

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE January 10, 2006		(3) CONTACT/PHONE Kami Griffin, Supervising Planner (805) 781-5193	
(4) SUBJECT Acknowledgment of Certification by the California Coastal Commission of Part 1 LCP Amendment #1-04 -- Flood Hazard Ordinance Amendment (Supervisorial District 2, 3)					
(5) SUMMARY OF REQUEST A request by the County of San Luis Obispo to amend Sections 23.07.060 et seq. and Chapter 11 of the Coastal Land Use Ordinance, Title 23 of the County Code in order to implement Floodplain Management Standards and Requirements as mandated by the Federal Emergency Management Agency was submitted to the Coastal Commission and was certified at their meeting on July 14, 2005, provided certain modified language by the Coastal Commission is adopted by the county. Staff concurs with all the proposed modifications. Approval of the attached resolution by your Board will acknowledge receipt of the Coastal Commission's resolution of certification and agree to the Coastal Commission's modifications to the amendment included in Part 1 - LCP Amendment #1-04.					
(6) RECOMMENDED ACTION Adopt the attached resolution that acknowledges the receipt and agrees to the modifications suggested by the Coastal Commission of Part 1 - Local Coastal Plan Major Amendment Number 1-04, and instruct staff to submit this resolution to the Executive Director of the California Coastal Commission.					
(7) FUNDING SOURCE(S) N/A		(8) CURRENT YEAR COST N/A		(9) ANNUAL COST N/A	
(10) BUDGETED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): None					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1st, <input checked="" type="checkbox"/> 2nd, <input checked="" type="checkbox"/> 3rd, 4th, 5th, All			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A			(18) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		

(19) ADMINISTRATIVE OFFICE REVIEW	<p>OK Leslie Brown</p>	<p>B-13 (1/10/06)</p>
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SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS
FROM: KAMI GRIFFIN, SUPERVISING PLANNER
VIA: JOHN EUPHRAT, DIVISION MANAGER, LONG RANGE PLANNING
DATE: JANUARY 10, 2006
SUBJECT: Acknowledgment of Certification by the California Coastal Commission of Part 1 LCP Amendment #1-04 -- Flood Hazard Ordinance Amendment (Supervisory District 2, 3)

RECOMMENDATION

Adopt the attached resolution that acknowledges the receipt and agree to the modifications suggested by the Coastal Commission of Part 1 - Local Coastal Plan Major Amendment Number 1-04, and instruct staff to submit this resolution to the Executive Director of the California Coastal Commission.

DISCUSSION

The following referenced Coastal Zone Land use Ordinance Amendment was submitted to the Coastal Commission and was certified at their meeting on July 14, 2005, provided certain modified language by the Coastal Commission is adopted by the county. The exhibits approved by the Coastal Commission and the Coastal Commission's transmittal letters and adopted reports are attached. Staff concurs with all the proposed modifications. Approval of the attached resolution by your Board will acknowledge receipt of the Coastal Commission's resolution of certification and agree to the Coastal Commission's modifications to the amendment included in Part 1 - LCP Amendment #1-04.

1. Request by the County of San Luis Obispo to amend Sections 23.07.060 et seq. and Chapter 11 of the Coastal Land Use Ordinance, Title 23 of the County Code in order to implement Floodplain Management Standards and Requirements as mandated by the Federal Emergency Management Agency.

OTHER AGENCY INVOLVEMENT/IMPACT

Not applicable.

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FINANCIAL CONSIDERATIONS

No financial impacts to the current county budget.

RESULTS

If your Board acknowledges the action of the Coastal Commission, staff will submit the required material to the Executive Director of the Coastal Commission for approval. The director then schedules the matter before the Commission at their next meeting to advise them of the county's action and to indicate that the amendment process is finished.

Attachments

Coastal Commission staff report

Resolution acknowledging receipt and agreeing to CCC modified language

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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20 ____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. ____

RESOLUTION ACKNOWLEDGING RECEIPT AND AGREEING TO CALIFORNIA COASTAL
COMMISSION'S MODIFIED LANGUAGE PERTAINING TO
LOCAL COASTAL PLAN - MAJOR AMENDMENT NUMBER 1-04 - PART 1

The following resolution is now offered and read:

WHEREAS, the County of San Luis Obispo Board of Supervisors conducted a public hearing on March 16, 2004, and approved amendments to the Coastal Zone Land Use Element/Local Coastal Plan; and

WHEREAS, the County submitted Local Coastal Plan - Major Amendment Number 1-04, to the California Coastal Commission for certification on April 16, 2004; and

WHEREAS, on July 14, 2005, the California Coastal Commission recommended modified language in Local Coastal Plan - Major Amendment Number 1-04- Part 1; and

WHEREAS, on July 14, 2005, the California Coastal Commission certified Local Coastal Plan - Major Amendment Number 1-04- Part 1 provided certain modified language suggested by the California Coastal Commission was adopted by the County, said language is contained in the California Coastal Commission staff reports, dated November 30, 2005, attached hereto and incorporated by reference herein; and

WHEREAS, pursuant to the California Code of Regulations, title 14, sections 13544(a), 13544.5(a), 13547(a) and 13551(b), the San Luis Obispo County Board of Supervisors may now accept and agree to the terms and modifications suggested by the California Coastal Commission on Local Coastal Plan - Major Amendment Number 1-04 - Part 1, and take formal action to satisfy the terms and modifications.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, in a regular meeting assembled on the tenth day of January, 2006, that the Board of Supervisors of San Luis Obispo County, acknowledges receipt and hereby agrees to the modified language, as suggested by the California Coastal Commission, without further changes, pertaining to Local Coastal Plan Major Amendment Number 1-04- Part 1 as set forth in Exhibit "A", attached hereto and incorporated herein as though fully set forth.

BE IT FURTHER RESOLVED AND ORDERED that the Land Use Element and Local Coastal Plan, be amended and adopted as follows:

1. As to California Coastal Commission's suggested modification language, the Board of Supervisors takes the following action:

a. The Board of Supervisors accepts the modified language suggested by the California Coastal Commission pertaining to Agricultural Preserves - as it implements the California Coastal Commission's recommendation by amending and adding the language as it appears on Exhibit A attached hereto and incorporated herein as though fully set forth.

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BE IT FURTHER RESOLVED AND ORDERED that pursuant to California Code of Regulations, title 14, sections 13544.5(b) and 13547(b), the Board of Supervisors directs staff to submit this resolution to the Executive Director of the California Coastal Commission for a determination, in writing, that the County's action is legally adequate to satisfy the conditions of certification set forth in the California Coastal Commission's certification order.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 

Deputy County Counsel
asst.

Date: 12/29/05

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EXHIBIT A

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite consistency findings. If the County of San Luis Obispo accepts the suggested modifications within six months of Commission action (i.e., by January 14, 2006), by formal resolution of the Board of Supervisors, the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished.

1. CZLUO Section 23.07.065 - General Hazard Avoidance

Add a new CZLUO Section 23.07.065 – General Hazard Avoidance:

A. New Development in Flood Hazard Areas

New structural development, including expansions, additions and improvements to existing development, shall be located outside of flood hazard areas to the maximum extent feasible. All new structural development located in a flood hazard areas, including expansions, additions, improvements, and repairs to existing development, shall be constructed consistent with the standards set forth in Section 23.07.066

B. Improvement/Repair to Existing Structures in Flood Hazard Areas

Where the value of improvements or repairs to existing structures located in flood hazard areas is greater than 50% of the market value of the existing structure before the start of construction of the new structure or any improvement, and prior to the damage requiring the repair, all structural development (existing and proposed) shall be located outside of flood hazard areas to the maximum extent feasible. This can be determined by the assessment roll or by a current appraisal. The appraisal shall be completed by an appraiser with a "Certified General License" issued by the State Office of Real Estate Appraisal and shall determine full market value of the existing site improvements based on the Uniform Standards of the Professional Appraisal Practices as published by the Appraiser Standards Board of the Appraisal Foundation.

Any structural development (existing and proposed) that cannot be located outside of flood hazard



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areas shall be constructed and/or reconstructed consistent with the standards set forth in Section 23.07.066.

C. Land Divisions in Flood Hazard Areas

Land divisions, including lot line adjustments, are prohibited within hazard areas where they create new buildable areas within a hazard zone.

2. CZLUO Section 23.07.066 – Construction Standards

Delete the preamble of this section:

~~New structures or any improvement/repair to an existing structure (including manufactured homes) where the value propose is more than 50 percent of the market value of that existing structure before start of construction of the new structure or any improvement, and prior to the damage requiring the repair are subject to the following construction standards. This can be determined by the assessment roll or by a current appraisal. The appraisal shall be completed by an appraiser with a “Certified General License” issued by the State Office of Real Estate Appraisal and shall determine full market value of the existing site improvements based on the Uniform Standards of the Professional Appraisal Practices as published by the Appraiser Standards Board of the Appraisal Foundation.~~

3. CZLUO Section 23.07.066(c) –Coastal High Hazard Areas

Revise by inserting the following additional underlined subsection (f):

f. Waiver of Rights to Future Armoring. Where applicants’ geologic assessment/wave run-up studies determine that the new or improved development is sited such that it will not need a shoreline protective device for the life of the structure the applicants shall waive their rights to a future shoreline protective device.

4. Tsunami Inundation Zones

Add a new section to the IP:

Tsunami Inundation Zone. Where feasible, development shall be sited outside of potential tsunami inundation zones, even if not currently designated FH. A Registered Civil Engineer with coastal experience shall make a determination, through examination of the most current tsunami inundation and run-up maps or a wave run-up analysis, whether the site subject to inundation during a tsunami, pursuant to the criteria of Section 23.07.064b. If it is not feasible to site development outside of a tsunami inundation zone, new development shall be in conformance with all provisions set forth in Section 23.07.066(c).



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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Adopted

Includes Addendum changes to 6/28/05 Staff Report and changes made at the 7/14/05 Coastal Commission Hearing

Revised Report Prepared November 30, 2005

To: Commissioners and Interested Persons
From: Charles Lester, Deputy Director
Diane Landry, District Manager
Jonathan Bishop, Coastal Program Analyst

Subject: **County of San Luis Obispo LCP Major Amendment Number 1-04 Part 1 (Flood Hazard Ordinance Amendment)** Proposed major amendment to the County of San Luis Obispo certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's July 14, 2005 meeting to take place at the Catamaran Resort Hotel, 3999 Mission Blvd., San Diego.

Summary

The County of San Luis Obispo is proposing to amend the Flood Hazard (FH) Combining Designation section of its certified Local Coastal Program (LCP) Implementation Plan (IP), also known as the Coastal Zone Land Use Ordinance (CZLUO). The impetus of the amendment is a Federal Emergency Management Agency (FEMA) mandate, but additional clarifying changes are proposed to address local concerns. The amendment includes:

- 1) Changing each instance where "County Engineer" is referenced in the ordinance to "Director of Public Works".
- 2) Modifying the applicability of construction standards for developments within flood hazard areas to include new structures and any improvement/repair to an existing structure where the value proposed is more than 50% of the market value before the start of construction or damage that required the repair.
- 3) Providing additional construction standards for developments in Coastal High Hazard areas.
- 4) Modifying the definitions of "Breakaway Walls" and "Structure" to conform with federal law and replace the "County Engineer" definition with a definition of "Director of Public Works".

Staff has evaluated the proposed amendments to the Implementation Plan (IP) for conformance with the Land Use Plan (LUP) and found that the amendments do not effectively carry out the LUP due to the need to better address: general hazard avoidance; avoidance of future shoreline structures; requirements for technical studies in tsunami inundation zones; and expanded mapping of FH areas.

The primary issue raised by the amendment is that it attempts to respond to significant flood hazard risk with state-of-the-art construction techniques rather than avoid them as directed by the LUP. Instead of siting and designing new structures outside of flood hazard areas to minimize risk to life and property, the LCP flood hazard ordinance applies FEMA construction standards (e.g., raise structures one foot

**California Coastal Commission****July 2005 Meeting in San Diego**Staff: J.Bishop Approved by: *JMB 11/30/05*

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above flood level; use flood-proof materials; anchoring piles or columns to resist collapse; etc.) to prevent structural damage in hazard zones. The use of these construction practices without standards for siting new development does not implement the requirement of LUP Hazard Policy 1, requiring new development to be located and designed to minimize risks from hazards. Coupled with continued reconstruction and renovation of the shorefront, the amendment's reliance upon construction standards rather than setbacks does not adequately avoid future shoreline protective devices as called for by the LUP.

To address these concerns, staff has recommended modifications to bring the flood hazard ordinance into compliance with the hazards policies of the LUP. The modifications include a general standard for hazard avoidance before FEMA construction standards are applied. In situations where hazard avoidance is not feasible, the suggested modifications require the implementation of FEMA construction standards and minimization of development within flood hazard areas. In addition, the suggested modifications call for a prohibition on subdivisions within hazard areas where the resultant parcel does not provide a building area outside of the designated hazard zone. For all development in coastal high hazard areas, the suggested modifications require that the applicant waive all rights to future shoreline devices intended to protect the new development from coastal hazards. The modifications further require additional studies in areas with tsunami inundation potential, as well as improved flood mapping of identified creeks. With these modifications, the implementation plan (IP), or zoning ordinance will be adequate to carry out the certified Land Use Plan (LUP).

Staff Note

The Commission previously extended the Coastal Act-mandated time frame for action on this LCP amendment until July 15, 2005. No further extensions are possible. Thus, pursuant to the timing requirements of the Act, the Commission must act on this LCP amendment at the July 2005 meeting. If the Commission does not act, then the amendment will be deemed approved as submitted.

Staff Report Contents

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I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make 2 motions in order to act on this recommendation.¹

1. Denial of Implementation Plan Major Amendment Number 1-04 Part 1 as Submitted

MOTION: *I move that the Commission reject Major Amendment 1-04 Part 1 to the San Luis Obispo County Local Coastal Program Implementation Plan as submitted by the County.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in **denial** of Implementation Program amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby **denies** certification of Major Amendment No. 1-04 Part 1 to the Implementation Plan of the San Luis Obispo County Local Coastal Program, on grounds that the Implementation Plan as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

2. Approval of Implementation Plan Major Amendment Number 1-04 Part 1 as Modified

MOTION: *I move that the Commission certify Major Amendment 1-04 Part 1 to the San Luis Obispo County Local Coastal Program Implementation Plan if modified according to the suggestions in this staff report.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

¹ Note that the motions and resolutions refer to "Part 1 of Major Amendment Number 1-04." The reason for this is that this amendment request is part 1 of a two-part LCP amendment submitted by the County of San Luis Obispo. Part 2 (Agricultural Preserve Map Amendment) was heard at the June 2005 Commission meeting in Long Beach.



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The Commission hereby certifies Implementation Program Amendment No. 1-04 Part 1 for San Luis Obispo County if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will meet the requirements of and be in conformity with the certified Land Use Plan. Certification of the Implementation Program 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 Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II.Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite consistency findings. If the County of San Luis Obispo accepts the suggested modifications within six months of Commission action (i.e., by January 14, 2006), by formal resolution of the Board of Supervisors, the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished.

1. CZLUO Section 23.07.065 - General Hazard Avoidance

Add a new CZLUO Section 23.07.065 – General Hazard Avoidance:

A. New Development in Flood Hazard Areas

New structural development, including expansions, additions and improvements to existing development, shall be located outside of flood hazard areas to the maximum extent feasible. All new structural development located in a flood hazard areas, including expansions, additions, improvements, and repairs to existing development, shall be constructed consistent with the standards set forth in Section 23.07.066

B. Improvement/Repair to Existing Structures in Flood Hazard Areas

Where the value of improvements or repairs to existing structures located in flood hazard areas is greater than 50% of the market value of the existing structure before the start of construction of the new structure or any improvement, and prior to the damage requiring the repair, all structural development (existing and proposed) shall be located outside of flood hazard areas to the maximum extent feasible. This can be determined by the assessment roll or by a current appraisal. The appraisal shall be completed by an appraiser with a "Certified General License" issued by the State Office of Real Estate Appraisal and shall determine full market value of the existing site improvements based on the Uniform Standards of the Professional Appraisal Practices as published by the Appraiser Standards Board of the Appraisal Foundation.

Any structural development (existing and proposed) that cannot be located outside of flood hazard



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C. Land Divisions in Flood Hazard Areas

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2. CZLUO Section 23.07.066 – Construction Standards

Delete the preamble of this section:

~~New structures or any improvement/repair to an existing structure (including manufactured homes) where the value propose is more than 50 percent of the market value of that existing structure before start of construction of the new structure or any improvement, and prior to the damage requiring the repair are subject to the following construction standards. This can be determined by the assessment roll or by a current appraisal. The appraisal shall be completed by an appraiser with a “Certified General License” issued by the State Office of Real Estate Appraisal and shall determine full market value of the existing site improvements based on the Uniform Standards of the Professional Appraisal Practices as published by the Appraiser Standards Board of the Appraisal Foundation.~~

3. CZLUO Section 23.07.066(c) –Coastal High Hazard Areas

Revise by inserting the following additional underlined subsection (f):

f. Waiver of Rights to Future Armoring. Where applicants’ geologic assessment/wave run-up studies determine that the new or improved development is sited such that it will not need a shoreline protective device for the life of the structure the applicants shall waive their rights to a future shoreline protective device.

4. Tsunami Inundation Zones

Add a new section to the IP:

Tsunami Inundation Zone. Where feasible, development shall be sited outside of potential tsunami inundation zones, even if not currently designated FH. A Registered Civil Engineer with coastal experience shall make a determination, through examination of the most current tsunami inundation and run-up maps or a wave run-up analysis, whether the site subject to inundation during a tsunami, pursuant to the criteria of Section 23.07.064b. If it is not feasible to site development outside of a tsunami inundation zone, new development shall be in conformance with all provisions set forth in Section 23.07.066(c).



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III. Findings and Declarations

The Commission finds and declares the following:

A. Proposed LCP Amendment

1. Description of the Amendment

The proposed amendment modifies the FH Combining Designation section of the Coastal Zone Land Use Ordinance (CZLUO) as follows. This section governs development in flood hazard areas, either subject to inundation from 100 year floods or subject to high velocity waves from tidal action or tsunamis, that have been designated FH:

First, it changes each instance where “County Engineer” is referenced in the ordinance to “Director of Public Works. These changes modify certified LCP Section 23.07.060; 23.07.062(a) and (b); 23.07.064(b); 23.07.066(a)1; 23.07.066(e); and the definitions section of Chapter 11.

Second, it modifies Section 23.07.066 (Construction Standards) by changing the applicability of construction requirements for development within flood hazard areas from an increase of 65 percent in the square footage to a new criteria of 50% of the market value of the structure before the start of construction or damage that required the repair. The use of flood resistant materials up to one foot above base flood elevation has been added (23.07.066(12)).

Third, it modifies Section 23.07.066(c) (Coastal High Hazard Areas) by changing the applicability of construction requirements for development within coastal high hazard areas (those areas subject to high velocity waves) from a blanket requirement for all development to a new criteria of 50% of the market value of the structure before the start of construction or damage that required the repair. Additional construction requirements are added.

Lastly, it modifies the definition of “Breakaway Walls” in section of Chapter 11-Definitions of the CZLUO to include more current engineering detail.

See Exhibit A for the Board’s resolution, Exhibit B for the Board of Supervisor’s staff report, and Exhibit C for the proposed changes in cross-through and underline format.

2. Effect of Changes Proposed

The amendment changes the circumstances under which FEMA construction standards are applied to development in mapped flood hazard areas. FEMA (Federal Emergency Management Agency) promulgates minimum standards that all local jurisdictions that participate in the federal flood hazard insurance program must follow. The current certified provisions of LCP Section 23.07.066 apply FEMA construction standards to new development or an increase in 65 percent in the square footage of any existing structure within a mapped flood hazard zone. The proposed amendment changes the applicability of construction standards to new structures or any improvement/repair to an existing structure where the value proposed is more than 50% of the market value before start of construction or



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damage that required the repair. This means that FEMA construction standards would not be applied for repairs or improvements with a value less than 50% of the existing structure. In Coastal High Hazard Areas (those areas subject to high velocity waves), the current certified provisions apply FEMA construction standards to all developments. The proposed amendment is less encompassing for development in these areas because construction standards would only be applied under limited circumstances.

B. LUP Consistency Analysis

1. Standard of Review

The standard of review for proposed modifications to the County's Land Use Plan (LUP) is consistency with the Coastal Act. The standard of review for proposed modifications to the County's Implementation Plan (IP), or zoning ordinance, is that they must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning ordinance) standards then typically further refine LUP policies to provide guidance on a parcel by parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified LUP.

2. LUP Consistency Requirement

In order to approve an Implementation Plan (IP) or zoning amendment, it must be consistent with and adequate to carry out the Land Use Plan (LUP). Relevant LUP Hazard policies include:

Policy 1: New Development

All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

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.]



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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.]

Policy 4: Limitations on the Construction of Shoreline Structures

Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for:

- a. protection of existing development (new development must ensure stability without depending upon shoreline protection devices);*
- b. public beaches and recreation areas in danger of erosion;*
- c. coastal dependent uses;*
- d. existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible.*

These structures shall be permitted provided they are sited and designed to eliminate or mitigate adverse impacts on local shoreline sand supply, fish and wildlife provided that non-structural methods (e.g., artificial nourishment) have been proven to be infeasible or impracticable.

Shoreline structures include revetments, breakwaters, groins, harbor channels, seawalls, cliff-retaining walls and other such structures that alter natural shoreline processes. Retaining walls shall be permitted only where necessary to stabilize bluffs where no less environmentally damaging alternative exists or where necessary for those projects defined above. Where shoreline structures are necessary to serve the above, siting shall not preclude public access to and along the shore and shall be sited to minimize the visual impacts, erosive impacts on adjacent unprotected property, encroachment onto the beach and to provide public overlooks where feasible and safe. The area seaward of the protective devices shall be dedicated for lateral public access. The protective devices shall utilize materials which require minimum maintenance and shall specify within the plans the agencies or persons responsible for maintenance.

In addition to county review, most shoreline structures require review by federal and state agencies. These may include permits required by the federal Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Department of Fish and Wildlife, California Regional Water Quality Control Board, State Lands Commission, California Coastal Commission, etc. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]



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Policy 5: Design and Construction of Shoreline Structures

Shoreline structures developed consistent with Policy 4 (including projects for maintenance and repair) shall be designed and constructed to mitigate or eliminate effects on local shoreline sand movement and supply. Construction activities shall be carefully managed to minimize unnecessary effects on natural landforms and shoreline processes. Upland grading and drainage shall be designed and constructed to avoid adverse impacts on bluff lines by channeling drainage away from the bluff where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.090 OF THE CZLUO.]

Policy 6: Bluff Setbacks

New development or expansion of existing uses on bluffs shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist based upon an on-site evaluation that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period. Specific standards for the content of geologic reports are contained in the Coastal Zone Land Use Ordinance. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.118 OF THE CZLUO.]

3. Consistency Analysis

The coastal zone of San Luis Obispo County is subject not only to flooding along streams and rivers, but also wave induced flooding along the coast. Inundation potential is greatest at the mouth of a stream or river where development may be subject to both river flooding and wave flooding during storms incurring heavy rain and large waves. Stream/river flooding is dependent on rainfall, whereas coastal wave inundation may occur through a variety of mechanisms (i.e. wind forcing, storm occurrence, or tsunami). When extreme tides coincide with large waves, the severity of wave inundation increases. Although flood hazard is usually associated with inundation and water damage, destruction to development may result from large debris and felled trees along wooded streams carried by flooding streams and ramming into structures. The same effect occurs along the shoreline with waves ramming debris into coastal structures.

LUP Hazards policies require that new development be sited and designed to minimize risk to life and property in hazard areas. Development is required to be sited and designed to ensure structural stability and neither create nor contribute significantly to erosion or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. New development proposed in identified hazard areas is required to follow detailed technical review. It should also be noted that the LUP makes a clear distinction between rural and urban areas when applying development standards in flood hazard areas. The LUP prohibits new development within the 100 year floodplain in the rural areas.

On the whole, these LUP policies recognize that development is generally not appropriate in hazard



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areas and structural stability cannot be guaranteed (without relying on engineering measures) and allows shoreline protection in only very specific and limited circumstances for already existing development.

Minimizing Risk

The proposed amendment does not adequately minimize the risk to life and property as required by the LUP. Rather, the proposed amendment responds to the risks of flooding through the application of state-of-the-art FEMA construction techniques instead of avoiding hazard areas. For example, in areas subject to flooding from a 100-year storm event, the submitted amendment calls for anchoring structures to prevent collapse, elevating the ground floor of structures one-foot above the 100-years storm flood profile level, and the use of flood resistant materials. In areas subject to wave attack (i.e., Coastal High Hazard Areas), for example, the amendment prescribes elevating structures on anchored pilings or columns, or the use of “breakaway” walls for spaces below the lowest floor. These federal criteria are obviously important to apply in situations where development in the hazard area cannot be avoided. However, the amended ordinance is written to address flood hazards with additional structural development and does not first look to avoiding them as required by the LUP.

The amendment submittal does not carry out this requirement because it does not require any construction standards to be applied for repairs or improvements with a value less than 50% of the existing structure. This means that some additions or improvements can be built in flood hazard areas without following any construction standards. Furthermore, the amendment has no cumulative limit over time. Both permitted improvements and inflation will likely mean over time the value of a structure increases. Thus, the threshold for applying the policy increases, and more substantial improvements can occur without being subject to the policy. As such, the amendment as proposed does not ensure structural stability and is inconsistent with the LUP in this regard.

To address these concerns, modifications are necessary to bring the flood hazard ordinance into compliance with the hazards policies of the LUP. The siting and/or re-siting of new development to avoid exposure to hazards is critical. The modifications include a general standard for hazard avoidance before FEMA construction standards are applied. In situations where hazard avoidance is not feasible, the suggested modifications require the implementation of FEMA construction standards and minimization of development within flood hazard areas. In addition, the suggested modifications call for a prohibition on subdivisions within hazard areas where the resultant parcel does not provide a building area outside of the designated hazard zone. See page 5 #1 for modifications in this regard.

Shoreline Structures

The proposed amendment does not ensure that new shoreline structures will not be installed, as required by the LUP in some instances. LUP Hazard Policies 4 and 5 require that construction that alters existing landforms and natural shoreline processes (like shoreline structures) be permitted only if that construction is required to (1) protect existing development without the need for shoreline protective devices; (2) protect public beaches; (3) serve coastal dependent uses; or (4) protect existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible. The LUP provides these limitations because such development can have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural



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landforms, and overall shoreline beach dynamics.

The proposed amendment does not ensure that the natural shoreline will not be altered, as required by the LUP in some instances. The use of FEMA construction techniques and materials prescribed by the amendment has the ability to alter natural shoreline processes and the natural landform in a variety of ways. The most common natural shoreline process in coastal high hazard areas is ongoing shoreline erosion and natural beach creation/shaping. Applying FEMA construction standards to developments in these hazard areas could alter the natural landform, as well as halt and significantly diminish ongoing natural shoreline processes and backshore erosion. For example, construction of large fixed structures like anchored pilings or columns on and adjacent to an eroding shoreline will adversely impact the ongoing natural processes that are critical to the creation and maintenance of sandy beach area.² Structures such as this would lead directly to an immediate loss of some beach landform, as well as a loss of more beach over time due to passive erosion. In addition, the bluff material would be stabilized and blocked from entering into the sand supply system limiting the amount of materials that could otherwise be available to promote sandy beach retention and formation. As such, the proposed amendment promotes the use of fixed structures that would alter natural shoreline processes and the natural landform inconsistent with the LUP.

Setbacks are the principal mechanism in the LCP to attempt to move development away from hazards (erosion, bluff retreat, flooding, etc.) and avoid shoreline armoring. While setbacks are called for in the LCP, the implementing actions of the amendment do not assure that future armoring will be avoided. In particular, the amendment's focus on the use of construction techniques rather than requiring siting and/or re-siting of development to avoid hazardous areas, will extend the lifespan of existing development within hazardous areas and thereby increase potential requests for future seawalls. In addition, there are some cases where the construction methods prescribed by the amendment (e.g. anchored pilings or columns) act as shoreline protective devices.

To address this concern, modifications are necessary to bring the flood hazard ordinance into compliance with the hazards policies of the LUP. Development should be sited and/or re-sited so that shoreline protective devices are not needed for the life of the structure. For all development in coastal high hazard areas, tsunami inundation zones, and floodplains mapped designated with a TH combining designation, the suggested modifications require that the applicant waive all rights to future shoreline protective devices. See page 5 #2 for modifications in this regard.

Tsunami Areas

The proposed amendment does not adequately protect against tsunami hazards, as required by the LUP. The proposed amendment only covers areas with an overlay zoning designation of FH on Flood

² On an eroding shoreline fronted by a beach, the beach will be present as long as some sand is supplied to the shoreline and the beach is not submerged by sea level rise. As erosion proceeds, the beach also retreats. This process stops, however, when the retreating shoreline comes to a hard structure. While the shoreline on either side of the structure continues to retreat, shoreline retreat in front of the structure stops. Eventually, the shoreline fronting the structure protrudes into the water, with the mean high tide line fixed at the base of the structure. In the case of an eroding shoreline, this represents the loss of a beach as a direct result of the structure. These effects are also known as "passive erosion."



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Insurance Rate Maps prepared by FEMA. However, mapping by the Governor's Office of Emergency Services indicates that the expected inundation zone of a worst-case tsunami may exceed the area designated FH, especially along coastal streams or areas exposed to ocean waves. These maps have been prepared for emergency response use only, and OES specifically indicates that they are not to be used for land use planning. Accordingly, structural development should be avoided in areas that could reasonably be expected to be subject to inundation during a tsunami. If avoidance is not feasible, it is necessary to mitigate for the possible effects of a tsunami, using engineering judgement and the FEMA V-zone construction standards as guidance for tsunami concerns. See page 5 #3 for modifications in this regard.

River Flood Plans

The proposed amendment does not cover all potential river flood plains, as required by the LUP. The proposed amendment only covers areas with an overlay zoning designation of FH. However, in both the 1998 North Coast Area Plan Update and the 2001 Periodic Review of the San Luis Obispo County LCP, review has revealed that there are additional floodplains not zoned FH. Even though the hazard ordinance that prohibits development in the 100-year floodplain in rural areas is consistent with LUP policies, the recommended modifications require the FH Combining designation to be expanded to Arroyo del Puerto, Oak Knoll, Little Pico, and Villa Creeks. See page 5 #4 for modifications in this regard.

4. Conclusion

Under the proposed implementation plan amendment, there is no provision to avoid the placement of structures and/or the improvement or repair of structures in flood hazard areas, including areas subject to wave attack. If approved, the amendment would promote additional structural development in these hazard areas inconsistent with the LUP directive to avoid risk to life and property. In addition, there are no provisions in the submitted ordinance to minimize development in flood hazard areas, including coastal high hazard areas, and assure that future shoreline protective devices will not be needed to protect such development. Furthermore, the amendment does not cover all tsunami run-up and river flood plains. Therefore, the proposed amendment to the implementation plan must be denied as being inadequate to carry out the land use plan.

There are modifications that can be made to address the identified shortcomings in the amendment. The amendment can be modified to include a general standard for hazard avoidance before FEMA construction standards are considered. The standard addresses 1) new development; 2) improvements or repairs valued at 50% or greater than the existing structure; 3) repairs and improvements valued less than 50% of the existing structure; and 4) subdivisions within flood hazard areas. Where hazard avoidance is not feasible, the suggested modifications require the implementation of FEMA construction standards and minimization of development within flood hazard areas. For all development in coastal high hazard areas, tsunami inundation zones, and floodplains mapped designated with a TH combining designation, the suggested modifications require that the applicant waive all rights to future shoreline protective devices. These modifications do not conflict with FEMA standards, rather they supplement them in order to be fully consistent with the LUP provisions.



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If the submittal is amended according to the modifications on page 4, the IP amendment can be approved as being consistent with the LUP.

C. California Environmental Quality Act (CEQA)

The Secretary of Resources has certified the Coastal Commission's review and development process for Local Coastal Programs and amendments as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does use any environmental information that the local government has developed. In this case the County adopted a notice of exemption from CEQA requirements. Staff has identified additional measures that need to be incorporated into the amendment in order to avoid adverse environmental impacts. These measures are embodied in the suggested modifications to the County's amendment submittal. With these changes, approval of the amendment complies with the California Environmental Quality Act because as modified, the amendment will not have significant environmental effects for which feasible alternatives or mitigation measures have not been employed. The basis for this determination is documented in the findings of this report, which are incorporated by reference as if set forth herein in full.



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