

COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT

## MEMORANDUM

TO: Santa Barbara County Planning Commission

FROM: Daniel T. Klemann, Deputy Director ✕  
Long Range Planning Division

DATE: July 3, 2018

RE: Hoops Structures Ordinance Amendment  
County Planning Commission Hearing on July 11, 2018  
Case No. 17ORD-00000-00005

---

At the May 30, 2018, hearing, the County Planning Commission considered the Hoop Structures Ordinance Amendment, received testimony from the public, asked questions of staff, and continued the hearing to July 11, 2018. This memo responds to the Planning Commission's questions of May 30, 2018, regarding the implications of rejecting mitigation measures and removing the corresponding development standards from the ordinance amending the Land Use and Development Code (LUDC) to expressly allow crop protection structures with an exemption on agriculturally zoned lands. Staff recommends that the Planning Commission consider these responses and new information, and provide additional direction to staff.

**I. Response to Questions Regarding Mitigation Measures**

The Final Environmental Impact Report (EIR) identified potentially significant impacts with regard to three resource issues: aesthetics/visual resources, flooding, and biological resources. Mitigation measures were identified to reduce impacts, with impacts remaining significant and unavoidable to aesthetics/visual resources (Class I), while reducing impacts to less than significant levels with regard to flooding and biological resources (Class II).

At the May 30, 2018, hearing, the Planning Commission raised concerns that several proposed mitigation measures could be infeasible to the extent that they would adversely affect standard agricultural practices. In order to reject one or more mitigation measures as infeasible, the Board of Supervisor (as recommended by the Planning Commission) must make a finding that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures identified in the Final EIR. Such findings shall be supported by substantial evidence in the record (California Environmental Quality Act (CEQA) Guidelines Sections 15091(a)(3) and 15091(b)).

Several Planning Commissioners indicated a preference to reject the proposed visual resources mitigation measures and potentially other mitigation measures, and directed staff to return with additional information regarding the implications of rejecting mitigation measures and removing the corresponding development standards from the LUDC amendment. The following discussion responds to these concerns.

#### ***A. Aesthetics/Visual Resources***

The Final EIR identified three mitigation measures to address impacts to aesthetics/visual resources. All three measures would reduce potential visual resources impacts; however, residual impacts would remain significant and unavoidable (Class I). Thus, if the mitigation measures are rejected as infeasible, staff believes recirculation would not be required because the impact classification would not change. However, staff believes the rejection of MM-VIS-3 could create project inconsistencies with the objectives of certain Comprehensive Plan visual resources protection policies and regulations.

##### **1. Mitigation Measure MM-VIS-1**

***MM-VIS-1. Height and Setback Requirements.*** *Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised so that, in addition to the standard structural setback in each zone, to qualify for the permit exemption crop protection structures:*

- *Shall not exceed a height of 12 feet within 75 feet of the edge of right-of-way of a public road or any designated State Scenic Highway.*

Several Planning Commissioners commented that a requirement to lower the maximum height of hoop structures and shade structures (collectively, “crop protection structures”) within 75 feet of a public road to 12 feet to qualify for the exemption while allowing 20 feet in height on the remainder of a lot may have negative consequences for cultivated agriculture while it would not significantly reduce impacts to aesthetics/visual resources. These impacts would remain significant and unavoidable (Class I) even with application of MM-VIS-1.

Agricultural operations are most successful when employing economies of scale to maximize efficiency and crop production. Implementation of MM-VIS-1 may result in a farmer having to: (1) farm a property using two different heights of crop protection structure, which may result in increased costs to use different structures for the same crop and different agricultural practices and equipment within the structures due to the height difference; (2) limit crop choice or other agricultural practices to those that would not need structures taller than 12 feet; (3) farm a different crop within the setback area subject to the 12 feet height limitation (i.e., farm two different crops); or (4) leave the land fallow within the area subject to the 12 feet height limitation, thereby not using the agricultural land to its full agricultural potential. As a consequence, MM-VIS-1 could create an economic burden on agricultural operations leading to farming inefficiencies and increased costs that might compromise the first objective identified in the Final EIR (to simplify the permit process to allow more efficient agricultural operations)

without adequately meeting the last objective to reduce or minimize potential adverse effects, and therefore may be infeasible due to these economic considerations.

### Options/Recommendations

If MM-VIS-1 is rejected based on a finding of infeasibility, exempt crop protection structures would still be required to comply with the standard front setbacks of the Agricultural-I (AG-I) and Agricultural-II (AG-II) zones, which are 50 feet from the centerline of a public right-of-way and 20 feet from the edge of the right-of-way. Impacts to aesthetics/visual resources would remain significant and unavoidable, and staff believes recirculation of the EIR would not be necessary.

## 2. Mitigation Measure MM-VIS-2

*MM-VIS-2. Urban Township Setback Requirement. Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised as follows:*

- *Crop protection structures shall be setback 400 feet from the urban boundary line of the following urban townships: Santa Ynez, Ballard, Los Olivos, Los Alamos, Casmalia, Sisquoc, Garey, New Cuyama, and Cuyama. Crop protection structures that cannot be viewed from public roadways or other areas of public use shall be exempt from the above setback requirement. Landscape screening shall not be taken into consideration when determining whether the structure is visible from public roadways or other areas of public use.*

Several Planning Commissioners commented that the requirement to set back crop protection structures by 400 feet from the urban boundary lines of unincorporated urban townships is arbitrary, that the distance does not protect any public views and would not significantly reduce impacts to aesthetics/visual resources, and that the setback would have negative consequences for cultivated agriculture.

As discussed in the Final EIR (pp. 4.2-16 to 4.2-17), the townships identified in the mitigation measure have maintained distinct senses of place and community identities, with well-defined and stable urban boundaries that provide a physical and visual separation between developed townships and adjacent open lands and working agricultural land. Massing of crop protection structures adjacent to the township boundaries would have the effect of reducing or eliminating the physical and visual distinction between urban townships and surrounding open lands and can adversely affect the unique character and visual identity of the urban townships.

MM-VIS-2 would address the potential adverse effects to the rural aesthetic as seen from township points of entry and scenic gateways along public roadways that would result from extending structural elements and visual massing of development beyond township urban boundaries. MM-VIS-2 would provide a visual separation to maintain the integrity of the township boundaries. The width of the setback (400 feet) was based on the visual separation of existing crop protection structures as viewed from the ground level, and determined to be an

adequate distance to visually separate a township from the structures. MM-VIS-2 also includes an exception that the setback would not be required if the structures cannot be viewed from a public road or other area of public use (such as a public park). Therefore, MM-VIS-2 would not apply to all agriculturally zoned lands adjacent to the urban townships.

Several Planning Commissioners suggested an alternative setback of 20 feet. A 20-foot setback from the side and rear lot lines could be added to the LUDC amendment in lieu of 400 feet; however, staff believes it would not mitigate the potential aesthetic impacts to the townships' senses of place, community identities or points of entry and scenic gateways, and impacts to aesthetics/visual resources would remain significant and unavoidable (Class I). However, a setback of 400 feet, even though it would not reduce impacts to a less-than-significant level, would provide visual relief and aide in the preservation of the townships' aesthetic senses of place, community identities, and scenic gateways. Therefore, it is uncertain that a claim of infeasibility to reject MM-VIS-2 can be supported by substantial evidence in the record.

### Options/Recommendations

Considering the implications associated with rejecting MM-VIS-2, the Planning Commission is faced with three options. First, MM-VIS-2 could be rejected and the corresponding development standard in the LUDC amendment could be replaced with a setback of 20 feet. Second, MM-VIS-2 could be replaced with an alternative setback that attempts to balance the benefits for agriculture with maintaining a separation to protect the townships' identities and gateways. In either case, staff believes recirculation of the EIR may not be required because the impacts would in any case remain significant and unavoidable; however, such changes and rejection of the mitigation measure may not be supported by substantial evidence in the record. Finally, MM-VIS-2 can be retained.

### **3. Mitigation Measure MM-VIS-3**

*MM-VIS-3. Design Control (D) Overlay Limitation. Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised as follows:*

- *Crop protection structures shall be limited to 4,000 square feet per lot when located within the Design Control (D) Overlay within the Santa Ynez Valley Community Plan area. Crop protection structures that cannot be viewed from public roadways or other areas of public use shall be exempt from this requirement. Landscape screening shall not be taken into consideration when determining whether the structure is visible from public roadways or other areas of public use.*

The Santa Ynez Valley Community Plan (SYVCP) Visual and Aesthetic Resources section discusses the importance of the highly scenic township and valley gateway parcels, as well as community separators (pp. 199-201), and provides goals and policies intended to ensure special protection of these highly scenic areas (Goal VIS-SYV-1, Policy VIS-SYV-1, and Policy VIS-SYV-2). The purpose and intent of this goal and these policies are expressed in the Design

Control (D) Overlay that was adopted for the SYVCP's scenic township and valley gateway parcels and community separators to address the aesthetics of new development. The D Overlay includes a design review requirement for agricultural structures larger than 1,000 square feet. The SYVCP also includes a number of development standards that are implemented through the design review process; however, the only standards that could feasibly apply to crop protection structures include reductions of structures size and height, and increased setbacks (DevStd VIS-SYV-1.1). Other design standards such as structure color and material, architecture, fenestration, roof design, etc. could not be successfully applied to crop protection structures, the design of which is based on the functional, technical requirements of their use.

Design review provides an opportunity to improve the aesthetics of any agricultural structure, which can otherwise be expansive and utilitarian in appearance. If structures are exempt from permits, they are exempt from design review. Thus, an unlimited exemption for crop protection structures within the D Overlay could result in potentially significant impacts from expansive crop protection structures covering these highly scenic lands, and potential inconsistency with the overall purpose and intent of the SYVCP visual resource protection policies.

Several Planning Commissioners expressed concern that MM-VIS-3 would not significantly reduce impacts to aesthetics/visual resources while having negative consequences for cultivated agriculture, and that the size limit of 4,000 square feet is arbitrary. However, crop protection structures are not typically used in the SYVCP, including the lots regulated by the D Overlay. The Santa Ynez Valley has long been ranched (cattle, horses) and farmed with high value crops (especially wine grapes) that do not rely on crop protection structures to reach their maximum productive potential, and economic pressures to convert to specialty crops that rely on crop protection structures have not been observed. Thus, staff believes MM-VIS-3 would not result in detrimental consequences to agriculture and would be feasible.

As discussed in the Final EIR, MM-VIS-3 addresses visual impacts that could result from the unlimited use of crop protection structures within SYVCP township and valley gateways, and community separators. MM-VIS-3 also includes an exception that the size limit would not be required if the structures cannot be viewed from a public road or other area of public use. Therefore, MM-VIS-3 would not apply to all agriculturally zoned lands subject to the Santa Ynez Valley D Overlay. In addition, the 4,000-square foot size limit is modeled after the 4,000-square foot size limit applied to greenhouses within the Board of Supervisors-adopted Gaviota Coast Plan Critical Viewshed Corridor Overlay. The size limit for greenhouses was developed through the public planning process of the Gaviota Planning Advisory Committee, and determined to be an appropriate size to minimize the impacts of these highly visible structures within the critical scenic areas of the Gaviota Coast. Crop protection structures in general and hoop structures in particular have similar visual properties and visual impacts as greenhouses; thus, staff believes the mitigation is appropriate and comparable.

#### Options/Recommendations

If MM-VIS-3 is rejected, crop protection structures of any size could be utilized anywhere within the Santa Ynez Valley D Overlay on lands zoned Agriculture. Although MM-VIS-3 would not

reduce impacts to less than significant levels, staff believes the mitigation furthers policy consistency by reducing the visual impacts of crop protection structures along the Santa Ynez Valley's public roads (community separators and gateway parcels) and the designated State Scenic Highway 154 where the D Overlay has been applied. If MM-VIS-3 is rejected, staff believes the Project may be potentially inconsistent with SYVCP Goal VIS-SYV-1, Policy VIS-SYV-1, and Policy VIS-SYV-2, adopted to protect the rural/agricultural character, scenic corridors and buffers, prominent valley viewsheds, and open space views, and inconsistent with the requirement for design review of new agricultural structures. For the Board of Supervisors to approve an amendment to the LUDC, it must find the project to be consistent with the Comprehensive Plan (LUDC Subsection 35.104.060.A.2).

Although rejecting MM-VIS-3 would not change the classification of the impacts to aesthetics/visual resources, impacts could be more severe absent both design review and a size limitation as proposed by MM-VIS-3. Therefore, staff recommends retaining MM-VIS-3.

An alternative not discussed previously, could be to revise MM-VIS-3. The size limit of 4,000 square feet could be required to qualify for the exemption instead of requiring it for all crop protection structures, and a permit path established for the larger structures. Similar to the permit path already proposed in the LUDC amendment for crop protection structures that would be taller than 20 feet, a Land Use Permit could be required for crop protection structures larger than 4,000 square feet but less than 20,000 square feet, and a Development Plan for larger structures within the SYVCP D Overlay.

## **B. Flooding**

The Final EIR identified one mitigation measure to address impacts to flooding. This measure would reduce flooding impacts to a less than significant level (Class II).

### **1. Mitigation Measure MM-WR-1**

*MM-WR-1. Crop Protection Structures within a Floodway. Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised to clarify that crop protection structures located within a floodway would not qualify for the permit exemption. Crop protection structures proposed within a floodway shall be assessed on a case-by-case basis by a civil engineer as part of the Development Plan permit process. Crop protection structures within a floodway would be allowed provided a civil engineer provides a no-rise determination indicating that the structures as proposed would not result in a rise of floodwaters during a storm event.*

Several Planning Commissioners suggested MM-WR-1 should be rejected, indicating that it may not be a public safety issue given the location of mapped floodway west of the city of Lompoc. The adopted floodways in Santa Barbara County were mapped by the Federal Emergency Management Association (FEMA). Although the largest FEMA mapped floodway occurs within the Santa Ynez River valley west of the city of Lompoc, other Inland Area agriculturally zoned lands are located within floodways, including agricultural lands along the Santa Ynez River

valley north and east of Lompoc, along the Santa Ynez River from Bradbury Dam to just west of the city of Buellton, and along several small streams within the Santa Ynez Valley. Thus, the installation and use of crop protection structures would have potential impacts to flooding in several parts of the Santa Ynez River watershed, not just the lands west of Lompoc.

Planning and Development (P&D) Department staff consulted with the County Flood Control District and FEMA to understand the implications of rejecting MM-WR-1 and removing the corresponding development standard from the LUDC amendment to qualify for the permit exemption. The requirements of the County Floodplain Management Ordinance originate in the Code of Federal Regulations. P&D requested that Flood Control and FEMA staff consider whether there is any flexibility in the regulations that would allow crop protection structures within a floodway without the standard civil engineer's no-rise certificate. The Flood Control District provided a letter on July 3, 2018 (Attachment A), stating that "the Flood Control District does not recommend the inclusion of the Floodway regulatory considerations of hoop structure in Agricultural zoned areas."

#### Options/Recommendations

P&D staff has not had the opportunity to consider the environmental impact or policy consistency implications of rejecting MM-WR-1 or provide the Planning Commission with alternatives. Staff will provide additional information at the hearing on July 11, 2018.

#### **C. Biological Resources**

The Final EIR identified three mitigation measures to address impacts to biological resources, reducing impacts to less than significant levels (Class II). Thus, if the mitigation measures are rejected as infeasible, recirculation would be required because the impact classifications would increase from less than significant with mitigation (Class II) to significant and unavoidable (Class I).

##### **1. Mitigation Measure MM-BIO-1**

*MM-BIO-1. Limit Exemption to Crop Protection Structures on Historically Intensively Cultivated Agricultural Lands. Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised to clarify that hoop structures and shade structures (crop protection structures) shall be allowed with a permit exemption only on historically intensively cultivated agricultural lands. Historically intensively cultivated agricultural lands shall mean land that has been tilled for agricultural use and planted with a crop for at least three of the previous five years. The land does not necessarily need to have been actively planted with a crop for all five years (to account for potential fallow years).*

As discussed in Section 4.6 of the Final EIR, the County's extensive agriculturally zoned lands may support a number of endangered, threatened, or sensitive plant or animal species that are listed and protected by the Federal and California Endangered Species Acts and other federal or

state legislation, including the California tiger salamander (CTS) (*Ambystoma californiense*). Critical habitat for nine of the listed plant and animal species occurs within the Project area (Final EIR Table 4.6-4 and Figures 4.6-3a through 4.6-3i). In addition to the identified critical habitat for the CTS, Figure 4.6-2 depicts the CTS potential distribution and metapopulation areas, according to the United States Fish and Wildlife Service (USFWS) Recovery Plan for the Santa Barbara County Distinct Population Segment of the CTS.

Also, as discussed in Section 4.6 of the Final EIR, CEQA directs the responsible agency to consider whether the project would have a substantial adverse effect on listed species or candidates for listing, and/or the habitats that support these species, or whether the project would interfere with the movement of these species. The County Environmental Thresholds and Guidelines Manual (Thresholds Manual) provides habitat-specific impact assessment guidelines that build upon the CEQA direction. The Thresholds Manual also states that there are areas where impacts on habitat are presumed to be insignificant, including areas of historical disturbance such as intensive agriculture. In reviewing the proposed Project, the Final EIR concluded that impacts to biological resources would be less than significant on agricultural lands that have been historically intensively cultivated (pp. 4.6-57 to 4.6-59). However, the Final EIR concluded that where lands have only been grazed or have not been cultivated previously, it is possible they may support habitat for listed species and, therefore, impacts would be potentially significant (p. 4.6-62).

The Final EIR recognized that it is unclear to what extent that the Project, by expressly allowing and exempting crop protection structures; would create an incentive to convert grazing or other uncultivated lands to new cultivation (p. 4.6-62), which could result in direct or indirect impacts to biological resources. The only way to ensure that crop protection structures do not result in direct or indirect impacts to biological resources is to limit the exemption to lands historically intensively cultivated. New cultivation using crop protection structures on grazing or other uncultivated lands would not be prohibited; rather, a permit would be required. Prior to the County's issuance of a permit, an applicant would need to consult with USFWS or the California Department of Fish and Wildlife (CDFW), as appropriate, and comply with any direction necessary to avoid endangered or threatened species, or species of special concern pursuant to the agencies' direction. By defining "historically, intensively cultivated agricultural lands" in the mitigation measure, lands that are converted to cultivation without using crop protection structures would be eligible for the exemption in the future, once the potential conversion incentive of the Project is no longer a factor. USFWS staff concurred with this conclusion (Kendra Chan, personal communication with Julie Harris, June 15, 2018).

#### Options/Recommendations

MM-BIO-1 is necessary to ensure that implementation of the Project (exempting crop protection structures) would not impact listed species, and no equivalent alternative mitigation has been identified that would reduce impacts to less than significant levels. Staff believes rejecting MM-BIO-1 would require recirculation of the revised EIR because the impact classification would change from less than significant with mitigation (Class II) to significant and unavoidable (Class I). Therefore, staff recommends retaining MM-BIO-1.

2. **Mitigation Measure MM-BIO-2**

*MM-BIO-2. Require a Minimum Gap of One Foot between Ground Surface and Hoop Structure Plastic. Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised to include a development standard that in order to qualify for an exemption, any crop protection structure located within 1.24 miles of a known or potential California tiger salamander breeding pond shall ensure that a minimum one-foot gap is maintained between the bottom edge of the plastic material and the ground surface to allow free movement of California tiger salamander.*

Several Planning Commissioners requested additional information regarding the accuracy of the dispersal distance of the CTS (i.e., within 1.24 miles of a known or potential breeding pond), the source of this data, and the necessity of maintaining a height of 12 inches between the plastic and the ground surface.

P&D staff consulted with the USFWS and the California Department of Fish and Wildlife (CDFW) during preparation of the Draft EIR. The dispersal distance of 1.24 miles is the standard distance provided by the USFWS that is used to determine whether CTS habitat might be present, and whether additional study or coordination with USFWS should occur. P&D has relied on this distance to assess whether studies are required when reviewing development permit applications.

Following the Planning Commission hearing on May 30, 2018, P&D staff consulted further with the USFWS and the CDFW in a conference call on June 5, 2018. USFWS biologists Kendra Chan and Rachel Henry confirmed that 1.24 miles is the standard distance from a known or potential CTS breeding pond within which a CTS individual might disperse between its breeding habitat in a pond and its upland habitat where it spends the remainder of the year outside of breeding season. The distance was determined based on salamander biologists' studies of CTS outside of Santa Barbara County. However, the USFWS reported that a current ongoing study of the Santa Barbara County population of CTS, with two years of data collected so far, is confirming that the 1.24-mile distance is proving to be accurate for the Santa Barbara County population.

USFWS further considered the MM-BIO-2 requirement to maintain a gap between the ground and the hoop structure plastic and consulted five independent CTS biologists. The biologists unanimously agreed:

*[A]lthough it is usually beneficial to allow passage for dispersing wildlife, in this case doing so would expose California tiger salamanders to hazards associated with agricultural activities ... and it is better overall to exclude California tiger salamanders from the hoop structures. The Service recommends removing MM-BIO-2 from this ordinance because we believe this measure may subject California tiger salamanders to additional threats and would be more detrimental than beneficial. (Letter from Stephen P. Henry, USFWS, to Julie Harris, County of Santa Barbara, dated June 15, 2018)(Attachment B)*

USFWS service also stated:

*Because many farms employ the use of silt or wind fences and may be lowering the hoop covering all the way to the ground, the best solution to protect CTS is to ensure that landscape-level habitat connectivity is maintained by making sure that new ag fields do not totally impede their movement--exactly why we encourage landowners wanting to put in a new ag field to talk to us beforehand. (email from Kendra Chan to Julie Harris, June 6, 2018)*

### Options/Recommendations

Based on the new evidence from the USFWS, staff recommends that MM-BIO-2 be rejected and the corresponding development standard deleted from the LUDC amendment. Considering the evidence provided by the USFWS, impacts to the CTS would not increase in severity if MM-BIO-2 were rejected, and recirculation of the EIR would not be required.

### **3. Mitigation Measure MM-BIO-3**

***MM-BIO-3. Setbacks from Streams and Creeks.** Prior to approval of the Project, the Hoop Structures Ordinance Amendment shall be revised to require that crop protection structures shall be located a minimum of 50 feet from streams and creeks in Urban Areas and Inner Rural Areas and EDRNs and 100 feet from streams and creeks in Rural Areas.*

Several Planning Commissioners requested additional information regarding the need for MM-BIO-3 and whether an alternative setback of 20 feet from streams and creeks would be adequate.

Section 4.6 of the Final EIR discusses the potential impacts of the Project on sensitive habitats or natural communities, including riparian habitat, and the potential impacts resulting from conflicts with policies adopted for the protection and conservation of biological resources, especially streams and creeks, which include riparian habitat (pp. 4.6-63 to 4.6-64). The LUDC defines "riparian vegetation" as "vegetation normally found along the banks and beds of streams, creeks and rivers."

Also, as discussed in Section 4.6, CEQA requires the County to consider whether a project would have a substantial adverse effect on any riparian habitat or conflict with policies or

ordinances that protect biological resources (pp. 4.6-53 to 4.6-54). The Thresholds Manual also provides thresholds as to when a project would cause significant impacts to riparian habitats (p. 4.6-56 of the Final EIR). These thresholds include (among others) direct removal of riparian vegetation, disruption of riparian wildlife habitat, intrusion into the upland edge of the canopy (generally within 50 feet in urban areas, within 100 feet in rural areas and within 200 feet of major rivers), leading to potential disruption of animal migration, breeding, etc. through increased noise, light and glare, and human intrusion.

### Options/Recommendations

The Final EIR concludes that the Project, which sets forth a permit exemption for crop protection structures across a large part of the County, would result in significant impacts to riparian habitats and streams and creeks. Staff believes MM-BIO-3 is necessary to mitigate these significant impacts to less than significant levels, as well as to ensure consistency with at least 27 Comprehensive Plan policies and development standards (identified in six community plans) that require protection of streams, creeks, and riparian habitats and/or define numerical setbacks, and general direction in the Conservation Element to protect these ecological resources. Thus, staff believes rejecting this mitigation measure, or revising the setback to 20 feet, would not adequately mitigate potential impacts to less than significant levels or be consistent with the Comprehensive Plan, and such a change would require recirculation of a revised EIR. Therefore, staff recommends retaining MM-BIO-3.

## **II. Summary**

The information presented in this staff memo and basic conclusions are summarized in Attachment C. Staff believes that mitigation measures MM-VIS-1 and MM-BIO-2 could be rejected, albeit for different reasons, without resulting in a need to recirculate the EIR or raise potential inconsistencies with Comprehensive Plan policies. To reject mitigation measures MM-VIS-2 and MM-VIS-3 a finding of infeasibility must be made based on substantial evidence in the record, which staff believes may not be supported in the current record. In addition, rejection of mitigation measures MM-VIS-3 may be inconsistent with policies. Finally, staff believes mitigation measures MM-WR-1, MM-BIO-1, and MM-BIO-3 are all necessary to reduce potentially significant impacts to less than significant levels. In general, staff believes findings can be made to support rejection of mitigation measures MM-VIS-1 and MM-BIO-2 and revision of the LUDC amendment to remove the corresponding development standards. The flowchart presented at the May 30 hearing has been revised to reflect the path to exemption that would result if these changes were made to the Project (Attachment D).

## **III. Attachments**

- A. Letter from County Flood Control District, July 3, 2018
- B. Letter from USFWS to County of Santa Barbara, June 15, 2018
- C. Mitigation Measures – Issues Summary Matrix
- D. Path to Exemption Flowchart (Revised)