

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
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Agenda Number:
Prepared on: 4/19/04
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If Yes, date from: 3/23/04
Document FileName:

TO: Board of Supervisors

FROM: Valentin Alexeeff, Director
Planning & Development

STAFF CONTACT: Greg Mohr, Comprehensive Planning Division
568-2080

SUBJECT: Resubmittal of revised Toro Canyon Plan to the California Coastal Commission

Recommendation(s):

That the Board consider final recommendations from staff regarding the revised coastal portion of the Toro Canyon Plan, including related implementing ordinances, to be resubmitted for certification by the California Coastal Commission, as follows:

1. Consider and approve final recommendations on staff's proposed response to the California Coastal Commission's action to certify, with suggested modifications, the coastal portion of the Toro Canyon Plan, as discussed in this report and as reflected in Attachment 1 to this report;
2. Adopt a Resolution approving a revised amendment to the Santa Barbara County Local Coastal Program, including the Land Use Plan text and maps and Coastal Zoning Ordinance text and maps, to incorporate and implement the coastal portion of the Toro Canyon Plan, and authorizing and directing Planning & Development staff to re-submit this revised amendment to the California Coastal Commission (Attachment 2, Case No. s 04GPA-00000-00004, 04ORD-00000-00003, and 04RZN-00000-00005);
3. Adopt an Ordinance amending the text of the Coastal Zoning Ordinance to implement the coastal portion of the Toro Canyon Plan, as referenced above under Recommendation 2 (Attachment 3, Case No. 04ORD-00000-00003);
4. Adopt an Ordinance amending the maps of the Coastal Zoning Ordinance to implement the coastal portion of the Toro Canyon Plan, as referenced above under Recommendation 2 (Attachment 4, Case No. 04RZN-00000-00005).

Alignment with Board Strategic Plan: The recommendation is primarily aligned with Goal No. 1, An Efficient Government Able to Respond Effectively to the Needs of the Community; Goal No. 2, A Safe and Healthy Community in Which to Live, Work, and Visit; Goal No. 4, A Community that is Economically Vital and Sustainable; and Goal No. 5, A High Quality of Life for All Residents.

Executive Summary and Discussion: The Toro Canyon Plan has been prepared in the interests of improving the quality of future development to the enduring benefit of the area's property owners, protecting and enhancing both the natural and built environments, as well as protecting and improving the overall quality of life in this part of Santa Barbara County. The Plan was adopted by the Santa Barbara County Board of Supervisors in February 2002 and was submitted to the Coastal Commission in May 2002 as a proposed amendment to the county's certified Local Coastal Program (LCP). The Commission staff accepted it for processing in August 2002, and in November 2002 the statutory deadline for action was extended by the Commission for one year, to November 2003.

The Coastal Commission acted on November 6, 2003 to certify the Toro Canyon Plan with 47 separate suggested modifications to the Plan that was approved by the county. Some of these changes are minor, but many are substantial. Under the state Coastal Act, the county has up to six months, that is, until early May 2004, in which to respond to the Commission's action.

The proposed response to the suggested modifications addresses several of the Commission's areas of primary concern regarding consistency with the Coastal Act, including environmentally sensitive habitats, landform alteration on slopes greater than 30%, coastal access, visitor-serving commercial uses, visual resources, shoreline development, water quality, and agricultural resources. All of these issues are addressed by the Board-adopted Toro Canyon Plan, but the Commission suggested changes that it believes are necessary for full consistency with the Coastal Act.

On December 3, 2003, First District Supervisor Schwartz and P&D staff hosted a community meeting to explain the Coastal Commission's action and solicit feedback from the affected public on possible responses by the county. Most of those present supported resistance to the Coastal Commission's action, although some supported acceptance of the Commission's changes.

The Board held a hearing on this matter on January 27, 2004 to consider various ways of responding to the Coastal Commission. The Board directed staff and Supervisor Schwartz to have additional discussions with Commission staff in preparing a detailed response to the Commission, most likely including the acceptance of some modifications, proposed changes to other modifications, and rejection of modifications that would not be acceptable.

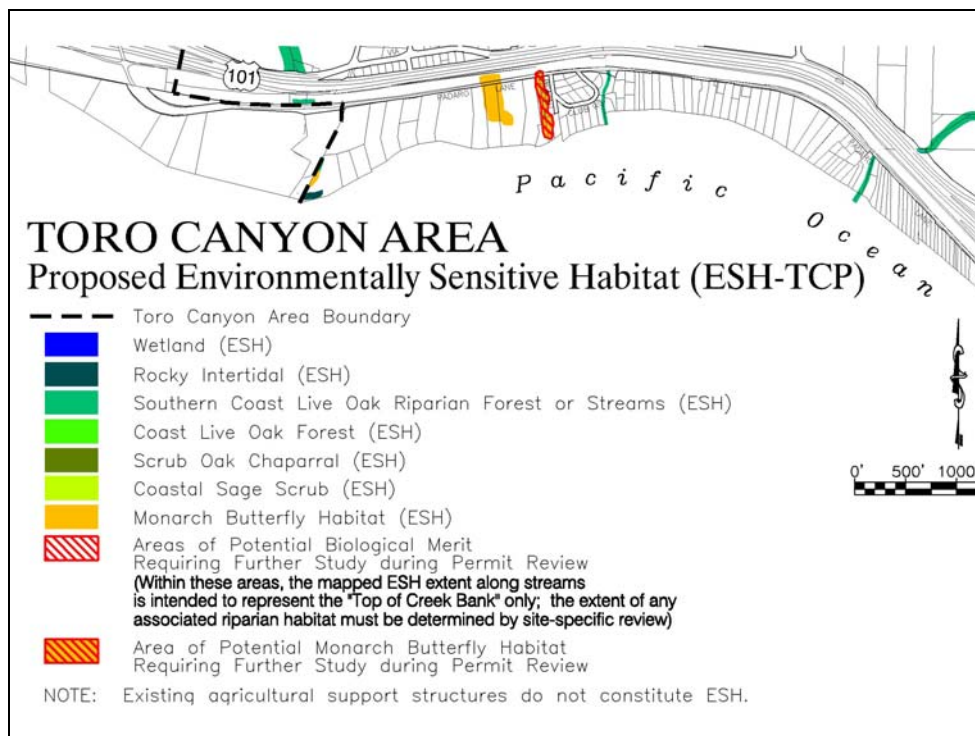
Such discussions took place at three meetings in February and early March, the last of which included several residents of the Toro Canyon area invited by Supervisor Schwartz. As a result of these discussions, staff prepared a draft response, which was considered by the Board on March 23, 2004.

As presented on March 23, of the 47 modifications approved by the Coastal Commission last November, staff recommends that the following actions be taken:

- **Acceptance as submitted** of Modifications 1, 3, 4, 5, 9, 10, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 29, 36, 37, 38, 39, 40, 41, and 44;
- **Acceptance with changes** of Modifications 2, 6, 7, 8, 11, 12, 13, 15, 20, 26, 27, 28, 30, 31, 32, 33, 34, 35, 43, 45, and 47;
- **Rejection** of Modifications 42 and 46, or **acceptance with changes** of Modifications 42 and 46 as a possible fall-back option (see attached table, p. 21).

On March 23, the Board conceptually approved these recommendations with direction to further study Modifications 7, 11, and 43/45. Revised recommendations on these modifications are reflected in the table included within Attachment 1 to this report. The revised staff recommendations on these modifications are summarized below.

1. Modification 7, regarding conditional certificates of compliance, has been amended to clarify that they would require a Coastal Development Permit (CDP). Because conditional certificates of compliance raise significant statewide issues for the Commission, staff has agreed to give notice to Commission staff of the issuance of conditional certificates of compliance in the coastal zone. County Counsel has discussed this issue with the Coastal Commission’s Executive Director and legal staff and consensus has been reached.
2. Modification 11, regarding coastal access at Santa Claus Lane, is recommended to be revised in its last sentence to read as follows: “Permits for new development shall include conditions that incorporate feasible measures that provide or protect access and, where there is substantial evidence that historic public access exists, the project shall be conditioned to continue providing for such access.” These changes would accommodate both prospective and historic public access.
3. Modifications 43 and 45, both of which concern the disputed potential Monarch Butterfly habitat on Padaro Lane on the western side of the Beach Club Road area, are recommended to be resolved by adding a special new category to the Environmentally Sensitive Habitat (ESH) map and legend: “Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review,” as displayed below (please note that the actual map is in color).



This explicitly distinguishes and clarifies this special circumstance to the maximum extent, along with text that will be added to Action BIO-TC-1.2, which would read in full as follows: “The Rural

Neighborhoods of Torito Road, Serena Park, La Paquita and Ocean Oaks shall be designated on the Toro Canyon Plan ESH Overlay Map as areas of potential biological merit requiring further biological study for ESH delineation during an application for development. In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an ‘Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review’” (underscore added to proposed new text for illustrative purposes only).

Staff recommends that your Board consider and approve these final recommendations and adopt the attached resolution and ordinances approving the changes as a revised Coastal portion of the Toro Canyon Plan, to be resubmitted to the Coastal Commission for certification.

Mandates and Service Levels: No change in mandates or service levels. This is an expected part of processing the Toro Canyon Plan, although much more extensive than anticipated.

Fiscal and Facilities Impacts: Work on the Coastal Commission certification phase of the Toro Canyon Plan was funded in the latter part of last fiscal year (2002-03) and in the current fiscal year (2003-04) through a \$40,000 Coastal Impact Assistance Program (CIAP) grant, a program administered by the federal National Oceanic and Atmospheric Administration (NOAA). This grant has been exhausted, due to the extensive amount of effort involved in reviewing and responding to the Coastal Commission’s proposed changes. Additional costs to date for staff time, travel, mailing, and materials have been absorbed by P&D within the department’s adopted budget.

P&D’s adopted budget for FY 03-04 did not anticipate these additional costs. The department will request that NOAA approve the reallocation of CIAP grant funds to cover the extra unanticipated costs of pursuing certification, which could amount to \$20,000 or more. If P&D’s request to reallocate CIAP grant funds is denied, then funding will be shifted from another work effort in the Comprehensive Planning Division, resulting in some delay of that work effort.

There would be no facilities impacts.

Attachments:

1. Table of Coastal Commission modifications with county staff recommendations and comments
2. Resolution adopting all Local Coastal Program amendments and specifically the Land Use Plan amendments, Case No.s 04GPA-00000-00004, 04ORD-00000-00003, & 04RZN-00000-00005
3. Ordinance amending Art. II (Coastal) zoning text, Case Number 04ORD-00000-00003
4. Ordinance amending Art. II (Coastal) zoning maps, Case Number 04RZN-00000-00005

Coastal Commission Modification	County Recommended Modification Response	County Comments
<p>1. <u>General Provisions (GOAL LUG-TC)</u></p> <p>All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan. <u>Consistent with LUP Policy 1-2, should any policy or provision of the Toro Canyon Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail.</u> Consistent with LUP Policy 1-3, where the policies or provisions of the certified Toro Canyon Plan conflict with any other policy or provision of the County’s Comprehensive Plan or other guiding standards, the Local Coastal Program shall prevail.</p>	<p>1. <u>General Provisions (GOAL LUG-TC)</u></p> <p>All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan. <u>Consistent with LUP Policy 1-2, should any policy or provision of the Toro Canyon Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail.</u> Consistent with LUP Policy 1-3, where the policies or provisions of the certified Toro Canyon Plan conflict with any other policy or provision of the County’s Comprehensive Plan or other guiding standards, the Local Coastal Program shall prevail.</p>	<p>Accept</p>
<p>2. <u>General Provisions (Policy LUG-TC-1)</u></p> <p>The Development Standards <u>and Actions</u> contained within this Plan shall be used to implement the policies of the Plan <u>and</u>. Where appropriate, these standards shall be applied to projects under review, unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.</p>	<p>2. <u>General Provisions (Policy LUG-TC-1)</u></p> <p>The Development Standards <u>and Actions</u> contained within this Plan shall be used to implement the policies of the Plan <u>and</u>. Where appropriate, these standards shall be applied to projects under review, unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies. shall be applied to projects under review,</p>	<p>Accept with Edits: simplify text for clarity.</p>
<p>3. <u>General Provisions (New Policy under LUG)</u></p> <p><u>In addition to the requirements of LUP Policy 2-11, development shall be scaled, sited and designed to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of roads and driveways; number and size of accessory structures; configuration and size of development envelopes including concentrating development in existing developed areas; amount and location of grading; vegetation removal; and night lighting.</u></p>	<p>3. <u>General Provisions (New Policy under LUG)</u></p> <p><u>In addition to the requirements of LUP Policy 2-11, development shall be scaled, sited and designed to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of roads and driveways; number and size of accessory structures; configuration and size of development envelopes including concentrating development in existing developed areas; amount and location of grading; vegetation removal; and night lighting.</u></p>	<p>Accept</p>
<p>4. <u>General Provisions (New Policy under LUG)</u></p> <p><u>Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.</u></p>	<p>4. <u>General Provisions (New Policy under LUG)</u></p> <p><u>Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.</u></p>	<p>Accept</p>
<p>5. <u>Reasonable Use (Policy LUG-TC-4; Policy LUG-TC-6)</u></p> <p>a. Land Use and Zoning designations shall provide for reasonable use and development of</p>	<p>5. <u>Reasonable Use (Policy LUG-TC-4; Policy LUG-TC-6)</u></p> <p>a. Land Use and Zoning designations shall provide for reasonable use and development of</p>	<p>Accept (relates to Modification 47).</p>

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<p>property within given site constraints. <u>Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically states/provides an exemption for “reasonable use of property,” the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.</u></p> <p>b. The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law. <u>Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically provide an exemption for “reasonable use of property,” similarly the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.</u></p>	<p>property within given site constraints. <u>Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically states/provides an exemption for “reasonable use of property,” the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.</u></p> <p>b. The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law. <u>Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically provide an exemption for “reasonable use of property,” similarly the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.</u></p>	
<p>6. <u>Non-Conforming Structures (New Policy under LUG)</u></p> <p><u>Existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below and in Policy BIO-TC-5 and DevStd BIO-TC-5.1 through 5.6 [cross reference to LUP Modification 26], additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.</u></p>	<p>6. <u>Non-Conforming Structures (New Policy under LUG)</u></p> <p><u>Existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below and in Policy BIO-TC-5 and DevStd BIO-TC-5.1 through 5.6 [cross reference to LUP Modification 26], additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.</u></p>	<p>Accept with edits: Mixes nonconforming use with nonconforming structure, which are two separate regulations within County Coastal Zoning Ordinance (Article II). Remove reference for clarity and rely upon Article II; see also Modification 47 (related zoning ordinance changes).</p>
<p>7. <u>Certificates of Compliance (New Policy under LUG)</u></p> <p><u>Conditional Certificates of Compliance, or Certificates of Compliance issued for land divisions that occurred after the Coastal Act, shall require a coastal development permit appealable to the Coastal Commission.</u></p>	<p>7. <u>Certificates of Compliance (New Policy under LUG)</u></p> <p><u>Conditional Certificates of Compliance, or Certificates of Compliance issued for land divisions that occurred after the Coastal Act, shall require a coastal development permit appealable to the Coastal Commission.</u></p>	<p>Accept with edits: The county does not consider regular Certificates of Compliance to be “development” that would require a</p>

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		coastal development permit and all land divisions after 1976 Coastal Act require local permit authority pursuant to the Subdivision Map Act.
<p>8. <u>Land Divisions (New Policy under LUG)</u></p> <p><u>Land divisions within the coastal zone, including lot line adjustments, shall be prohibited unless all proposed parcels:</u></p> <p><u>(1) Can be demonstrated to be safe from erosion, flood, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.</u></p> <p><u>(2) Can be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.</u></p> <p><u>(3) Can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 100 year life of the development.</u></p> <p><u>(4) Would not result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% and shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.</u></p>	<p>8. <u>Land Divisions (New Policy under LUG)</u></p> <p><u>Land divisions within the coastal zone, including lot line adjustments, shall be prohibited unless all proposed parcels:</u></p> <p><u>(1) Can be demonstrated to be safe from erosion, flood, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.</u></p> <p><u>(2) Can be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.</u></p> <p><u>(3) Can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full 10075 year life of the development.</u></p> <p><u>(4) Would not result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% and shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.</u></p>	<p>Accept with edits: Current LCP standard for assumed structural life is 75 years, at least with regard to bluff setbacks (Policy 3-4); keep consistent with LCP.</p>
<p>9. <u>Prime Soils (New Policy under LUA)</u></p> <p><u>Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.</u></p>	<p>9. <u>Prime Soils (New Policy under LUA)</u></p> <p><u>Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.</u></p>	<p>Accept</p>
<p>10. <u>Fuel Modification (DevStd FIRE-TC-2.2)</u></p> <p>a. Development shall be sited to minimize exposure to fire hazards and reduce the need for grading, <u>fuel modification (including thinning of vegetation and limbing of trees), and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).</u></p>	<p>10. <u>Fuel Modification (DevStd FIRE-TC-2.2)</u></p> <p>a. Development shall be sited to minimize exposure to fire hazards and reduce the need for grading, <u>fuel modification (including thinning of vegetation and limbing of trees), and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).</u></p>	<p>Accept</p>

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<p>11. <u>Public Access Santa Claus Lane (Action PRT-TC-1.4)</u></p> <p><u>The County shall pursue public access to the beach from Santa Claus Lane. Public beach access shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; by clarifying the status of lateral beach access rights, or by securing any easements that may be necessary and appropriate; In addition, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, developing one or more parking areas (also see Action CIRC TC 4.3); constructing appropriate safety features; and installing appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 12]. any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered “development” subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date. Permits for new development shall include conditions that incorporate measures that provide or protect access where there is substantial evidence that prescriptive rights exist, or where required for new development.</u></p>	<p>11. <u>Public Access Santa Claus Lane (Action PRT-TC-1.4)</u></p> <p><u>The County shall pursue public access to the beach from Santa Claus Lane. Public beach access shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; by clarifying the status of lateral beach access rights, or by securing any easements that may be necessary and appropriate; In addition, where feasible, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, developing one or more parking areas (also see Action CIRC TC 4.3); constructing appropriate safety features; and/or the installation of appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 12]. such as any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. The opening of any beach access shall be considered “development” subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the priority beach access for the Toro Canyon Plan area at the earliest feasible date. Permits for new development shall include conditions that incorporate feasible measures that provide or protect access and, where there is substantial evidence that historic public access exists, the project shall be conditioned to continue providing for such access.</u></p>	<p>Accept with edits: provides clarity to the types of public access support facilities; simplified language when new development is required to maintain existing public access.</p>
<p>12. <u>Public Access & New Development (New DevStd under Policy PRT-TC-1)</u></p> <p><u>Public accessways and trails shall be provided in accordance with the following standards:</u></p> <p><u>a. Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway should be opened within 5 years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association acceptable to the County expressly requests ownership of the easement in order to open it to the public, the easement holder may transfer the easement to that entity. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association acceptable to the County that requests such transfer, if the easement holder has not opened</u></p>	<p>12. <u>Public Access & New Development (New DevStd under Policy PRT-TC-1)</u></p> <p><u>Public accessways and trails shall be provided in accordance with the following standards:</u></p> <p><u>a. Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway should be opened within 5 years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association acceptable to the County expressly requests ownershipmanagement of the easement in order to open it to the public, the easement holder may transfer the easement to that entity. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association acceptable to the County that requests such transfer, if the easement holder has</u></p>	<p>Accept with edits: Clarifies that other entity could manage a public access, but not own the easement, subject to County approval.</p>

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<p><u>the accessway to the public within 5 years of accepting the offer.</u> <u>b. Where there is an existing public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use. Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.</u> <u>c. For all offers to dedicate an easement that are required as a condition of Coastal Development Permit approved by the County, the County has the authority to approve a private association that seeks to accept the offer. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The County may approve any private association acceptable to the County that submits a management plan that indicates that the association will open, operate, and maintain the easement in accordance with terms of the recorded offer to dedicate the easement.</u></p>	<p><u>not opened the accessway to the public within 5 years of accepting the offer.</u> <u>b. Where there is an existing public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use. Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.</u> <u>c. For all offers to dedicate an easement that are required as a condition of Coastal Development Permit approved by the County, the County has the authority to approve a private association that seeks to manage the easement. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The County may approve any private association acceptable to the County that submits a management plan that indicates that the association will open, operate, and maintain and manage the easement in accordance with terms of the recorded offer to dedicate the easement.</u></p>	
<p>13. <u>Public Access Padaro Lane (Action PRT-TC-1.3)</u></p> <p><u>Consistent with LUP Policy 7-8, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. The County shall pursue, to the extent feasible, developing public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered “development” subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent. The County shall include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and other appropriate features for the beach access. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.</u></p>	<p>13. <u>Public Access Padaro Lane (Action PRT-TC-1.3)</u></p> <p><u>Consistent with LUP Policy 7-8, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall consider include appropriate improvements in any project to open beach access, possibly including but not necessarily limited to <u>such as signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, and or other appropriate features for the beach access, described in Policy PRT-TC- [cross reference to suggested modification 12]</u> The County shall pursue, to the extent feasible, developing public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered “development” subject to the provisions of this Plan, and shall be undertaken in a manner consistent with Coastal Act Sec.s 30210 through 30214. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.</u></p>	<p>Accept with edits: Reordered several sentences and revised text to maintain county consideration of beach access improvements and minimize native tree removal or eucalyptus tree removal associated with monarch aggregation site (See also Modifications 11 and 12.)</p>
<p>14. <u>Circulation (New DevStd under Policy CIRC-TC-1)</u></p> <p><u>Improvements along Route 192/ Foothill Road should be developed in a manner consistent with bicycle and pedestrian safety, and should be designed for improved bicycle access.</u></p>	<p>14. <u>Circulation (New DevStd under Policy CIRC-TC-1)</u></p> <p><u>Improvements along Route 192/ Foothill Road should be developed in a manner consistent with bicycle and pedestrian safety, and should be designed for improved bicycle access.</u></p>	<p>Accept</p>

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<p>15. <u>Water Quality (Policy WW-TC-2; New Policies under WW)</u></p> <p>a. Pollution <u>Development shall avoid the introduction of pollutants into</u> of surface, ground and ocean waters. Where avoidance is not feasible, pollution <u>the introduction of pollutants shall be minimized to the maximum extent feasible.</u></p> <p>b. <u>Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.</u></p> <p>c. <u>Development shall avoid, to the maximum extent feasible, adverse impacts to the biological productivity and quality of coastal streams, wetlands, bays, estuaries, lakes and the ocean. This shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, which is hereby incorporated by reference into this LCP amendment. Any potential updates to the SWMP will be submitted to the CCC on an annual basis as potential LCP amendments.</u></p> <p>d. <u>Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner.</u></p>	<p>15. <u>Water Quality (Policy WW-TC-2; New Policies under WW)</u></p> <p>a. Pollution <u>Development shall avoid the introduction of pollutants into</u> of surface, ground and ocean waters. Where avoidance is not feasible, pollution <u>the introduction of pollutants shall be minimized to the maximum extent feasible.</u></p> <p>b. <u>Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.</u></p> <p>c. <u>Development shall avoid, to the maximum extent feasible, adverse impacts to the biological productivity and quality of coastal streams, wetlands, bays, estuaries, lakes and the ocean. This shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, <u>as updated and approved by the Regional Water Quality Control Board</u>, which is hereby incorporated by reference into this LCP amendment. Any potential updates to the SWMP will be submitted to the CCC on an annual basis as potential <u>proposed changes to the SWMP shall be submitted to the Coastal Commission Executive Director for review and comment as part of the annual SWMP review process. Any changes to the SWMP that substantively change the LCP provisions for coastal water quality protection within the Toro Canyon Plan area, as determined by the Executive Director, shall be submitted to the CCC on an annual basis as proposed</u> LCP amendments.</u></p> <p>d. <u>Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner.</u></p>	<p>Accept with edits: No bays, estuaries or lakes in the planning area; references RQWCB authority; Coastal Commission has no authority over SWMP.</p>
<p>16. <u>OSTS (New DevStd under Policy WW-TC-2)</u></p> <p>a. <u>Development that includes new OSTs(s) or expansion of existing OSTs(s), with a subsurface sewage effluent dispersal system that is within 100 feet of a beach, shall provide secondary or tertiary effluent treatment prior to discharging to that dispersal system.</u></p> <p>b. <u>Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property. Where such development is approved to allow reasonable use of property, it shall provide for secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.</u></p>	<p>16. <u>OSTS (New DevStd under Policy WW-TC-2)</u></p> <p>a. <u>Development that includes new OSTs(s) or expansion of existing OSTs(s), with a subsurface sewage effluent dispersal system that is within 100 feet of a beach, shall provide secondary or tertiary effluent treatment prior to discharging to that dispersal system.</u></p> <p>b. <u>Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property. Where such development is approved to allow reasonable use of property, it shall provide for secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.</u></p>	<p>Accept</p>
<p>17. <u>ESH Mapping (New DevStds under Policy BIO-TC-1)</u></p> <p><u>Any area mapped, or otherwise identified through historic evidence, as ESH shall not be</u></p>	<p>17. <u>ESH Mapping (New DevStds under Policy BIO-TC-1)</u></p> <p><u>Any area mapped, or otherwise identified through historic evidence, as ESH shall not be</u></p>	<p>Accept</p>

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<p><u>deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.</u></p>	<p><u>deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.</u></p>	
<p>18. <u>ESH Overlay Delineation (DevStd BIO-TC-1.3)</u></p> <p>The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.</p> <p><u>The County shall determine the physical extent of habitat meeting the definition of ESH on the project site, based on a site-specific biological study as described in Article II Section 35-194, prepared by a qualified biologist or environmental specialist.</u></p>	<p>18. <u>ESH Overlay Delineation (DevStd BIO-TC-1.3)</u></p> <p>The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.</p> <p><u>The County shall determine the physical extent of habitat meeting the definition of ESH on the project site, based on a site-specific biological study as described in Article II Section 35-194, prepared by a qualified biologist or environmental specialist.</u></p>	<p>Accept</p>
<p>19. <u>ESH Buffers (DevStd BIO-TC-1.4)</u></p> <p>Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Southern Coast Live Oak Riparian Forest corridors <u>and streams</u>- 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from <u>the outer edge of the canopy or the top of creek bank¹, whichever is greater. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy;</u> <input type="checkbox"/> Coast Live Oak Forests - 25 feet from edge of canopy; <input type="checkbox"/> Monarch butterfly habitat- minimum 50 feet from any side of the habitat; <input type="checkbox"/> Native grassland, a minimum ¼ acre in size – 25 feet; <input type="checkbox"/> Coastal Sage – minimum 20 feet; <input type="checkbox"/> Scrub oak chaparral – 25 feet from edge of canopy; <input type="checkbox"/> Wetlands – minimum 100 feet; and <input type="checkbox"/> Buffer areas from other types of ESH shall be determined on a case-by case basis. These buffer areas, except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak 	<p>19. <u>ESH Buffers (DevStd BIO-TC-1.4)</u></p> <p>Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Southern Coast Live Oak Riparian Forest corridors <u>and streams</u>- 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from <u>the outer edge of the canopy or the top of creek bank², whichever is greater. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner-rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy;</u> <input type="checkbox"/> Coast Live Oak Forests - 25 feet from edge of canopy; <input type="checkbox"/> Monarch butterfly habitat- minimum 50 feet from any side of the habitat; <input type="checkbox"/> Native grassland, a minimum ¼ acre in size – 25 feet; <input type="checkbox"/> Coastal Sage – minimum 20 feet; <input type="checkbox"/> Scrub oak chaparral – 25 feet from edge of canopy; <input type="checkbox"/> Wetlands – minimum 100 feet; and <input type="checkbox"/> Buffer areas from other types of ESH shall be determined on a case-by case basis. These buffer areas, except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak 	<p>Accept</p>

¹ “Top of creek bank” is identified differently by the Flood Control District for flood control purposes and by Environmental Health Services for the location of septic systems. For the purposes of the habitat protection policies and development standards of this Plan, the “top of creek bank” shall be defined as the recognized geologic top of slope.

² “Top of creek bank” is identified differently by the Flood Control District for flood control purposes and by Environmental Health Services for the location of septic systems. For the purposes of the habitat protection policies and development standards of this Plan, the “top of creek bank” shall be defined as the recognized geologic top of slope.

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<p>Riparian Forests <u>and streams</u>, may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development and <u>in consultation with</u> other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.</p>	<p>Riparian Forests <u>and streams</u>, may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development and <u>in consultation with</u> other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.</p>	
<p>20. <u>ESH & ESH Buffer (New DevStd under Policy BIO-TC-1)</u></p> <p><u>Development in or adjacent to ESH or ESH Buffer shall meet the following standards:</u></p> <p><u>a. Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.</u></p> <p><u>b. Public accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESH. Trails shall be sited outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Where seasonal closures occur, alternative trail segments shall be provided where feasible.</u></p> <p><u>c. The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat, shall be prohibited within and adjacent to ESH, where application of such substances would impact the ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the breeding/nesting season of sensitive species that may be affected by the proposed activities, winter season, or when rain is predicted within a week of application.</u></p> <p><u>d. As a condition of approval of new development adjacent to coastal sage scrub and native</u></p>	<p>20. <u>ESH & ESH Buffer (New DevStd under Policy BIO-TC-1)</u></p> <p><u>Development in or adjacent to ESH or ESH Buffer shall meet the following standards:</u></p> <p><u>a. Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.</u></p> <p><u>b. New Public accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESH. Where feasible Trails shall be sited to the outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. When trail plans are developed and the most desirable location would result in trail segments adjacent to sensitive species habitats that may require seasonal closures, alternative trail connections shall be identified. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Where seasonal closures occur, these alternative trail segments shall be used, provided where feasible.</u></p> <p><u>c. The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat, shall be prohibited within and adjacent to ESH, where application of such substances would impact the ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the breeding/nesting</u></p>	<p>Accept with edits: clarifies trail locations adjacent or within ESH areas; clarifies language regarding alternative trail segments.</p>

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<p><u>grassland, the applicant shall plant the associated ESH buffer areas with appropriate locally native plants.</u></p>	<p><u>season of sensitive species that may be affected by the proposed activities, winter season, or when rain is predicted within a week of application.</u> <u>d. As a condition of approval of new development adjacent to coastal sage scrub and native grassland, the applicant shall plant the associated ESH buffer areas with appropriate locally native plants.</u></p>	
<p>21. <u>ESH Economic Viability Determination (New DevStd under Policy BIO-TC-1)</u></p> <p><u>a. If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat (ESH) area or ESH buffer would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination as required in Article II Section 35-194.</u> <u>In addition, the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESH or ESH buffer that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on-site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESH and ESH buffer.</u></p> <p><u>b. To evaluate whether a restriction would not provide an economically viable use of property as a result of the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat area or ESH buffer, an applicant must provide the information about resources present on the property that is needed to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.</u></p>	<p>21. <u>ESH Economic Viability Determination (New DevStd under Policy BIO-TC-1)</u></p> <p><u>a. If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat (ESH) area or ESH buffer would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination as required in Article II Section 35-194.</u> <u>In addition, the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESH or ESH buffer that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on-site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESH and ESH buffer.</u></p> <p><u>b. To evaluate whether a restriction would not provide an economically viable use of property as a result of the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat area or ESH buffer, an applicant must provide the information about resources present on the property that is needed to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.</u></p>	<p>Accept</p>
<p>22. <u>ESH Wetlands (New DevStd under Policy BIO-TC-1)</u></p> <p><u>The drainages ditches on the north side of Padaro Lane and south side of Santa Claus Lane, mapped as Wetland (Not ESH) on the Toro Canyon Plan ESH Overlay Map, which were built to convey floodwaters, shall not be subject to the required wetland buffer and may be maintained by the Flood Control District. Maintenance shall not result in the enlargement, extension, or expansion of the existing drainage channels, but shall be limited to the removal of vegetation, debris, and sediment buildup.</u></p>	<p>22. <u>ESH Wetlands (New DevStd under Policy BIO-TC-1)</u></p> <p><u>The drainages ditches on the north side of Padaro Lane and south side of Santa Claus Lane, mapped as Wetland (Not ESH) on the Toro Canyon Plan ESH Overlay Map, which were built to convey floodwaters, shall not be subject to the required wetland buffer and may be maintained by the Flood Control District. Maintenance shall not result in the enlargement, extension, or expansion of the existing drainage channels, but shall be limited to the removal of vegetation, debris, and sediment buildup.</u></p>	<p>Accept</p>
<p>23. <u>Landscaping/Invasive Species (Policy BIO-TC-2; DevStd BIO-TC-2.2; New</u></p>	<p>23. <u>Landscaping/Invasive Species (Policy BIO-TC-2; DevStd BIO-TC-2.2; New</u></p>	<p>Accept</p>

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<p><u>DevStd under Policy BIO-TC-2)</u></p> <p>a. Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH. <u>All landscaping shall utilize only non-invasive plants.</u></p> <p>b. Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall be limited to <u>utilize only non-invasive plants within 500' from the ESH resource</u>-(see Appendix H, <i>List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas</i>).</p> <p>c. <u>Habitat restoration and invasive plant eradication may be permitted within ESH and ESH buffer areas if designed to protect and enhance habitat values provided that all activities occur outside of the breeding/nesting season of sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site-specific application with no migration to the surrounding environment.</u></p>	<p><u>DevStd under Policy BIO-TC-2)</u></p> <p>a. Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH. <u>All landscaping shall utilize only non-invasive plants.</u></p> <p>b. Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall be limited to <u>utilize only non-invasive plants within 500' from the ESH resource</u>-(see Appendix H, <i>List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas</i>).</p> <p>c. <u>Habitat restoration and invasive plant eradication may be permitted within ESH and ESH buffer areas if designed to protect and enhance habitat values provided that all activities occur outside of the breeding/nesting season of sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site-specific application with no migration to the surrounding environment.</u></p>	
<p><u>24. Fuel Modification (DevStd BIO-TC-4.3)</u></p> <p>Significant vegetation fuel management² within ESH and ESH buffer areas <u>implemented in association with existing development</u> may be permitted where, subject to a coastal development permit, findings are made <u>that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1).</u> <u>New development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development to the maximum extent feasible and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer.</u></p> <p>The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.</p>	<p><u>24. Fuel Modification (DevStd BIO-TC-4.3)</u></p> <p>Significant vegetation fuel management² within ESH and ESH buffer areas <u>implemented in association with existing development</u> may be permitted where, subject to a coastal development permit, findings are made <u>that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1).</u> <u>New development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development to the maximum extent feasible and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer.</u></p> <p>The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.</p>	Accept
<p><u>25. Agricultural Infrastructure (DevStd BIO-TC-4.4; Move to LUA)</u></p> <p>In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, ¶The County should ensure that essential infrastructure for existing agricultural production is protected and maintained.</p>	<p><u>25. Agricultural Infrastructure (DevStd BIO-TC-4.4; Move to LUA)</u></p> <p>In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, ¶The County should ensure that essential infrastructure for existing agricultural production is protected and maintained.</p>	Accept

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<p>26. <u>ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5)</u></p> <p>a. Due to the existing land subdivision and built environment in the Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related landscaped areas are within the ESH buffer and not part of the ESH itself, structural additions to <u>the existing primary residence may main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additions shall also comply with development standards in subject to DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34.</u></p> <p>b. For existing <u>lawfully constructed primary residences in Existing Developed Rural Neighborhoods residential structures in any zone district and existing agricultural support structures on agriculturally zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas or adjacent to ESH,</u> structural additions <u>or improvements shall be scaled, sited, and designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to in conformance with the following guidelines standards:</u> a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance <u>with limited canopy reduction including limbing of oaks and sycamores;</u> b. <u>Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season) and do not extend new areas of fuel modification into ESH areas.</u> b-c. Where the existing structure is located only partially inside an ESH or ESH buffer area, a <u>Additions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area. If the subject development cannot be located away from ESH, then the extension of a ground level development footprint shall be denied. d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.</u></p> <p>c. The reconstruction of a lawfully established primary residence in an Existing Developed</p>	<p>26. <u>ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5)</u></p> <p>a. Due to the existing land subdivision and built environment in the Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related landscaped areas are within the ESH buffer and not part of the ESH itself, structural additions to <u>the existing primary residence may main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additions shall also comply with development standards in subject to DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34.</u></p> <p>b. For existing <u>lawfully constructed primary residences in Existing Developed Rural Neighborhoods residential structures in any zone district and existing agricultural support structures on agriculturally zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas</u> or adjacent to ESH, structural additions or improvements shall be scaled, sited, and designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to in conformance with the following guidelines standards: a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance <u>with limited canopy reduction including limbing of oaks and sycamores;</u> b. <u>Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season) and do not extend new areas of fuel modification into ESH areas.</u> b-c. Where the existing structure is located only partially inside an ESH or ESH buffer area, a <u>Additions shall be located on those portions of the structure located outside or away from the ESH or ESH buffer area. If the subject development cannot be located away from ESH, then the extension of a ground level development footprint shall be denied. d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.</u></p> <p>c. The reconstruction of a lawfully established primary residence structures that serve as residences in an Existing Developed Rural Neighborhood located within ESH buffer areas or</p>	<p>Accept with edits: These changes and additions broaden reconstruction to include residential structures, including primary residence as well as second units and farm employee units within Rural Neighborhood areas, in cases where ESH buffer areas might be affected (see also Modification 47).</p>

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<p><u>Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.</u></p>	<p><u>adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.</u></p>	
<p>27. Stream Modification (Policy BIO-TC-11)</p> <p>Natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts, except as allowed under Policy FLD-TC- [cross reference to suggested modification 31]. “Hardbank” channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.</p>	<p>27. Stream Modification (Policy BIO-TC-11)</p> <p>Except for routine Flood Control District maintenance, <u>or for habitat enhancement projects approved by all federal and state agencies having jurisdiction,</u> natural stream channels shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts <u>as allowed under Policy FLD-TC- [cross reference to suggested modification 31]. “Hardbank”</u> channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a Restoration Plan.</p>	<p>This would reduce potential restrictions on stream channel alterations associated with routine maintenance by the Flood Control District or in connection with approved habitat enhancement projects.</p>
<p>28. Tree Protection (DevStd BIO-TC-13.1; DevStd BIO-TC-13.2; Policy BIO-TC-14)</p> <p>a. A “native protected tree” is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a “non-native protected tree” is at least 25 inches in diameter at this height. Areas to be protected from grading, paving, and other disturbances shall generally include, at a minimum, the area six feet outside of tree driplines.</p> <p>b. Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be <u>fully mitigated and</u> replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.</p>	<p>28. Tree Protection (DevStd BIO-TC-13.1; DevStd BIO-TC-13.2; Policy BIO-TC-14)</p> <p>a. A “native protected tree” is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a “non-native protected tree” is at least 25 inches in diameter at this height. <u>Areas to be protected from grading, paving, and other disturbances shall generally include, at a minimum, the area six feet outside of tree driplines. Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.</u></p> <p>b. Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be <u>fully mitigated and</u> replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.</p>	<p>Accept with edits: Ensures flexibility in conditioning projects for tree protection, consistent with County practice</p>

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<p>29. Vacant Lands (New Policy under BIO)</p> <p><u>The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.</u></p>	<p>29. Vacant Lands (New Policy under BIO)</p> <p><u>The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.</u></p>	<p>Accept</p>
<p>30. Flood Control (DevStd FLD-TC-1.2; DevStd FLD-TC-1.3)</p> <p>a. No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: <input type="checkbox"/> Permit reasonable use of property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation; or <input type="checkbox"/> Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county's Local Coastal Program.</p> <p>b. Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material, where feasible.</p>	<p>30. Flood Control (DevStd FLD-TC-1.2; DevStd FLD-TC-1.3)</p> <p>a. No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: <input type="checkbox"/> Permit reasonable use of <u>property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation.</u>; or <input type="checkbox"/> Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county's Local Coastal Program.</p> <p>b. Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material, <u>unless it can be demonstrated that the foundation on fill would not increase the base flood elevation within the floodway pursuant to FEMA regulations.</u> where feasible.</p>	<p>Accept with edits: Provides greater environmental protection and achieves consistency with FEMA regulations.</p>
<p>31. Flood Control (New DevStd under Policy FLD-TC-1)</p> <p><u>Any channelization, stream alteration, or desiltation/dredging projects permitted for flood protection shall only be approved where there is no other feasible alternative and consistent with the following:</u></p> <p>(1) Flood control protection shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider less intrusive solutions as a first priority over engineering structural solutions. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over "hard" solutions such as concrete or riprap channels. "Hardbank" measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible.</p> <p>(2) The project shall include maximum feasible mitigation measures to mitigate unavoidable adverse impacts. Where hardbank channelization is required, site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a restoration plan.</p> <p>(3) Flood control measures shall not diminish or change stream capacity, percolation rates or habitat values.</p>	<p>31. Flood Control (New DevStd under Policy FLD-TC-1)</p> <p><u>Any channelization, stream alteration, or desiltation/dredging projects permitted for flood protection shall only be approved where there is no other feasible alternative and consistent with the following:</u></p> <p>(1) Flood control protection shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider less intrusive solutions as a first priority over engineering structural solutions. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over "hard" solutions such as concrete or riprap channels. "Hardbank" measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible.</p> <p>(2) The project shall include maximum feasible mitigation measures to mitigate unavoidable adverse impacts. Where hardbank channelization is required, site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a restoration plan.</p> <p>(3) Flood control measures shall not diminish or change stream capacity, <u>or adversely change</u> percolation rates or habitat values.</p>	<p>Accept with edits: Clarifies restrictions on flood control measures</p>
<p>32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3)</p> <p>a. In order to address drainage issues along the southeastern portion of Padaro Lane, the</p>	<p>32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3)</p> <p>a. In order to address drainage issues along the southeastern portion of Padaro Lane, the</p>	<p>Accept with edits: Eliminates any confusion between</p>

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<p>county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. Local <u>drainageways and culverts should be cleared annually or as necessary. The study shall consider less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) as the primary means of defense against flood hazard and shall require maximum feasible mitigation for all impacts to wetland, riparian, or other native trees and habitat.</u></p> <p>b. Flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. <u>Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.</u></p>	<p>county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. Local <u>drainageways and culverts should be cleared annually or as necessary. The study <u>investigation</u> shall consider less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) as the primary means of defense against flood hazard and shall require maximum feasible mitigation for all impacts to wetland, riparian, or other native trees and habitat.</u></p> <p>b. Flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. <u>Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.</u></p>	<p>“study” and “investigation.”</p>
<p>33. Slope Requirements (DevStd GEO-TC-1.1; New DevStd under Policy GEO-TC-1)</p> <p>a. Development shall be prohibited on slopes greater than 30% <u>except for the following, unless this would prevent reasonable use of property:</u></p> <p><u>(1) Driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.</u></p> <p><u>(2) Where all feasible building sites are constrained by greater than 30% slopes, the uses of the property and the siting, design, and size of any development approved on parcels, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. In no case shall the approved development exceed the maximum allowable development area. The maximum allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas of greater than 30% slope shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.</u></p> <p>b. <u>Any disturbed area on the subject parcel(s) where previous permits or other historic evidence cannot be provided to prove that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County review shall presume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after-the-fact coastal development permit is issued consistent with all current standards of the LCP. The</u></p>	<p>33. Slope Requirements (DevStd GEO-TC-1.1; New DevStd under Policy GEO-TC-1)</p> <p>a. Development shall be prohibited on slopes greater than 30% <u>except for the following, unless this would prevent reasonable use of property:</u></p> <p><u>(1) Driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.</u></p> <p><u>(2) Where all feasible building sites are constrained by greater than 30% slopes, the uses of the property and the siting, design, and size of any development approved on parcels, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. In no case shall the approved development exceed the maximum allowable development area. The maximum allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas of greater than 30% slope shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.</u></p> <p>b. Any disturbed area on the subject parcel(s) where previous permits or other historic evidence cannot be provided to prove that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County review shall presume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after-the-fact coastal development permit is issued consistent with all current standards of the LCP. The</p>	<p>Accept with edits: eliminates presumption of illegal disturbance</p>

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<p>County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.</p>	<p>County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.</p>	
<p>34. <u>Stream Crossings (New Policy under GEO)</u></p> <p><u>New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings within the coastal zone, including replacement of an existing stream crossing, shall be bridged. Where feasible, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.</u></p>	<p>34. <u>Stream Crossings (New Policy under GEO)</u></p> <p><u>New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings within the coastal zone, and where feasible replacements of existing stream crossings, shall be bridged unless another alternative is environmentally preferable. Where feasible, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.</u></p>	<p>Accept with edits: provides for possible environmentally superior stream crossings than a bridge.</p>
<p>35. <u>Shoreline Protection Structures (DevStd GEO-TC-4.3; New DevStd under Policy GEO-TC-4)</u></p> <p><u>A. Shoreline and bluff development and protection structures shall be in conformance with the following standards:</u></p> <p><u>1. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 100-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure, including hazards associated with anticipated future changes in sea level.</u></p> <p><u>2. New development on or along the shoreline or a coastal bluff shall site septic systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.</u></p> <p><u>3. New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan,</u></p>	<p>35. <u>Shoreline Protection Structures (DevStd GEO-TC-4.3; New DevStd under Policy GEO-TC-4)</u></p> <p><u>A. Shoreline and bluff development and protection structures shall be in conformance with the following standards:</u></p> <p><u>1. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected 100⁷⁵-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure, including hazards associated with anticipated future changes in sea level.</u></p> <p><u>2. New development on or along the shoreline or a coastal bluff shall site septic systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.</u></p> <p><u>3. New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan,</u></p>	<p>Accept with edits: Consistent with County LCP; attempts to simplify lengthy conditions that are difficult to follow.</p>

³ For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.

⁴ For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.

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<p>or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted³ height or previously permitted² seaward extent of such devices, and shall not increase any interference with legal public coastal access.</p> <p><u>4. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.</u></p> <p><u>5. Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a “vertical” seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.</u></p> <p><u>B. Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable</u></p> <p><u>1. As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.</u></p> <p><u>2. As a condition of approval of a shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the</u></p>	<p>or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted⁴ height or previously permitted² seaward extent of such devices, and shall not increase any interference with legal public coastal access.</p> <p><u>4. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.</u></p> <p><u>5. Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a “vertical” seawall shall be the preferred means of protection. Rock revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.</u></p> <p><u>B. Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable</u></p> <p><u>1. As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.</u></p> <p><u>2. As a condition of approval of a For any new shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the</u></p>	

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<p><u>County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.</u></p> <p><u>3. As a condition of approval of new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.</u></p>	<p><u>County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.</u></p> <p><u>3. As a condition of approval of For new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.</u></p>	
<p>36. <u>Archaeology (New DevStd under Policy HA-TC-1)</u></p> <p><u>The County shall consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.</u></p>	<p>36. <u>Archaeology (New DevStd under Policy HA-TC-1)</u></p> <p><u>The County shall consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.</u></p>	Accept
<p>37. <u>Ridgeline Development (DevStd VIS-TC-1.3; DevStd VIS-TC-2.3)</u></p> <p>a. In urban areas, dDevelopment shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.</p> <p>b. Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, sStructures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.</p>	<p>37. <u>Ridgeline Development (DevStd VIS-TC-1.3; DevStd VIS-TC-2.3)</u></p> <p>a. In urban areas, dDevelopment shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.</p> <p>b. Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, sStructures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.</p>	Accept
<p>38. <u>Trail Siting Guidelines (Appendix E)</u></p> <p>Section II. C. Fences constructed along trail corridors should allow for wildlife movement; to the greatest extent feasible.</p> <p>Section III. A. Where appropriate (e.g., adjacent to existing agricultural operations, buildings, residences, etc.), the County should construct fencing between the trail and private land uses. County Parks shall determine on a case-by-case basis appropriate fencing design and type. The County should consider landowner input on fence design. To the greatest extent feasible, fFencing should <u>shall</u> not hinder the <u>safety or the</u> natural movement and migration of animals and should be aesthetically pleasing.</p> <p>Section V. B. Where appropriate, vVehicle barriers (e.g., steel access gates) should be</p>	<p>38. <u>Trail Siting Guidelines (Appendix E)</u></p> <p>Section II. C. Fences constructed along trail corridors should allow for wildlife movement; to the greatest extent feasible.</p> <p>Section III. A. Where appropriate (e.g., adjacent to existing agricultural operations, buildings, residences, etc.), the County should construct fencing between the trail and private land uses. County Parks shall determine on a case-by-case basis appropriate fencing design and type. The County should consider landowner input on fence design. To the greatest extent feasible, fFencing should <u>shall</u> not hinder the <u>safety or the</u> natural movement and migration of animals and should be aesthetically pleasing.</p> <p>Section V. B. Where appropriate, vVehicle barriers (e.g., steel access gates) should be</p>	Accept

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<p>constructed at trailheads to prevent unauthorized motor vehicle access, while allowing hikers, bicyclists, equestrians, and authorized motor vehicles <u>for emergency, maintenance, or to provide access to private in-holdings</u> to access the trail. Internal access control barriers (i.e., any combination of steel gates, chain link or barbed wire fence may be necessary) should also be installed along trails at appropriate “choke points” (e.g., placement of barriers utilizing natural topography and/or trail user decision points) in order to keep trail users on the established trail route and prevent trespass and/or further entry into private property and/or environmentally sensitive areas. <u>Trails may be designed for bicycle use where resource damage such as loss of vegetation or increased erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.</u></p> <p>C. Before the County permits public use of any acquired trail right-of-way, <u>adequate approved fencing consistent with resource protection</u> and other precautions (such as signage) should be installed to prevent vandalism to neighboring properties and appropriate trailheads should be acquired and constructed to provide for the public safety.</p>	<p>constructed at trailheads to prevent unauthorized motor vehicle access, while allowing hikers, bicyclists, equestrians, and authorized motor vehicles <u>for emergency, maintenance, or to provide access to private in-holdings</u> to access the trail. Internal access control barriers (i.e., any combination of steel gates, chain link or barbed wire fence may be necessary) should also be installed along trails at appropriate “choke points” (e.g., placement of barriers utilizing natural topography and/or trail user decision points) in order to keep trail users on the established trail route and prevent trespass and/or further entry into private property and/or environmentally sensitive areas. <u>Trails may be designed for bicycle use where resource damage such as loss of vegetation or increased erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.</u></p> <p>C. Before the County permits public use of any acquired trail right-of-way, <u>adequate approved fencing consistent with resource protection</u> and other precautions (such as signage) should be installed to prevent vandalism to neighboring properties and appropriate trailheads should be acquired and constructed to provide for the public safety.</p>	
<p>39. <u>Invasive Plant List</u></p> <p>Appendix H List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas; <i>Delete all references to the words “Near ESH Areas”</i></p>	<p>39. <u>Invasive Plant List</u></p> <p>Appendix H List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas; <i>Delete all references to the words “Near ESH Areas”</i></p>	<p>Accept</p>
<p>40. <u>Non-Certified Language</u></p> <p><i>All policies, development standards, and actions listed in Exhibit 17 [to the staff report of 10/22/03] shall be marked within the Toro Canyon Plan with a footnote or other identifying symbol such that it is clearly evident that such policies, provisions, or other standards are not certified as part of the Local Coastal Program.</i></p> <p><i>The following text shall be added at the end of Section I.C “Overview of the Toro Canyon Plan:”</i></p> <p><u>Local Coastal Program</u></p> <p><u>This Plan is designed to be consistent with the California Coastal Act, the Santa Barbara County Coastal Plan, and the provisions of Article II. Goals, policies, actions, and development standards within this document shall be applicable within the Toro Canyon Plan area. However, provisions of this Plan denoted with an asterisk shall not be certified by the Coastal Commission and therefore shall not be the basis of appeal of a local Coastal Development Permit to the Coastal Commission.</u></p>	<p>40. <u>Non-Certified Language</u></p> <p><i>All policies, development standards, and actions listed in Exhibit 17 [to the staff report of 10/22/03] shall be marked within the Toro Canyon Plan with a footnote or other identifying symbol such that it is clearly evident that such policies, provisions, or other standards are not certified as part of the Local Coastal Program.</i></p> <p><i>The following text shall be added at the end of Section I.C “Overview of the Toro Canyon Plan:”</i></p> <p><u>Local Coastal Program</u></p> <p><u>This Plan is designed to be consistent with the California Coastal Act, the Santa Barbara County Coastal Plan, and the provisions of Article II. Goals, policies, actions, and development standards within this document shall be applicable within the Toro Canyon Plan area. However, provisions of this Plan denoted with an asterisk shall not be certified by the Coastal Commission and therefore shall not be the basis of appeal of a local Coastal Development Permit to the Coastal Commission.</u></p>	<p>Accept</p>
<p>41. <u>Coastal Zone Boundary</u></p> <p><i>All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, and the Land Use Plan Map shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.</i></p>	<p>41. <u>Coastal Zone Boundary</u></p> <p><i>All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, and the Land Use Plan Map shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.</i></p>	<p>Accept</p>

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<p>42. <u>Agriculture Conversion</u></p> <p><i>The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential Minimum 2 acre on the Toro Canyon Land Use Designations Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated A-I-40. All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.</i></p>	<p>42. <u>Agriculture Conversion (Land Use Plan)</u></p> <p><i>Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of AG-I-40<u>10</u>. All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.</i></p>	<p>Accept with edits: Seven affected parcels range in size from 1.0 to 5.65 acres, and total about 16.2 acres. If mod. remains, designation should be 10 acres, not 40 to more closely reflect parcel sizes and the surrounding parcel size designation to the south.</p>
<p>43. <u>ESH Map</u></p> <p><i>The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be modified as follows:</i></p> <p><i>a. Modify text on Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map legend as follows: “(Within these areas, the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only; the extent of any associated riparian habitat must be determined by site-specific review)</i></p> <p><i>b. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to:</i></p> <p><i>A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.</i></p> <p><i>B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.</i></p> <p><i>c. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.</i></p> <p><i>d. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.</i></p>	<p>43. <u>ESH Map (Land Use Plan)</u></p> <p><i>The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be modified as follows:</i></p> <p><i>a. Modify text on Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map legend as follows: “(Within these areas, the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only; the extent of any associated riparian habitat must be determined by site-specific review)</i></p> <p><i>b. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to:</i></p> <p><i>A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.</i></p> <p><i>B. Apply the Monarch Butterfly Habitat designation <u>and cross-hatch labeling to indicate this is an “Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review” to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)</u></i></p> <p><i>c. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.</i></p> <p><i>d. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to retain the existing overlay designation of offshore kelp as</i></p>	<p>Accept with Edits: To indicate all properties affected by monarch butterfly site at and near 3197 Padaro Lane is not mapped ESH, but will require further biological study during permit review and if determined to be ESH, proposed development will be subject to applicable Toro Canyon Plan ESH policies and development standards.</p>

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	<p><i>illustrated in Exhibit 5 of this staff report.</i></p> <p><u>Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: “In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an ‘Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.’”</u></p>	
<p>44. Coastal Zone Boundary</p> <p><i>All figures and maps submitted as part of the IP Amendment, including Zoning and Overlay maps, shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.</i></p>	<p>44. Coastal Zone Boundary</p> <p><i>All figures and maps submitted as part of the IP Amendment, including Zoning and Overlay maps, shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.</i></p>	<p>Accept</p>
<p>45. ESH Map</p> <p><i>The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be modified as follows:</i></p> <p><i>a. Modify text on Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map legend as follows: “(Within these areas, the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only; the extent of any associated riparian habitat must be determined by site-specific review)</i></p> <p><i>b. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to:</i></p> <p><i>A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.</i></p> <p><i>B. Apply the Monarch Butterfly Habitat designation to the area at 3197 Padaro Lane as illustrated in Exhibit 6 of this staff report.</i></p> <p><i>c. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.</i></p> <p><i>d. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.</i></p>	<p>45. ESH Map (Zoning)</p> <p><i>The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be modified as follows:</i></p> <p><i>a. Modify text on Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map legend as follows: “(Within these areas, the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only; the extent of any associated riparian habitat must be determined by site-specific review)</i></p> <p><i>b. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to:</i></p> <p><i>A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.</i></p> <p><i>B. Apply the Monarch Butterfly Habitat designation <u>and cross-hatch labeling to indicate this is an “Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review”</u> to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: <u>005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003</u>)</i></p> <p><i>c. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.</i></p> <p><i>d. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in</i></p>	<p>Accept with edits (refer to the revisions and explanation previously made in Modification 43).</p>

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	<i>Exhibit 5 of this staff report.</i>	
<p>46. <u>Agriculture Conversion</u></p> <p><i>The seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) designated as Single Family Residential 2-E-1 on the Zoning Map, located northeast of the intersection of Foothill and Toro Canyon Roads, shall be designated AG-I-40.</i></p>	<p>46. <u>Agriculture Conversion (Zoning)</u></p> <p><i>Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of AG-I-4010. All figures and maps submitted as part of the Zoning Ordinance Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.</i></p>	<p>See Modification No. 42</p>
<p>47. <u>Toro Canyon Plan Overlay District</u></p> <p><i>Amend proposed Section 35-194 of the Zoning Code (Exhibit 3) as follows:</i></p> <p>Sec. 35-194. General</p> <p>The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan and serve to carry out certain policies of this Community Plan. The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. <u>The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.</u></p> <p>Sec. 35-194.1 Applicability</p> <p>The provisions of this section apply to the Toro Canyon Plan Area as defined by the “Toro Canyon Plan Land Use Map.” All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with the TORO <u>this</u> Overlay District.</p> <p><u>Section 35-194.2 Processing</u></p> <p><u>A. In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource specialist. Such a study would include an analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the</u></p>	<p>47. <u>Toro Canyon Plan Overlay District</u></p> <p><i>Amend proposed Section 35-194 of the Zoning Code (Exhibit 3) as follows:</i></p> <p>Sec. 35-194. General</p> <p>The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan and serve to carry out certain policies of this Community Plan. The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. <u>The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.</u></p> <p>Sec. 35-194.1 Applicability</p> <p>The provisions of this section apply to the Toro Canyon Plan Area as defined by the “Toro Canyon Plan Land Use Map.” All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with the TORO <u>this</u> Overlay District.</p> <p><u>Section 35-194.2 Processing</u></p> <p><u>A. In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource specialist. Such a study would include an analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the</u></p>	<p>Accept with edits as explained at appropriate points below.</p>

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<p><u>degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.</u></p> <p>Sec. 35-194.23 C-1 Zone District</p> <p>1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:</p> <p><input type="checkbox"/> Any single family residence where there is no commercial use;</p> <p><input type="checkbox"/> <u>Financial institutions;</u></p> <p><input type="checkbox"/> <u>General business offices (such as real estate offices and general practitioner's offices);</u></p> <p><input type="checkbox"/> Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;</p> <p><input type="checkbox"/> Residential structures and general practitioner's/professional offices only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office-uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;</p> <p><input type="checkbox"/> Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.</p> <p><u>2. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon:</u></p> <p><input type="checkbox"/> <u>Hotels and motels;</u></p> <p><input type="checkbox"/> <u>Mini-mart/convenience stores;</u></p> <p><u>3. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon with a Major CUP:</u></p> <p><input type="checkbox"/> <u>Overnight recreation vehicle facilities.</u></p> <p><u>Secondary to a primary commercial use is defined as: a) A land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per one thousand (1,000) square feet of total gross floor area of commercial or industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use. Gross floor area shall not include parking areas.</u></p> <p>Sec. 35-194.34 Findings</p> <p>...</p>	<p><u>degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.</u></p> <p>Sec. 35-194.23 C-1 Zone District</p> <p>1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:</p> <p><input type="checkbox"/> Any single family residence where there is no commercial use;</p> <p><input type="checkbox"/> <u>Residential structures and general practitioner's/professional offices only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office-uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;</u></p> <p><input type="checkbox"/> <u>Financial institutions;</u></p> <p><input type="checkbox"/> <u>General business offices (such as real estate offices and general practitioner's offices);</u></p> <p><input type="checkbox"/> Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;</p> <p><input type="checkbox"/> <u>Residential structures and general practitioner's/professional offices only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office-uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;</u></p> <p><input type="checkbox"/> Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.</p> <p><u>2. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon:</u></p> <p><input type="checkbox"/> <u>Hotels and motels;</u></p> <p><input type="checkbox"/> <u>Mini-mart/convenience stores;</u></p> <p><u>3. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon with a Major CUP:</u></p> <p><input type="checkbox"/> <u>Overnight recreation vehicle facilities.</u></p> <p><u>Secondary to a primary commercial use is defined as: a) A land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per one thousand (1,000) square feet of total gross floor area of commercial or</u></p>	<p>Reorder bullets and clarify that certain uses for the C-1 Zone district are appropriate due to the small size of the commercial area along Santa Claus Lane and small parcel sizes.</p> <p>No longer necessary due to previous changes</p>

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<p>Sec. 35-194.45 Nonconforming Structures and Uses</p> <p>1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “residential structure” shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that <u>it meets the provisions of the Toro Canyon Plan and the certified LCP and</u> evidence of such structure’s use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.</p> <p><u>2. The reconstruction of a lawfully established primary residence in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.</u></p> <p>2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “residential structure” shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached</p>	<p>industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use. Gross floor area shall not include parking areas.</p> <p>Sec. 35-194.34 Findings</p> <p>...</p> <p>Sec. 35-194.45 Nonconforming Structures and Uses</p> <p>1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “residential structure” shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that <u>it meets the provisions of the Toro Canyon Plan and the certified LCP and</u> evidence of such structure’s use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.</p> <p><u>2. Reconstruction of nonconforming residential structures located within Rural Neighborhood Areas and within or adjacent to an Environmentally Sensitive Habitat (ESH) area: The reconstruction of a lawfully established primary residence structures that serve as residences in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4.</u></p>	<p>Clarifies what constitutes a nonconforming residential structure.</p>

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<p>appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.</p> <p>3. Expansion of a <u>legal nonconforming primary residence residential structures</u> located within Environmentally Sensitive Habitat (ESH) buffer areas <u>in an Existing Developed Rural Neighborhood</u>: Any <u>primary residence residential structure</u> that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStd's BIO-TC-5.1 and BIO-TC-5.34 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator.</p> <p>4. Nonconforming agricultural support structures other than greenhouse development: Any nonconforming agricultural support structure, other than "greenhouse development" as defined in the Carpinteria Agricultural (CA) Overlay, that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure, other than "greenhouse development" as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with</p>	<p><u>Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator.</u></p> <p>2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. <u>Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.</u></p> <p>3. <u>Expansion of a legal nonconforming primary residence residential located within a Rural Neighborhood Area and within an Environmentally Sensitive Habitat (ESH) buffer areas in an Existing Developed Rural Neighborhood</u>: Any <u>primary residence residential structure</u> that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStd's BIO-TC-5.1 and BIO-TC-5.34 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.</p>	<p>Important to maintain the time period, consistent with Article II.</p> <p>The phrase "legal nonconforming" is redundant and appears nowhere else in the zoning ordinance.</p>

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<p>the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. Nonconforming “greenhouse development” as defined in the CA Overlay shall be subject to the provisions of the CA Overlay.</p> <p>5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan: Any agricultural support structure that is noneonforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “agricultural support structure” shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty four (24) months of the time of the owner’s first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twentyfour (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.</p> <p>6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO TC 5.1 and BIO TC 5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, “agricultural support structure” shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property.</p> <p>7. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article</p>	<p>4. Nonconforming agricultural support structures other than greenhouse development: Any nonconforming agricultural support structure, other than “greenhouse development” as defined in the Carpinteria Agricultural (CA) Overlay, <u>other than “Greenhouses” or “Greenhouse Related Development” located within the Carpinteria Agricultural (CA) Overlay,</u> that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “agricultural support structure” shall mean any structure, other than “greenhouse development” as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. Nonconforming “greenhouse development” as defined in the CA Overlay shall be subject to the provisions of the CA Overlay. <u>Nonconforming “Greenhouses” or “Greenhouse Related Development” located within the CA Overlay shall be subject to the provisions of the CA Overlay.</u></p> <p><u>5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan, except where located within an Environmentally Sensitive Habitat (ESH) area: Any agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “agricultural support structure” shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner’s first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twentyfour (24) months or the extended time period that may be granted by the Director,</u></p>	<p>The CA Overlay, adopted as part of the Carpinteria Valley Greenhouse Program, has its own standards applicable to the replacement of nonconforming “greenhouses” and “greenhouse related development” as specifically defined. These changes avoid potential conflicts between the CA Overlay and the TCP Overlay.</p> <p>With the new clause “Except for in ESH areas,” this provision should remain to specifically address reconstruction of agricultural support structures.</p>

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<p>to the maximum extent feasible. In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. Such a structure may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that:</p> <p>i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction or structural repair; and</p> <p>ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction or structural repair of the nonconforming structure be denied.</p> <p>Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of damage or destruction, or the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.</p> <p>...</p> <p><u>9. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.</u></p> <p>...</p> <p>Sec. 35-194.56 Architectural Review Standards</p> <p>...</p> <p><u>Sec. 35-194.7 Economically Viable Use</u></p> <p><u>If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that would constitute a taking of private property, the applicant shall apply for an economical viability determination in</u></p>	<p><u>such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.</u></p> <p>6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO-TC-5.1 and BIO-TC-5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property.</p> <p><u>76. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. Such a structure may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that:</u></p> <p>i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction or structural repair; and</p> <p>ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction or structural repair of the nonconforming structure be denied.</p> <p>Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of damage or destruction, or the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.</p>	

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<p><u>conjunction with their coastal development permit application and shall be subject to the provisions of this section.</u></p> <p><u>Sec. 35-194.8 Economically Viable Use Determination</u></p> <p><u>The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:</u></p> <p><u>a. The date the applicant purchased or otherwise acquired the property, and from whom.</u></p> <p><u>b. The purchase price paid by the applicant for the property.</u></p> <p><u>c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.</u></p> <p><u>d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.</u></p> <p><u>e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.</u></p> <p><u>f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.</u></p> <p><u>g. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.</u></p> <p><u>h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.</u></p> <p><u>i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.</u></p> <p><u>j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.</u></p> <p><u>k. Apart from any rents received from the leasing of all or a portion of the property, any</u></p>	<p>...</p> <p><u>98. Expansion of nonconforming structures located on the shore:</u> <u>Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.</u></p> <p>...</p> <p><u>Sec. 35-194.56 Architectural Review Standards</u></p> <p>...</p> <p><u>Sec. 35-194.7 Economically Viable Use</u></p> <p><u>If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the provisions of this section.</u></p> <p><u>Sec. 35-194.8 Economically Viable Use Determination</u></p> <p><u>The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:</u></p> <p><u>a. The date the applicant purchased or otherwise acquired the property, and from whom.</u></p> <p><u>b. The purchase price paid by the applicant for the property.</u></p> <p><u>c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.</u></p> <p><u>d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.</u></p> <p><u>e. Any development restrictions or other restrictions on use, other than government</u></p>	<p>Title added for consistency of format with prior subsections.</p>

Coastal Commission Modification	County Recommended Modification Response	County Comments
<p><u>income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.</u></p> <p><u>1. Any additional information that the County requires to make the determination.</u></p> <p><u>Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit</u></p> <p><u>1. A coastal development permit that allows a deviation from a policy or standard of the LCP to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):</u></p> <p><u>a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.</u></p> <p><u>b. Application of the LCP policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations.</u></p> <p><u>c. The use proposed by the applicant is consistent with the applicable zoning.</u></p> <p><u>d. The use and project design, siting, and size are the minimum necessary to avoid a taking.</u></p> <p><u>e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.</u></p> <p><u>f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.</u></p> <p><u>Sec. 35-194.10 Agricultural Soils</u></p> <p><u>Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.</u></p> <p><u>Sec. 35-194.11 Land Divisions</u></p> <p><u>Land divisions, including lot line adjustments and conditional certificates of compliance, shall only be permitted if each parcel being established could be developed without adversely impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.</u></p>	<p><u>regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.</u></p> <p><u>f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.</u></p> <p><u>g. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.</u></p> <p><u>h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.</u></p> <p><u>i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.</u></p> <p><u>j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.</u></p> <p><u>k. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.</u></p> <p><u>1. Any additional information that the County requires to make the determination.</u></p> <p><u>Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit</u></p> <p><u>1. A coastal development permit that allows a deviation from a policy or standard of the LCP to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):</u></p> <p><u>a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.</u></p> <p><u>b. Application of the LCP policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations.</u></p> <p><u>c. The use proposed by the applicant is consistent with the applicable zoning.</u></p> <p><u>d. The use and project design, siting, and size are the minimum necessary to avoid a taking.</u></p> <p><u>e. The project is the least environmentally damaging alternative and is consistent with all</u></p>	

Coastal Commission Modification	County Recommended Modification Response	County Comments
	<p><u>provisions of the certified LCP other than the provisions for which the exception is requested.</u></p> <p><u>f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.</u></p> <p><u>Sec. 35-194.10 Agricultural Soils</u></p> <p><u>Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.</u></p> <p><u>Sec. 35-194.11 Land Divisions</u></p> <p><u>Land divisions, including lot line adjustments and conditional certificates of compliance, shall only be permitted if each parcel being established could be developed without adversely impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.</u></p>	

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING A REVISED)	RESOLUTION NO.: _____
AMENDMENT TO THE SANTA BARBARA)	CASE NO.s: 04GPA-00000-00004,
COUNTY LOCAL COASTAL PROGRAM BY)	04ORD-00000-00003, AND
AMENDING THE COASTAL LAND USE PLAN)	04RZN-00000-00005
(TEXT AND MAPS) AND COASTAL ZONING)	
ORDINANCE (TEXT AND MAPS) TO INCOR-)	
PORATE AND IMPLEMENT THE COASTAL)	
PORTION OF THE TORO CANYON PLAN)	
_____)	

WITH REFERENCE TO THE FOLLOWING:

- A. On January 7, 1980, by Resolution No. 80-12, the Santa Barbara County Board of Supervisors adopted the Santa Barbara County Coastal Land Use Plan, and on July 19, 1982, by Ordinance No. 3312, the Board adopted the Coastal Zoning Ordinance (Article II of Chapter 35 of the Santa Barbara County Code), which together comprise Santa Barbara County’s Local Coastal Program (LCP) as certified by the California Coastal Commission, and as said LCP has been subsequently amended from time to time by the Board of Supervisors with Coastal Commission certification.
- B. On March 2, 1999, the Board of Supervisors adopted Resolution No. 99-73 to initiate the Preliminary Draft Toro Canyon Plan as a “project” for environmental review.
- C. The Planning Commission of the County of Santa Barbara, after holding a duly noticed public hearing pursuant to Government Code Sections 65353 and 65854, commencing on June 21, 2000 and concluding on February 21, 2001, endorsed and recommended adoption of the Toro Canyon Plan pursuant to Government Code Sections 65354 and 65855.
- D. The Board of Supervisors, after holding a duly noticed public hearing pursuant to Government Code Sections 65355 and 65856, commencing on June 5, 2001 and concluding February 25, 2002, adopted the Toro Canyon Plan on February 25, 2002 pursuant to Government Code Sections 65356 and 65857, and submitted it to the California Coastal Commission for certification of the coastal portion as an amendment to the County’s Local Coastal Program (LCP) pursuant to Public Resources Code Section 30514.
- E. The California Coastal Commission, at its meeting of November 6, 2003, acted to certify the coastal portion of the Toro Canyon Plan with forty-seven (47) identified modifications to the land use plan and zoning components of the Plan.

- F. The Board of Supervisors, at duly noticed public hearings commencing on January 27, 2004 and concluding on April 27, 2004, considered the modifications suggested by the Coastal Commission and received public testimony thereon.
- G. The Board of Supervisors now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to amend the Local Coastal Program and the coastal portion of the Toro Canyon Plan as follows:
1. Amend the Coastal Land Use Plan to incorporate the Toro Canyon Plan, with modifications as described in Attachment A to this resolution.
 2. Amend the existing Coastal Land Use Plan text as follows:
 - a) Amend Table of Contents, second page to reflect new “Appendix I - Toro Canyon Plan”;
 - b) Amend Sec. 4.2 (at p. 147) to reflect adoption of the Toro Canyon Plan within the larger Carpinteria Valley area;
 - c) Amend the land use definition of Semi-Rural Residential (p. B-4) to read, “The purpose of this designation is to provide for residential development that will preserve the semi-rural character of the Montecito Planning Area and portions of the Toro Canyon Plan area. ...” [remainder unchanged];
 - d) Amend Tables D-1 & D-2 (pp. D-2 & D-5) to add notations reflecting adoption of the Toro Canyon Plan;
 - e) Amend Tables E-2 & E-3 (pp. E-3 & E-4) to add notations reflecting adoption of the Toro Canyon Plan.
 3. Amend the County Coastal Land Use Plan maps as follows:
 - a) Create a new map titled, “Toro Canyon Land Use Designations, Coastal Plan”;
 - b) Create a new map titled, “Toro Canyon Plan Land Use Overlay Designations, Coastal Plan”;
 - c) Create a new map titled, “Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay, Coastal Plan”;
 - d) Amend the existing “Carpinteria Valley Coastal Plan: Land Use Overlay” to remove the area that is covered by the Toro Canyon Plan;
 - e) Amend the existing “South Coast Rural Region Land Use Designations, Coastal Plan”;
 - f) Retire the “Carpinteria Coast Rural Area Land Use Designations, Coastal Plan.” A portion of the map not covered by the new Toro Canyon Land Use maps will be remapped onto the existing “South Coast Rural Region Land Use Designations, Coastal Plan” map.

4. Amend the Coastal Zoning Ordinance text and maps as described in the two ordinances approved contemporaneously with this Resolution (Case .No.s 04ORD-00000-00003 and 04RZN-00000-00005).

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. Pursuant to the provisions of Section 65857 of the Government Code and Section 30514 of the Public Resources Code, the above described changes are hereby adopted as amendments to the Local Coastal Program of Santa Barbara County.
3. The Chairman and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this Resolution to reflect the above described action by the Board of Supervisors.
4. The Planning and Development Department is hereby authorized and directed to prepare and re-submit all necessary maps, documents and other materials to the California Coastal Commission for its consideration of this revised LCP Amendment.
5. This LCP Amendment and any portions thereof approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of this Resolution or upon the date that such amendments are certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 27th day of April, 2004, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

JOSEPH CENTENO
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

APPROVED AS TO FORM:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

STEPHEN SHANE STARK
County Counsel

By _____
Deputy Clerk

By _____
Deputy County Counsel

Attachment A: Revisions to Land Use Plan component of the February 25, 2002 Toro Canyon Plan

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Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

1. General Provisions (GOAL LUG-TC)

All pertinent countywide Comprehensive Plan and Coastal Plan policies apply within Toro Canyon in addition to the specific policies and action items identified in this Plan. Consistent with LUP Policy 1-2, should any policy or provision of the Toro Canyon Plan conflict with any policy or provision of the certified Local Coastal Program, the policy or provision that is most protective of resources shall prevail. Consistent with LUP Policy 1-3, where the policies or provisions of the certified Toro Canyon Plan conflict with any other policy or provision of the County's Comprehensive Plan or other guiding standards, the Local Coastal Program shall prevail.

2. General Provisions (Policy LUG-TC-1)

The Development Standards and Actions contained within this Plan shall be used to implement the policies of the Plan, and. Where appropriate, these standards ~~shall be applied to projects under review,~~ unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies.

3. General Provisions (New Policy under LUG)

In addition to the requirements of LUP Policy 2-11, development shall be scaled, sited and designed to protect resources such as environmentally sensitive habitat and visual resources and to respect site constraints such as steep slopes. Regulatory measures to ensure such protection shall include but not be limited to restrictions on the following: size; color; reflectivity and height of structures; roofs and other architectural features; length of roads and driveways; number and size of accessory structures; configuration and size of development envelopes including concentrating development in existing developed areas; amount and location of grading; vegetation removal; and night lighting.

4. General Provisions (New Policy under LUG)

Protection of ESH and public access shall take priority over other development standards and where there is any conflict between general development standards and ESH and/or public access protection, the standards that are most protective of ESH and public access shall have precedence.

5. Reasonable Use (Policy LUG-TC-4; Policy LUG-TC-6)

a. Land Use and Zoning designations shall provide for reasonable use and development of property within given site constraints. Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically states/provides an exemption for "reasonable use of property," the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.

b. The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law. Within the coastal zone, if an applicant asserts that the application of the policies of the LCP or this Plan does not provide reasonable use of property, then the applicant must obtain an economic viability use determination pursuant to Article II, Section 35-194 before any exemption may be granted. For any policies or development standards within this Plan which specifically provide an exemption for "reasonable use of property," similarly the applicant must obtain an economic viability determination pursuant to Article II, Section 35-194 before any exemption may be granted.

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

6. Non-Conforming Structures (New Policy under LUG)

Existing, lawfully established structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below and in Policy BIO-TC-5 and DevStd BIO-TC-5.1 through 5.6 [cross reference to LUP Modification 26], additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the policies and standards of the LCP. Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. ~~Non-conforming uses may not be increased or expanded into additional locations or structures.~~

7. Certificates of Compliance (New Policy under LUG)

Conditional Certificates of Compliance, ~~or Certificates of Compliance issued for land divisions that occurred after the Coastal Act,~~ shall require a coastal development permit ~~appealable to the Coastal Commission.~~

8. Land Divisions (New Policy under LUG)

Land divisions within the coastal zone, including lot line adjustments, shall be prohibited unless all proposed parcels:

- (1) Can be demonstrated to be safe from erosion, flood, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.
- (2) Can be developed (including construction of any necessary access road), without building in ESH or ESH buffer, or removing ESH for fuel modification.
- (3) Can be developed without requiring a current or future bluff or shoreline protection structure. No new lots shall be created that could require shoreline protection or bluff stabilization structures at any time during the full ~~100-75~~ year life of the development.
- (4) Would not result in building pads, access roads, or driveways located on slopes over 30%, or result in grading on slopes over 30% and shall be designed such that the location of building pads and access roads minimizes erosion and sedimentation.

9. Prime Soils (New Policy under LUA)

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

10. Fuel Modification (DevStd FIRE-TC-2.2)

a. Development shall be sited to minimize exposure to fire hazards and reduce the need for grading, fuel modification (including thinning of vegetation and limbing of trees), and clearance of native vegetation to the maximum extent feasible. Building sites should be located in areas of a parcel's lowest fire hazard, and should minimize the need for long and/or steep access roads and/or driveways. Properties subject to high fire hazards requiring fuel breaks to protect the proposed structures shall use the Fuel Management Guidelines to establish fuel management zone(s) on the property (see Appendix D).

**Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan
(includes modifications approved by the California Coastal Commission on November 6, 2003, as
further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)**

11. Public Access Santa Claus Lane (Action PRT-TC-1.4)

The County shall pursue ~~public~~ public access to the beach from Santa Claus Lane. Public beach access shall be formalized as soon as feasible by: securing and opening a vertical accessway between Santa Claus Lane and the beach; by clarifying the status of lateral beach access rights, or by securing any easements that may be necessary and appropriate; In addition, where feasible, the County shall ensure the provision of adequate coastal access parking including signage designating the parking for this purpose, developing one or more parking areas (also see Action CIRC TC 4.3); constructing appropriate safety features; and/or the installation of appropriate support facilities as described in Policy PRT-TC- [cross reference to suggested modification 12] such as any necessary signage, bicycle racks, parking, trash receptacles, landscape screening, restrooms and other appropriate features. A railroad crossing with armatures, lights, and bells and a stairway and/or access ramp over or around the seawall should also be considered. ~~The opening of any beach access shall be considered “development” subject to the provisions of this Plan, and shall be undertaken in a manner that protects public safety and the privacy and security of residents to the maximum feasible extent.~~ Access for jet ski and other motorized recreational activity shall be prohibited from any coastal access established at the Santa Claus Lane beach area, and signage indicating this prohibition shall be posted at the parking area(s) developed in support of this recreational access point. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall aggressively pursue funding for the design and implementation of beach access at Santa Claus Lane as the ~~priority beach access for the Toro Canyon Plan area~~ at the earliest feasible date. Permits for new development shall include conditions that incorporate feasible measures that provide or protect access and, where there is substantial evidence that historic public access exists, the project shall be conditioned to continue providing for such access.

12. Public Access & New Development (New DevStds under Policy PRT-TC-1)

Public accessways and trails shall be provided in accordance with the following standards:

- a. Offers to dedicate public access shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway should be opened within 5 years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private association acceptable to the County expressly requests ~~ownership management~~ of the easement in order to open it to the public, the easement holder may transfer the easement to that entity. A Coastal Development Permit that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private association acceptable to the County that requests such transfer, if the easement holder has not opened the accessway to the public within 5 years of accepting the offer.
- b. Where there is an existing public access Offer-to-Dedicate (OTD), easement, or deed restriction for lateral, vertical or trail access or related support facilities, necessary access improvements shall be permitted to be constructed, opened and operated for its intended public use. Facilities to complement public access to and along the shoreline should be provided where feasible and appropriate. This may include signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, picnic tables, or other such improvements. No facilities or amenities, including, but not limited to, those referenced above, shall be required as a prerequisite to the approval of any lateral or vertical accessways OTDs or as a precondition to the approval construction or opening of said accessways.
- c. For all offers to dedicate an easement that are required as a condition of Coastal Development Permit approved by the County, the County has the authority to approve a private association that seeks to manage the easement. Any government agency may accept an offer to dedicate an easement if the agency is willing to operate and maintain the easement. The County may approve any private association acceptable to the County that submits a management plan that indicates that the association will open,

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

operate, ~~and~~ maintain and manage the easement in accordance with terms of the recorded offer to dedicate the easement.

13. Public Access Padaro Lane (Action PRT-TC-1.3)

Consistent with LUP Policy 7-8, the County shall accept and open the vertical easements for public beach access offered in connection with developments on Padaro Lane. Planning for the scope, design and location of improvements shall be done in consultation with local residents and other affected parties. The County shall consider ~~include~~ appropriate improvements in any project to open beach access, possibly including but not necessarily limited to such as signage, bicycle racks, parking, trash receptacles, sewer-connected sanitation facilities, ~~and~~ or other appropriate features for the beach access, described in Policy PRT-TC- [cross reference to suggested modification 12] The County shall pursue, to the extent feasible, developing public beach access on Padaro Lane, provided the County Board of Supervisors finds, based on substantial evidence, that there are insufficient opportunities for public access to the beach elsewhere in the Plan area. The opening of any beach access shall be considered "development" subject to the provisions of this Plan, and shall be undertaken in a manner consistent with Coastal Act Sec.s 30210 through 30214. The siting of the beach access shall minimize removal of native trees and eucalyptus trees that are part of a monarch butterfly aggregation site.

14. Circulation (New DevStd under Policy CIRC-TC-1)

Improvements along Route 192/ Foothill Road should be developed in a manner consistent with bicycle and pedestrian safety, and should be designed for improved bicycle access.

15. Water Quality (Policy WW-TC-2; New Policies under WW)

a. ~~Pollution~~ Development shall avoid the introduction of pollutants into ~~of~~ surface, ground and ocean waters. Where avoidance is not feasible, ~~pollution~~ the introduction of pollutants shall be minimized to the maximum extent feasible.

b. Confined animal facilities shall be sited, designed, managed and maintained to prevent discharge of sediment, nutrients and contaminants to surface and groundwater. In no case shall an animal keeping operation be sited, designed, managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel.

c. Development shall avoid, to the maximum extent feasible, adverse impacts to the biological productivity and quality of coastal streams, wetlands, ~~bays, estuaries, lakes~~ and the ocean. This shall be accomplished through the implementation of the County's Draft Storm Water Management Program (SWMP) dated August 8, 2003, as updated and approved by the Regional Water Quality Control Board, which is hereby incorporated by reference into this LCP amendment. Any ~~potential updates to the SWMP will be submitted to the CCC on an annual basis as potential proposed changes to the SWMP shall be submitted to the Coastal Commission Executive Director for review and comment as part of the annual SWMP review process. Any changes to the SWMP that substantively change the LCP provisions for coastal water quality protection within the Toro Canyon Plan area, as determined by the Executive Director, shall be submitted to the CCC on an annual basis as proposed LCP amendments.~~

d. Development shall protect the absorption, purification, and retention functions of natural drainage systems that exist on the site. Where feasible, drainage and project plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner.

Modifications to the Land Use Plan Component of the February 25, 2002 Toro Canyon Plan (includes modifications approved by the California Coastal Commission on November 6, 2003, as further amended by the Santa Barbara County Board of Supervisors on April 27, 2004)

16. OSTS (New DevStd under Policy WW-TC-2)

a. Development that includes new OSTs(s) or expansion of existing OSTs(s), with a subsurface sewage effluent dispersal system that is within 100 feet of a beach, shall provide secondary or tertiary effluent treatment prior to discharging to that dispersal system.

b. Development shall not be approved where individual or cumulative impacts of septic systems for new development would cause pollution of creeks and ocean waters, unless this would preclude reasonable use of property. Where such development is approved to allow reasonable use of property, it shall provide for secondary or tertiary effluent treatment prior to discharging to any subsurface sewage effluent dispersal system.

17. ESH Mapping (New DevStds under Policy BIO-TC-1)

Any area mapped, or otherwise identified through historic evidence, as ESH shall not be deprived of protection as ESH, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

18. ESH Overlay Delineation (DevStd BIO-TC-1.3)

The process for delineating the exact boundary of the ESH occurs during an application for development. In the inland areas, the ESH Overlay regulations identify the methodology used to delineate the ESH during the development application review process, and include procedures to review ESH determinations (see Inland zoning ordinance Article III – ESH-TCP Overlay, Section 35-250E). In the Coastal Zone, Local Coastal Program Policy 9-1 and the implementing Coastal zoning ordinance (Article II – ESH Overlay, Section 35-97) identify the process to delineate the ESH.

The County shall determine the physical extent of habitat meeting the definition of ESH on the project site, based on a site-specific biological study as described in Article II Section 35-194, prepared by a qualified biologist or environmental specialist.

19. ESH Buffers (DevStd BIO-TC-1.4)

Development shall be required to include the following buffer areas from the boundaries of Environmentally Sensitive Habitat (ESH):

Southern Coast Live Oak Riparian Forest corridors and streams- 100 feet in Rural areas and 50 feet in Urban, Inner-rural areas, and Existing Developed Rural Neighborhoods (EDRN)/Rural Neighborhoods, as measured from the outer edge of the canopy or the top of creek bank¹, whichever is greater. When this habitat extends beyond the top of creek bank, the buffer shall extend an additional 50 feet in Rural areas and 25 feet in Urban, Inner rural areas, and EDRN/Rural Neighborhoods from the outside edge of the Southern Coast Live Oak Riparian Forest canopy;

Coast Live Oak Forests - 25 feet from edge of canopy;

Monarch butterfly habitat- minimum 50 feet from any side of the habitat;

Native grassland, ~~a minimum ¼ acre in size~~ – 25 feet;

Coastal Sage – minimum 20 feet;

Scrub oak chaparral – 25 feet from edge of canopy;

Wetlands – minimum 100 feet; and

Buffer areas from other types of ESH shall be determined on a case-by case basis. ~~These buffer areas;~~

¹ “Top of creek bank” is identified differently by the Flood Control District for flood control purposes and by Environmental Health Services for the location of septic systems. For the purposes of the habitat protection policies and development standards of this Plan, the “top of creek bank” shall be defined as the recognized geologic top of slope.

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~~except for Monarch butterfly habitat, wetlands and Southern Coast Live Oak Riparian Forests and streams,~~ may be adjusted upward or downward on a case-by-case basis given site specific conditions. Adjustment of the buffer shall be based upon site-specific conditions such as slopes, biological resources, and erosion potential, as evaluated and determined by Planning and Development ~~and~~ in consultation with other County agencies, such as Environmental Health Services and the Flood Control District. Adjustment of the Southern Coast Live Oak Riparian Forest buffer areas shall be based upon an investigation of the following factors and after consultation with the Department of Fish & Game and the Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams, creeks and wetlands: 1. Existing vegetation, soil type and stability of the riparian corridors; 2. How surface water filters into the ground; 3. Slope of the land on either side of the riparian waterway; 4. Location of the 100 year flood plain boundary; and 5. Consistency with the adopted Local Coastal Plan or the Comprehensive Plan, particularly the Biological Resources policies. In all cases listed above, buffer areas may be adjusted in order to avoid precluding reasonable use of property consistent with applicable law.

20. ESH & ESH Buffer (New DevStd under Policy BIO-TC-1)

Development in or adjacent to ESH or ESH Buffer shall meet the following standards:

- a. Wherever lighting associated with development adjacent to ESH cannot be avoided, exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESH in order to minimize impacts on wildlife. High intensity perimeter lighting or other light sources, e.g., lighting for sports courts or other private recreational facilities in ESH, ESH buffer, or where night lighting would increase illumination in ESH shall be prohibited.
- b. New ~~Public~~ public accessways and trails located within or adjacent to ESH shall be sited to minimize impacts to ESH to the maximum extent feasible. Measures, including but not limited to, signage, placement of boardwalks, and limited fencing shall be implemented as necessary to protect ESH. ~~Where feasible~~ Trails shall be sited to the outside of riparian areas with limited exceptions for crossings. Where no other feasible alternative exists, public accessways and trails may be a permitted use in Environmentally Sensitive Habitat Areas. ~~When trail plans are developed and the most desirable location would result in trail segments adjacent to sensitive species habitats that may require seasonal closures, alternative trail connections shall be identified. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis.~~ Where seasonal closures occur, these alternative trail segments shall be ~~used, provided where feasible.~~
- c. The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat, shall be prohibited within and adjacent to ESH, where application of such substances would impact the ESH, except where no other feasible alternative exists and where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the breeding/nesting season of sensitive species that may be affected by the proposed activities, winter season, or when rain is predicted within a week of application.
- d. As a condition of approval of new development adjacent to coastal sage scrub and native grassland, the applicant shall plant the associated ESH buffer areas with appropriate locally native plants.

21. ESH Economic Viability Determination (New DevStd under Policy BIO-TC-1)

- a. If the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat (ESH) area or ESH buffer would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination as required in Article II Section 35-194. In addition, the alternative that would result in the fewest or least significant impacts shall be selected.

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Impacts to ESH or ESH buffer that cannot be avoided through the implementation of siting and design alternatives shall be mitigated to the maximum extent feasible, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on-site. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid adverse impacts to ESH and ESH buffer.

b. To evaluate whether a restriction would not provide an economically viable use of property as a result of the application of the policies and standards contained in this Plan or LCP regarding use of property designated as Environmentally Sensitive Habitat area or ESH buffer, an applicant must provide the information about resources present on the property that is needed to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined.

22. ESH Wetlands (New DevStd under Policy BIO-TC-1)

The drainages ditches on the north side of Padaro Lane and south side of Santa Claus Lane, mapped as Wetland (Not ESH) on the Toro Canyon Plan ESH Overlay Map, which were built to convey floodwaters, shall not be subject to the required wetland buffer and may be maintained by the Flood Control District. Maintenance shall not result in the enlargement, extension, or expansion of the existing drainage channels, but shall be limited to the removal of vegetation, debris, and sediment buildup.

23. Landscaping/Invasive Species (Policy BIO-TC-2; DevStd BIO-TC-2.2; New DevStd under Policy BIO-TC-2)

a. Landscaping for development shall use appropriate plant species to ensure compatibility with and preservation of ESH. All landscaping shall utilize only non-invasive plants.

b. Development otherwise requiring a Landscape Plan outside ESH and ESH buffer areas, shall be limited to utilize only non-invasive plants within 500' from the ESH resource (see Appendix H, *List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas*).

c. Habitat restoration and invasive plant eradication may be permitted within ESH and ESH buffer areas if designed to protect and enhance habitat values provided that all activities occur outside of the breeding/nesting season of sensitive species that may be affected by the proposed activities. Habitat restoration activities shall use hand removal methods to the maximum extent feasible. Where removal by hand is not feasible, mechanical means may be allowed. Use of pesticides or other chemical techniques shall be avoided to the maximum extent feasible, and when determined to be necessary, shall include mitigation measures to ensure site-specific application with no migration to the surrounding environment.

24. Fuel Modification (DevStd BIO-TC-4.3)

Significant vegetation fuel management² within ESH and ESH buffer areas implemented in association with existing development may be permitted where, subject to a coastal development permit, findings are made that fuel modification in ESH or ESH buffer was minimized to the maximum extent feasible consistent with Coastal Act Sections 30001.5(b), 30007.5, 30010, 30200(b), 30240, and 30253(1). New development requiring vegetation fuel management within ESH and ESH buffer areas may only be permitted where, subject to a coastal development permit, findings are made that the proposed fuel modification overlaps fuel modification zones associated with existing legal development to the maximum extent feasible and/or that any fuel modification within ESH or ESH buffer is the minimum amount necessary to protect the structure(s) and that all feasible measures including reduction in scale of development, use of alternative materials, and siting have been implemented to reduce encroachment into ESH and ESH buffer.

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The coastal development permit shall include a Fuel Management Plan approved by Planning and Development and the local fire protection agency (see Fuel Management Guidelines in Appendix D). P&D may require that the Fuel Management Plan be prepared by a qualified biologist to ensure vegetation clearance/trimming minimizes the impacts to ESH.

25. Agricultural Infrastructure (DevStd BIO-TC-4.4; Move to LUA)

~~In resolving conflicts between Coastal Act policies pursuant to Coastal Act Section 30007.5, t~~The County should ensure that essential infrastructure for existing agricultural production is protected and maintained.

26. ESH & ESH Buffers in EDRNs (Policy BIO-TC-5; DevStd BIO-TC-5.1; New DevStd under Policy BIO-TC-5)

a. Due to the existing land subdivision and built environment in the Rural Neighborhoods of Torito Road, Serena Park, La Mirada Drive and Ocean Oaks Road, where existing structures and related landscaped areas are within the ESH buffer ~~and not part of the ESH itself~~, structural additions to the existing primary residence may main and secondary dwelling units shall be allowed limited encroachment into ESH buffer areas if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species. Additions shall also comply with development standards in subject to DevStd BIO-TC-5.1 through DevStd BIO-TC-5.34.

b. For existing lawfully constructed primary residences in Existing Developed Rural Neighborhoods residential structures in any zone district and existing agricultural support structures on agriculturally-zoned property (as defined in the TCP Overlay District) located within designated ESH buffer areas ~~or adjacent to ESH~~, structural additions ~~or improvements~~ shall be scaled, sited, and designed to avoid ground disturbance to protect the ESH resource to the maximum extent feasible. Site design and appropriate scale of the addition shall conform to in conformance with the following guidelines-standards: a. Second story additions shall be considered the preferred design alternative to avoid ground disturbance with limited canopy reduction including limbing of oaks and sycamores; b. Additions shall be allowed only if they: are located a minimum of 6 feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundation or root bridges); preserve habitat trees for Monarch Butterflies and nesting raptors (subject to restricted pruning during nesting season) and do not extend new areas of fuel modification into ESH areas. b-c. Where the existing structure is located only partially inside an ESH or ESH buffer area, a Additions shall be located on those portions of the structure located outside or away from the ESH ~~or ESH buffer area~~. If the subject development cannot be located away from ESH, then the extension of a ground level development footprint shall be denied. d. Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvement are permeable, and do not require compaction of soil in the root zone.

c. The reconstruction of a lawfully established ~~primary residence structures that serve as residences~~ in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.

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27. Stream Modification (Policy BIO-TC-11)

Except for routine Flood Control District maintenance, or for habitat enhancement projects approved by all federal and state agencies having jurisdiction, natural stream channels shall be maintained in an undisturbed state ~~to the maximum extent feasible~~ in order to protect banks from erosion, enhance wildlife passageways, and provide natural greenbelts as allowed under Policy FLD-TC- [cross reference to suggested modification 31]. “Hardbank” channelization (e.g., use of concrete, riprap, gabion baskets) of stream channels shall be prohibited, except where needed to protect existing structures. Where hardbank channelization is required, the material and design used shall be the least environmentally damaging alternative and site restoration on or adjacent to the stream channel shall be required, subject to a ~~Restoration Plan~~.

28. Tree Protection (DevStd BIO-TC-13.1; DevStd BIO-TC-13.2; Policy BIO-TC-14)

a. A “native protected tree” is at least six inches in diameter (largest diameter for non-round trunks) as measured 4.5 feet above level ground (or as measured on the uphill side where sloped), and a “non-native protected tree” is at least 25 inches in diameter at this height. ~~Areas to be protected from grading, paving, and other disturbances shall generally include, at a minimum, the area six feet outside of tree driplines. Sufficient area shall be restricted from any associated grading to protect the critical root zones of native protected trees.~~

b. Development shall be sited and designed at an appropriate scale (size of main structure footprint, size and number of accessory structures/uses, and total areas of paving, motorcourts and landscaping) to avoid damage to native protected trees (e.g., oaks), non-native roosting and nesting trees, and nonnative protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be ~~fully~~ mitigated and replaced in a manner consistent with County standard conditions for tree replacement. Native trees shall be incorporated into site landscaping plans.

29. Vacant Lands (New Policy under BIO)

The conversion of vacant land in ESH, ESH buffer, or on slopes over 30 percent to new crop, orchard, vineyard, or other agricultural use shall not be permitted. Existing, legally established agricultural uses shall be allowed to continue.

30. Flood Control (DevStd FLD-TC-1.2; DevStd FLD-TC-1.3)

a. No development shall be permitted within the floodplains of Toro, Picay, Garrapata, or Arroyo Paredon Creeks unless such development would be necessary to: Permit reasonable use of property while mitigating to the maximum extent feasible the disturbance or removal of significant riparian/wetland vegetation; or Accomplish a major public policy goal of the Toro Canyon Plan or other beneficial projects approved by the Board of Supervisors. In the Coastal Zone, floodplain development also must be consistent with the state Coastal Act and the county’s Local Coastal Program.

b. Development requiring raised finished floor elevations in areas prone to flooding shall be constructed on raised foundations rather than fill material; unless it can be demonstrated that the foundation on fill would not increase the base flood elevation within the floodway pursuant to FEMA regulations; ~~where feasible.~~

31. Flood Control (New DevStd under Policy FLD-TC-1)

Any channelization, stream alteration, or desiltation/dredging projects permitted for flood protection shall only be approved where there is no other feasible alternative and consistent with the following:

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(1) Flood control protection shall be the least environmentally damaging alternative consistent with all applicable policies of the Local Coastal Program and shall consider less intrusive solutions as a first priority over engineering structural solutions. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over “hard” solutions such as concrete or riprap channels. “Hardbank” measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be technically infeasible.

(2) The project shall include maximum feasible mitigation measures to mitigate unavoidable adverse impacts. Where hardbank channelization is required, site restoration and mitigation on or adjacent to the stream channel shall be required, subject to a restoration plan.

(3) Flood control measures shall not diminish ~~or change~~ stream capacity, ~~or adversely change~~ percolation rates or habitat values.

32. Flood Control (Action FLD-TC-1.5; Policy FLD-TC-3)

a. In order to address drainage issues along the southeastern portion of Padaro Lane, the county shall initiate an investigation of feasible engineering and maintenance solutions involving all affected parties, including but not necessarily limited to residents and upstream property owners, the County Public Works Department including the Flood Control District, Caltrans, and the Union Pacific Railroad. This investigation shall consider the preliminary engineering study commissioned by the Padaro Lane Association in the 1990s. ~~Local drainageways and culverts should be cleared annually or as necessary. The study investigation~~ shall consider less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) as the primary means of defense against flood hazard and shall require maximum feasible mitigation for all impacts to wetland, riparian, or other native trees and habitat.

b. Flood control maintenance activities shall seek to minimize disturbance to riparian/wetland habitats, consistent with the primary need to protect public safety. Additional guidance for public maintenance work is provided by the Flood Control District's current certified Maintenance Program EIR and current approved Standard Maintenance Practices. Work should be conducted in a manner that attempts to maintain coastal sand supply where feasible.

33. Slope Requirements (DevStd GEO-TC-1.1; New DevStd under Policy GEO-TC-1)

a. Development shall be prohibited on slopes greater than 30% except for the following, unless this would prevent reasonable use of property:

(1) Driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.

(2) Where all feasible building sites are constrained by greater than 30% slopes, the uses of the property and the siting, design, and size of any development approved on parcels, shall be limited, restricted, and/or conditioned to minimize impacts to coastal waters, downstream properties, and rural character on and adjacent to the property, to the maximum extent feasible. In no case shall the approved development exceed the maximum allowable development area. The maximum allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites include areas of greater than 30% slope shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. Mitigation of adverse impacts to hillside stability, coastal waters, downstream properties, and rural character that cannot be avoided through the implementation of siting and design alternatives shall be required.

~~b. Any disturbed area on the subject parcel(s) where previous permits or other historic evidence cannot be provided to prove that the removal of vegetation and grading disturbance occurred pursuant to proper authorization, the County review shall presume that the removal was not legally permitted and the subject area(s) shall be restored, unless an after the fact coastal development permit is issued consistent with all~~

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~~current standards of the LCP.~~ The County shall not recognize unauthorized vegetation removal or grading, and shall not predicate any approval on the basis that vegetation has been illegally removed or degraded.

34. Stream Crossings (New Policy under GEO)

New roads, bridges, culverts, and outfalls shall not cause or contribute to streambank or hillside erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality including construction phase erosion control and polluted runoff control plans, and soil stabilization practices. New stream crossings within the coastal zone, and where feasible replacements of existing stream crossings, shall be bridged ~~unless another alternative is environmentally preferable.~~ Where feasible, dispersal of sheet flow from roads into vegetated areas or other on-site infiltration practices shall be incorporated into road and bridge design.

35. Shoreline Protection Structures (DevStd GEO-TC-4.3; New DevStd under Policy GEO-TC-4)

A. Shoreline and bluff development and protection structures shall be in conformance with the following standards:

1. New development on a beach or oceanfront bluff shall be sited outside areas subject to hazards (beach or bluff erosion, inundation, wave uprush) at any time during the full projected ~~100~~75-year economic life of the development. If complete avoidance of hazard areas is not feasible, all new beach or oceanfront bluff development shall be elevated above the base Flood Elevation (as defined by FEMA) and setback as far landward as possible. Development plans shall consider hazards currently affecting the property as well as hazards that can be anticipated over the life of the structure, including hazards associated with anticipated future changes in sea level.

2. New development on or along the shoreline or a coastal bluff shall site septic systems as far landward as possible in order to avoid the need for protective devices to the maximum extent feasible. Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. New development includes demolition and rebuild of structures, substantial remodels, and redevelopment of the site.

3. New shoreline protection devices may be permitted where consistent with the state Coastal Act and Coastal Plan Policy 3-1, and where (i) the device is necessary to protect development that legally existed prior to the effective date of the coastal portion of this Plan, or (ii) the device is proposed to fill a gap between existing shoreline protection devices and the proposed device is consistent with the height and seaward extent of the nearest existing devices on upcoast and downcoast properties. Repair and maintenance, including replacement, of legal shoreline protection devices may be permitted, provided that such repair and maintenance shall not increase either the previously permitted² height or previously permitted² seaward extent of such devices, and shall not increase any interference with legal public coastal access.

4. All shoreline protection structures shall be sited as far landward as feasible regardless of the location of protective devices on adjacent lots. In no circumstance shall a shoreline protection structure be permitted to be located further seaward than a stringline drawn between the nearest adjacent corners of protection structures on adjacent lots. A stringline shall be utilized only when such development is found to be infill and when it is demonstrated that locating the shoreline protection structure further landward is not feasible.

5. Where it is determined to be necessary to provide shoreline protection for an existing residential structure built at sand level a "vertical" seawall shall be the preferred means of protection. Rock

² For devices that pre-date permit requirements, this would be the as-built height and seaward extent of the structure.

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revetments may be permitted to protect existing structures where they can be constructed entirely underneath raised foundations or where they are determined to be the preferred alternative.

B. Where new development is approved on a beach or oceanfront bluff, conditions of approval shall include, but not be limited to, the following as applicable

1. ~~As a condition of approval of~~ development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

2. ~~As a condition of approval of a~~ ~~For any new~~ shoreline protection structure, or repairs or additions to a shoreline protection structure, the property owner shall be required to acknowledge, by the recordation of a deed restriction, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protection structure which extends the seaward footprint of the subject structure shall be undertaken and that he/she expressly waives any right to such activities that may exist under Coastal Act Section 30235. The restrictions shall also acknowledge that the intended purpose of the subject structure is solely to protect existing structures located on the site, in their present condition and location, including the septic disposal system and that any future development on the subject site landward of the subject shoreline protection structure including changes to the foundation, major remodels, relocation or upgrade of the septic disposal system, or demolition and construction of a new structure shall be subject to a requirement that a new coastal development permit be obtained for the shoreline protection structure unless the County determines that such activities are minor in nature or otherwise do not affect the need for a shoreline protection structure.

3. ~~As a condition of approval of~~ For new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

36. Archaeology (New DevStd under Policy HA-TC-1)

The County shall consult with the Native American Heritage Commission, State Historic Preservation Officer, and the Most Likely Descendant during each stage of the cultural resources review to determine whether the project may have an adverse impact on an important cultural resource.

37. Ridgeline Development (DevStd VIS-TC-1.3; DevStd VIS-TC-2.3)

a. ~~In urban areas, d~~Development shall not occur on ridgelines if suitable alternative locations are available on the property. When there is no other suitable alternative location, structures shall not intrude into the skyline or be conspicuously visible from public viewing places. Additional measures such as an appropriate landscape plan and limiting the height of the building may be required in these cases.

b. ~~Consistent with applicable ordinances, policies, development standards, and the Constrained Site Guidelines, s~~Structures shall be sited and designed to minimize the need for vegetation clearance for fuel management zone buffers. Where feasible, necessary roads and driveways shall be used as or incorporated into fuel management zones.

38. Trail Siting Guidelines (Appendix E)

Section II. C. Fences constructed along trail corridors should allow for wildlife movement, to the greatest

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extent feasible.

Section III. A. Where appropriate (e.g., adjacent to existing agricultural operations, buildings, residences, etc.), the County should construct fencing between the trail and private land uses. County Parks shall determine on a case-by-case basis appropriate fencing design and type. The County should consider landowner input on fence design. ~~To the greatest extent feasible, f~~Fencing should shall not hinder the ~~safety or the natural movement and migration of animals and should be aesthetically pleasing.~~

Section V. B. ~~Where appropriate, v~~Vehicle barriers (e.g., steel access gates) should be constructed at trailheads to prevent unauthorized motor vehicle access, while allowing hikers, bicyclists, equestrians, and authorized motor vehicles for emergency, maintenance, or to provide access to private in-holdings to access the trail. Internal access control barriers (i.e., any combination of steel gates, chain link or barbed wire fence may be necessary) should also be installed along trails at appropriate “choke points” (e.g., placement of barriers utilizing natural topography and/or trail user decision points) in order to keep trail users on the established trail route and prevent trespass and/or further entry into private property and/or environmentally sensitive areas. Trails may be designed for bicycle use where resource damage such as loss of vegetation or increased erosion would not result. Where evidence that authorized bicycle use is damaging resources, future use by bicycles may thereafter be temporarily or permanently prohibited.

C. Before the County permits public use of any acquired trail right-of-way, ~~adequate approved~~ fencing consistent with resource protection and other precautions (such as signage) should be installed to prevent vandalism to neighboring properties and appropriate trailheads should be acquired and constructed to provide for the public safety.

39. Invasive Plant List

Appendix H List of Invasive Plants to Avoid Using in Landscape Plans Near ESH Areas; *Delete all references to the words “Near ESH Areas”*

40. Non-Certified Language

All policies, development standards, and actions listed in Exhibit 17 [to the staff report of 10/22/03] shall be marked within the Toro Canyon Plan with a footnote or other identifying symbol such that it is clearly evident that such policies, provisions, or other standards are not certified as part of the Local Coastal Program.

The following text shall be added at the end of Section I.C “Overview of the Toro Canyon Plan:”

Local Coastal Program

This Plan is designed to be consistent with the California Coastal Act, the Santa Barbara County Coastal Plan, and the provisions of Article II. Goals, policies, actions, and development standards within this document shall be applicable within the Toro Canyon Plan area. However, provisions of this Plan denoted with an asterisk shall not be certified by the Coastal Commission and therefore shall not be the basis of appeal of a local Coastal Development Permit to the Coastal Commission.

41. Coastal Zone Boundary

All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, and the Land Use Plan Map shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

42. Agriculture Conversion (Land Use Plan)

Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area

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with zoning of AG-I-4010. All figures and maps submitted as part of the LUP Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

43. ESH Map (Land Use Plan)

The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be modified as follows:

a. Modify text on Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map legend as follows: “(Within these areas, ~~the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only~~; the extent of any associated riparian habitat must be determined by site-specific review)

b. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to:

A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.

B. Apply the Monarch Butterfly Habitat designation and cross-hatch labeling to indicate this is an “Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review” to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)

c. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.

d. The Toro Canyon Plan Environmentally Sensitive Habitat Land Use Overlay (ESH-TCP) Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: “In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an ‘Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.’”

NOTE: The following modifications (numbers 44-47) involve the Zoning, or Implementation Plan, component of the Toro Canyon Plan. While not part of the Land Use Plan component, they are included here for illustrative purposes, and are specifically incorporated into the two contemporaneous ordinances that amend the Coastal Zoning Ordinance text and maps (Case No.s 04ORD-00000-00003 and 04RZN-00000-00005).

44. Coastal Zone Boundary

All figures and maps submitted as part of the IP Amendment, including Zoning and Overlay maps, shall illustrate the Coastal Zone Boundary including minor coastal zone boundary changes as approved on June 13, 2003.

45. ESH Map (Zoning)

The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be modified as

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follows:

- a. Modify text on Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map legend as follows: “(Within these areas, ~~the mapped ESH extent along streams is intended to represent the “Top of Creek Bank” only;~~ the extent of any associated riparian habitat must be determined by site-specific review)
- b. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to:
 - A. Retain the existing overlay designation on Assessor Parcel Numbers 005-380-033, -034, -038 as illustrated in Exhibit 5 of this staff report.
 - B. Apply the Monarch Butterfly Habitat designation and cross-hatch labeling to indicate this is an “Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review” to the 7 parcels affected by the previously documented monarch butterfly habitat at and near 3197 Padaro Lane as illustrated in Revised Exhibit 6 of this staff report (APNs: 005-380-031, 005-390-055, 005-390-007, 005-390-005, 005-390-068, 005-390-073, 005-390-003)
- c. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to apply a new Wetland designation “Wetland (Not ESH)” to the drainage channels on the north side of Padaro Lane and south of Santa Claus Lane, with location as illustrated in Exhibit 6 of this staff report.
- d. The Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II Map shall be amended to retain the existing overlay designation of offshore kelp as illustrated in Exhibit 5 of this staff report.

Revised Item B also requires text to be added to the end of ACTION BIO-TC-1.2, p 113 in the Plan, as follows: “In addition, the area of potential Monarch Butterfly habitat on the south side of Padaro Lane and the western side of the Beach Club Road enclave shall be designated on the Toro Canyon Plan ESH Overlay Map as an ‘Area of Potential Monarch Butterfly Habitat Requiring Further Study during Permit Review.’”

46. Agriculture Conversion (Zoning)

Resubmit proposal for new Rural Neighborhood Boundary encompassing seven parcels (APNs # 155-014-013, 155-014-038, 155-014-039, 155-014-049, 155-014-056, 155-014-057, 155-014-058) located northeast of the intersection of Foothill and Toro Canyon Roads, with zoning of 2-E-1. Alternatively, should the Coastal Commission reject this designation, these seven lots shall remain in the Rural Area with zoning of AG-I-~~4010~~. All figures and maps submitted as part of the Zoning Ordinance Amendment, including all figures of the Toro Canyon Plan, shall reflect this modification, where shown.

47. Toro Canyon Plan Overlay District

Amend proposed Section 35-194 of the Zoning Code (Exhibit 3) as follows:

Sec. 35-194. General

The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan and serve to carry out certain policies of this Community Plan. The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.

Sec. 35-194.1 Applicability

The provisions of this section apply to the Toro Canyon Plan Area as defined by the “Toro Canyon Plan

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Land Use Map.” All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with ~~the TORO~~ this Overlay District.

Section 35-194.2 Processing

A. In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource specialist. Such a study would include an analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

Sec. 35-194.23 C-1 Zone District

1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:

Any single family residence where there is no commercial use;

Residential structures and general practitioner's/professional offices-only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office-uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;

Financial institutions;

~~General business offices (such as real estate offices and general practitioner's offices);~~

Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;

~~Residential structures and general practitioner's/professional offices only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;~~

Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.

2. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon:

Hotels and motels;

Mini-mart/convenience stores;

3. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon with a Major CUP:

Overnight recreation vehicle facilities.

~~Secondary to a primary commercial use is defined as: a) A land use subordinate or accessory to a principal land use. b) When used in reference to residential use in conjunction with commercial and industrial uses in this Article, secondary shall mean two residential bedrooms per one thousand (1,000) square feet of total gross~~

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~~floor area of commercial or industrial development. However, in no event shall the total gross floor area of the residential development exceed the total gross floor area of the commercial or industrial use. Gross floor area shall not include parking areas.~~

Sec. 35-194.34 Findings

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Sec. 35-194.45 Nonconforming Structures and Uses

1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that it meets the provisions of the Toro Canyon Plan and the certified LCP and evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

2. Reconstruction of nonconforming residential structures located within Rural Neighborhood Areas and within or adjacent to an Environmentally Sensitive Habitat (ESH) area: The reconstruction of a lawfully established primary residence structures that serve as residences in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator.

2. Residential structures that are nonconforming solely due to the Toro Canyon Plan: Any residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall include primary dwellings, secondary dwellings including Residential Second Units, guest houses, farm employee dwellings, and all attached

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appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.

3. Expansion of a ~~legal~~ nonconforming primary residence residential located within a Rural Neighborhood Area and within an Environmentally Sensitive Habitat (ESH) buffer area ~~in an Existing Developed Rural Neighborhood~~: Any primary residence residential structure that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStds BIO-TC-5.1 and BIO-TC-5.34 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.

4. Nonconforming agricultural support structures ~~other than greenhouse development~~: Any nonconforming agricultural support structure, other than "greenhouse development" as defined in the Carpinteria Agricultural (CA) Overlay, other than "Greenhouses" or "Greenhouse Related Development" located within the Carpinteria Agricultural (CA) Overlay, that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure, other than "greenhouse development" as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. Nonconforming "greenhouse development" as defined in the CA Overlay shall be subject to the provisions of the CA Overlay. Nonconforming "Greenhouses" or "Greenhouse Related Development" located within the CA Overlay shall be subject to the provisions of the CA Overlay.

5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan, except where located within an Environmentally Sensitive Habitat (ESH) area: Any agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The

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twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twentyfour (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.

6. Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat (ESH) areas or ESH buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an ESH area or ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with Development Standards BIO-TC-5.1 and BIO-TC-5.3 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article. For the purpose of this section, "agricultural support structure" shall mean any structure that is essential to the support of agricultural production on agriculturally-zoned property.

76. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. ~~In addition, any nonconforming nonresidential structure that requires partial or complete reconstruction or structural repair due to normal wear and tear such as structural pest damage or dry rot may be repaired or reconstructed, provided that such repair or reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible.~~ Such a structure may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that:

- i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction ~~or structural repair~~; and
- ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction ~~or structural repair~~ of the nonconforming structure be denied.

Any such reconstruction ~~or structural repair~~ shall commence within twenty-four (24) months of the time of damage or destruction, ~~or the time of the owner's first documented discovery of the need for reconstruction or repair~~, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

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98. Expansion of nonconforming structures located on the shore: Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.

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Sec. 35-194.56 Architectural Review Standards

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Sec. 35-194.7 Economically Viable Use

If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the provisions of this section.

Sec. 35-194.8 Economically Viable Use Determination

The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.
- b. The purchase price paid by the applicant for the property.
- c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
- d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
- g. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
- h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
- j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
- k. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
- l. Any additional information that the County requires to make the determination.

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Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit

1. A coastal development permit that allows a deviation from a policy or standard of the LCP to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):

a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.

b. Application of the LCP policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations.

c. The use proposed by the applicant is consistent with the applicable zoning.

d. The use and project design, siting, and size are the minimum necessary to avoid a taking.

e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.

f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

Sec. 35-194.10 Agricultural Soils

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

Sec. 35-194.11 Land Divisions

Land divisions, including lot line adjustments and conditional certificates of compliance, shall only be permitted if each parcel being established could be developed without adversely impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE TO IMPLEMENT THE TORO CANYON PLAN BY ADDING A NEW MT-TORO (MOUNTAINOUS AREA- TORO CANYON PLAN) DISTRICT TO DIVISION 4 (ZONING DISTRICTS), AMENDING DIVISION 10 (NONCONFORMING STRUCTURES AND USES), AND ADDING A NEW DIVISION 16 (TCP- TORO CANYON PLAN OVERLAY)

CASE NO. 04ORD-00000-00003

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

1. DIVISION 4 (ZONING DISTRICTS) is hereby amended to add the following text:

Sec. 35-94. MT-TORO Mountainous Area- Toro Canyon Planning Area.

Sec. 35-94.1. Purpose and Intent.

The purpose of this district is to ensure protection of lands that are unsuited for intensive development and have one or more of the following characteristics:

1. Slopes in excess of 40 percent.
2. Valleys surrounded by slopes exceeding 40 percent.
3. Isolated table land surrounded by slopes exceeding 40 percent.
4. Areas with outstanding resource values, such as environmentally sensitive habitat areas and watershed areas.

The intent is to allow limited development in these areas due to the presence of extreme fire hazards, minimum services, and/or environmental constraints and to encourage the preservation of these areas for uses such as watershed protection, scientific and educational study, and limited residential uses.

Sec. 35-94.2. Processing.

No permits for development, including grading, shall be issued except in conformance with Section 35-169 (Coastal Development).

Sec. 35-94.3. Permitted Uses.

1. One single-family dwelling per legal lot.
2. One guest house subject to the provisions of Sec. 35-120 (General Regulations).
3. The non-commercial keeping of animals and poultry.

4. Cultivated agriculture, vineyard, or orchard when there is evidence of permitted or legal non-conforming use within the previous ten-year period.
5. Home occupations, subject to the provisions of Section 35-121 (General Regulations).
6. Accessory uses, buildings and structures that are customarily incidental to the above uses.

Sec. 35-94.4. Uses Permitted with a Major Conditional Use Permit.

1. Low intensity recreational uses such as summer camps, public riding stables, and hunting clubs.
2. Campgrounds with minimum facilities not including accommodations for recreational vehicles.
3. Limited facilities or developments for educational purposes or scientific research, e.g., water quality monitoring stations, access roads, storage facilities, etc.
4. Resource dependent uses such as mining and quarrying.
5. Onshore oil development, including exploratory and production wells, pipelines, separation facilities, and their accessory uses, subject to the requirements set forth in DIVISION 8, ENERGY FACILITIES.
6. Accessory uses, buildings and structures which are customarily incidental to the above uses.

Sec. 35-94.5. Uses Permitted with a Minor Conditional Use Permit.

1. Artist's studio.
2. New cultivated agriculture, vineyard or orchard use, when there is not evidence showing that it is a permitted or legal non-conforming use within the previous ten-year period.
3. Accessory uses, buildings and structures which are customarily incidental to the above uses.

Sec. 35-94.6. Findings Required for Conditional Use Permit.

In addition to the findings required for approval of a Conditional Use Permit in Sec. 35-172, no Conditional Use Permit shall be approved unless all of the following findings are made by the appropriate decision-maker:

1. The project does not require extensive alteration of the topography.
2. The project does not cause erosion, sedimentation, runoff, siltation, or an identified significant adverse impact to downstream water courses or water bodies.
3. The project will not cause any significant adverse effect on environmentally sensitive habitat areas, plant species, or biological resources.

Sec. 35.94.7. Minimum Application Submittal Requirements for Conditional Use Permit.

In addition to the contents of the application required for Conditional Use Permits under Section 35-172.6, no application shall be accepted for processing unless accompanied by the following submittals:

1. A topographic map showing existing slopes, water courses, and types of vegetation on the property.
2. The location and specifications of all existing and proposed roads, terraces, and structures.
3. Application for new or expanded cultivation, orchard, or vineyard use shall include a Conservation/Grading Plan that:
 - a. is reviewed and approved by the Resource Conservation District and meets all essential specifications as determined by the Soil Conservation Service.
 - b. shows areas of 40% or greater slopes.
 - c. contains a crop production and cultivation plan for all agricultural operations to be conducted on the site, a description of mechanized equipment to be used; and for orchards and vineyards, a post-approval monitoring program.

Sec. 35-94.8. Minimum Lot Size.

Each lot shall have a minimum gross lot area as indicated below for the symbol shown on the lot on the applicable Santa Barbara County Zoning Map.

<u>Zoning Symbol</u>	<u>Minimum Lot Size</u>
MT-TORO-40	40 acres
MT-TORO –100	100 acres
MT-TORO –320	320 acres

A dwelling may be located upon a smaller lot if such lot is shown as a legal lot either on a recorded subdivision or parcel map or is a legal lot as evidenced by a recorded certificate of compliance, except for fraction lots.

Sec. 35-94.9. Setbacks for Buildings and Structures.

Fifty (50) feet from the centerline of any street and twenty (20) feet from the lot lines of the lot of which the building or structure is located.

Sec. 35-94.10. Height Limit.

No building or structure shall exceed a height of twenty-five (25) feet.

Sec. 35-94.11. Minimum Distance Required Between Buildings on the Same Building Site.

Five (5) feet.

Sec. 35-94.12. Parking.

As provided in DIVISION 6, PARKING REGULATIONS.

SECTION 2: Section 35-162.2.d of DIVISION 10 (NONCONFORMING STRUCTURES AND USES) is hereby amended to read as follows:

d. Notwithstanding the above, additional provisions exist in Section 35-214 of Division 15 (Montecito Community Plan Overlay District) for parcels identified within the MON Overlay zone, and in Section 35-194 of Division 16 (Toro Canyon Plan Overlay District) for parcels identified within the TCP Overlay zone, which, in the case of conflict, shall take precedence over this Section.

SECTION 3: DIVISION 16, TORO CANYON PLAN (TCP) OVERLAY DISTRICT, of Article II of Chapter 35 of the Santa Barbara County Code is hereby added as follows:

Sec. 35-194. General

The provisions of this Division implement portions of Toro Canyon Plan components of the County's Local Coastal Plan. The provisions of this Division are in addition to the other provisions of this Article. Where provisions of this Division conflict with other provisions of this Article, the specific provisions of this Division shall take precedence. The development standards and actions within the Toro Canyon Plan are incorporated by reference within this Overlay District.

Sec. 35-194.1 Applicability

The provisions of this section apply to the Toro Canyon Plan Area as defined by the "Toro Canyon Plan Land Use Map." All provisions of the Toro Canyon Plan, Coastal Land Use Plan and applicable portions of the Comprehensive Plan, including all applicable goals, objectives, policies, actions, development standards and design guidelines, shall also apply to the area zoned with this Overlay District.

Section 35-194.2 Processing

In addition to other application requirements, applications for a coastal development permit for any new development on property that is within or adjacent to ESH, in this district shall include a detailed biological study of the site, prepared by a qualified biologist, or resource specialist. Such a study would include an analysis of any unauthorized development, including grading or vegetation removal that may have contributed to the degradation or elimination of habitat area or species that would otherwise be present on the site in a healthy condition.

Sec. 35-194.3 C-1 Zone District

1. All uses listed in the C-1 Zone District of this article shall be allowed in the C-1 Zone District of Toro Canyon except:
 - Any single family residence where there is no commercial use;

- Residential structures and general practitioner's/professional offices-only as secondary to a primary commercial retail use. Retail uses shall be located in the more prominent locations of buildings such as on first floors fronting on pedestrian pathways, and/or where ocean views are available. Residential and professional office-uses should be located on second floor but if on the first floor, then not on the street-facing part of the building. Office uses shall be in less prominent locations than retail uses on the same site;
 - Financial institutions;
 - Lodges shall only be allowed with a major conditional use permit, rather than as a permitted use;
 - Seafood processing and video arcades shall be allowed only as secondary uses to a primary use such as a restaurant and only when conducted entirely within an enclosed building.
2. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon:
- Hotels and motels;
 - Mini-mart/convenience stores.
3. In addition to the uses allowed in the C-1 Zone District of this article, the following shall be permitted in the C-1 Zone District of Toro Canyon with a Major CUP:
- Overnight recreation vehicle facilities.
4. "Western Seaside Vernacular Commercial" is defined as follows.

The chief style characteristic of Western Seaside Vernacular Commercial is simplicity. Examples of Western Seaside Vernacular have occurred in Avila Beach and Stearns Wharf. The following are characteristic of Western Seaside Vernacular architecture.

Orientation and Massing

Low massing
 Little or no set-back from sidewalk edge

Roofs

Flat
 Pitched gable roofs, but not gambrel or mansard roofs

Roof Materials

Composition
 Wood shingles, subject to the allowances and limitations of the County Building Code
 Shingles made to resemble wood or slate

Windows

Doors

Simple wood
 Simple wood and glass
 Simple French doors

Siding

Board and batten
 Beveled tongue and groove
 Clapboard
 Shingles

Colors

Weathered wood
 Whitewash
 Neutrals

"Picture"

Weathered colors

Horizontally oriented multi-paned
Multi-paned with wood sash and frames
Wood framed

Sec. 35-194.4 Findings

In addition to the findings that are required for approval of a development project (as development is defined in this Article), as identified in each section of Division 11 - Permit Procedures of Article II, a finding shall also be made that the project meets all applicable policies and development standards included in the Toro Canyon Plan.

Sec. 35-194.5 Nonconforming Structures and Uses

1. Nonconforming residential structures damaged or destroyed by calamity: Any nonconforming residential structure that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, guesthouses, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage existed, one detached private garage structure may be included provided that evidence of such structure's use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.
2. Reconstruction of nonconforming residential structures located within Rural Neighborhood Areas and within or adjacent to an Environmentally Sensitive Habitat (ESH) area: Lawfully established structures that serve as residences in an Existing Developed Rural Neighborhood located within ESH buffer areas or adjacent to ESH, which are damaged due to normal wear and tear such as structural pest damage or dry rot, may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted where findings are made that such development shall not adversely impact the adjacent riparian species, meets all other provisions of this Plan and the LCP including development standards for native and non-native protected tree species, and complies with development standards DevStd BIO-TC-5.1 through DevStd BIO-TC-5.4. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls. For the purpose of this section,

“residential structure” shall include primary dwellings, secondary dwellings including Residential Second Units, farm employee dwellings, and all attached appurtenances such as garages and storage rooms that share at least one common wall with the residential structure. Where no attached garage exists, one detached private garage structure may be included provided that evidence of such structure’s use as a private garage is presented to the satisfaction of the Zoning Administrator. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner’s first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.

3. Expansion of a nonconforming primary residence located within a Rural Neighborhood Area and within an Environmentally Sensitive Habitat (ESH) buffer area: Any primary residence that is nonconforming solely due to its location within an ESH buffer area may be expanded upward, or outward and away from the ESH area, consistent with DevStd’s BIO-TC-5.1 and BIO-TC-5.4 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.
4. Nonconforming agricultural support structures: Any nonconforming agricultural support structure, other than “Greenhouses” or “Greenhouse Related Development” located within the Carpinteria Agricultural (CA) Overlay, that is damaged or destroyed by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “agricultural support structure” shall mean any structure, other than “greenhouse development” as defined in the CA Overlay, that is essential to the support of agricultural production on agriculturally-zoned property. Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article. Nonconforming “Greenhouses” or “Greenhouse Related Development” located within the CA Overlay shall be subject to the provisions of the CA Overlay.
5. Agricultural support structures that are nonconforming solely due to the Toro Canyon Plan, except where located within an Environmentally Sensitive Habitat (ESH) area: Any agricultural support structure that is nonconforming solely due to any policy, development

standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear-and-tear such as structural pest damage or dry rot, may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location. For the purpose of this section, “agricultural support structure” shall mean any structure that is essential to the support of agricultural production on agriculturally zoned property. Any such reconstruction or structural repair shall commence within twenty-four (24) months of the time of the owner’s first documented discovery of the need for reconstruction or repair, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction or structural repair permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed or repaired except in conformity with the regulations of the Toro Canyon Plan and this Article.

6. Nonconforming nonresidential structures: Any nonconforming nonresidential structure that is damaged or destroyed to an extent of seventy-five percent (75%) or more of its replacement cost at the time of damage by fire, flood, earthquake, arson, vandalism, or other calamity beyond the control of the property owner(s) may be reconstructed, provided that such reconstruction conforms with the regulations of the Toro Canyon Plan and this Article to the maximum extent feasible. Such a structure may be reconstructed to the same or lesser size on the same site and in the same general footprint location, provided that:
 - i. The Zoning Administrator finds that the public health and safety will not be jeopardized in any way by such reconstruction; and
 - ii. The Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship that would be suffered by the owner(s) of the structure should reconstruction of the nonconforming structure be denied.

Any such reconstruction shall commence within twenty-four (24) months of the time of damage or destruction, and shall be diligently carried to completion. The twenty-four (24) month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Planning and Development Department prior to the expiration of the twenty-four (24) month period. Where the reconstruction permitted above does not commence within the specified twenty-four (24) months or the extended time period that may be granted by the Director, such structure shall not be reconstructed except in conformity with the regulations of the Toro Canyon Plan and this Article.

7. Expansion of certain nonconforming structures located within front, rear, or side yard setback areas: Any structure that is nonconforming solely due to its location within a front, rear, or side yard setback area, due to any increase in such setback area that resulted from a change of zoning adopted with the Toro Canyon Plan, may be enlarged or expanded in a manner that does not further encroach into any such setback area and that otherwise conforms with the regulations of the Toro Canyon Plan and this Article.

8. Expansion of nonconforming structures located on the shore: Additions to non-conforming structures on a blufftop or on the beach that increase the size of the structure by 50 percent or more are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses may not be increased or expanded into additional locations or structures.
9. Nonconforming uses: The replacement or re-establishment of nonconforming uses is subject to the regulations of the Toro Canyon Plan and this Article only to the extent that some type of permit may be required by this Article. Any such permit may be approved only in conformance with the regulations of the Toro Canyon Plan and this Article.

Sec. 35-194.6 Architectural Review Standards

1. Residential structures shall not exceed a height of 25' unless further restricted by other sections of the Zoning Ordinances (such as the Ridgeline and Hillside Development Guidelines).
2. Notice of a project's initial BAR hearing (e.g. conceptual or preliminary review) shall be mailed to the owners of the affected property and the owners of the property within 500 feet of the exterior boundaries of the affected property at least 10 calendar days prior the BAR hearing, using for this purpose the name and address of such owners and occupants as shown on the current Assessor's tax rolls of the County of Santa Barbara.
3. The following criteria shall be applied for the approval of any non-agricultural structure(s) by Planning and Development (P&D) and the Board of Architectural Review (BAR).
 - A. Where height exemptions under Ridgeline and Hillside Development Guidelines are allowed for rural properties, BAR minutes and the P&D project file shall include a written discussion of how the project meets the applicable exemption criteria.
 - B. Large understories and exposed retaining walls shall be minimized.
 - C. Building rake and ridgeline shall conform to or reflect the surrounding terrain.
 - D. Landscaping is used to integrate the structures into the site and its surroundings, and is compatible with the adjacent terrain.
 - E. The exterior surfaces of structures, including water tanks, walls and fences, shall be non-reflective building materials and colors compatible with surrounding terrain (including soils, vegetation, rock outcrops). Where paints are used, they also shall be non-reflective.
 - F. Retaining walls shall be colored and textured (e.g., with earth tone and split faces) to match adjacent soils or stone, and visually softened with appropriate landscaping.
 - G. Outside lighting shall be minimized. Outside lighting shall be shielded, downward-directed low-level lighting consistent with Toro Canyon's rural and semi-rural character.

- H. The total height of cut slopes and fill slopes, as measured from the natural toe of the lowest fill slope (see Figure 35-194.1 Examples A and D) or the natural toe of the lowest cut slope (see Figure 35-194.1 Examples B and C) to the top of the cut slope, shall be minimized. The total vertical height of any graded slopes for a project, including the visible portion of any retaining wall above finished grade, shall not exceed sixteen (16) vertical feet.
- I. The visible portion of a retaining wall above finished grade shall not exceed six feet. (See Figure 35-194.1.)

Upon recommendation by BAR, P&D may grant exemptions to criteria H and I if written findings are made that the exemptions would allow a project that: 1) furthers the intent of protecting hillsides and watersheds, 2) enhances and promote better structural and/or architectural design and 3) minimizes visual or aesthetic impacts.

Sec. 35-194.7 Economically Viable Use

If it is asserted that the application of the policies and standards contained in this LCP regarding use of property within the Toro Canyon Plan area that would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the provisions of this section.

Sec. 35-194.8 Economically Viable Use Determination

The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.
- b. The purchase price paid by the applicant for the property.
- c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
- d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.

- g. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
- h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
- j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
- k. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
- l. Any additional information that the County requires to make the determination.

Sec. 35-194.9 Supplemental Findings for Approval of Coastal Development Permit

1. A coastal development permit that allows a deviation from a policy or standard of the LCP to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):

- a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property.
- b. Application of the LCP policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations.
- c. The use proposed by the applicant is consistent with the applicable zoning.
- d. The use and project design, siting, and size are the minimum necessary to avoid a taking.
- e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.
- f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied.

Sec. 35-194.10 Agricultural Soils

Within the coastal zone, in areas with prime agricultural soils, structures, including greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime soils to the maximum extent feasible.

Sec. 35-194.11 Land Divisions

Land divisions, including lot line adjustments and conditional certificates of compliance, shall only be permitted if each parcel being established could be developed without adversely impacting resources, consistent with Toro Canyon Plan policies and other applicable provisions.

SECTION 4: Except as amended by this ordinance, Division 4 of Article II of Chapter 35, of the Code of the County of Santa Barbara, California, shall remain unchanged and shall continue in full force and effect.

SECTION 5: This ordinance and any portions thereof approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later, and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Planning Commission voting for and against the same in the SANTA BARBARA NEWS-PRESS, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 27th day of April 2004, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

JOSEPH CENTENO
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel

ARTICLE II (REZONE ONLY)

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-54,
ADOPTING NEW ZONING ORDINANCES AND MAPS,
OF ARTICLE II OF CHAPTER 35 OF THE CODE
OF THE COUNTY OF SANTA BARBARA, CALIFORNIA,
BY ADOPTING BY REFERENCE ZONING EXHIBITS NO. 35-54.90.0, 35-54.91.0, AND 35-
54.92.0 TO REZONE CERTAIN PARCELS TO
IMPLEMENT THE TORO CANYON PLAN

Case No. 04RZN-00000-00005

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1.

The purpose of this Ordinance is to amend existing zoning maps and zoning overlay maps in order to implement the Toro Canyon Plan. Section 2 adopts a newly-created zoning district map which covers only those parcels within the coastal portion of the Toro Canyon Plan Area. Section 3 adopts a new zoning overlay map for the coastal portion of the Toro Canyon Planning Area. Section 4 adopts an additional zoning overlay map for the coastal portion of the Toro Canyon Planning Area, revising mapped Environmentally Sensitive Habitat. Previously existing maps are amended to reflect the adoption of these new maps.

SECTION 2.

Pursuant to the provisions of Section 35-54, “Adopting Zoning Ordinances and Continuation of Existing Development Plans and Plot Plans,” of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the zoning map identified as Board of Supervisors Exhibit No. 35-54.90.0 which creates a new Toro Canyon Planning Area zoning map, titled “Toro Canyon Plan Zoning Districts (Coastal Area).”

This map supersedes and retires the following two pre-existing maps for this area:

- Carpinteria Coast Rural Area Zoning Designations Article II (Coastal Area), Exhibit No. 35-54.50.0. One area within the Coastal Zone Urban Area will be moved to the South Coast Rural Region Map Zoning Districts Map.
- Carpinteria Area Zoning Districts Urban Areas Article II, Exhibit No. 35-54.1.19.

This map amends “South Coast Rural Region Zoning Districts Article II (Coastal Area)” Exhibit No. 35-54.40.1 and Ordinance 661.

SECTION 3.

Pursuant to the provisions of Section 35-54, “Adopting Zoning Ordinances and Continuation of Existing Development Plans and Plot Plans,” of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the zoning map identified as Board of Supervisors Exhibit No. 35-54.91.0, “Toro Canyon Plan Zoning Overlay Districts (Coastal Area).” This map amends “Carpinteria Valley Coastal Plan: Zoning Overlay” Exhibit No. 35-54.2.3.

SECTION 4.

Pursuant to the provisions of Section 35-54, “Adopting Zoning Ordinances and Continuation of Existing Development Plans and Plot Plans,” of Article II of Chapter 35 of the Code of the County of Santa Barbara, California, the Board of Supervisors hereby adopts by reference the zoning map identified as Board of Supervisors Exhibit No. 35-54.92.0, “Environmentally Sensitive Habitat Zoning and Land Use Overlays Article II (Coastal Zone)” This map amends “Carpinteria Valley Coastal Plan: Zoning Overlay” Exhibit No. 35-54.2.3.

SECTION 5.

The Chairman of the Board of Supervisors is hereby authorized and directed to endorse said Exhibits No. 35-54.90.0, 35-54.91.0, and 35-54.92.0 to show that said maps have been adopted by this Board.

SECTION 6.

Except as amended by this Ordinance, Section 35-54 of the Code of Santa Barbara County, California, shall remain unchanged and shall continue in full force and effect.

SECTION 7.

This ordinance and any portions thereof approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later, and before the expiration of fifteen (15) days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Planning Commission voting for and against the same in the SANTA BARBARA NEWS-PRESS, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 27th day of April, 2004, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

JOSEPH CENTENO
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

APPROVED AS TO FORM:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

STEPHEN SHANE STARK
County Counsel

By _____
Deputy Clerk

By _____
Deputy County Counsel