including single-family residences on slopes of 10% or greater, new development with more than 100,000 square feet of impervious areas, residential subdivisions with 10 or more units, parking lots of 5,000 square feet or greater, gas stations, and restaurants. The ordinance requires these developments to comply with stricter and more specific standards than would be required for other types of development. For example, while it would continue to require the Drainage Plans and Erosion and Sedimentation Control Plans, described below, it would also require additional stormwater standards for five types of development with particular stormwater impacts. For example, outdoor material storage areas must have an enclosure to ensure that materials cannot enter the stormwater system, and areas for washing equipment in restaurants must be equipped with grease traps and connected to the sanitary sewer. This section is in direct conformance with the requirements of the RWQCB's Phase II requirements.

The Drainage Plan requirement applies to almost all new development projects, because it applies to projects that would change the volume or velocity of runoff leaving the site. In addition, the ordinance specifies that the Drainage Plan requirement applies to projects that would disturb more than 20,000 square feet of land, projects on slopes of more than 10% grade, projects that disturb land within 100 feet of the top bank of any watercourse, and projects in the Flood Hazard combining designation, among others. The Drainage Plan standards require these projects to maximize groundwater recharge, to retain natural drainage patterns, to implement BMPs to address polluted runoff, including minimizing impervious surfaces and managing runoff onsite. Together, the BMPs for all Drainage Plans must be designed to treat and infiltrate stormwater runoff up to and including the 85th percentile storm event, and must include measures to minimize post-development loadings of total suspended solids. The Drainage Plan standards also include a requirement for runoff conveyance systems to be capable of carrying the runoff volume of a 25-year storm, and prohibits runoff from causing adverse impacts on sensitive habitat and groundwater resources.

The requirement for an Erosion and Sedimentation Control Plan applies to all new projects that require a building permit or grading permit, or projects that involve removal of more than one-half acre of native vegetation within geologically unstable areas, within 100 feet of any watercourse, or on slopes in excess of 30 percent. The Erosion and Sedimentation Control Plan requires applicants to provide for BMPs to minimize erosion and sedimentation before construction, during construction, and after construction. The ordinance also provides details for appropriate revegetation, installation and maintenance of BMPs, and a requirement that site disturbance has been reduced to the maximum extent practicable.

Finally, the ordinance requires SWPPPs for all projects that require a Grading Permit and/or construction permit and that involve disturbance of one acre or more of land area. Section 23.05.048.d provides the standards for SWPPPs, which prohibit discharge of any material except for stormwater and require BMPs to be used to ensure the RWQCB's water quality standards are not exceeded.

Grading

The new grading ordinance would update the existing grading ordinance to comply with NPDES Phase II requirements. The ordinance prohibits all grading within 100 feet of ESHA, except where a setback adjustment has been granted pursuant to the requirements of the LCP (Section 23.05.030.c). In addition, unless allowed to be authorized under the Alternative Review Program (ARP) in Section 23.05.034, all grading requires a Grading Permit. The ARP does not apply to any projects within 100 feet of ESHA, regardless of whether or not an ESHA setback adjustment has been granted pursuant to the requirements of the LCP (See 23.05.032(a)(4)). Full Grading Permits are to be accompanied by a grading plan. Section 23.05.038(b)(1-8) describes the content to be included in the grading plan, including general site information, work schedule information, existing topography, volume of earth removed, finish elevations, site improvements and locations of surface and subsurface drainage, and description of soils. Some projects would also be required to submit an Engineered Grading Plan, a Drainage Plan, an Erosion and Sedimentation Control Plan, and/or a Stormwater Pollution Prevention Plan.

An Engineered Grading Plan is required for all projects subject to Grading Permits that meet one of the standards listed in Section 23.05.038.c(1)(i-v), including projects that involve 5,000 cubic yards of material, are on slopes greater than 20%, or within 100 feet of ESHA. These projects are required to submit all Grading Plan requirements, plus additional information in the form of a site and drainage report, geotechnical report, and an engineering geology report. Section 23.05.040.a(1-11) describes the projects for which a Drainage Plan is required. The project list is extensive, including projects that increase or decrease runoff volume or velocity on any point of the site, those that involve grading/land disturbance of more than 20,000 square feet, or those that involve hillside development on slopes steeper than 10%. The Drainage Plan is to include the location of all surface waters on the site, existing and proposed contours, the location of all existing and proposed drainage facilities, and estimates of existing and future runoff from the project and methods for reducing the velocity of such runoff.

An Erosion and Sedimentation Control Plan is required for all projects requiring construction and grading permits, as well as for projects that remove one-half acre or more of vegetation in areas with slopes greater than 30 percent, within 200 feet of any watercourse, in highly erodible soils, or in geologically unstable areas. Section 23.05.042.d(1-17) lists the required content of the plan, including an estimation of sediment yields before, during and after construction; a description of proposed pre-, during, and post-construction practices to prevent erosive surface runoff; and a description of both temporary and permanent erosion control BMPs. Finally, a Stormwater Pollution Prevention Plan is required pursuant to Section 23.05.044.a for all projects that require a grading, construction, and/or subdivision permit and that involve disturbance of one acre or greater. Section 23.05.044.f(1-11) describes the required contents of the SWPPP, including a description of potential sources of pollution and proper BMP identification.

Projects that are exempt from Grading Permits are still required to implement proper erosion and stormwater measures. Section 23.05.032(c) exempts certain new agricultural projects and associated agricultural infrastructure from Grading Permits. Instead, these projects, which include grading to prepare new land for crop production/grazing on lands with slopes of less than 30% and in areas more than 100 feet from any watercourse or ESHA may be reviewed under the Alternative Review Program (ARP). Section 23.05.034(b)(1-10) lists the projects that may qualify for this program, including grading for orchard/vineyard planting on slopes greater than 30% and grading for new rangeland management projects on slopes greater than 30%. The ARP includes issuance of an administrative CDP by the County (which may be appealed to the Commission) and allows the applicant to obtain technical assistance, inspection, and sign-off by either the Natural Resources Conservation Service or the Resource Conservation District for assurance that the project will employ sound management practices.

B. Consistency Analysis

1. Standard of Review

The proposed amendment affects the LUP and IP components of the County of San Luis Obispo LCP. The standard of review for the LUP amendments is that they must be consistent with and adequate to carry out the Coastal Act; the standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

2. LUP Amendment Consistency Analysis

a. Applicable Coastal Act Policies

The proposed amendments apply the new stormwater requirements to a specific geologic area. Related Coastal Act policies include:

Coastal Act Section 30231

> *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Coastal Act Section 30240

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those*

areas, and shall be compatible with the continuance of those habitat and recreation areas.

b. Consistency Analysis

The certified Land Use Plan policies reference the corresponding Implementation Plan regulations. Thus, because the Implementation Plan's stormwater and grading regulations are being updated, with new sections being added, any Land Use Plan policy that cites a particular section in the IP must also be updated to ensure that policies and implementing regulations are consistent. For example, Policy 7 of the LUP, which pertains to the siting of new development by prohibiting grading on slopes greater than 20% or within 100 feet of ESHA (with few exceptions), currently states that this policy will be implemented by Section 23.05.034, which is the current IP's Grading Standards regulations. However, to reflect the section changes from the proposed ordinance, Policy 7 now references Section 23.05.030.b(2), which is the proposed ordinance's new section that implements the LUP policy. All of the proposed LUP changes are for consistency purposes, like the example described above, except one proposed amendment that is more substantive. The County proposes to add a new standard to the North Coast Area Plan by requiring all new development and redevelopment in the Lodge Hill area within the Cambria Urban Area to comply with the new Stormwater Management regulations of Section 23.04.450 of the IP. Specifically, the amendment calls for Chapter 7 of the North Coast Area Plan to include a new standard, Standard 11, to ensure that all development within the Residential Single-Family land use category of Lodge Hill be subject to the new Stormwater Management ordinance. The Lodge Hill area is a neighborhood on the south side of Cambria that contains mostly single-family residences. The proposed Stormwater Management ordinance is only applicable to single-family residential units on hillsides of 10 percent slope or greater, as well as residential subdivisions of 10 units or more (Section 23.04.450.b(1 and 6)). While many residences would be subject to the ordinance because of the area's steep slopes, the proposed LUP amendment clarifies that all new and redeveloped single-family residences in Lodge Hill are subject to the stormwater requirements. As discussed previously, the stormwater management ordinance requires applicable projects to prepare a Drainage Plan and an Erosion and Sedimentation Control Plan to control the volume of runoff produced at the site by implementing Best Management Practices, among other requirements. These measures are necessary to ensure water quality and coastal resource protection from adverse impacts caused by excessive grading, erosion, and impervious surfaces. Therefore, clarifying that all residential projects within Lodge Hill are subject to the stormwater ordinance requirements ensures proper consistency with the Coastal Act. Thus, the Commission finds the proposed LUP amendment is consistent with the Coastal Act, as submitted.

3. IP Amendment Consistency Analysis

Permit and Procedural Requirements

CDPs versus Grading Permits

The LCP is structured so that CDP requirements are sometimes implemented in conjunction with other local permits, including potentially grading permits when grading is proposed. In some cases, the grading permit may act as the CDP, but in others the CDP may be processed separately from the grading permit. Thus, the proposed grading ordinance changes must be consistent with the LCP's CDP process, as the grading permits will at times act as the CDP. The grading

ordinance essentially defines the way in which CDPs will be issued when the proposed development consists of grading. Because there is some overlap between grading and other activities that are deemed development, it is also important to ensure that these other activities are not inappropriately subsumed in the grading permit process in a manner that would exclude these activities from CDP requirements (e.g., defining grading to exclude activities that would otherwise constitute development independently). The following analysis addresses these potential problems and describes suggested modifications to ensure that any development for which a CDP is required will continue to be subject to CDP requirements in the grading ordinance.

Grading Ordinance Permit Exemptions

Grading Ordinance Provisions

As described in the amendment description, the proposed grading ordinance defines grading and sets forth various levels of review for grading projects, depending on the type of project proposed. Section 23.05.030.a of the proposed ordinance defines grading as all new earthwork that involves excavations, cuts, fills, dams, reservoirs, levees, impoundments, diking, dredging, borrow pits, stockpiling, compaction of fill, and removal of vegetation. The proposed grading definition excludes cultivation activities, such as disking, harrowing, raking or chiseling, planting, plowing, seeding and other tilling. In addition, the proposed definition would also exclude grading under 50 cubic yards, grading under 20 cubic yards in a watercourse, and removal of under one acre of vegetation from grading permit requirements, and no minimum standards would apply to such grading. Thus, as proposed, by definition grading would not include cultivation activities, and would not include small volumes of grading or vegetation removal, all of which would therefore not be subject to the grading ordinance, as proposed.[1]

For activities that meet the definition of grading, the grading ordinance would apply, and the ordinance provides for several review levels, ranging from exempt activities (with no review) to a process providing for alternative review (including assistance by NRCS or the RCD), to full grading permit review. In terms of exemptions, proposed Sections 23.05.032.b and 23.05.032.c list several types of grading projects proposed to be exempt from grading permits, including public works projects, vegetation clearance for fire safety and various agricultural projects, including water supply projects and grading for crop production. Projects would not be exempt from grading permits if they are within a geologic study and/or flood hazard combining designation, or within 100 feet of ESHA. Further, as stated in proposed Section 23.05.032.a(4), grading activities cannot be exempted from grading permit requirements in the coastal zone, unless a prior land use permit and CDP have been issued for the development. Therefore, where a CDP is required, and there is no prior CDP, all grading projects require grading permit authorization and are subject to the grading ordinance provisions, and cannot be exempt for the other stated reasons in the proposed ordinance. Thus, in the coastal zone <u>all</u> grading (as defined in the proposed ordinance) is subject to the proposed ordinance provisions and CDP authorization requirements.

The CDP process for such grading projects differs for development that is appealable to the Commission versus not. Appealable grading project development must be processed through the

[1] They might be subject to other requirements, like CDP requirements, but would not be subject to the grading ordinance.

standard CDP process. Non-appealable grading project development can be processed through the proposed Alternative Review Program (ARP). The ARP allows applicants to obtain technical assistance, inspection, and sign-off by either the NRCS or the RCD. An Alternative Review Form must be completed and submitted to the County to verify that the project qualifies for the ARP, and authorization of the Alternative Review Form may only occur when the Planning Director finds that the project is in compliance with all applicable sections of the LCP and the Coastal Act. Proposed Section 23.05.034 describes the types of grading projects that may go through the ARP process, and these projects include grading for orchard/vineyard planting, grading on land with slopes of less than 30 percent, as well as new agricultural roads and ponds. However, grading projects may not be processed through the ARP if they are in a geologic study and/or flood hazards combining designation, or within 100 feet of ESHA. Finally, all grading projects that do not meet the standards for exemption from grading ordinance provisions or for the ARP process must obtain full grading permits. As described more fully in the amendment description, these projects would be required to submit grading plans prepared by qualified professionals, and would need to meet any applicable standards of the drainage plan, erosion control and sedimentation plan, and the SWPPP.

Analysis of Agricultural Exemptions
The proposed ordinance can only protect coastal resources if development requiring a CDP is actually approved through the proper permits. Under the current LCP (Section 23.03.042, not proposed for amendment), site disturbance (including grading as defined by the grading ordinance, and natural ground cover removal) is regulated through various permits which constitute the CDP (i.e., where the LCP describes a plot plan, a minor use permit, or a development plan, these types of instruments are all CDPs in the coastal zone). And under the current LCP and the proposed amendment, grading ordinance requirements are generally CDP requirements, as described in this finding. Thus, the CDP process should theoretically be able to assure appropriate coastal resource protection, including through application of the new grading ordinance provisions.

The projects that are exempted from the grading ordinance, however, or otherwise exempted from CDP requirements, present a challenge to successful implementation of the grading ordinance in the coastal zone, as development requiring a CDP, particularly grading and agricultural cultivation activities, might appear to be exempted from such requirements. The LCP requires CDPs for most new development, and it defines development exactly as it is defined by the Coastal Act (LCP Section 23.03.040). This definition includes all grading, any changes in the intensity of the use of land or water, and the removal of major vegetation other than for agricultural purposes. The LCP also includes exemptions from CDP requirements for certain types of activities that are defined as development in the LCP, even though they do not meet the statutory exemptions from the definition of development (e.g., Section 30610, as carried out through Sections 13250 through 13253 of the Commission Regulations.)[2] This has created internal inconsistencies within the existing LCP, where various broad activities are exempted from CDP requirements even though they are defined as development within the LCP and

[2] Section 30610 also includes a process for categorical exclusions, in which local governments may exclude specific categories of development from CDP requirements, beyond those identified in 30610. This process is distinct from the LCP amendment process and requires the approval of a revocable categorical exclusion order requiring a two-thirds vote of the Commission.

therefore require a permit.

These exemptions for activities that are "development" include CZLUO Section 23.03.040.d(9), which exempts crop production and grazing, as long as they are an allowed use in the LCP's table of allowed uses (Table O) and no more than one-half acre of vegetation is proposed to be removed.[3] This exemption may have been intended to address the fact that the definition of development in the LCP, as taken from the Coastal Act, excludes the harvesting or removal of major vegetation for agricultural purposes, thereby exempting some agricultural activities from CDP requirements. However, as defined in Section 23.11.030 of the existing LCP, crop production and grazing includes preparation for cultivation, including land-contouring, clearing, and other preparation of soil for crops. Therefore, given the broad definitions of crop production and grazing in the LCP, the exemption, as written, includes grading and landform alteration for new and expanded agricultural fields, which requires a permit because it results in a change in intensity of the use of land and water. This provision would have the effect of exempting grading for crop production and grazing from both the LCP's CDP requirements and the grading ordinance, creating an internal inconsistency with the LCP because, as explained in detail below, these activities are development requiring a CDP.

Certain agricultural uses and changes in these uses intensify the use of the land, bringing them within the definition of development. These types of activities can have significant impacts on sensitive resources if not managed appropriately. Grazing can reduce the diversity and amount of natural vegetation available to support native animal species, while also increasing soil erosion and impacting water quality. The replacement of native lands or grazing lands with more intensive agricultural uses, such as vineyards or truck farms, may exacerbate impacts by further reducing the natural ecological diversity of the land. Activities such as vineyards or other intensive crop cultivation can also lead to significant landform alteration, including dramatic impacts on native oak woodlands. Landform alteration and a loss of vegetation increase the potential for erosion, particularly in hilly areas, and can change storm runoff patterns. For example, the change in agricultural land use from grazing on native vegetation or non-irrigated crops to irrigated crops such as orchards and vineyards can also lead to water quality degradation from the use of fertilizers, fumigants, and pesticides, as well as increased use of water if the use of agricultural land now needs irrigation. Most of the water in San Luis Obispo County originates from groundwater aquifers or coastal streams. Inasmuch as a number of groundwater basins in the coastal zone are at or near overdraft, an increase in agricultural withdrawals can further impact the integrity of an aquifer. Excessive water withdrawals from coastal streams will have significant environmental effects, including impacting riparian habitat and altering stream flows, thereby potentially affecting anadromous fish.[4] Therefore, if the existing exemption were to be implemented by the County, agricultural activities that are development, as defined in the LCP, and that could cause significant impacts to coastal resources would be exempted from CDP

[3] The Commission notes that there are additional CDP exemptions identified in the LCP that are not consistent with the governing Coastal Act and California Code of Regulations provisions from which they derive their authority. The Commission encourages the County to collaborate with Commission staff on an LCP amendment package designed to address these inconsistencies. Until that time, and consistent with the statutory authority for such exemptions, to the extent there are any conflicts between the current LCP exemptions and those associated with the Coastal Act and the Commission's regulations, the Coastal Act and the Commission's regulation criteria apply.

[4] See SLO County LCP Periodic Review, Section C.4: Addressing Impacts from Intensification of Agricultural Uses

requirements.

The definition of development in the LCP and Coastal Act does not include harvesting or removal of major vegetation for agricultural purposes, so questions have arisen as to the extent of permitting requirements in this context. The Commission has grappled with this question numerous times, and on March 19, 1981, the Commission issued a policy statement clarifying that it had jurisdiction over *expansion* of agricultural activities located in areas containing major vegetation. The Commission determined that expansion of agricultural uses into areas of native vegetation constitutes a "change in the intensity of the use of land" and is therefore development under the Coastal Act. The Commission's determination concerned vegetation removal that changes the use of the land from open space or another natural use to a cultivated agricultural use. It included a decision tree to determine whether or not a permit would be required for various activities, which specified that the removal of major vegetation associated with the expansion of agriculture, such as the removal of more than half an acre of natural vegetation, would require a permit if the activity had the potential to cause adverse impacts on coastal resources. The Commission recommended various criteria to determine whether adverse impacts are possible, including the steepness of slopes, proximity to wetlands, streams and other habitat, and the effect of the expanded operation on water resources and supply. New and expanded agriculture is also a change the intensity of the use of land and water for a variety of additional reasons, including because preparing land for new fields requires land clearing, and growing crops and livestock requires a significant amount of additional water, unlike land in its natural state. Therefore, removal of major vegetation in association with new and expanded agricultural operations requires a CDP, so such activities cannot be exempted from CDP requirements in the grading ordinance.

In addition, because the Coastal Act and LCP definitions of development do not exclude grading for agricultural purposes (as they do for the removal of major vegetation for agricultural purposes), all grading requires a CDP, unless it is otherwise exempt or excluded. Thus, cultivation activities for ongoing agricultural operations can be exempt from CDPs consistent with the LCP's definition of development, but cultivation activities for new and expanded agricultural operations cannot be exempt from CDP requirements without creating an internal LCP inconsistency because, as described above, they constitute a change in the intensity of the use of land and water. Thus, the LCP's crop production and grazing CDP exemption must also be modified to ensure that the IP Amendment is adequate to carry out the LUP by not creating an internal LCP inconsistency on this point.

In sum, the proposed IP changes would exempt activities that meet the LCP definition of development from CDP requirements, creating an internal LCP inconsistency. The IP Amendment must therefore be denied as submitted because by creating an internal inconsistency it does not ensure that the LUP policies will be adequately carried out.

The IP amendment can nevertheless be approved if modified as follows. **Suggested Modification 1** corrects the inconsistency in the LCP's existing CDP exemptions by exempting only ongoing crop production and grazing. This ensures that grading for new or expanded agriculture will require a CDP, consistent with the definition of development, and that the removal of major vegetation and changes in the use of land and water due to new and expanded

agricultural uses will also require a CDP. **Suggested Modification 1** also defines ongoing crop production and grazing and limits it to areas that have been farmed in the previous five years. The five-year period is appropriate because it allows for farmers to fallow their fields but is not so long that significant changes in habitat or other coastal resource values are expected to occur. In fact, as discussed below, the County's Agricultural Commissioner's Office recommended that five years was an appropriate period for defining ongoing agriculture and said that in most situations in the County, fields are not out of production for more than five years. In addition, the County's Planning Commission approved a five-year period for the definition of ongoing agriculture within the grading ordinance. Further, nearby Ventura County, which is reviewing LCP requirements for agriculture, has proposed a five-year period for its definition of ongoing agriculture, and San Diego County also uses a five-year period. Therefore, **Suggested Modification 1** clarifies CDP requirements for new and expanded agriculture, consistent with the LCP's definition of development requiring a CDP, while allowing ongoing agricultural operations to continue without new CDPs.

Analysis of Grading Exemptions
The County intends to require CDP authorization in addition to grading authorization through the proposed ordinance, but given the complexity of the ordinance, the proposed amendment is not entirely clear on this point. As explained in the description of the grading ordinance, there are numerous exceptions to its application. If these exceptions were interpreted to exempt grading from CDP requirements, it would create the same type of LCP inconsistency described above, where development that requires a CDP under one provision of the LCP would potentially be exempted under another provision. Because of the potential for such internal inconsistencies, the grading ordinance cannot be certified as submitted, as it would not ensure that the LCP was adequately carried out.

To remedy this potential inconsistency, **Suggested Modification 8** is proposed to clarify that CDP authorization is indeed required, even if the proposed project is otherwise exempt from a grading permit. In order to avoid duplicative permitting requirements, Section 23.05.030.d allows Grading Permit approval to act as Coastal Development Permit approval for projects not otherwise subject to other land use permits. Additionally, for those projects that are in non-appealable areas of the coastal zone that are exempt from grading permits, Section 23.05.032.a(5) allows for review under the Alternative Review Program, where authorization under such review constitutes issuance of a CDP. Thus, as modified, the ordinance would clarify what types of permits are applicable to different types of grading and development projects and would ensure that CDPs were required for all grading meeting the definition of development in the LCP.

Definition of Grading
The proposed definition of grading provides the basis for determining which development activities are subject to the proposed ordinance. Therefore, this definition is critical in determining what permits are required for specific development activities. Although the definition includes a comprehensive list of grading activities, it is unclear what is meant by 'new' earthwork, and what the term 'new' earthwork is intended to include or exclude. In addition, it is possible that the proposed list of grading activities is not exhaustive, which could lead to some grading being excluded from the definition, and potentially leading to activities that are included

in the definition of development being inappropriately excluded from permit requirements. Thus, the proposed definition of grading could create an internal LCP consistency by excluding development requiring a CDP, so it cannot be certified as submitted.

Suggested Modification 9 is therefore imposed to remove the word 'new' from in front of the word "earthwork" in the definition of grading, so that all earthwork is included in the definition, since all earthwork requires a CDP. The suggested modification also broadens the definition by stating that grading may include one of the listed activities, not that it must include such activities. This modification will ensure that the grading ordinance addresses all grading requiring a CDP and protects coastal resources accordingly.

The LCP's definition of grading also proposes to exclude cultivation activities, including disking, harrowing, raking, planting, plowing, seeding, and tilling. However, although it may be appropriate to exclude these activities from the requirements of the grading ordinance, some of them are in fact grading, because they involve earthwork, so they require a CDP. By excluding such activities from the definition of grading, it could suggest that they are fully exempt from complying with the grading ordinance, including the provisions requiring a CDP. Such work should therefore not be excluded by definition. Thus, **Suggested Modification 9** clarifies that while cultivation activities may be excluded from the County's Grading Permits, they may be considered grading. As such, they are not exempt from CDPs, unless the cultivation activity is for ongoing agriculture as defined by 23.03.040.d(9) and **Suggested Modification 1**. In addition, to be consistent with this suggested modification, **Suggested Modification 27** changes the definition of excavation so that it no longer excludes all activities related to crop production.

The definition of grading also excludes three categories of development from grading permit requirements, including grading under 50 cubic yards, grading under 20 cubic yards in a watercourse, and removal of less than one acre of vegetation. By excluding these activities from the definition of grading, it raises the same potential inconsistencies described above. Therefore, **Suggested Modification 9** removes these categories from this section. However, **Suggested Modification 10** moves them to the exempt grading section, where, although full grading permits may not be required, it is clear that CDP requirements and minimum standards do apply. Suggested Modification 10 also reduces the one-acre threshold for removal of vegetation to match other sections of the proposed ordinance and the existing LCP to eliminate inconsistencies.

Definition of Crop Production and Grazing

The proposed ordinance also defines ongoing crop production and grazing. It is defined as crop production and grazing on land that has been used for such purposes within the past 10 years or on land that is held in the Conservation Reserve Program. For the following reasons, the IP's definition of ongoing crop production and grazing is inadequate to carry out the LUP. By letting land lay fallow for up to 10 years and then allowing grading and other land alteration to re-establish agriculture without any type of review process, sensitive coastal resources may be impaired. This would be inconsistent with Coastal Watershed Policy 9, which requires appropriate structural and non-structural control measures to reduce erosion and sedimentation, and Coastal Watershed Policy 12, which requires agricultural practices to minimize erosion and sedimentation. As discussed above, the County's Planning Commission and Agricultural

Commissioner's office determined that a five-year dormancy period was appropriate for the definition of ongoing agriculture. This decision was based on the Agricultural Commissioner's office experience that it is uncommon for fields in the County to be left fallow for more than five years, as well as County staff's research of other ordinances, including San Diego County's, which also uses a five year period. As mentioned above, Ventura County is also currently considering using a five-year period for its definition of ongoing agriculture. The County's initial proposal for a five-year dormancy period is appropriate in this case because it allows farmers to fallow their fields, but it is not so long that significant changes in habitat or other coastal resource values are expected to occur. Therefore, **Suggested Modification 11** is imposed to define land used for ongoing crop production and grazing as that land which has been used for such purposes within the last 5 years.

In addition to the proposed ten-year dormancy period, the proposed ordinance also includes lands that are covered under the Conservation Reserve Program in the definition of ongoing agriculture. The Conservation Reserve Program is administered by USDA's Farm Service Agency and is a voluntary program that involves 10 to 15 year contracts whereby farmers are compensated to allow fields to lie fallow. The program targets land that is highly erosive as well as land that could be used for water quality purposes, such as stream buffers on grazing land. Making an exception for these lands in the definition of ongoing crop production and grazing is not appropriate because they are located in areas that have been targeted as erosive or in areas that serve important water quality functions. If these lands are exempted from grading permit requirements, then agricultural development on highly erosive and ecologically valuable lands could be approved without adequate review, thereby compromising water quality. Many policies in the LUP prohibit development within sensitive geologic and biologic areas, including Hazards Policy 2 (new development shall not contribute to erosion or geologic instability), Environmentally Sensitive Habitat Policy 21 (development within or adjacent to coastal streams shall prevent impacts to erosion and runoff), and Coastal Watershed Policy 12 (agricultural practices shall minimize erosion and sedimentation). Thus, the IP amendment as proposed will not be adequate to implement these LUP policies and must be denied as submitted.

Therefore, **Suggested Modification 11** limits ongoing crop production and grazing to land that has been in production in the previous five years and eliminates the exception for lands in the Conservation Reserve Program (except if they have been fallow for five years or less). In addition, **Suggested Modification 11** clarifies that farm roads used for ongoing agricultural operations may be modified or re-oriented without a Grading Permit. These proposed exemptions from the grading regulations are appropriate because only established agricultural activities would be exempt, but not new or expanded operations. Thus, with the addition of Suggested Modification 11, the definition of ongoing crop production and grazing is modified to be consistent with LUP water quality protection provisions and can be certified as modified.

Finally, several suggested modifications make minor changes to the ordinance to clarify the intent of the ordinance and to strengthen several of the proposed processes. First, **Suggested Modification 13** strengthens the ARP review process by requiring NRCS/RCD verification that the proposed project can meet appropriate management practices to be considered by the County before any approval is granted. Second, **Suggested Modification 26** specifies that any modification to an approved plan must first be approved by the Building Official and/or Public

Works Department, and also when all necessary permits or permit amendments have been obtained. And finally, **Suggested Modification 34**, which relates to waiving requirements of the ordinance that are found to be infeasible, requires the County to make findings that such waivers may only be granted if they do not diminish the environmental and coastal resource benefits that would have been obtained through full compliance with the ordinance.

In sum, as modified, the Commission finds that the proposed amendment is consistent with the CDP requirements of the Coastal Act and the Commission's regulations, and that the proposed amendment is consistent with and adequate to carry out the permit requirements of the County's certified LUP.

b. Coastal Resource Issues
Applicable LUP Policies
The LUP includes broad protections for water quality and for ESHA, including wetlands, riparian habitat and coastal streams. The policies require development, including agriculture, to protect the water quality of the ocean, wetlands and coastal streams, as well as groundwater, and they prohibit development that would degrade ESHA and require buffers to be maintained between development and ESHA. The LUP also addresses the visual resources impacts and potential hazards associated with the landform alteration caused by grading through various policies, including:

Coastal Watershed Policy 7: Siting of New Development

> *Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent except:*
>
> *Existing lots of record in the Residential Single-Family category and where a residence cannot be feasibly sited on a slope less than 20 percent;*
>
> *When grading of an access road or driveway is necessary to provide access to an area of less than 20 percent slope where development is intended to occur, and where there is no less environmentally damaging alternative;*
>
> *The county may approved grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance. Also in review of proposed land divisions, each new parcel shall locate the building envelope and access road on slopes of less than 20 percent. In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated that there is no other feasible method of establishing an allowable use on the site*

without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. In urban areas as defined by the Urban Services Line, grading may encroach within the 100 foot setback when locating or siting a principally permitted development, if application of the 100 foot setback renders the parcel physically unusable for the principally permitted use. Secondly, the 100 foot setback shall only be reduced to a point at which the principally permitted use, as modified as much as practical from a design standpoint, can be accomplished to no point less than the setback allowed by the planning area standard or 50 feet whichever is the greater distance. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO COASTAL ZONE LAND USE ORDINANCE SECTIONS: 23.05.034 (GRADING) AND 23.04.021 (LAND DIVISIONS).]

Coastal Watershed Policy 8: Timing of Construction and Grading

Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watershed Policy 9: Techniques for Minimizing Sedimentation

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watershed Policy 10: Drainage Provisions

Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A

STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]

Coastal Watershed Policy 11: Preserving Groundwater Recharge

In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Coastal Watershed Policy 12: Agricultural Practices

Agricultural practices shall minimize erosion and sedimentation through accepted management practices that aid soil conservation. The Soil Conservation Service should be encouraged to continue education programs regarding soils management. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Coastal Watershed Policy 13: Vegetation Removal

Vegetation clearance on slopes greater than 30% in geologically unstable areas or on soils rated as having severe erosion hazards shall require an erosion and sedimentation control plan. Stream vegetation removal is discussed in greater detail in the Sensitive Habitat chapter. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Coastal Watershed Policy 14: Soil Conservation Techniques

Proper soil conservation techniques and grazing methods shall to the maximum extent feasible be employed in accordance with the 208 water quality standards adopted by the California Water Quality Control Board. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Agriculture Policy 8: Agricultural Practices

Proper soil conservation techniques and grazing methods should be encouraged in accordance with 208 Water Quality Standards adopted to meet the water quality requirements of the California Regional Water Quality Control Board. [THIS POLICY SHALL BE IMPLEMENTED AS A PROGRAM.]

Environmentally Sensitive Habitat Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS

23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]

Environmentally Sensitive Habitat Policy 17: Wetland Buffer

In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.

The minimum buffer strip may be adjusted by the county if the minimum setback standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard set-back, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principal permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.172 OF THE CZLUO.]

Environmentally Sensitive Habitat Policy 20: Coastal Streams and Riparian Vegetation

Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Environmentally Sensitive Habitat Policy 21: Development in or Adjacent to a Coastal Stream

Development adjacent to or within the watershed (that portion within the coastal zone) shall be sited and designed to prevent impacts which would significantly degrade the coastal habitat and shall be compatible with the continuance of such habitat areas. This shall include evaluation of erosion and runoff concerns. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Environmentally Sensitive Habitat Policy 30: Protection of Native Vegetation

> *Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.176 OF THE CZLUO.]*

Visual and Scenic Resources Policy 1: Protection of Visual and Scenic Resources

> *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Visual and Scenic Resources Policy 5: Landform Alterations

> *Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]*

Hazards Policy 2: Erosion and Geologic Stability

> *New development shall ensure structural stability while not creating or contributing to erosion or geological instability. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.086 OF THE CZLUO.]*

Hazards Policy 3: Development Review in Hazard Areas

> *The county shall require a detailed review of development proposed within the geologic study area and flood hazard combining designations as indicated on the Land Use Element maps for the coastal zone. The review shall be performed by a qualified registered and/or certified engineering geologist and shall be adequately detailed to provide recommendations and conclusions consistent with this plan. Residential, commercial and industrial development shall be prohibited within the 100 year floodplain (1% chance of inundation in any year) as delineated in the Flood Hazard combining designation except for those areas within an urban reserve line. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.082, 23.07.084, 23.07.062 AND 23.07.066 OF THE CZLUO.]*

Consistency Analysis

The Coastal Watershed policies of the LUP protect water quality in a variety of ways. For example, to reduce erosion, Policy 7 prohibits most development on slopes over 20%, and Policy 13 regulates the removal of vegetation on steep slopes. Policy 8 limits grading and construction to the dry season. Policy 9 requires BMPs to reduce erosion. Policies 10 and 11 require site

design to reduce erosion, control drainage and recharge groundwater. Policies 12 and 14 require agricultural practices to use BMPs to reduce erosion and sedimentation. In addition, The LUP also protects biological resources and water quality from adverse impacts caused by agricultural uses, including through Agriculture Policy 8, which encourages soil conservation and proper grazing management to meet water quality objectives.

The ESHA protection policies of the LUP require buffers to be maintained between development and ESHA. Policy 1 requires buffers from all types of ESHA and prohibits development adjacent to ESHA that would disrupt biological resources. Policy 17 requires a minimum 100 foot buffer from all wetlands, except in specific circumstances where the necessary buffer may be reduced if it would render the parcel unusable for its principally permitted use. When a less than 100 foot buffer from wetlands is allowed, mitigation measures are required pursuant to Policy 18, including landscaping with native vegetation and drainage controls. Policy 21 specifically addresses development adjacent to coastal streams, prohibiting development that would degrade stream resources and requiring an evaluation of erosion and runoff concerns. And Policy 28 requires a 100 foot buffer from the upland edge of riparian habitat. As for wetlands, this policy allows the buffer to be reduced in circumstances where it would render the parcel unusable for its principally permitted use.

As described in the amendment description, the proposed stormwater management ordinance would apply to both small and large projects by addressing both construction and post-construction water quality impacts. Section 23.04.450.b describes the types of development subject to the stormwater provisions, including single-family residences that involve any site work on slopes of 10 percent or greater, gas stations, restaurants, and certain parking lots. All applicable developments are required to prepare a Stormwater Quality Plan (SWQP), a Drainage Plan (described in Section 23.05.040), and an Erosion and Sedimentation Control Plan (described in Section 23.05.042). Finally, any project subject to a Grading Permit, construction permit, or subdivision, and which results in site disturbance of one acre or more, is required to submit a Stormwater Pollution Prevention Plan (SWPPP). The grading ordinance sets forth standards to control all grading, excavations, and earthwork; establishes a tiered permitting/review system for compliance and implementation of those standards; and defines what types of development are subject to the appropriate permit/review. As described in more detail above, unless a project is exempt or is not classified as development (as defined in the LCP), all grading requires a Grading Permit, which consists of a Grading Plan, and may also require, where applicable, an Erosion and Sedimentation Control Plan, a Drainage Plan, and a Stormwater Pollution Prevention Plan.

In addition, the proposed ordinance provides a comprehensive approach to addressing many of the adverse impacts of agricultural uses on coastal resources, and in many ways represents an improvement over the existing LCP. First, any agricultural grading that requires a full Grading Permit must comply with the standards of the Drainage Plan and Erosion and Sedimentation Control Plan requirements, including providing BMPs to treat and infiltrate stormwater runoff up to and including the 85th percentile storm event, and through the use of sediment basins and revegetation of exposed slopes. In addition, the ordinance provides a process for the RCD/NRCS to review other agricultural grading projects not subject to full Grading Permit review. This type of review was envisioned in the Commission's findings from the SLO County LCP Periodic

Review of 2001, and allows for a more hands-on approach to implementing soil conservation and other water quality and biological resource protection measures. The ordinance also protects ESHA by prohibiting grading within 100 feet of mapped ESHA, except where such development is allowed by the existing LCP, where the 100-foot buffer would render the parcel unusable for its principally-permitted use.

For these reasons, the proposed ordinance generally enhances the LCP's ability to protect water quality and ESHA by updating and adding to the existing grading and stormwater regulations. However, certain modifications are necessary to clarify the types of exempt projects and the standards and requirements needed to implement coastal resource protection policies.

Exemptions

The proposed stormwater and grading ordinance provides for some types of projects to be exempt from various individual requirements of the stormwater and grading regulations. For example, a Drainage Plan is not required where grading is exclusively for crop production or grazing, an Erosion and Sedimentation Control Plan is not required for projects exempt from Grading Permits and those that are reviewed under the Alternative Review Program, and projects with valid waivers from the Central Coast Regional Water Quality Control Board may be exempted from preparing a SWPPP. Although it is generally appropriate to have such potential exemptions, some of the proposed exemptions are not consistent with the LUP policies protecting water quality and ESHA. For example, the stormwater ordinance exempts redevelopment projects that increase impervious surface area by less than fifty percent. This standard would, however, exempt potentially large projects with significant stormwater impacts from permitting requirements, such as a large projects that increased impervious surface area by forty percent. By exempting these types of projects, the IP Amendment, as submitted, is not adequate to carry out the policies of the LUP protecting water quality. To address this issue, **Suggested Modification 3** changes this exemption to ensure that the stormwater ordinance applies to any redevelopment on an applicable development type listed above, regardless of size. The ordinance would still only apply to the portion of the property being redeveloped and not the entire pre-existing property. As modified, this exemption is consistent with LUP water quality policies because it ensures that new development in a redevelopment project would be covered by the stormwater ordinance.

Next, Section 23.05.040.b states that Drainage Plans are not required where grading is exclusively for an exempt agricultural accessory structure. However, this exemption is not appropriate because it is not possible to anticipate the potential impacts of such grading. For example, if the accessory structure is on steep slopes, or within or directly adjacent to ESHA, grading for the purpose of the construction of the structure has an increased potential to cause adverse impacts on water quality and ESHA, and thus, the ordinance as proposed is inadequate to implement those LUP policies. **Suggested Modification 18** deletes this exemption, and instead adds that if a non-exempt project is proposed that has no potential to cause adverse sedimentation and/or erosion impacts, it may be exempt from Drainage Plan requirements by authorization of the Public Works Director, pursuant to Section 23.05.040.b. This modification ensures that the requirements of the Drainage Plan apply to grading of an agricultural accessory structure unless the project has no potential for adverse impacts .

Finally, Section 23.05.042.a describes what types of projects require an Erosion and Sedimentation Control Plan, but only includes projects where more than half an acre of *native* vegetation is removed. However, the type of vegetation that is to be removed does not significantly affect the potential for adverse impacts due to erosion and sedimentation. Therefore, **Suggested Modification 21** requires projects removing more than half an acre of any type of vegetation to comply with the requirements of the Erosion and Sedimentation Control Plan. As modified, the exemption in the Erosion and Sedimentation Control Plan is consistent with the County's LUP.

Proximity to ESHA

As discussed above, the requirements of the proposed ordinance provide for a detailed review of project impacts and require an array of measures to be taken to ensure resource protection. However, although the proposed IPA generally carries out the policy requirements of the LUP, several changes are necessary to ensure that all projects with the potential to impair water quality and ESHA are covered under the ordinance. First, **Suggested Modification 12** clarifies that grading for new crop production and grazing must be in areas more than 100 feet from any watercourse or ESHA in order to be exempt from full grading permit requirements.

Second, because there are rarely development projects allowed within 100 feet of ESHA and hence directly affecting the sensitive resource, impacts tend to occur offsite and are potentially carried to sensitive habitats through runoff and other drainage. To address this problem, the Commission has recently required similar stormwater and grading restrictions to apply within 200 feet of a watercourse, not within 100 feet. Therefore, **Suggested Modification 16** increases the requirement for Drainage Plans from all projects within 100 feet of a watercourse to all projects within 200 feet of a watercourse (Section 23.05.040.a(8)), and **Suggested Modification 17** increases the requirement for an Erosion and Sedimentation Control Plan from projects within 100 feet of a watercourse to 200 feet (Section 23.05.042.a(2)(iv)).

Third, the County relied on the requirements of the RWQCB's stormwater permit to determine which regulations should apply to different types of development. For example, the Stormwater Management regulations in Section 23.04.450 of the amendment apply only to certain types of projects, such as single-family residences on slopes greater than 10 percent, gas stations, and certain developments over 100,000 square feet of impervious surface area. However, as proposed, only very large projects would be subject to the new stormwater ordinance. The stormwater ordinance is important because it requires more protective BMPs and stricter implementation of those BMPs, as well as standards that are specific to various uses, such as restaurants and automobile service stations. Although it may be appropriate to have these regulations apply only to very large projects in some areas, excluding development in areas where there are watercourses nearby that would increase the magnitude of any water quality impacts by carrying sediments and contaminants to larger streams and out to the ocean, or directly impacting nearby ESHA, is not consistent with LUP policies protecting ESHA and water quality. Therefore, to ensure protection of water quality and ESHA consistent with the LCP, **Suggested Modification 2** applies the requirements of the stormwater ordinance to all new projects that increase impervious area by more than 2,500 square feet and that are within 200 feet of ESHA.

Water Quality BMPs
Water quality impacts caused by new development are commonly addressed through BMPs to not only avoid and minimize the water quality impacts caused by construction, but also to avoid and minimize the water quality impacts caused by completed development through changes in runoff. The proposed amendment references three BMP handbooks that provide a variety of BMPs that can be chosen by applicants to suit the needs of the project, in order to achieve specific water quality standards, such as standards for new development to treat the volume of runoff produced by the 85th percentile 24-hour runoff volume event. Although the Commission generally rejects proposals to include cross references to documents that are not part of the certified LCP, cross references to BMP manuals have been certified and successfully used by various local governments within the coastal zone. However, in this case, the County is proposing to cross reference one BMP manual, the Low Impact Development (LID) Handbook, which has not yet been developed. Although this document is expected to be developed in the near future as part of a joint effort between various municipalities to meet the requirements of the RWQCB, it is not appropriate to certify as part of an LCP a cross reference to a document that does not yet exist. Therefore, **Suggested Modification 29** would remove the references to this document. When the document is finalized, the County may then return for an LCP amendment to integrate its requirements into the LCP. Finally, **Suggested Modification 20** and **Suggested Modification 25** would remove references to hydromodification measures that are expected to be included in the LID handbook but do not yet exist and would replace them with references to appropriate BMPs that could be used to avoid the water quality impacts of a project.

The proposed amendment also identifies specific BMPs that must be used in certain circumstances to protect water quality. These specific BMPs generally protect water quality and ESHA consistent with the policies of the LUP, but there are several sections that need to be strengthened to ensure the amendment is adequate to implement the LUP. **Suggested Modification 4** would strengthen Section 23.04.450.g(3), which discusses stormwater pollutants of concern, by broadening what is considered a pollutant of concern; **Suggested Modification 5** would strengthen language in Section 23.04.450.g(5), which requires development subject to the stormwater ordinance to complete an Erosion and Sedimentation Control Plan, including by replacing a requirement for energy dissipaters, such as rip-rap, with a requirement that outlets are designed so that erosion is prevented, and to minimize erosion to the maximum extent practicable when energy dissipaters must be used; Similarly, **Suggested Modification 22** replaces a reference to mechanical erosion control methods with a requirement for non-structural erosion control techniques; And finally, **Suggested Modification 15** would allow Grading Permits to be conditioned with groundwater recharge measures, regardless of whether the project is located in a valuable groundwater recharge area.

Native Vegetation
The proposed ordinance would require construction sites to be promptly revegetated to reduce potential erosion; however, it is silent on whether such vegetation needs to be native. The LUP's ESHA Policy 30 requires native plants to be used where vegetation is removed. Therefore, **Suggested Modification 30** would require native plants wherever revegetation is required. In addition, **Suggested Modifications 31** and **32** replace references to mapped ESHA and mapped blue line streams, with references to all ESHA and all watercourses, because the LUP does not define these resources based on their appearance on a map, but rather, based on the actual

resources that are present at a given location.

Minor Clarifications to Water Quality Requirements
In addition, the proposed ordinances are not always clear about which standards apply to each type of development, and in some cases, it is necessary to strengthen the language to ensure consistency with the LUP policies. First, Section 23.04.450.g(8)(iii) includes an exclusion from just the volumetric or flow based treatment controls required in the stormwater ordinance, but not from the remaining sections of the ordinance. **Suggested Modification 6** clarifies that the remaining standards apply. **Suggested Modification 7** makes similar clarifications, including stating that trash areas must comply with the proposed waste collection area standards and that the stormwater ordinance regulates multi-family residential development. Also, **Suggested Modification 19** clarifies that Drainage Plans must be developed in conformance with the drainage standards of Section 23.05.048.b and **Suggested Modification 22** clarifies that the Erosion and Sedimentation Control Plan must conform to the erosion and sedimentation standards of Section 23.04.048.c. Finally, **Suggested Modification 23** clarifies that SWPPPs must be consistent with the LCP, and **Suggested Modification 22** requires erosion and sedimentation control plans to be consistent with the LCP.

Finally, the proposed amendment uses the term 'maximum extent practicable' (MEP) throughout. This term is essentially synonymous with 'maximum extent feasible' which is used in the Coastal Act. The term MEP is used in this case because it is used by the RWQCB and this ordinance implements their requirements. To clarify the exact meaning of the term, **Suggested Modification 28** adds its definition.

Hazards
The LUP seeks to avoid hazardous development by ensuring that all development adheres to proper structural stability standards and that all development proposed within sensitive areas, such as geologic study areas and flood hazard areas, are given thorough review by qualified professionals to determine suitability and safety. The proposed stormwater and grading ordinance implements these policies by requiring full Grading Permits for any work proposed within a Geologic Study Area and/or a Flood Hazard Area (Section 23.05.032.a(1)). The ordinance also requires progressively stronger grading and stormwater standards for larger projects and/or for projects within geologically sensitive areas. For example, in addition to the requirement for the preparation of a full Grading Plan, projects that involve 5,000 cubic yards of grading, are within a Geologic Study Area, or are on slopes of greater than 20%, are required to prepare an Engineered Grading Plan as well (Section 23.05.038.c). This plan requires, among other items, conclusions and recommendations from qualified professionals as to proper designs for permanent soil stabilization, as well as a recommendation as to the adequacy, from a geologic engineering perspective, of the site to support the proposed use.

However, while the ordinance addresses "special circumstance" grading, such as when grading becomes a hazard to life and limb, or where grading commences without the proper permits, a few changes are necessary to clarify the proper procedures to address and correct issues that arise in these contexts. **Suggested Modification 14** ensures that all corrective grading to remedy unexpected hazards conforms to the emergency permit procedures under Section 23.03.045. By ensuring that corrective grading to fix hazards follows proper emergency grading procedures,

and by requiring any grading activity within geologically sensitive areas to undergo a full Grading Permit with progressively stricter analysis required for projects on steep slopes and/or that entail large quantities of earth movement, the Commission finds the grading ordinance, as modified, effectively carries out the LUP's Hazards policies.

Visual Resources
The LUP's Visual and Scenic Resources policies seek to preserve, protect, and restore scenic vistas and sensitive habitats by minimizing their grading and landform alteration. The LCPA implements these policies by, for example, prohibiting grading within 100 feet of ESHA (with few exceptions) and requiring Erosion and Sedimentation Control Plans for development within 200 feet of a watercourse. However, in order to fully implement LUP Visual and Scenic Resources Policy 5, which seeks to minimize grading and earthwork within public view corridors, **Suggested Modification 24** broadens the standard to ensure that grading is minimized within all public view corridors, not just those that are identified by the Planning Director and are seen from collector and arterial roads. By ensuring that grading is minimized within all public view corridors, as modified, the Commission finds the ordinance adequate to carry out the LUP's Visual and Scenic Resources policies.

In conclusion, the suggested modifications above ensure that the ordinance is consistent with LUP policies requiring protection of water quality, ESHA, hazards, and visual resources. The Commission finds the ordinance, as modified, is consistent with and adequate to carry out the certified LUP.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The County, acting as lead CEQA agency, determined that the proposed LCP amendments were categorically exempt from the requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental

effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).