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W11b

DATE: January 18, 2024

TO: Commissioners and Interested Persons

FROM: Steve Hudson, District Director
Barbara Carey, District Manager
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Denise Gonzalez, Coastal Program Analyst

SUBJECT: County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-23-0007-1 (Childcare Facilities) for February 7, 2024 Commission Meeting

SUMMARY OF STAFF RECOMMENDATION

The County of Santa Barbara is requesting an amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of its certified Local Coastal Program (LCP) to update Section 35-143 (Community Care Facilities) to revise childcare facility regulations to comply with recent changes to state requirements. The amendment also includes permit procedure changes related to electric vehicle charging and hydrogen-fueling stations, a new definition for major vegetation removal, and other minor corrections and revisions. Staff recommends that the Commission, after public hearing, reject proposed Santa Barbara County Local Coastal Program (LCP) Amendment No. LCP-4-STB-23-0007-1 as submitted, and approve the amendment only if modified pursuant to **four suggested modifications**. The suggested modifications are necessary to ensure that the proposed Implementation Plan/Coastal Zoning Ordinance (IP/CZO) amendment is consistent with and adequate to carry out the policies of the County's certified Land Use Plan (LUP). The motions and resolutions for Commission action can be found starting on page 6 of this staff report.

Currently, the County of Santa Barbara's LCP allows for the development of community care facilities within residential and non-residential zones (Section 35-143). The proposed amendment would revise the permitting and development standards for small and large family day care facilities to align them with State law (Senate Bill 234, Chapter 244, Statutes of 2019; Health and Safety Code Section 1596.72 et al.) as a means to ease restrictions on and incentivize childcare services within the County. The revisions have been made to comply with State requirements and do not affect the consistency of the IP/CZO or its ability to carry out any of the policies or provisions of the Land Use Plan (LUP). Therefore, the proposed changes to the community care facilities provisions of the IP/CZO are

consistent with and adequate to carry out the policies of the LUP.

The proposed amendment also includes amending Section 35-58 (Definitions) by adding a new definition for “major vegetation removal,” to be defined as “the removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more.” County staff indicated that the purpose of this new definition is to formally incorporate an existing footnote found within the County’s Land Use Plan (LUP), which describes when “major vegetation removal” for non-agricultural development and agricultural development shall be subject to the hillside and watershed protection policies of the LUP. However, this existing footnote in the LUP is specific to certain water quality protection policies in the LUP and not intended to be a broad definition throughout the LCP, nor for applying to the definition of “development” under the LCP. The processing of CDPs is one of the key means of implementing the coastal resource protection policies of the County’s LCP. Currently, the LCP requires a CDP for the removal of major vegetation, which may include native vegetation and certain types of non-native vegetation (i.e., eucalyptus trees serving as Monarch butterfly aggregation sites, raptor nesting habitat, etc., that may still be considered environmentally sensitive habitat (ESHA)). As proposed to be broadly defined in the IP/CZO, the removal of any non-native vegetation (which may still be considered ESHA) or the removal of any native vegetation involving a cumulative total of less than one-half acre of land would no longer meet the Coastal Act/LCP definition of “development” and would not be subject to the coastal resource protection policies of the LCP, such as those policies requiring all development adjacent to ESHAs to be regulated to avoid adverse impacts to habitat resources. To address the issues raised by this proposal, staff is recommending **Suggested Modification Two (2)** to remove the proposed definition. County staff is in agreement with this suggested modification.

The proposed amendment also includes adding a new exemption to Section 35-51B (Exemptions from Planning Permit Requirements) to allow for the development of electric vehicle charging stations and hydrogen-fueling stations to be exempt from obtaining a CDP. The County indicated that this change is proposed as a way to comply with Section 65850.7 of the Government Code, which provides that every city or county shall adopt an ordinance that creates an expedited, streamlined permitting process for Electric Vehicle Charging Stations. However, to broadly exempt electric vehicle charging stations or hydrogen-fueling stations from CDP requirements is not consistent with the categories of development that are exempt from the requirements of a CDP pursuant to the Coastal Act and the Commission’s Regulations. While the Commission is supportive of increasing infrastructure for electric or other alternative vehicles, the construction of electric vehicle charging stations or hydrogen-fueling stations can raise issues related to protecting coastal resources in some cases, such as displacing or limiting public coastal access parking and/or removing native vegetation. To resolve this issue, staff is recommending **Suggested Modification One (1)** to delete the proposed exemption. Commission staff discussed the issues raised by this broad exemption category with County staff and agreed to coordinate further on other ways to expedite authorizations for electric vehicle charging stations or hydrogen-fueling stations consistent with the Coastal Act and LCP in a subsequent LCP amendment.

The remaining suggested modifications are necessary clarifications to IP/CZO text that further the intent and implementation of the LCP, ensure internal consistency, and avoid ambiguity.

For the reasons described in this report, staff recommends that the Commission find that the IP/CZO amendment, only if modified as suggested, conforms with and is adequate to carry out the policies of the certified Land Use Plan. The suggested modifications were developed in cooperation with County staff, and County staff have indicated that they are supportive of the suggested modifications.

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Exhibits

[Exhibit 1 – Santa Barbara County Ordinance No 5168 containing the Proposed Coastal Zoning Ordinance Amendment Text](#)

I. PROCEDURAL OVERVIEW

A. Standard of Review

The Coastal Act provides:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter. (Section 30513)

...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)

The Commission may suggest modifications... (Section 30513)

Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513... (Section 30514(b))

Pursuant to Section 30512(c), the standard of review for the proposed amendment to the County's certified IP/CZO, pursuant to Sections 30513 and 30514(b) of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the County's certified LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County of Santa Barbara LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. Procedural Requirements

If the Commission certifies the LCP amendment as submitted, no further Board of Supervisors action will be necessary pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the Board of Supervisors, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the Board of Supervisors may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the Board of Supervisors' acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at the subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the Board of Supervisors' action in accepting the suggested

modifications approved by the Commission for this LCP Amendment is legally adequate. If the Board of Supervisors does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

C. Public Participation

Section 30503 of the Coastal Act requires the provision of maximum opportunities for public input in preparation, approval, certification and amendment of any LCP. The County held a series of public hearings on this amendment. The hearings were duly noticed consistent with the provisions of Section 13515 of Title 14 of the California Code of Regulations. Notice of the Coastal Commission's consideration of the subject amendment has been distributed to all known interested parties.

II. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS FOR THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO) AMENDMENT

Following public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce each resolution and a staff recommendation is provided.

A. DENIAL OF THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT AS SUBMITTED

MOTION I:

I move that the Commission reject County of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-STB-23-0007-1 as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in denial of the Implementation Plan/Coastal Zoning Ordinance Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY AS SUBMITTED:

The Commission hereby **denies** certification of the Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-STB-23-0007-1 as submitted by the County of Santa Barbara, and adopts the findings set forth below on grounds that the Implementation Plan Amendment, as submitted, does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen

the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.

B. CERTIFICATION OF THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE AMENDMENT IF MODIFIED

MOTION II:

I move that the Commission certify County of Santa Barbara Implementation Plan/Coastal Zoning Ordinance Amendment No. LCP-4-STB-23-0007-1 if it is modified as suggested in this staff report.

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

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

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby **certifies** the County of Santa Barbara Implementation Plan\Coastal Zoning Ordinance Amendment No. LCP-4-STB-23-0007-1, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the land use plan amendment may have on the environment.

III. SUGGESTED MODIFICATIONS

Staff recommends the Commission certify the proposed IP/CZO amendment, with four (4) suggested modifications as shown below. Existing language of the certified Implementation Plan/Coastal Zoning Ordinance is shown in straight type. Language proposed to be added by the County of Santa Barbara in this amendment is shown underlined. Language proposed to be deleted by the County of Santa Barbara in this amendment is shown as ~~strikethrough~~. Language recommended by Commission staff to be inserted is shown in double underlined. Language recommended by Commission staff to be deleted is shown in ~~double strikethrough~~.

Suggested Modification No. 1

Delete the proposed additions to Section 35-51B.2.f and revert to certified language as

shown below. Section 35-51B.2.t shall be renumbered and modified as follows:

Section 35-51B. Exemptions from Planning Permit Requirements

...

2. Improvements to a structure, other than a public works facility. The following development and uses may constitute improvements to a structure, other than a public works facility, that are exempt from the requirement to obtain a Coastal Development Permit except as provided in Subsection B.1 (Exemption does not apply), above. For purposes of this Subsection B (Exempt activities and structures), where there is an existing structure, other than a public works facility, (1) all fixtures and other structures directly attached to the structure; and (2) landscaping on the lot, shall be considered a part of that structure. Additionally, the following development and uses may be determined by the Director to be improvements to a structure, other than a public works facility, even when the development and use is not directly attached to the existing structure, provided that the development and use is accessory to the existing structure:

...

- f. ~~Fences, gates, gateposts, and walls. See Section 35-123 (Fences, Walls and Gate Posts). Electric Vehicle Charging Stations and Hydrogen Fueling Stations. Electric vehicle charging stations and hydrogen fueling stations that comply with Government Code Section 65850.7.~~

...

- ~~ts. Family Day Care Home, serving children. A change of use from a residential to a large or small family day care home, serving children, is exempt from zoning permits. An application to construct a new structure to be used as a large or small family day care home, serving children, is subject to the same standards and permit requirements as a proposal to construct a residential structure in the same zone.~~

Suggested Modification No. 2

Delete added Section 35-58 Definition as follows:

~~Major Vegetation Removal: The removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more.~~

Suggested Modification No. 3

Section 35-143.C.2.b shall be modified as follows:

- b. Day care center, accessory use to non-dwelling use. A day care center that is accessory to a non-residential principal assembly use (e.g., school, church, conference center, clubhouse and/or office) may be allowed in compliance with the following specifications:

- 1) Day care centers serving up to and including fifty (50) children may be allowed

with a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits). If the existing non-dwelling principal assembly use # is subject to a Minor Conditional Use Permit, a revision to the Minor Conditional Use Permit is not required to allow the day care center serving up to and including fifty (50) children.

- 2) Day care centers serving fifty-one (51) or more children may be allowed with a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits), and a revision to the existing permit (e.g. Conditional Use Permit) for the principal use of the lot.

Suggested Modification No. 4

Section 35-430, Table 17-2, Allowable Land Uses and Permit Requirements for the Gaviota Coast Plan Area, shall be modified as follows:

...
Notes:

...
(9) A change of use from a residential to a large or small family day care home, serving children, is exempt from zoning permits. An application to construct a new structure to be used as a large or small family day care home, serving children, is subject to the same standards and permit requirements as a proposal to construct a residential structure in the same zone.

(10) Day care centers serving up to and including fifty (50) children may be permitted with a Coastal Development Permit in compliance with Section 35-169 (Coastal Development Permits).

IV. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE AMENDMENT, IF MODIFIED AS SUGGESTED

The following findings support the Commission’s denial of the proposed Implementation Plan/Coastal Zoning Ordinance (IP/CZO) Amendment as submitted and approval of the IP/CZO Amendment if modified as suggested in Section III (Suggested Modifications) above. The Commission hereby finds and declares as follows:

A. Amendment Description

The County of Santa Barbara is requesting an amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) portion of its certified Local Coastal Program (LCP) to update Section 35-143 (Community Care Facilities) to revise childcare facility regulations to comply with recent changes to state requirements. The amendment also includes permit procedure changes related to electric vehicle charging and hydrogen-fueling stations, a new definition for major vegetation removal, and other minor corrections and revisions.

Childcare Facilities

LCP-4-STB-23-0007-1 (Childcare Facilities)

Currently, the County of Santa Barbara's LCP allows for the development of community care facilities within residential and non-residential zones (Section 35-143). The proposed amendment would revise the permitting and development standards for small and large family day care facilities to align them with State law (Senate Bill 234, Chapter 244, Statutes of 2019; Health and Safety Code Section 1596.72 et al.) as a means to ease restrictions on and incentivize childcare services within the County. The amendment also updates definitions for community care facilities (i.e. day care centers, large and small day care homes serving adults, and large and small day care homes serving children), allows large family day care homes for 14 or fewer children in all residential dwellings "by right," allows smaller day care centers of 50 children or less with a Coastal Development Permit (CDP) instead of a Conditional Use Permit (CUP), and relaxes certain standards for child care centers located in or at public/quasi-public facilities that are used for assembly uses (e.g., schools, churches, conference centers, community centers, or clubhouses).

Electric Vehicle Charging Stations and Hydrogen-Fueling Stations Permit Procedures

The proposed amendment also includes a new provision under Section 35-51B (Exemptions from Planning Permit Requirements) to allow for the development of electric vehicle charging stations and hydrogen-fueling stations, consistent with California Government Code Section 65850.7, to be exempt from obtaining a Coastal Development Permit. Specifically, Section 65850.7 of the Government Code provides that every city or county shall adopt an ordinance that creates an expedited, streamlined permitting process for Electric Vehicle Charging Stations.

Major Vegetation Removal and Other Minor Changes

The proposed amendment includes amending Section 35-58 (Definitions) by adding a new definition for "major vegetation removal" and proposes other corrections to existing numbering/errors. Specifically, the term major vegetation removal would be defined as "the removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more." County staff indicated that the purpose of this new definition is to formally incorporate an existing footnote found within the County's Land Use Plan (LUP), which describes when "major vegetation removal" for non-agricultural development and agricultural development shall be subject to the hillside and watershed protection policies (i.e., LUP Policies 3-13 to 3-23) of the LUP.

The County of Santa Barbara submitted the subject LCP Amendment to the Commission on February 15, 2023. The amendment submittal was deemed complete by Commission staff and filed on February 15, 2023. At its April 13, 2023, Commission meeting, the Commission extended the 60-day time limit to act on the LCP amendment for a period not to exceed one year.

Commission and County staff have coordinated and met to discuss the proposed amendment. The suggested modifications were developed in cooperation with County staff, and County staff have indicated that they are supportive of the suggested modifications.

The full text of the County's proposed changes to the IP/CZO is included as Exhibit 1 of this report.

B. Consistency Analysis

Pursuant to Section 30513 and 30514 of the Coastal Act, the standard of review for the proposed amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) portion of the certified LCP is whether the proposed amendment would be in conformance with, and adequate to carry out, the provisions of the certified Land Use Plan (LUP) component of the certified LCP. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LUP as guiding policies pursuant to Policy 1-1 of the LUP.

1. Land and Marine Resources

Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

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

Section 30240 states:

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

Land Use Plan Policy 2-11 states:

LCP-4-STB-23-0007-1 (Childcare Facilities)

All development, including agriculture, adjacent to areas designated on the land use plan or resource maps as environmentally sensitive habitat areas, shall be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

Land Use Plan Policy 3-19 states:

Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.

Land Use Plan Policy 9-18 states:

Development shall be sited and designed to protect native grassland areas.

Land Use Plan Policy 9-22 states:

Butterfly trees shall not be removed except where they pose a serious threat to life or property, and shall not be pruned during roosting and nesting season.

Certified IP/CZO Section 35-58 (Definitions) defines “development” as follows:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

One of the chief objectives of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including land and marine habitats and water quality. Coastal Act Section 30230 requires the maintenance, enhancement, and restoration of marine resources and assigns the highest protection to areas and species of special biological or economic significance. Section 30231 requires the protection of the biological productivity and quality of coastal waters and provides specific methods for achieving these protections. Section 30240 of the Coastal Act requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No

development, with the exception of uses dependent on the resources, is allowed within any ESHA. This policy further requires that development adjacent to ESHA and parks and recreation areas is sited and designed to prevent impacts that would significantly degrade those areas and to be compatible with the continuance of those areas. Further, LUP Policy 2-11 specifically requires all development adjacent to environmentally sensitive habitat areas be regulated to avoid adverse impacts on habitat resources. Regulatory measures include, but are not limited to, setbacks, buffer zones, grading controls, noise restrictions, maintenance of natural vegetation, and control of runoff.

The County proposes to amend Section 35-38 (Definitions) of the IP/CZO to add a new definition for major vegetation removal. The definition, as proposed, states:

Major Vegetation Removal: The removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more.

The County's LCP does not currently contain a definition for "major vegetation removal," however, the County's Land Use Plan includes a footnote (Footnote No. 25) that defines "major vegetation removal" for the purposes of applying the protection policies within LUP Chapter 3.3.4 Hillside and Watershed Protection. LUP Footnote No. 25 states:

Land Use Plan Footnote No. 25: Major vegetation removal shall be defined as the removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more.

It's important to note that the purpose of LUP Footnote No. 25 is to define the acreage amount of major vegetation removal for non-agricultural development and agricultural development that would be subject to the hillside and watershed protection policies (i.e., LUP Policies 3-13 to 3-23) of the LUP related to water quality.¹ County staff has indicated that the purpose of this proposed new definition is to formally incorporate the definition under LUP Footnote 25 into the IP/CZO and provide guidance regarding an acreage threshold for determining when the removal of vegetation is considered "major" vegetation removal.

The certified LCP currently requires that a CDP shall be obtained for the removal of major vegetation, which may include native vegetation and certain types of non-native vegetation (i.e., eucalyptus trees serving as Monarch butterfly aggregation sites, raptor nesting habitat, etc. that may still be considered ESHA), and the CDP must be found consistent with the coastal resource protection policies of the County's LCP to be approved. Specifically, the County's IP/CZO requires coastal development permit authorization for proposed development (except development that is exempted or excluded from the CDP requirements) within the Coastal Zone and the Coastal Act definition of development (as

¹ County of Santa Barbara Coastal Land Use Plan, Chapter 3.3.4 Hillside and Watershed Protection, "... In order to ensure the long-term preservation of the biological productivity of streams and wetlands, protection of visual resources, and the prevention of hazards to life and property, Policies 3-13 through 3-22 shall apply to all construction and development, including grading for agricultural and non-agricultural purposes which involve the movement of earth in excess of 50 cubic yards. In addition, major vegetation removal²⁵ for non-agricultural development and agricultural development (agricultural development does not include crop rotation and other activities involving management practices on existing agricultural lands in production) shall be subject to all of the following policies."

incorporated in the LCP) includes the removal of major vegetation (other than for agricultural purposes). The processing of CDPs is one of the key means of implementing the coastal resource protection policies of the County's LCP.

However, as proposed to be defined, the removal of any non-native vegetation (which may still be considered ESHA) or the removal of any native vegetation involving a cumulative total of less than one-half acre of land would not be considered "development" and would therefore not require coastal development permit authorization. This activity would then be allowed to occur without being subject to the coastal resource protection policies of the LCP, such as those policies requiring all development within and adjacent to environmentally sensitive habitat areas to be regulated to avoid adverse impacts on habitat resources (cited above).

Therefore, **Suggested Modification Two (2)** is necessary to delete the proposed definition from the IP/CZO amendment in order to ensure that projects involving the removal of native and non-native vegetation are properly evaluated under the coastal resource protection policies of the LCP. For instance, the removal of vegetation of less than one-half acre of land adjacent to ESHA areas without being subject to setback requirements, best management practices, or runoff control and water quality provisions of the LCP can increase erosion and sediment runoff that could significantly impact adjacent ESHA areas, and therefore be inconsistent with the LCP protection policies related to environmentally sensitive habitat areas. Additionally, the proposed definition implies that non-native monarch butterfly trees, protected by LUP Policy 9-22, would be allowed to be removed without CDP review under the LCP if they are less than a half-acre in area. County staff have indicated that they are supportive of this suggested modification to delete the proposed definition given the issues identified above.

Eliminating the proposed major vegetation removal definition will restore the requirement for the removal of any native vegetation and certain types of non-native vegetation to be considered development, which requires coastal development permit authorization, and ensures that the development is only approved if it is consistent with the coastal resource protection policies of the certified LCP and Coastal Act. The Commission finds that only if modified as suggested above, the proposed amendment will be consistent with, and adequate to carry out, the applicable policies of the certified LUP.

2. Exemptions and LCP Administration

Exemptions

The certified IP/CZO currently provides a list of development types that may be exempt from the requirement to obtain a coastal development permit (CDP). The proposed amendment also includes adding a new exemption to Section 35-51B (Exemptions from Planning Permit Requirements) to allow for the development of electric vehicle charging stations and hydrogen-fueling stations, consistent with California Government Code Section 65850.7, to be exempt from obtaining a CDP. Specifically, Section 65850.7 of the Government Code provides that every city or county shall adopt an ordinance that creates an expedited, streamlined permitting process for Electric Vehicle Charging Stations.

The County's LUP does not contain details about CDP processing and procedures; those details are addressed in the IP/CZO. However, the LUP provides policies and provisions to protect coastal resources, and the processing of CDPs is one of the means of implementing the protection policies. Since the proposed amendment directly modifies the implementation of CDPs, including developments that are exempt from the requirement to obtain a CDP, the amendment must be reviewed for consistency with the LUP, Section 30610(b) of the Coastal Act, and Sections 13253 of Chapter 7.5, Improvements to Structures, Other than Single-Family Residences and Public Works Facilities that require Permits, of the Commission's Regulations. The permit exclusions listed in Section 30610(b) of the Coastal Act and further specified in Chapter 7.5 are the standard of review for the proposed amendment to ensure that the IP/CZO as proposed to be amended is adequate to carry out the provisions of the LUP.

Coastal Act Section 30610(b) states that improvements to any structure other than a single-family residence or a public works facility are exempt from Coastal Act permitting requirements unless they are a type of improvement that the Commission's regulations identify as involving a risk of adverse environmental effects, adversely affect public access, or involve a change in use contrary to any policy of the Coastal Act.

Section 13253 identifies the classes of development associated with improvements to structures other than single-family residences and public works facilities that require a CDP because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policy of Division 20 of the Public Resources Code. Developments identified by Section 13253 as requiring a CDP include but are not limited to cases where the development is located near environmentally sensitive coastal resources, requires significant alteration of landforms, requires the expansion or construction of water wells or septic systems, or any improvement to a structure that changes the intensity of uses of the structure.

Currently, a CDP is required for the development of electric vehicle charging stations or hydrogen-fueling stations. The subject amendment proposes to exempt electric vehicle charging stations and hydrogen-fueling stations, consistent with California Government Code Section 65850.7, from obtaining a CDP. However, this type of development is not necessarily exempt pursuant to the Commission's Regulations.

The exemption is written overly broadly, and the construction of electric vehicle charging stations or hydrogen-fueling stations can raise significant issues related to protecting coastal resources in some cases, such as displacing or limiting coastal access parking spaces and/or removing native vegetation. Therefore, **Suggested Modification One (1)** is necessary to delete the proposed broad exemption category for electric vehicle charging stations and hydrogen-fueling stations. This modification ensures that Section 35-51B remains consistent with the permitting and exemption provisions of the certified IP/CZO and Coastal Act. The Commission is supportive of increasing infrastructure for alternative transportation modes, including electric and hydrogen fuel vehicles. As such, Commission staff discussed the issues raised by this broad exemption category with County staff and agreed to coordinate further on other ways to expedite authorizations for electric vehicle charging stations or hydrogen-fueling stations consistent with the Coastal Act and LCP in a

subsequent LCP amendment.

LCP Administration

Several proposed revisions relate to the administration of the LCP. **Suggested Modifications Three (3) and Four (4)** include minor modifications to the proposed amendment language necessary to ensure consistency with the LCP, such as correcting typographical errors and making minor clarifications that further the intent and implementation of the LCP and avoid ambiguity.

For the reasons discussed above, the Commission finds that only if modified as suggested will the IP/CZO amendment conform with and be adequate to carry out the applicable policies of the certified Land Use Plan.

3. Childcare Facilities

The proposed amendment would revise the permitting and development standards for small and large family day care facilities to align them with State law (Senate Bill 234, Chapter 244, Statutes of 2019; Health and Safety Code Section 1596.72 et al.). The amendment also updates and separates definitions for community care facilities (i.e. day care centers, large and small day care homes serving adults, and large and small day care homes serving children), allows large family day care homes for 14 or fewer children in all residential dwellings “by right,” allows smaller day care centers of 50 children or less with a Coastal Development Permit (CDP) instead of a Conditional Use Permit (CUP), and relaxes certain standards for child care centers located in or at public/quasi-public facilities that are used for assembly uses (e.g., schools, churches, conference centers, community centers, or clubhouses). The revisions have been made to comply with State requirements and do not affect the consistency of the IP/CZO or its ability to carry out any of the policies or provisions of the Land Use Plan (LUP). Therefore, the Commission finds that the proposed amendment to the community care facilities provisions of the IP/CZO is consistent with and adequate to carry out the policies of the LUP.

C. California Environmental Quality Act

Section 21080.9 of the California Public Resources Code—within the California Environmental Quality Act (CEQA)—exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission; however, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP action.

Nevertheless, the Commission is required, in approving an LCP submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation

measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f) and 13555(b).

As discussed above, the County's IP/CZO amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the Land Use Plan (LUP). The Commission has, therefore, suggested modifications to the proposed IP/CZO to include all feasible measures to ensure that potentially significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act and CEQA. For the reasons discussed in this report, the LCP amendment, as suggested to be modified, conforms with and is adequate to carry out the coastal resources protection policies of the certified LUP. These modifications represent the Commission's analysis and thoughtful consideration of all significant environmental issues raised in public comments received, including with regard to potential direct and cumulative impacts of the proposed IP/CZO amendment, as well as potential alternatives to the proposed amendment. As discussed in the preceding sections, the Commission's suggested modifications represent the most environmentally protective alternative to bring the proposed IP/CZO amendment into conformity with the LUP consistent with the requirements of the Coastal Act. Therefore, the Commission finds that the proposed LCP amendment, as suggested to be modified, is consistent with CEQA.