STATE OF CALIFORNIA -- NATURAL RESOURCES AGENCY EDMUND G. BROWN JR., *Governor*

CALIFORNIA COASTAL COMMISSION
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DATE: April 24, 2018

TO: Commissioners and Interested Persons

FROM: Steve Hudson, Deputy Director
Barbara Carey, District Manager
Deanna Christensen, Supervising Coastal Program Analyst
Michelle Kubran, Coastal Program Analyst

SUBJECT: County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-16-0067-3 (Gaviota Coast Plan), for public hearing and Commission action at the May 10, 2018 Commission Hearing in Santa Rosa.

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the certified Land Use Plan (LUP) and certified Implementation Program/Coastal Zoning Ordinance (IP/CZO) portions of its certified Local Coastal Program (LCP) to designate the Gaviota Coast Plan area; add associated goals, objectives, policies, actions, programs and development standards as described in the Gaviota Coast Plan; and add implementing zoning district and overlay maps. The Gaviota Coast is located in southern Santa Barbara County and is bounded by the western boundary of the Goleta Community Plan to the east, Vandenberg Air Force Base to the west, the ridgeline of the Santa Ynez Mountains and Gaviota Creek Watershed to the north, and the Pacific Ocean to the south. The amendment will result in changes to the LUP and the IP/CZO.

The County of Santa Barbara (County) submitted LCP Amendment LCP-4-STB-16-0067-3 to the Commission on December 20, 2016. The amendment submittal was deemed complete on March 30, 2017, after the complete submittal of additional information requested by Commission staff. At the June 7, 2017 hearing, the Commission granted a one-year time extension to act on the subject amendment pursuant to Coastal Act § 30517 and California Code of Regulations, Title 14, §13535(c). The deadline for Commission action as extended ends on June 7, 2018.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission, after public hearing, **reject** the County of Santa Barbara's proposed LCP Amendment No. LCP-4-STB-16-0067-3 as submitted, and **certify** the proposed amendment only if modified pursuant to thirteen (13) suggested modifications. The staff recommended suggested modifications can be found in Exhibits 2 and 3 of this staff report. The suggested modifications are necessary to ensure that the Land Use Plan (LUP) portion of the amendment request meets the requirements of and is consistent with the policies of Chapter 3 of the Coastal Act regarding environmentally sensitive habitat, land and marine resources, agriculture, land use and new development, hazards, public access and

recreation, and scenic and visual resources. Likewise, the suggested modifications to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) are necessary to ensure that the IP/CZO conforms with and is adequate to carry out the provisions of the certified LUP, as amended. The motions and resolutions to accomplish this recommendation are found on pages 7-9 of this staff report.

The Gaviota Coast Plan area ("Plan area") is located in southern Santa Barbara County and is bounded by the western limit line of the Goleta Community Plan to the east, Vandenberg Air Force Base to the west, the ridgeline of the Santa Ynez Mountains and the Gaviota Creek watershed to the north, and the Pacific Ocean to the south. The approximately 101,000-acre Plan area includes both inland and coastal areas, and about half of the Plan area (49,849 acres) is within the coastal zone. The Gaviota Coast is Southern California's largest continuous stretch of rural coastal land, and the Plan area is entirely within a designated rural area of Santa Barbara County. The landscape consists of chaparral-covered sandstone mountains, wooded canyons, grassland mesas, coastal bluffs, narrow sandy beaches, and the Pacific Ocean. The area also contains grazing lands, orchards, limited residential and other development, Highway 101 and the railroad, and significant public parkland and open space areas. This segment of California's coast is remarkably scenic, and there are many public viewing areas that offer diverse and dramatic views of the Pacific Ocean and Channel Islands, the coastal terrace, and the ridgelines of the Santa Ynez Mountain range. The dramatic topographic features, native habitats, and the rural character of this region make the area's coastal resources very special for residents and visitors alike.

The proposed Gaviota Coast Plan ("Plan") would function as a new stand-alone area plan in the County's Local Coastal Program (LCP). The certification of the proposed amendment would apply goals, policies, development standards, and actions developed specifically for the Plan area that would address environmental resources, agricultural resources, public access, trails and recreation, land use and new development, visual resources, and public services and facilities. The Plan area would also continue to be subject to the policies and provisions of the County's existing, certified LCP. Additionally, several existing policies and sections of text in the certified Land Use Plan (LUP) are proposed to be deleted and replaced by the proposed Plan. Proposed policies to be deleted include coastal access, recreation, and agriculture policies that specifically pertain to the Plan area. The County is also proposing to replace the Plan area shown on existing maps in the certified LCP with several new maps in the Gaviota Coast Plan, including land use designations and zoning maps, an environmentally sensitive habitat overlay, and a viewshed corridor overlay. The subject amendment also includes a proposed Gaviota Coast Plan Overlay District, which includes new definitions, a table of allowed uses within each zone district in the Plan area, standards for all development and land uses in the Plan area, permit requirements and development standards for specific land uses in the Agriculture – II zone, and a new Gaviota Coast Plan Area Land Use Incentive Program, which would allow accessory dwelling units to be built in exchange for a trail easement on the premises where a proposed trail is shown on the proposed Plan maps.

Environmentally Sensitive Habitat Areas

In addition to the existing LCP policies, the proposed Plan includes additional policies, development standards, and actions specific to the Plan area that address the protection of biological resources, including environmentally sensitive habitat areas (ESHA). The Plan also includes criteria for determining which resources and habitats constitute ESHA on the Gaviota Coast and includes policies and provisions intended to protect ESHA through such mechanisms as development restrictions within ESHA, requiring development setbacks and buffers from ESHA, and requiring biological surveys, mitigation measures, and restoration of impacted habitat areas. However, the proposed Plan does not accurately reflect the ESHA criteria of Section 30107.5 of the Coastal Act, which specifies that ESHA includes plant or animal life or habitats that are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. Rather, the proposed Plan focuses on the rarity aspect of the Coastal Act's ESHA definition and includes habitat types that do not represent all of the potential habitat types that may be found within the Plan area and which have the potential to meet the definition of ESHA pursuant to Section 30107.5. Therefore, staff is recommending suggested modifications that would add more detailed provisions regarding the identification of ESHA and criteria necessary to conform the proposed policies to the definition of ESHA within Section 30107.5 and the ESH protection requirements of Section 30240 of the Coastal Act. Staff is also recommending suggested modifications to a number of ESHA and other biological resource protection policies of the Plan to increase the minimum replacement ratios for ESHA impacted by development, to protect native trees, to protect the availability and quality of water resources, including groundwater resources, to limit creek channelizations and the substantial alteration of streams, to clarify sensitive species survey requirements, and to address the siting and design of new development to avoid ESHA. Given the importance of the biological resources in the Plan area, the suggested modifications are necessary to provide additional clarity to the existing policies of the LCP intended to protect all habitats that meet the Coastal Act's definition of ESHA.

Agriculture

The Gaviota Coast contains agricultural and rural land uses that are an important part of the local cultural history and which contribute to the County's largest industry. Approximately 77% of the land in the Plan area is zoned for agriculture. The primary agricultural use is grazing, although citrus, avocados, cherimoyas and flowers are grown in the eastern Plan area as well. The Plan proposes several goals, policies, actions, and development standards to maintain the agricultural viability and economy of the Plan area, while increasing flexibility for the agriculturalist to respond to changing market forces, improve land management techniques, and broaden allowed uses to enhance income on agricultural lands. Staff is recommending suggested modifications to ensure consistency with Coastal Act Sections 30241, and 30242 to protect the agricultural resources and long-term agricultural production on the Gaviota Coast.

Principal Permitted Use

Section 30603(a)(4) of the Coastal Act requires that approval, by a coastal county, of any development that is not designated in the LCP as "the principal permitted use" is appealable to

the Coastal Commission. The proposed Plan includes a list of the permitted uses in each zone but does not propose a principal permitted use for each zone, and the certified LCP is currently silent with regards to the principal permitted use. Due to the range of uses that may be permitted within each zone district, including new uses proposed by the Gaviota Coast Plan, it is necessary to clarify the concept of the "principal permitted use" in order to adequately execute the provisions of Section 30603(a)(4). Therefore, staff is recommending suggested modifications to add a definition for principal permitted use to the IP/CZO portion of the subject amendment as well as clarify which uses are considered the principal permitted use (or component of the principal permitted use) for each zone, and are therefore, not appealable to the Coastal Commission.

Public Access and Recreation

The Gaviota Coast is well known as a coastal recreation destination of local and statewide importance due to its incredible scenic beauty and miles of relatively undeveloped coastline. Three California State Parks, County recreational lands, and privately managed recreational areas provide opportunities for public recreation within the Plan area. There are also a number of existing dedicated public trails and beach access locations along the Plan area's 39-miles of coastline, and many existing informal trails and vertical beach access points have been used by the general public for years. Although the Plan area contains thousands of acres of existing recreational lands and many coastal public access points, public access and recreation opportunities remain. Such opportunities include increasing the number of dedicated beach access locations and connecting the California Coastal Trail through the Plan area. The proposed Gaviota Coast Plan includes a set of policies specific for the Plan area (in addition to the existing policies of the County's certified LCP) to protect existing public access and to actively promote expansion of recreation, open space, coastal access, lower cost recreational overnight accommodations, and trails on the Gaviota Coast. The proposed amendment includes a landowner incentive program to dedicate trail easements, including easements for the California Coastal Trail, in order to expand public access and recreation within the Plan area. Staff is recommending suggested modifications to the Public Access, Recreation, and Trails chapter of the Plan ensure that the CCT is developed as a trail system, to protect informal roadside parking in the Plan area, and to protect public prescriptive rights of access to the coast, in addition to other suggested modifications to clarify the intent of proposed policies and ensure that the Plan is consistent with the public access and recreation provisions of the Coastal Act.

Additional Information: Please contact Michelle Kubran at the South Central Coast District Office of the Coastal Commission at (805) 585-1800 or 89 South California Street, Suite 200, Ventura, CA 93001

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EXHIBITS

Exhibit 1 – Gaviota Coast Plan Area Map
Exhibit 2 – Suggested Modifications to the proposed Gaviota Coast Plan
Exhibit 3 – Suggested Modifications to the proposed Coastal Zoning Ordinance amendment
Exhibit 4 – Proposed Gaviota Coast Plan
Exhibit 5 – Santa Barbara County Board of Supervisors Resolution No. 16-267 for the proposed Gaviota Coast Plan, and Resolution No. 16-268 for containing Gaviota Coast Plan Design Guidelines
Exhibit 6 – Santa Barbara County Ordinances Nos. 4984 and 4985 containing the proposed Coastal Zoning Ordinance amendment text
Exhibit 7 – Memorandum by Dr. Jonna Engel, dated April 24, 2018

I. PROCEDURAL OVERVIEW

A. STANDARD OF REVIEW

The Coastal Act provides:

> *The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3* (commencing with Section 30200*)*...(Section 30512(c))
>
> *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 zoning 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 in the rejected zoning ordinances, zoning district maps, or other implementing actions, which, if adopted by the local government and transmitted to the commission, shall be deemed approved upon confirmation by the executive director...*(Section 30513)

Pursuant to Section 30512(c), the standard of review that the Commission utilizes in reviewing the adequacy of the proposed amendment to the County's certified LUP is whether the proposed amendment is consistent with the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the County's certified IP/CZO, pursuant to Section 30513 of the Coastal Act, is whether the proposed amendment is in conformance with, and adequate to carry out, the provisions of the LUP portion of the County's certified LCP. Additionally, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the County's certified LUP as guiding policies pursuant to Policy 1-1 of the LUP.

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. The Gaviota Coast Planning Advisory Committee (GavPAC) held sixty-eight public meetings, one all day workshop, and fifty-six GavPAC subcommittee meetings for visual resources, agriculture, and recreation and trails. The County Planning Commission considered the Plan during nine public hearings, and the Board of Supervisors initiated environmental review for the Plan on December 3, 2013. The Draft Environmental Impact Report (EIR) prepared for the Plan was circulated for public review between June 22, 2015 and September 4, 2015. The Planning Commission held four hearings on July 27, 2016, August 31, 2016, September 14, 2016, and September 19, 2016 to consider adoption of the Plan. On September 19, 2016, the Planning Commission voted to recommend that the Board of Supervisors approve the Plan and certify the associated Final EIR. The Board of Supervisors adopted the Plan and the Final EIR at a public hearing on November 8, 2016. All County

hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment was posted in a local newspaper at least ten days prior to the May 10, 2018 Coastal Commission hearing, and individual notices have been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section13551(b) of the California Code of Regulations, the County resolution for submittal of the LCP amendment can either require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon Commission approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. Because this approval is subject to suggested modifications by the Commission (Exhibits 2 and 3), if the Commission approves this amendment, the County must act to accept the certified suggested modifications within six months from the date of Commission action in order for the amendment to become effective (CCR Sections 13544.5 and 13537). Pursuant to Section 13544 of the California Code of Regulations, the Executive Director shall determine whether the County's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission denies the LCP Amendment, as modified, no further action is required by either the Commission or the County.

II. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE COASTAL LAND USE PLAN

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

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission **certify** Land Use Plan Amendment No. LCP-4-STB-16-0067-3 as submitted by the County of Santa Barbara.*

STAFF RECOMMENDATION TO DENY:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the Amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY:

The Commission hereby **denies** certification of the Land Use Plan Amendment No. LCP-4-STB-16-0067-3 as submitted by the County of Santa Barbara and adopts the findings set forth below on grounds that the land use plan as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan 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 land use plan as submitted.

B. APPROVAL WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission **certify** Land Use Plan Amendment No. LCP-4-STB-16-0067-3 for the County of Santa Barbara 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 the certification of the Land Use Plan Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby **certifies** the Land Use Plan Amendment No. LCP-4-STB-16-0067-3 for the County of Santa Barbara if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan Amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use 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 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. STAFF RECOMMENDATION, MOTIONS, & RESOLUTIONS FOR THE IMPLEMENTATION PROGRAM/COASTAL ZONING ORDINANCE

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

A. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission **reject** Implementation Program Amendment No. LCP-4-STB-16-0067-3 for the County of Santa Barbara as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in denial of the Implementation Program 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:

The Commission hereby **denies** certification of the Implementation Program Amendment No. LCP-4-STB-16-0067-3 submitted for the County of Santa Barbara and adopts the findings set forth below on the grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the 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 Amendment as submitted.

B. APPROVAL WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission **certify** Implementation Program Amendment No. LCP-4-STB-16-0067-3 for the County of Santa Barbara 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 the certification of the Implementation Program Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby **certifies** Implementation Program Amendment No. LCP-4-STB-16-0067-3 for the County of Santa Barbara if modified as suggested and adopts the findings set forth below on the grounds that the Implementation Program Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program 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 Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Amendment as submitted.

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

The following findings support the Commission's denial of the LCP Amendment as submitted, and approval of the LCP Amendment if modified as indicated in Exhibits 2 and 3 (*Suggested Modifications*) to this staff report. The Commission hereby finds and declares as follows:

A. ENVIRONMENTAL SETTING AND DESCRIPTION OF THE PLAN AREA

The Gaviota Coast Plan area ("Plan area") is located in southern Santa Barbara County and is bounded by the western limit line of the Goleta Community Plan to the east, Vandenberg Air Force Base to the west, the ridgeline of the Santa Ynez Mountains and the Gaviota Creek watershed to the north, and the Pacific Ocean to the south. The approximately 101,000-acre Plan area includes both inland and coastal areas; about half of the Plan area (49,849 acres) is within the coastal zone. Highway 101 is the primary thoroughfare, while Highway 1 provides access to parts of the western end of the Plan area.

The Gaviota Coast is Southern California's largest continuous stretch of rural coastal land, and the Plan area is entirely within a designated rural area of Santa Barbara County. Agriculture is the main land use in the Plan area, with approximately 77% of land zoned for agriculture. The primary agricultural use in the Plan area is grazing, although lemon and avocado orchards and greenhouses can be found on the eastern end of the Plan area. Also located within the Plan area are El Capitan State Beach, Refugio State Beach, and Gaviota State Park, which together comprise approximately 5,000 acres. Jalama Beach County Park on the west end of the Plan area and the Tajiguas Landfill and adjoining Baron Ranch on the eastern end of the Plan area are owned and operated by the County. Much of the inland portion of the Plan area is part of the Los Padres National Forest, and the remaining land within the Plan area consists of land designated as resource management at the Arroyo Hondo Preserve and coastal dependent industry, commercial highway, transportation corridor, and residential land uses.

The topography of the Plan area consists of rolling hills, valleys, coastal terraces, streams, coastal bluffs, estuaries, sandy beach and rocky shorelines. This portion of the California coast contains a high concentration of both locally and globally significant and diverse rare species and habitat. Point Conception, which is at the southwestern edge of the Plan area, is the point at which the coastline changes direction from east-west to north-south. This change in topography along the coastline causes climatic changes that effect species within the region. Many plant species found in Northern California reach their southern geographic limits within the Plan area north of the Santa Ynez Mountains, while many plant species found in Southern California reach their northern geographic limits in the Plan area south of the Santa Ynez Mountains. The Gaviota Coast east of Point Conception also borders part of a maritime system called the Southern California Bight (SCB). The SCB is a biologically diverse marine transition zone attributed to the confluence of two major oceanic currents and the shape of the continental shelf at Point Conception and is home to a wide variety of marine species, including pinnipeds, cetaceans, seabirds, and shorebirds.

Due to the region's varied topography, a range of habitats occur within the Plan area. These generally include, but are not limited to, chaparral scrub, coastal sage scrub, grasslands, riparian woodland, coastal estuaries, salt marshes, wetlands, vernal pools, and sandy beach. These habitats, as well as sensitive watersheds that drain the Plan area from the ridgeline of the Santa

Ynez Mountains to the Pacific Ocean, provide suitable habitat for a wide variety of plant and animal species.

B. AMENDMENT DESCRIPTION

1. Land Use Plan Amendment

Santa Barbara County's Local Coastal Program (LCP) was certified by the Coastal Commission in 1982. Since certification of the LCP, the County has developed, and the Commission has certified, several community and area plans throughout the County. If certified, the proposed Gaviota Coast Plan ("Plan") would function as a new stand-alone area plan. The certification of the proposed amendment would apply goals, policies, development standards, and actions developed specifically for the Gaviota Coast Plan area. The Plan area would also continue to be subject to the policies and provisions of the County's existing, certified LCP.

The Gaviota Coast Plan is divided into seven chapters: Chapter 1 – Introduction; Chapter 2 – Natural & Cultural Resources Stewardship; Chapter 3 – Agriculture; Chapter 4 – Parks, Recreation and Trails; Chapter 5 – Land Use; Chapter 6 – Visual Resources; Chapter 7 – Transportation, Energy and Infrastructure. Each chapter contains a narrative component in addition to the applicable goals, policies, development standards, and actions for each chapter topic. The proposed new policies of the Plan address environmental resources, agricultural resources, public access, trails, and recreation, land use and new development, visual resources, and public services and facilities. The Plan has four appendices, which include art work and photo credits, a list of environmentally sensitive habitat types based primarily on vegetation, the Gaviota Coast Plan Trail Siting Guidelines, and Steep Slope Guidelines. Additionally, the proposed LCP amendment includes Gaviota Coast Plan Design Guidelines that are intended to preserve the region's natural, agricultural, and scenic resources by establishing architectural and aesthetic goals primarily for residential development in the Plan area.

Additionally, several existing policies and sections of text in the certified Land Use Plan (LUP) are proposed to be deleted and replaced by the proposed Plan. Proposed policies to be deleted include coastal access, recreation, and agriculture policies that specifically pertain to the Plan area. These changes are discussed in greater detail in the analysis below. The County is also proposing to replace the depiction of the Plan area shown on existing maps in the certified LCP with several new maps in the Gaviota Coast Plan. These maps include the "Gaviota Coast Plan Land Use Designations & Overlays," the "Gaviota Coast Plan Zoning," the "Gaviota Coast Plan Environmentally Sensitive Habitat Overlay," and the "Gaviota Coast Plan Critical Viewshed Corridor Overlay." Several maps are proposed to be added to the LCP through the proposed Plan as well. These maps include the "Gaviota Coast Plan Existing Vegetation" maps, which depict vegetation types throughout the Plan area, the "Gaviota Coast Plan Agriculture" map, which depicts state important farmland, agricultural preserve land, or the agricultural land use designation of each parcel within the Plan area, the "Gaviota Coast Plan Parks, Recreation & Trails" maps, which depict existing trail routes, proposed trail alignments, and existing and proposed beach access points, and the "Gaviota Coast Plan – Water Systems" map, which depicts the parcels served by water districts or municipal or private water systems.

Further, the County is proposing land use and zoning designation changes for three properties within the coastal zone portion of the Plan area. Currently, the majority of existing State Park land within the proposed Plan area has both a land use designation and a zoning designation of Recreation. However, there have been recent State Park land acquisitions at El Capitan Canyon and the old Gaviota Village site near Mariposa Reina that are not currently designated as Recreation. The property at El Capitan Canyon is currently designated as and zoned for Agriculture. The property at the Gaviota Village was a commercial development that became vacant and was purchased by the County and then donated to the California Department of Parks and Recreation. The Gaviota Village site is currently designated and zoned as Commercial Highway. The Plan proposes to re-designate both of these properties to Recreation. In addition to the State Parks land, the Arroyo Hondo Preserve, which is owned and operated by The Land Trust for Santa Barbara County, is proposed to be re-designated in the Plan as well. The Preserve is currently designated as and zoned for Agriculture. The Plan proposes to change the land use designation for the Preserve to Mountainous Area and rezone the property to Resource Management.

Finally, the Plan proposes the addition of a Rural Neighborhood boundary around the existing Arroyo Quemada neighborhood on the "Gaviota Coast Plan Land Use Designations & Overlays" and the "Gaviota Coast Plan Zoning" maps.

2. Implementation Program/Coastal Zoning Ordinance Amendment

The County proposes to amend the Implementation Program/Coastal Zoning Ordinance (IP/CZO) to revise existing Section 35-58 (Definitions), Section 35-66 (Gaviota Coast Plan Area), Section 35-139 (Exterior Lighting), and Section 35-184 (Board of Architectural Review), add Section 35-102G (Critical Viewshed Corridor Overlay District), and add Division 18 (Gaviota Coast Plan (GAV) Overlay). Section 35-66 includes four specific development standards for the Plan area. Section 35-139 includes standards for exterior lighting. Section 35-184 includes regulations regarding development that is required to be reviewed by the County's Board of Architectural Review. Proposed Section 35-102G designates a Critical Viewshed Corridor (CVC) Overlay over the coastal portion of the Plan area from Gaviota State Park to the eastern boundary of the Plan area near Goleta, and several proposed Plan policies are specific to this overlay. Division 18 GAV Overlay is a new overlay district for the Plan area, which includes new definitions, a table of allowed uses within each zone district in the Plan area, standards for all development and land uses in the Plan area, permit requirements and development standards for specific land uses in the Agriculture – II zone, and a new Gaviota Coast Plan Area Land Use Incentive Program, which would allow accessory dwelling units to be built in exchange for a trail easement on the premises where a proposed trail is shown on the proposed Plan maps. Additionally, the IP/CZO includes an existing Agriculture-Residential Cluster Overlay District that is proposed to be deleted in the subject amendment.

C. LAND AND MARINE RESOURCES

1. Coastal Act Policies

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 30233states, in relevant part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps…
(4) Incidental public service purposes…
(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
(6) Restoration purposes.
(7) Nature study, aquaculture, or similar resource dependent activities…

Section 30236 states:

> *Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.*

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.*

Section 30244 states:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

2. Existing LUP Policies

All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP.

Policy 1-2 states:

> *Where policies within the land use plan overlap, the policy which is the most protective of coastal resources shall take precedence.*

Policy 2-2 states, in relevant part:

> *The long term integrity of groundwater basins or sub-basins located wholly within the coastal zone shall be protected. To this end, the safe yield as determined by competent hydrologic evidence of such a groundwater basin or sub-basin shall not be exceeded except on a temporary basis as part of a conjunctive use or other program managed by the appropriate water district. If the safe yield of a groundwater basin or sub-basin is found to be exceeded for reasons other than a conjunctive use program, new development, including land division and other use dependent upon private wells, shall*

not be permitted if the net increase in water demand for the development causes basin safe yield to be exceeded…

Policy 2-10 states:

Annexation of a rural area(s) to a sanitary district or extensions of sewer lines into rural area(s) as defined on the land use plan maps shall not be permitted unless required to prevent adverse impacts on an environmentally sensitive habitat, to protect public health, or as a logical extension of services.

Policy 2-11 states:

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.

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.

Policy 9-1 states:

Prior to the issuance of a development permit, all projects on parcels shown on the land use plan and/or resource maps with a Habitat Area overlay designation or within 250 feet of such designation or projects affecting an environmentally sensitive habitat area shall be found to be in conformity with the applicable habitat protection policies of the land use plan. All development plans, grading plans, etc., shall show the precise location of the habitat(s) potentially affected by the proposed project. Projects which could adversely impact an environmentally sensitive habitat area may be subject to a site inspection by a qualified biologist to be selected jointly by the County and the applicant.

Policy 9-6 states:

All diking, dredging, and filling activities shall conform to the provisions of Sections 30233 and 30607.1 of the Coastal Act. Dredging, when consistent with these provisions and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat or for flood control purposes, shall be subject to the following conditions:
a. Dredging shall be prohibited in breeding and nursery areas and during periods of fish migration and spawning.
b. Dredging shall be limited to the smallest area feasible.

c. Designs for dredging and excavation projects shall include protective measures such as silt curtains, diapers, and weirs to protect water quality in adjacent areas during construction by preventing the discharge of refuse, petroleum spills, and unnecessary dispersal of silt materials. During permitted dredging operations, dredge spoils may only be temporarily stored on existing dikes or on designated spoil storage areas, except in the Atascadero Creek area (including San Jose and San Pedro Creeks) where spoils may be stored on existing storage areas as delineated on the Spoil Storage Map, dated February, 1981. (Projects which result in discharge of water into a wetland require a permit from the Regional Water Quality Control Board.)

Policy 9-7 states:

Dredge spoils shall not be deposited permanently in areas subject to tidal influence or in areas where public access would be significantly adversely affected. When feasible, spoils should be deposited in the littoral drift, except when contaminants would adversely affect water quality or marine habitats, or on the beach.

Policy 9-8 states:

Boating shall be prohibited in all wetland areas except for research or maintenance purposes.

Policy 9-9 states:

A buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands. No permanent structures shall be permitted within the wetland or buffer area except structures of a minor nature, i.e., fences, or structures necessary to support the uses in Policy 9-10.

The upland limit of wetland shall be defined as: 1) the boundary between land with predominately hydrophytic cover and land with predominately mesophytic or xerophytic cover; or 2) the boundary between soil that is predominately hydric and soil that is predominately nonhydric; or 3) in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

Where feasible, the outer boundary of the wetland buffer zone should be established at prominent and essentially permanent topographic or manmade features (such as bluffs, roads, etc.). In no case, however, shall such a boundary be closer than 100 feet from the upland extent of the wetland area, nor provide for a lesser degree of environmental protection than that otherwise required by the plan. The boundary definition shall not be construed to prohibit public trails within 100 feet of a wetland.

Policy 9-10 (Wetlands) states:

> *Light recreation such as bird-watching or nature study and scientific and educational uses shall be permitted with appropriate controls to prevent adverse impacts.*

Policy 9-11states:

> *Wastewater shall not be discharged into any wetland without a permit from the California Regional Water Quality Control Board finding that such discharge improves the quality of the receiving water.*

Policy 9-13 states:

> *No unauthorized vehicle traffic shall be permitted in wetlands and pedestrian traffic shall be regulated and incidental to the permitted uses.*

Policy 9-14 states:

> *New development adjacent to or in close proximity to wetlands shall be compatible with the continuance of the habitat area and shall not result in a reduction in the biological productivity or water quality of the wetland due to runoff (carrying additional sediment or contaminants), noise, thermal pollution, or other disturbances.*

Policy 9-16(a) states:

> *No grazing or other agricultural uses shall be permitted in coastal wetlands.*

Policy 9-17 states:

> *Grazing shall be managed to protect native grassland habitat.*

Policy 9-18 states:

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

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.*

Policy 9-23 (Butterfly Trees) states:

> *Adjacent development shall be set back a minimum of 50 feet from the trees.*

Policy 9-35 states:

> *Oak trees, because they are particularly sensitive to environmental conditions, shall be protected. All land use activities, including cultivated agriculture and grazing, should be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees on grazing lands should be encouraged.*

Policy 9-36 states:

> *When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Policy 9-37 states:

> *The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams:*
>
> *a. Soil type and stability of stream corridors;*
>
> *b. How surface water filters into the ground;*
>
> *c. Slope of the land on either side of the stream; and*
>
> *d. Location of the 100-year floodplain boundary.*
>
> *Riparian vegetation shall be protected and shall be included in the buffer. Where riparian vegetation has previously been removed, except for channelization, the buffer shall allow for the reestablishment of riparian vegetation to its prior extent to the greatest degree possible.*

Policy 9-38 states:

> *No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside of the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.*

Policy 9-40 states:

> *All development, including dredging, filling, and grading within stream corridors, shall be limited to activities necessary for the construction of uses specified in Policy 9-38. When such activities require removal of riparian plant species, revegetation with local native plants shall be required except where undesirable for flood control purposes. Minor clearing of vegetation for hiking, biking, and equestrian trails shall be permitted.*

Policy 9-41 states:

> *All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.*

Policy 9-42 states:

> *The following activities shall be prohibited within stream corridors: cultivated agriculture, pesticide applications, except by a mosquito abatement or flood control district, and installation of septic tanks.*

Policy 9-43 states:

> *Other than projects that are currently approved and/or funded, no further concrete channelization or other major alterations of streams in the coastal zone shall be permitted unless consistent with the provisions of § 30236 of the Coastal Act.*

Policy 10-1 states:

> *All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.*

Policy 10-2 states:

> *When developments are proposed for parcels where archaeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.*

Policy 10-3 states:

> *When sufficient planning flexibility does not permit avoiding construction on archaeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.*

Policy 10-4 states:

> *Off-road vehicle use, unauthorized collecting of artifacts, and other activities other than development which could destroy or damage archaeological or cultural sites shall be prohibited.*

Policy 10-5 states:

> *Native Americans shall be consulted when development proposals are submitted which impact significant archaeological or cultural sites.*

3. Biological and Cultural Resources within the Plan Area

The Gaviota Coast sits on the active boundary of the Pacific Oceanic Plate and the North American Continental Plate where high levels of tectonic activity have created dramatic elevational gradients in both the terrestrial and the underwater landscapes. The terrestrial landscape is topographically diverse with steep mountains, ridgelines and valleys, rolling hills, coastal terraces, coastal bluffs, and rocky and sandy shorelines. The Gaviota Coast straddles Point Conception, where the north-south trending Coastal Mountain Ranges and the east-west trending Transverse Ranges intersect. Here cooler, wetter northern climate patterns merge with warmer, drier southern climate patterns. The area's unique climate and geography forms a widely recognized and significant biogeographic boundary between northern and southern California.

This combination of diverse physical and climatic factors has resulted in the Gaviota Coast hosting an unusually high number of native plant communities and species and contributes to the high biodiversity and species richness of the Plan area. Point Conception marks the southern limit of many northern marine and terrestrial species and the northern limit of many southern marine and terrestrial species. Many of the natural communities in the Plan area are rare, including madrone, tanoak, and bishop pine forests, California sycamore and valley oak woodlands, Burton Mesa chaparral and wart leaf ceanothus chaparral, purple foothill and giant wild rye grasslands, dune mats, and vernal pools and marsh habitats. Other habitats within the Plan area include coastal sage scrub, central maritime chaparral, riparian woodlands, coastal dunes and strand, and marine ecosystems such as kelp beds, sea grasses, and rocky marine intertidal zones. Native and endemic species found on the Gaviota Coast include Gaviota tarplant, Lompoc yerba santa, Refugio manzanita, California red-legged frog, southern California steelhead trout, and tidewater goby.

Due to the large of amount of open space, low density of development and the numerous watersheds with associated ridgelines, streams, and riparian corridors, the Gaviota Coast contains important corridors between inland, mountainous, and coastal habitat areas for apex species and medium and large mammals, such as mountain lions, coyotes, bobcats, and California black bears. The Gaviota Coast is also an Essential Connectivity Area that serves as a natural bridge to the Sierra Madre Mountains, which connect to the Tehachapi Mountains, which further connect to the Sierra Nevada (Exhibit 7).

In addition to the biodiversity found on the Gaviota Coast, the Plan area contains many significant cultural and historic resources. The first humans to inhabit the Gaviota Coast were Native Americans, followed by Spanish, Mexican, and American people. Due to the rich history on the Gaviota Coast, the Plan area contains numerous important cultural resources, including archaeological and historic sites, traditional cultural properties, tribal cultural resources, historic buildings and structures from the Spanish and past ranching operations, and rural historic landscapes.

4. LUP Amendment Consistency Analysis

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 30230 also requires any use of the marine environment to sustain the biological productivity of coastal waters and maintain healthy populations of all marine organisms. Section 30231 requires the protection of the biological productivity and quality of coastal waters and provides specific methods for achieving these protections. Section 30233 provides that the diking, filling and dredging of coastal waters, wetlands, or estuaries may only be permitted for particular activities allowed by Section 30233 and only where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. Section 30236 limits channelizations, dams, or other substantial alterations of rivers and streams to only three purposes: necessary water supply; protection of existing structures where there is no feasible alternative; or improvement of fish and wildlife habitat, and requires incorporation of the best mitigation measures feasible. 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 them. Section 30244 requires the protection of archaeological and paleontological resources and the implementation of mitigation measures to avoid or minimize any impacts.

In addition, the County's existing certified LUP contains numerous policies (listed in subsection 2 above) to protect biological resources, ESHA, water quality, and cultural resources within the County's coastal zone. All Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified County LUP as guiding policies pursuant to Policy 1-1 of the LUP, including Section 30240 protections of ESHA.

<u>Environmentally Sensitive Habitat</u>

The proposed Gaviota Coast Plan includes additional policies, development standards, and actions specific to the Plan area that address the protection of biological resources, including environmentally sensitive habitat. An Environmentally Sensitive Habitat (ESH) Overlay map is proposed that generally depicts ESH areas within the Plan area. The depiction of ESH within the coastal zone on the proposed map is the same as the existing 1982 certified ESH Overlay map for the County. The Plan also includes criteria for determining which resources and habitats

constitute ESH on the Gaviota Coast and includes policies and provisions intended to protect ESH through such mechanisms as development restrictions within ESH areas, requiring development setbacks and buffers from ESH areas, and requiring biological surveys, mitigation measures, and restoration of impacted habitat areas.

Section 30107.5 of the Coastal Act defines an environmentally sensitive habitat area as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Proposed Policy NS-4 describes habitat types and the criteria to be used to determine if a habitat constitutes ESH. However, the proposed policy does not accurately reflect the ESH criteria of Section 30107.5 of the Coastal Act, and the habitat types provided in Policy NS-4 do not represent all of the potential habitat types that may be found within the Plan area and which have the potential to meet the definition of ESH pursuant to Section 30107.5. The proposed policy focuses on the rarity aspect of the ESH definition. However, Section 30107.5 specifies that ESH includes plant or animal life or their habitats that are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. Areas with plant or animal life or their habitats may be especially valuable because of their "special nature," such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. Areas may be especially valuable because of their special "role in the ecosystem," such as providing habitat for endangered species, protecting water quality, providing essential corridors linking one sensitive habitat to another, or providing critical ecological linkages such as the provision of pollinators or crucial trophic connections.

Therefore, the Commission finds that **Suggested Modification No. 2** (Exhibit 1) is necessary to modify proposed Policy NS-4 to provide detailed criteria of what plant or animal life or habitats meet the definition of ESH consistent with the Coastal Act and to list known habitat types found within the Plan that may be considered ESH because they are rare and/or especially valuable. Specific biological habitats within the Plan area that are considered environmentally sensitive because they are rare and/or especially valuable because of their special nature or role in an ecosystem include native forests and woodlands, native chaparral and coastal scrub habitats, native grasslands, streams/wetlands, raptor nesting and breeding areas and white-tailed kite foraging areas, Monarch butterfly habitat, special status species habitats, and marine mammal haulouts. Commission Staff Ecologist Dr. Jonna Engel has prepared a Memorandum, attached as Exhibit 7, that outlines the specific habitats and characteristics of the Plan area and those habitats that are or may be, in certain circumstances, considered ESH under the Coastal Act and the County's certified LCP. Specific habitats include tanoak and bishop pine forest, coast live oak woodlands, coastal bluff scrub, southern foredunes and coastal strand, purple needle grass grasslands, vernal pools, and habitat for Gaviota tarplant, Lompoc yerba santa, Refugio manzanita, California red-legged frog, southern California steelhead trout, and tidewater goby.

Additionally, while the definition of ESH in Section 30107.5 includes the provision that ESH are areas "which could be easily disturbed or degraded by human activities and developments," proposed Policy NS-4 does not include this provision, because as Dr. Engel has stated, the habitats within the Gaviota Coast, as in most areas of southern California, are in danger of direct

loss or significant degradation as a result of climate change, urbanization, agriculture, and industry (Exhibit 7).

The County has requested that instead of modifying the proposed policies and development standards that would also apply to the inland portion of the Plan area to be consistent with the Coastal Act and existing LUP policies, new coastal zone versions of the policies and development standards should be added as suggested modifications that would only apply to the coastal zone portion of the Plan area. Therefore, Suggested Modification 2 modifies the proposed Policy NS-4 to apply only to the inland area and adds a coastal version of the policy that is consistent with Section 30107.5 of the Coastal Act.

Policy NS-4, as suggested to be modified and only applicable to the coastal zone, is consistent with the existing ESH protection policies of the County's certified LCP and merely provides clarity for their implementation within the proposed Plan area. All Chapter 3 policies of the Coastal Act, including Section 30240, are incorporated in their entirety in the certified County LUP. Native plant communities, including coastal sage scrub, chaparral, coastal bluff scrub, California native oak and riparian woodlands, individual oak trees, endangered and rare plant species and other plants of special interest, are addressed under LUP Policy 9-36 and IP/CZO Section 35-97 of the existing certified LCP. Policy 9-36 dictates that when sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. The existing LCP policies applied together require siting and design measures to protect native grassland, riparian and oak woodland habitat, individual oak trees, wetlands, and other native plant communities such as coastal sage scrub and chaparral, as well as adoption of all measures necessary to prevent impacts that would significantly degrade these sensitive resources. Further, in past permit actions on appeals in Santa Barbara County[1] the Commission has found that large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, oak woodland, and native grassland, meet the definition of ESH because they are especially valuable due to their special nature or roles in the ecosystem and are easily disturbed by human activity. Further, the suggested modification to Policy NS-4 is consistent with the ESH protection policies that the Commission certified in 2017 for the Eastern Goleta Valley Community Plan area in Santa Barbara County. Given the unique characteristics and value of the Gaviota Coast Plan area that are discussed in Dr. Engel's Memorandum, suggested Policy NS-4 is important to provide clarity regarding what plant or animal life or their habitats meet the definition of ESH consistent with the Coastal Act, and to list known habitat types found within the Plan area that may be considered ESH because they are rare and/or especially valuable.

Suggested Modification No. 2 also adds language to Policy NS-4 to require that the presence and extent of ESH areas shall be identified on a case-by-case basis based upon site-specific evidence provided by a biological report conducted by a qualified biologist. Therefore, only if modified as suggested, Policy NS-4 is consistent with the specific requirements of Coastal Act Sections 30240 and 30107.5.

Proposed Development Standards (Dev Std) NS-3 and NS-4 intend to protect rare plant and sensitive wildlife habitat by requiring biological surveys of areas proposed to be impacted by development. However, the proposed development standards state that the surveys shall be

[1] CDP No. A-4-STB-11-005 (Agua Azul Partnership); CDP No. A-4-STB-07-052 (HR52 Partnership)

conducted only where appropriate and feasible as determined by County staff and in accordance with the County's Environmental Thresholds and Guidelines Manual, which is a document outside of the County's certified Local Coastal Program (LCP) that has not been certified by the Commission. Due to the potential for rare plant and sensitive wildlife habitat to constitute ESHA, and to ensure protection of such habitat consistent with Coastal Act Section 30240 and LUP Policy 2-11, areas of potentially suitable or critical habitat for rare plants and sensitive wildlife should always be surveyed prior to project approval when there is potential for such habitats to be impacted by project activities. Therefore, **Suggested Modification No. 2** adds a coastal version of Dev Std NS-3, which requires sensitive plant surveys if potentially suitable or critical habitat exists in the project area, and a coastal version of Dev Std NS-4, which requires presence/absence surveys for sensitive wildlife species if potentially suitable or critical habitat for such species exists in the project area. Further, the coastal versions of the development standards require the biological surveys to be conducted in accordance with applicable county and resource agency protocols rather than in accordance with the County's Environmental Thresholds and Guidelines Manual, which is not part of the LCP certified by the Commission and therefore not a standard of review.

Proposed Policy NS-2 of the Gaviota Coast Plan states that ESH areas and important or sensitive biological and natural resources shall be protected to the maximum extent feasible. The proposed policy also states that within the coastal zone ESH areas shall be protected against any significant disruption of habitat values. While the proposed policy includes some of the requirements of Coastal Act Section 30240, the policy also states that ESH shall be protected and preserved "to the maximum extent feasible," which is inconsistent with Coastal Act Section 30240 and will create confusion in implementing the correct standard in the coastal zone portion of the Plan area. In addition, proposed Policy NS-7 states that riparian vegetation shall be protected only "to the maximum extent feasible," which would also be inconsistent with Section 30240, as well as existing and proposed policies of the LCP.

Therefore, to protect ESH areas consistent with Section 30240, the Commission finds that **Suggested Modification No. 2** is necessary to modify proposed Policies NS-2 and NS-7 to apply only to the inland area of the Plan area and to add new coastal versions of each policy that adequately carry out the provisions of Section 30240. The suggested modification to coastal Policy NS-2 provides that ESH areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. A resource dependent use is a use that is dependent on the ESH resource to function (e.g., nature study, habitat restoration, and public trails). The suggested policy also clarifies that a non-resource dependent development, including fuel modification and agricultural uses, shall be sited and designed to avoid ESH and ESH buffer areas. If avoidance is infeasible and would preclude a reasonable economic use of a parcel or is a public works project necessary to repair and maintain an existing public road or existing public utility, then the alternative that would result in the fewest or least significant impacts shall be selected and impacts shall be mitigated. Development in areas adjacent to ESH 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. The suggested modification to coastal Policy NS-2 regarding riparian vegetation provides that new development, including fuel modification, shall be sited and designed to protect riparian ESH,

consistent with Policy NS-2 and all other applicable policies and provisions of this Plan and the LCP.

ESH Maps

The County proposes a new Environmentally Sensitive Habitat Overlay map for the Plan area (Figures 2-3 and 2-4 of the Gaviota Coast Plan (Exhibit 4)) to assist in the identification of ESH areas and, if identified, trigger the ESH protection policies and provisions of the Plan and the County's LCP. The proposed ESH Overlay map for the coastal zone is substantially the same as the ESH Overlay map that was originally certified by the Commission pursuant to the certification of the County's Coastal Land Use Plan in 1982. The map only depicts major riparian corridors and offshore habitats as ESH, which is extremely limiting given the variety of habitats that also exist in the Plan area and which constitute ESH. The County recognizes the limitations of this map and has specified in proposed Policy NS-4 the criteria to be used to determine if a habitat area that is not identified on the Overlay map constitutes ESH. The suggested modifications to Policy NS-4 applicable to the coastal zone, discussed above, continue to clarify that the presence and extent of ESH areas shall be identified on a case-by-case basis based upon site-specific evidence provided by a biological report conducted by a qualified biologist. The proposed Plan also includes Action NS-7 which calls for the County to seek funding to map biological habitats within the Plan area using the Manual of California Vegetation or other ecologically accepted mapping criteria. This future effort could provide the information needed to comprehensively update the County's ESH Overlay map for the Plan area. A detailed spatial assessment of native vegetation in the area would serve as a valuable resource and planning tool. Therefore, it is important to specify how the mapping should be conducted in order to end up with a truly useful planning tool. Thus, **Suggested Modification No. 2** to add language to Action NS-7 is necessary to clarify that mapping should be conducted at the alliance or association level. Further, the Manual of California Vegetation is currently the ecologically accepted mapping criteria, and therefore, other mapping criteria should not be used. As such, Suggested Modification 2 clarifies that the second volume or most current version of the Manual of California Vegetation and not another method should be used.

ESH Buffers

The County's existing, certified LUP contains policies that require development to be sited a minimum distance from ESH areas in order to provide a buffer for and to protect the nearby ESH. Policy 9-37 provides for a 100 ft. buffer from major streams and includes criteria to adjust the stream buffer upward or downward on a case-by-case basis. Policy 9-9 provides for a minimum 100 ft. buffer from the edge of wetlands, and Policy 9-23 provides for a 50 ft. buffer from Monarch butterfly trees. Furthermore, Policy 2-11 requires development to avoid adverse impacts to ESH areas through the implementation of mechanisms such as setbacks and buffer zones.

Proposed Dev Std NS-2 specifies that mapped riparian ESH areas on the proposed ESH Overlay map shall have buffers of 100 feet from the edge of either side of the top-of-bank of creeks or the existing edge of riparian vegetation, whichever is further. The proposed development standard also includes the minimum 100 foot buffer for wetlands and 50 foot buffer from the edge of

Monarch butterfly trees. However, Dev Std NS-2 does not require minimum buffers for other designated ESH types or riparian ESH areas that are not mapped on the proposed ESH Overlay map. In past Commission actions on permits and LCPs, the Commission has typically required that ESH buffers be at least 100 feet in width in order to avoid significant disruption to habitat values in the ESH. To clarify the minimum buffer requirement for all other ESH types within the Plan area and to clarify that all riparian ESH areas require a buffer, not just those that are mapped on the County's ESH Overlay map, the Commission finds that **Suggested Modification No. 2** is necessary to modify Dev Std NS-2 to require development to be setback 100 feet from all other ESH areas in addition to wetland and riparian ESH. Suggested Modification 2 also modifies Dev Std NS-2 to clarify that the minimum required buffer may be adjusted upward on a case-by-case basis where necessary in order to prevent significant disruption of habitat values based on site specific evidence, and the minimum required buffer may only be adjusted downward to avoid precluding reasonable economic use of property. All buffers shall be sufficient to protect the biological productivity and water quality of streams, to avoid significant disruption of habitat values, and to be compatible with the continuance of the habitat area. Therefore, as modified, Dev Std NS-2 applicable to the coastal zone is consistent with the requirements of Section 30240 of the Coastal Act and Policies 9-9, 9-23, and 9-37 of the LUP.

Along with Dev Std NS-2, the proposed Plan includes Policy NS-10, which states that habitat buffers "should be flexible and consider the purpose, ecological benefit, and context of the buffer as well as the use of the land next to the buffer." As proposed, this policy is vague and inconsistent with the habitat protection provisions of Section 30240 and the existing habitat protection policies of the LUP, since it implies that the required minimum buffer width could be considered flexible and may not be required in order to protect adjacent ESH. However, past Commission actions have found that in order to adequately protect ESH and significant disruption to habitat values, a 100 ft. habitat buffer is the minimum necessary to ensure that new development can prevent significant disruption of ESH (although it should be noted that in other, less rural, areas of the County minimum buffer widths for some types of ESH are less than 100 feet in recognition of existing patterns of legal parcels and development). Also, modifications are necessary to make the policy less ambiguous about how buffer widths will be determined. Therefore, **Suggested Modification No. 2** is necessary to make proposed Policy NS-10 to apply only to the inland area of the Plan area.

In addition to the suggested modifications to proposed policies and development standards regarding habitat buffer requirements discussed above, **Suggested Modification No. 2** adds new Dev Std NS-6 to the proposed Plan which prohibits any construction or grading within 200 ft. of known or historic butterfly roosts between November 1 and April 1, unless a qualified biologist determines that activities will not adversely impact Monarch butterflies on or near the development site. The Monarch butterfly is considered a state "special-status invertebrate" due to the species' status as imperiled in California. Monarch butterflies are migratory, appearing along the Gaviota Coast in November where they seek shelter in groves of trees that provide a suitable microclimate for the butterflies to roost throughout the winter. Although existing LUP Policy 9-23 and proposed Dev Std NS-2 provides for development to be sited a minimum of 50 feet from Monarch butterfly trees, grading and construction activities near trees serving as butterfly roosts between November and April can be particularly disruptive to the species. For this reason, the County recently proposed to regulate development activities on sites within 200 feet of known or

historic Monarch butterfly roosts in the Eastern Goleta Valley Plan area. Similarly, requiring construction and grading activities to maintain a distance of 200 feet from known butterfly roosts during November through April on the Gaviota Coast would protect the butterfly's habitat from significant disruption of habitat values and serve to prevent impacts which would significantly degrade those areas as required by Section 30240 of the Coastal Act and LUP Policy 2-11. Therefore, the Commission finds that Dev Std NS-6 of Suggested Modification 2 is necessary to ensure consistency with the habitat protection requirements of Coastal Act Section 30240 and LUP Policy 2-11, as well as the more resource-specific protection requirements of existing LUP Policies of 9-22 and 9-23.

Reasonable Use

The Gaviota Coast Plan proposes Policy LU-2, which states that the policies and development standards of the Gaviota Coast Plan must be implemented in a manner that does not take private property for the public use without just compensation as required by applicable law. This is consistent with Section 30010 of the Coastal Act, which provides legislative declaration for taking of private property as follows:

> *The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

Dev Std NS-2 contains specific takings language such as "except where setbacks and buffers would preclude reasonable use of the parcel" that would override the environmentally sensitive habitat (ESH) buffer requirement of the development standard. This language creates a very broad exception to the ESH buffer requirements, which is unwarranted and extremely vague. Such an exception could be misapplied to generally allow development that is inconsistent with the policies of the Coastal Act whenever the County found that to deny the development would preclude reasonable development—an undefined term. Therefore, **Suggested Modifications Nos. 8** and **13** (Exhibits 2 and 3) to add Policy LU-2 to the Plan, and Section 35-480 to the IP/CZO in order to implement new Policy LU-2, are necessary to ensure that the only appropriate exception to the sensitive resources protection policies and standards is that which is necessary to avoid an unconstitutional taking of private property.

To address circumstances where there are known conflicts with ESH policies and where exceptions may be necessary to avoid an unconstitutional taking of private property, Suggested Modifications 8 and 13 create a process to allow applicants to demonstrate that an exception to an ESH policy or standard is necessary to avoid a taking. The Coastal Commission recently certified this same process in 2017 through a suggested modification to the Eastern Goleta Valley Community Plan and also previously certified this process in 2004 through suggested modifications to the Toro Canyon Plan for the respective planning areas within Santa Barbara County. This process provides specificity regarding what information must be considered to

determine whether application of the ESH policy or standard would be a taking, and if there would be a taking, to determine the extent of development that must be allowed to avoid a taking. Specifically, Policy LU-2 and Section 35-480 require applicants invoking a takings exception to an applicable policy or provision of the Plan to apply for an economic viability determination for consideration during the coastal development permit application process. The provisions acknowledge that some uses of property may be disallowed pursuant to background principles of property law, such as nuisance law; in such cases, disallowing the proposed use is not a "taking" that has to be avoided because such uses are not allowed in the first place. If Suggested Modifications Nos. 8 and 13 are applied to the Plan to address this broad exception to the resource protection policies and provisions proposed by the County, the extent of this proposed exception will be clarified and the policies and provisions containing this exception will be consistent with the requirements of Section 30010 of the Coastal Act and the numerous sensitive resource protection policies and provisions of the Coastal Act and the LUP. The suggested addition of Policy LU-2 is necessary to meet the requirements of and conform with Coastal Act resource protection policies including Section 30240, as well as to conform with Section 30010. The suggested addition of Section 35-480 is necessary to conform with and carry out Policy LU-2.

Other ESH Protection Policies

Proposed Dev Std NS-1 intends to protect wildlife corridors through evaluation of development proposals and mitigation for significant effects on wildlife movement caused by fencing, roads, lighting and siting of the development. However, when a wildlife corridor constitutes ESH, development must avoid the corridor in order to be consistent with Section 30240 and LUP Policy 2-11. Since Dev Std NS-1 does not require avoidance of wildlife corridors, the standard, as proposed, is inconsistent with Section 30240. Therefore, **Suggested Modification No. 2** modifies Dev Std NS-1 to apply to the inland portion of the Plan area only and creates a coastal version of the development standard to require development, including fences, gates, roads, and lighting, to avoid the corridor, or if that is not feasible and would preclude reasonable use of a parcel, to be sited and designed to not restrict wildlife movement. The coastal version of Dev Std NS-1 also requires approved fences and gates to be wildlife-permeable, but provides for instances when a wildlife-permeable fence or gate would be undesirable, for example, if it is associated with an approved agricultural use, is located within an approved development area, or where temporary fencing is required to keep wildlife away from habitat restoration areas.

The County proposes Policy NS-11 to provide requirements for restoration in cases where adverse impacts to biological resources as a result of new development cannot be avoided. As proposed, Policy NS-11 does not provide mitigation ratios for adverse impacts to biological resources or specify that permanent protection of the restoration areas is required. Therefore, **Suggested Modification No. 2** is necessary to clarify that onsite or offsite restoration is required to properly mitigate for adverse impacts to sensitive habitat areas to ensure that mitigation directly addresses adverse impacts of new development. Suggested Modification 2 is also needed to provide the minimum replacement ratio of 3:1 for impacts to native habitat areas and a 4:1 ratio for impacts to wetlands. A minimum replacement ratio of 3:1 for native habitat areas and 4:1 for wetlands is consistent with past Commission actions taken to certify habitat impact mitigation ratios for other planning areas in Santa Barbara County and the south coast region.

Due to interim losses in habitat acreage and functional capacity, and because the success and resulting value of compensatory mitigation projects are uncertain, these mitigation ratios are necessary to compensate for the habitats lost through development. Additionally, Suggested Modification 2 is needed to clarify that offsite restoration and open space conservation, not merely the obtainment of an offsite easement, should be performed when onsite restoration is infeasible. Collectively, the changes recommended in Suggested Modification No. 2 ensure that Policy NS-11's required minimization and mitigation measures directly address any adverse impacts of development on sensitive biological resources. As modified, Policy NS-11 is consistent with the requirements of Coastal Act Section 30240 and LUP Policy 2-11 to ensure that unavoidable adverse impacts to ESH that are permitted will be fully mitigated.

In addition to the proposed policies in the Plan that are directly intended to protect ESH, several other policies and development standards include language that relates to ESH protection as well. Proposed Policy LU-4 in the Plan's Land Use Chapter is proposed to regulate non-agricultural development to reduce impacts to coastal resources including ESH. However, simply reducing impacts to ESH is inconsistent with Section 30240 and existing Policy 2-11, which require development to avoid impacts to ESH. Additionally, Policy LU-4 proposes measures to reduce impacts to resources through siting and design recommendations. These measures include the consideration of the color, reflectivity, and height of structures, the length of roads and driveways, the number and size of accessory structures, clustering development, the amount and location of grading, vegetation removal, and night lighting. However, the proposed measures to reduce impacts should be applied to all development, not just non-agricultural development, in order to avoid impacts. Therefore, **Suggested Modification No. 8** is required to modify Policy LU-4 to only apply to the inland portion of the Plan area, thereby eliminating the inconsistency this policy creates with the Coastal Act and existing habitat protection policies of the LUP.

Additionally, proposed Policy LU-10 requires all development, not just non-agricultural development, to be sited to avoid ESH and visually prominent areas to the maximum extent feasible and minimize infrastructure requirements and/or redundancy and fragmentation of the landscape to the maximum extent feasible. Similar to Policy LU-4, Policy LU-10, as proposed, is inconsistent with Section 30240 and existing Policy 2-11, because it only requires development to avoid ESH "to the maximum extent feasible." To ensure that development is sited to avoid ESH, and thereby ensure that the Plan is consistent with the existing ESH protection policies of the LUP and Coastal Act Section 30240, **Suggested Modification No. 8** is required to modify Policy LU-10 to apply to the inland area only, and create a coastal version of Policy LU-10 that states that development shall be scaled, sited, and designed to avoid ESH consistent with Policy NS-2 (as suggested to be modified for the coastal zone). Additionally, **Suggested Modification No. 8** includes the proposed measures in Policy LU-4 in order to design the proposed development to avoid and minimize impacts to ESH and other coastal resources.

Another policy that regulates development that could have the potential to impact ESH is proposed Policy AG-3.A which would allow vegetation management techniques, such as prescribed burning, within the inland area of the Plan area. Although the policy states that such activities would be allowed in the inland area, the policy is not specified as either an "inland" or "coastal" policy, which indicates that the policy would apply to both the inland and coastal portions of the Plan area. Since vegetation management activities have the potential to impact

ESH, and Section 30420 only allows uses dependent on ESH within those areas and requires ESH areas to be protected against any significant disruption of habitat values, the policy as proposed is inconsistent with the Coastal Act. Therefore, in order to be consistent with the rest of the plan and ensure that the Plan is consistent with Section 30240, **Suggested Modification No. 3** adds the term "inland" before the text of Policy AG-3.A to specify that the policy does not apply to land within the coastal zone.

Further, several policies, development standards, and actions in the Plan's Transportation, Energy, and Infrastructure chapter discuss impacts to ESH. Policy TEI-1 would regulate improvements to U.S. Highway 101 (the main transportation corridor through the Plan area) to ensure that the improvements are consistent with the rural character of the Plan area and are only limited to improvements that are necessary for the continued use of the highway. However, this policy states that improvements to Highway 101 shall avoid ESH to the extent feasible. Providing that development avoid ESH "to the extent feasible" is not consistent with the requirements of Section 30240 that only allow uses dependent on ESH within those areas. Therefore, **Suggested Modification No. 12** is necessary to strike the provision requiring Highway 101 improvements to avoid ESH "to the extent feasible." Thus, Suggested Modification 12 applies the "inland" designation to proposed Policy TEI-1 and creates a coastal version of Policy TEI-1 that does not include requirements pertaining to ESH, as such requirements are already provided for in the proposed ESH protection policies of the Plan (Policies NS-2 and NS-4).

Similar to Policy TEI-1, proposed Policy TEI-8 regulates improvements to Jalama Road, which is a two-lane county road on the western side of the Plan area that connects Highway 1 to Jalama Beach County Park. Policy TEI-8 is proposed to replace existing LUP Policy 7-21 and requires all improvements to Jalama Road to "minimize adverse impacts on Jalama Creek" and "shall result in a minimum removal of any riparian vegetation along the creek." In order to provide protection of ESH areas consistent with the requirements of Coastal Act Section 30240, **Suggested Modification No. 12** is necessary to clarify and make the distinction between roadway widening, which must be sited, designed and constructed to avoid ESH, and maintenance and repair of the existing roadway, which shall avoid ESH to the maximum extent feasible (in recognition of the need to allow repairs so the existing road can continue to provide safe access for the public to the coast). If modified as suggested, Policy TEI-8 is consistent with the requirements of Coastal Act Section 30240 to protect ESH from the adverse impacts of development.

Suggested Modification No. 12 is also required to designate one other policy, one development standard, and one action in the Transportation, Energy and Infrastructure chapter of the Plan as inland only. Policy TEI-16 is intended to provide direction for the operations at the Tajiguas Landfill and states that any changes to operations at the landfill "should strive to reduce environmental impacts to the Gaviota Coast Plan Area." This statement is in opposition to Coastal Act Section 30240, which clearly states that 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. Proposed Dev Std TEI-7 requires onsite wastewater treatment system locations to be sited a minimum of 100 feet from the edge of either side of top-of-bank or existing edge of riparian vegetation, but provides that modification to

existing and new sources of potential water pollution meet the buffer to the maximum extent feasible. Additionally, the development standard allows the 100 ft. setback standard to be supplanted by Environmental Health Services Standards, which are outside of the LCP and thus not certified by the Commission. These broad exceptions are inconsistent with Coastal Act Sections 30230 and 30231 that protect the biological productivity and quality of coastal waters, streams, and wetlands and Section 30240 which protects ESH, as well as existing LUP Policy 2-11, which requires development adjacent to ESH to avoid adverse impacts, and existing LUP Policy 9-37, which requires a minimum buffer of 100 feet from major streams in rural areas. Finally, proposed Action TEI-5 prompts the County's Planning & Development department to consider a set of methods to reduce impacts associated with new roads and driveways serving residential development. This action, however, is written like a development standard and includes methods that are inconsistent with the proposed ESH protection policies and development standards of the Plan as well as existing LUP policies. Since changes to operations at the Tajiguas Landfill would only occur in the inland area, and water quality is addressed by existing policies in the LUP, and ESH buffers and siting and design of development in and near ESH are addressed in the Natural Resources chapter of the proposed Plan, **Suggested Modification No. 12** simply designates these items as applying to the inland portion of the Plan area only.

Policy TEI-10 of the proposed Plan is intended to regulate the siting, design, and scale of renewable energy production facilities and their impacts on visual, natural, and agricultural resources, as well as the health, safety, and welfare of the public on the Gaviota Coast. The proposed policy, however, requires avoidance of impacts only "where possible, and minimize where avoidance is not possible." The approval of such development would be inconsistent with Section 30240 of the Coastal Act and existing policy 2-11 in addition to visual and agricultural Coastal Act and existing LUP policies. Therefore, **Suggested Modification No. 12** is necessary to modify Policy TEI-10 to require renewable energy production facilities to avoid significant impacts on public health, safety, welfare, and the coastal resources in the Plan area.

Native Trees

The proposed Plan does not address the protection of individual native trees that may not be part of a larger woodland, savannah, or other habitat area that is an ESH area. However, native trees (including, but not limited to, oak, walnut, sycamore, and bay trees) are an important coastal resource, including where they are part of a larger woodland, savannah, or other habitat area that is an ESH, when they serve as raptor nesting/roosting sites or Monarch butterfly habitat, as well as individual specimens outside ESH. Native trees also prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, and provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife. The existing, certified LUP recognizes the importance of individual oak trees through Policy 9-35, which requires that oak trees be protected. Policy 9-36 requires that all development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees, including oak trees. However, other individual native trees serve important functions within the landscape as well and are considered to be an important part of the coastal resources of the area.

Therefore, the Commission finds it necessary to add Policy NS-12 for the coastal zone portion of the Plan area (**Suggested Modification No. 2**), which requires that individual mature native or roosting/nesting trees be protected from damage or removal to the maximum extent feasible, except in cases where preservation of trees would preclude reasonable use of a parcel, or threaten life and/or property. Where the removal of protected trees cannot be avoided through the implementation of project alternatives, or where development encroachments into the protected zone of protected trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every one tree removed. Where on-site mitigation is not feasible, the most proximal off-site mitigation shall be required. Replacement trees, particularly oak trees, are most successfully established when the trees are seedlings or acorns. Many factors, over the life of the restoration, can result in the death of the replacement trees. In order to ensure that adequate replacement is eventually reached, it is necessary to provide a replacement ratio of at least ten replacement trees for every tree removal or significant encroachment to account for the mortality of some of the replacement trees and the temporal loss of habitat during the time the new seedlings are maturing.

Channelization

The County proposes Policy NS-9 as a general policy to require the maintenance of undisturbed natural stream channels and conditions to the maximum extent feasible in order to protect stream banks from erosion, enhance wildlife corridors, and provide natural greenbelts, with the exception of local, state, or federal resource agency permitted activities. However, Policy NS-9 requires undisturbed natural streams to only be maintained to the maximum extent feasible, which is inconsistent with Coastal Act Section 30236 which prohibits channelizations or other substantial alterations of streams, except for necessary water supply projects, flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or developments where the primary function is the improvement of fish and wildlife habitat. Therefore, **Suggested Modification No. 2** is necessary to designate proposed Policy NS-9 as an inland policy and create a coastal version of Policy NS-9 to limit the allowed uses in streams in the coastal zone of the Plan area to the three uses allowed by Section 30236. Additionally, the Commission finds that it is necessary to require development to minimize impacts as a result of a permitted use and mitigate for unavoidable impacts. Further, Suggested Modification 2 requires the preference of bioengineering alternatives to "hard" solutions, such as concrete or riprap, for approved development within stream channels.

Wetlands

The existing certified LCP contains several policies and regulations regarding the protection of wetlands and coastal waters. Policy 9-9 requires a 100 ft. minimum development buffer from wetlands and prohibits permanent structures to be permitted within wetlands or wetland buffers. Policy 9-10 regulates light recreation, such as bird watching, nature study, and scientific or educational uses within wetlands, and Policy 9-8 prohibits boating in wetland areas. Policy 9-11 prohibits wastewater discharge into wetlands without a permit from the California Regional

Water Quality Control Board. Policy 9-13 prohibits unauthorized vehicle traffic and regulates pedestrian traffic within wetlands, and Policy 9-14 requires new development adjacent to or in close proximity to wetlands to be compatible with the continuance of the habitat area and not reduce the biological productivity or water quality of the wetland due to runoff, noise, thermal pollution, or other disturbances. Policies 9-6 and 9-7 regulate dredging and filling activities. Policy 9-16 prohibits grazing or other agricultural activities from occurring within wetlands.

The proposed Plan does not include new policies to regulate development in and adjacent to wetlands, due to the policies in the existing, certified LUP that adequately regulate such development. The proposed Plan does include Policy NS-5, which directs the County to seek opportunities and create incentives for restoration of degraded wetlands. As proposed, Policy NS-5 is consistent with Sections 30230 and 30231 of the Coastal Act, which require marine resources, wetlands and other coastal waters to be restored where feasible.

The County is also proposing Dev Std NS-5 to require a formal wetlands and riparian habitat delineation of a site proposed for development if riparian habitat or wetlands are identified and have the potential to be adversely impacted by the proposed development. The proposed development standard provides criteria for the methods to be used in preparing riparian habitat and wetlands delineations as well as mitigation criteria for unavoidable impacts to wetlands and waters. However, the proposed policy states that mitigation ratios for impacts to wetlands and riparian habitat area are "typically around 2:1 or 3:1, but can be as high as 8:1 for especially rare or valuable wetland types, such as vernal pools." As proposed, the policy is inconsistent with the amount of mitigation necessary to fully address wetland impacts; as demonstrated in past Commission actions on permits and LCPs, and as more fully explained in the Commission's LCP Update Guide, a minimum mitigation ratio of 4:1 for impacts to wetlands and coastal waters is needed to fully address wetland impacts.[2] Therefore, **Suggested Modification No. 2** is necessary to modify Dev Std NS-5 to require a minimum mitigation ratio of 4:1 for impacts to wetlands in order to protect the biological resources, marine resources, and ESH areas of the coastal zone on the Gaviota Coast. Additionally, **Suggested Modification No. 2** is necessary to clarify that one parameter wetlands shall also be included in a wetlands delineation. Thus, if modified as suggested, proposed Dev Std NS-5 is consistent with Sections 30230, 30231, and 30233 to protect coastal wetlands.

Groundwater

Section 30231 requires that the biological productivity and quality of coastal waters, streams, wetlands, estuaries and lakes be maintained through preventing depletion of groundwater supplies and substantial interference with surface waterflow, among other measures. The County's certified LUP contains numerous policies for the protection of water resources. LUP Policies 2-2 and 3-19 require the protection of the long-term integrity and quality of groundwater basins within the County by requiring a determination of the safe yield for groundwater basins within the County and prohibiting the extraction of groundwater from exceeding the determined safe yield of the groundwater basin.

[2] See Coastal Commission LCP Update Guide, Section 4, available at https://documents.coastal.ca.gov/assets/lcp/LUPUpdate/LUPGuidePartI_4_ESHA_July2013.pdf, p. 10 (this document also supports the suggested modification related to mitigation for impacts to protected trees).

The proposed Plan includes several additional policies, actions, and development standards to broadly provide for the conservation of water and protect the County's water supply, including the quality of surface water and groundwater basins. Proposed Policy TEI-17 prohibits annexation to a water or sanitary district unless it would prevent adverse impacts to ESH or to protect public health. The intent of this policy is to protect the integrity of the County's water supply and is consistent with existing LUP Policy 2-10. However, the proposed Plan does not prohibit the private extraction of groundwater where the project site is already serviced by a public water district or existing mutual water company. In order to protect the County's water supply and prevent groundwater overdraft in the Plan area, the Commission finds that suggested Policy TEI-18 (**Suggested Modification No. 12**) is necessary to clarify that the County must protect the quality and quantity of groundwater resources by specifically prohibiting non-agricultural groundwater wells in areas that are already serviced by a public water district or an existing mutual water company. If a non-agricultural use, such as a residence, is not already serviced by a public water district or existing mutual company, then suggested Policy TEI-18 would not apply. Therefore, if modified as suggested, the proposed Plan is consistent with the requirements of Coastal Act Section 30231 to protect and maintain water resources and the requirements of LUP Policies 2-2 and 3-19 to protect the long-term quality and integrity of groundwater basins within the County.

Wastewater and Solid Waste

The County proposes Policies TEI-13 and TEI-14 and Dev Stds TEI-2 and TEI-6 to require measures for wastewater infrastructure and the treatment of wastewater to avoid any adverse impacts to local watersheds and their associated ecosystems and local groundwater basins. Action TEI-11 directs the County to provide incentives to encourage landowners with older or failing septic systems to upgrade to newer technology, and Dev Stds TEI-8 prohibits development where onsite wastewater treatment systems would cause pollution to creeks. As proposed, these policies and development standards are consistent with the requirements of Coastal Act Sections 30230 and 30231 to protect the quality and biological productivity of coastal waters (e.g., groundwater basins, streams, and creeks) from any adverse impacts of wastewater pollution.

Cultural Resources

Coastal Act Section 30244 requires new development to implement reasonable mitigation measures to address any adverse impacts of the development on archaeological or paleontological resources. LUP Policy 10-1 requires the County to take all available measures to avoid development on sites known to contain significant historic, prehistoric, archaeological, and cultural resources. LUP Policy 10-2 requires new development to utilize project design to avoid impacts to such cultural resources, and LUP Policy 10-3 requires mitigation for adverse impacts to cultural resources if avoidance is infeasible. LUP Policies 10-4 and 10-5 further protect cultural resources by prohibiting the use of off-road vehicles on sites containing cultural resources and the unauthorized collecting of artifacts, and providing consultation requirements with Native Americans to achieve a coordinated response to any adverse impacts to cultural resources from new development.

The County proposes several additional policies, actions, and development standards specific to the Plan area to preserve and protect archaeological and tribal cultural resources and historic structures. These measures include requiring consultation with tribes identified by the Native American Heritage Commission during development planning, the preparation of archaeological and historic resources studies and surveys, and the provision of mitigation measures where adverse impacts to these resources cannot be avoided. The proposed Plan provides that these cultural resources include historic buildings, structures, and places, archaeological sites, rural historic landscapes, tribal cultural resources, and traditional cultural properties. The County proposes Policies CS-1, CS-2, Actions CS-2 and CS-5, and Dev Std CS-5 to require the protection and preservation of cultural and historic resources in the Plan area. Proposed Action CS-1 and Dev Stds CS-1, CS-2, and CS-6 require identification of historic and cultural resources through surveys and actions, and proposed Actions CS-4 and CS-6 and Dev Stds CS-3 and CS-4 require the coordination between the County, Native American tribes, and the community to ensure that cultural resources are properly identified and potential impacts to such resources are avoided or mitigated, as well as ensure tribal access to cultural resources. Further, Policy CS-3 and Action CS-3 encourage the County and the Gaviota Coast community to potentially pursue development of a community cultural center and encourage measures to educate residents and visitors about the Plan area's cultural resources. As proposed, these provisions are consistent with the cultural resource protection requirements of Coastal Act Section 30244 and LUP Policies 10-1, 10-2, 10-3, 10-4, and 10-5.

For all of the reasons stated above, the Commission finds that the proposed Land Use Plan amendment, as suggested to be modified, is consistent with the applicable environmentally sensitive habitat, water resource, and cultural resource protection policies of Chapter 3 of the Coastal Act.

5. IP/CZO Amendment Consistency Analysis

The IP/CZO amendment proposes a new Gaviota Coast Overlay district for the Plan area, which includes a table of allowable land uses, a specific list of uses allowed within each zone designation, and the permit requirements for each use. Further, the proposed overlay district includes standards for agricultural structural development that does not require a Development Plan, standards for all development and land uses in the Plan area, standards for specific land uses allowed in all zones as well as the uses only allowed in the Agriculture – II zone.

The proposed standards for agricultural structural development that does not require a Development Plan include requiring development to be a minimum of 100 feet from ESH. This standard also includes criteria used to determine if habitat constitutes ESH. The proposed language is similar to proposed Plan Policy NS-4. Additionally, the proposed standard does not include criteria for upward adjustment of the development buffer as provided for in Dev Std NS-2. Furthermore, the proposed standards do not include a requirement to avoid ESH. The section of the proposed overlay district that includes standards for all development and land uses in the Plan area does not include standards to avoid ESH or require a minimum setback from ESH. Therefore, **Suggested Modification No. 13** is necessary to include standards to adjust the 100 ft. buffer upward on a case-by case basis given site specific evidence provided by a biological report prepared by a qualified biologist and require development to avoid ESH unless avoidance

is infeasible and would preclude reasonable use of a parcel. If modified as suggested, these standards would adequately comport with Plan Policies NS-2 and NS-4 and Dev Std NS-2, as suggested to be modified for application in the coastal zone.

The proposed standards for specific land uses in the Agriculture – II zone require certain findings to be made before a use or operation can be approved. Such findings include the requirement that a use or operation will not significantly compromise the natural resources of the subject lot(s) or adjacent lot(s). However, this finding is only required for uses and operations that may be allowed in compliance with a Coastal Development Permit (CDP), while a similar finding is not required for the same use or operation that may be allowed in compliance with a Major Conditional Use Permit (which would be required in addition to a CDP). Additionally, it is not clear what is meant by "significantly compromise." Therefore, due to the inconsistency in the permit requirements for the same operation and to clarify that an operation will not have a significant adverse impact on natural resources, the Commission finds it necessary to require modification to these findings (Suggested Modification 13) wherever they are written in the IP/CZO amendment.

The proposed overlay district also includes a section titled "Allowable Development and Planning Permit Requirements." This section states that land uses allowed within the overlay district require a planning permit, and uses not shown on proposed Table 18-2 (Allowed Land Uses and Permit Requirements for Gaviota Coast Plan Area) are generally not allowed with a few exceptions. However, except for trails, resource dependent uses, which are uses that are dependent on environmentally sensitive habitat in order to function, are not listed in Table 18-2 or in the text of the proposed IP/CZO amendment. Such uses include, but are not limited to, nature study, habitat restoration, and public access. To clarify that resource dependent uses are allowed in each zone district, **Suggested Modification No. 13** is necessary to revise the Allowable Development and Planning Permit Requirements section.

The Allowable Development and Planning Permit Requirements section also describes the type of permit and permit requirements for the uses allowed within the Gaviota Coast Plan Overlay District. As previously discussed, the proposed ESH Overlay map for the coastal zone portion of the Gaviota Coast Plan only identifies limited habitat types because a comprehensive update of the mapping of ESH in the Plan area has not been conducted. Additionally, it is impossible to identify and capture all ESH in an ESH Overlay map due to both the dynamic nature of biological and ecological resources and the small scale of certain resources (e.g., vernal pools). Such maps can only represent a snapshot in time within a very dynamic natural environment when the composition, cover, and visual dominance of vegetation stands change with seasons and succession. Therefore, in order to protect ESH areas not shown on the ESH Overlay map, it is important to conduct site-specific biological studies prior to approval of a Coastal Development Permit (CDP) for proposed development. Further, it is necessary to require the biological report to contain specific elements in order to ensure that ESH is properly identified during field surveys. Therefore, **Suggested Modification No. 13** modifies the application requirements in proposed Section 35-430 (Allowable Development and Planning Permit Requirements) to include the requirement to conduct a site-specific biological study and to require that specific elements be included in each study.

Several development standards within the proposed IP/CZO amendment discuss lighting adjacent to habitat areas. However, these standards state that lighting shall be directed away from habitat areas "to the extent feasible." Since lighting is not a resource dependent use and has the potential to result in significant disruption of habitat values near ESH areas, the proposed provision is inconsistent with Section 30240 and LUP Policy 2-11. Suggested Modification 13 clarifies these standards to state that lighting must be directed away from habitat areas consistent with the habitat protection policies of the LCP. If modified as suggested, the proposed lighting standards are consistent with Coastal Act and the certified LUP requirements.

6. Conclusion

For all of the reasons stated above, the Commission finds that (1) the Land Use Plan amendment, only as suggested to be modified, meets the requirements of, and is in conformity with the land, marine, and cultural resource protection policies of Chapter 3 of the Coastal Act; and (2) the IP/CZO amendment, only as suggested to be modified, conforms with and is adequate to carry out the land, marine, and cultural resource protection policies of the certified Land Use Plan, as amended.

D. AGRICULTURE

1. Coastal Act Policies

Section 30113 defines "prime agricultural land" as:

> *...those lands defined in paragraph (1), (2), (3), or (4) of subdivision (c) of Section 51201 of the Government Code.*

Section 51201(c) states, in relevant part:

> *"Prime agricultural land" means any of the following:*
>
> *All land that qualifies for rating as class I or class II in the Natural Resources Conservation Service land use capability classifications.*
>
> *Land which qualifies for rating 80 through 100 in the Storie Index Rating.*
>
> *Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.*
>
> *Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.*

Section 30241 states:

> *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*
>
> *(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
>
> *(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
>
> *(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
>
> *(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
>
> *(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*
>
> (f) *By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Section 30241.5 states:

> *(a) If the viability of existing agricultural uses is an issue pursuant to subdivision (b) of Section 30241 as to any local coastal program or amendment to any certified local coastal program submitted for review and approval under this division, the determination of "viability" shall include, but not be limited to, consideration of an economic feasibility evaluation containing at least both of the following elements:*
>
> *(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*
>
> *(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.*
>
> *For the purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses*

for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242 states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250 such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

2. Existing LUP Policies

Policy 8-1 states, in relevant part:

An agricultural land use designation shall be given to any parcel in rural areas that meets one or more of the following criteria:
a. Prime agricultural soils (Capability Classes I and II as determined by the U.S. Soil Conservation Service).
b. Other prime agricultural lands as defined in Section 51201 of the Public Resources Code (Appendix A).
c. Lands in existing agricultural use.
d. Lands with agricultural potential (e.g., soil, topography, and location that will support long term agricultural use)…

Policy 8-2 states:

If a parcel is designated for agricultural use and is located in a rural area not contiguous with the urban/rural boundary, conversion to non-agricultural use shall not be permitted unless such conversion of the entire parcel would allow for another priority use under the Coastal Act, e.g., coastal dependent industry, recreation and access, or protection of an environmentally sensitive habitat. Such conversion shall not be in conflict with contiguous agricultural operations in the area, and shall be consistent with Section 30241 and 30242 of the Coastal Act.

Policy 8-4 states:

As a requirement for approval of any proposed land division of agricultural land designated as Agriculture I or II in the land use plan, the County shall make a finding

that the long-term agricultural productivity of the property will not be diminished by the proposed division.

Policy 8-8 states, in relevant part:

The existing and future viability of large, non-prime agricultural operations of 10,000 acres or more for which the County of Santa Barbara has not approved land divisions in the Gaviota Coast and North Coast Planning Areas shall be protected. In order to preserve non-prime agricultural operations and avoid subdivision of large ranches down to the minimum parcel sizes specified in the land use plan, residential development at a density greater than that allowed under the specified minimum parcel size may be permitted only if clustered on no more than two percent of the gross acreage with the remaining acreage to be left in agricultural production and/or open space. The maximum density allowable under a clustered residential development shall be calculated at the rate of one dwelling unit per two acres for each acre included in the two percent area. Residential development to exceed one dwelling unit (du) per two acres in the two percent area up to a maximum of one du per acre may be permitted, provided that the County can make the finding that there is no potential for significant adverse environmental effects with respect to the findings listed below. An additional one percent of the gross area shall be dedicated for public recreation and reserved for commercial visitor-serving uses. Such developments may be considered subject to the following findings which shall be based on data contained in an Environmental Impact Report on each project…

Policy 8-10 states:

Legal parcels of non-prime agricultural land in excess of 2,000 acres which are designed as AG-II-320 may be subdivided into parcels of 320 acres or more provided that the owner grants an agricultural easement or development rights to further subdivide the parcel or to use said parcel for all other non-agricultural purposes to the County and a third party such as the Coastal Conservancy in order to assure that the newly created parcels will not be further subdivided or converted to non-agricultural uses. Conversion of a portion of a parcel to allow for a priority use (i.e., coastal dependent industry, commercial visitor-serving uses, or public recreation) may be allowed if necessary to maintain continued agricultural use on the balance of the parcel.

3. Agriculture within the Plan area

The Gaviota Coast contains agricultural and rural land uses that are an important part of the local cultural history and which contribute to the County's largest industry. Agriculture is the dominant land use in the Plan area where approximately 77% of the land is zoned for agriculture. The Gaviota Coast Plan area is located entirely within the designated rural area. The urban-rural boundary is located at the City of Goleta boundary to the east of the Plan area. Soils throughout the coastal zone portion of the Plan area are generally non-prime, although some Class II soils and isolated pockets of Class I soils are found in the coastal canyons. The primary agricultural use in the Plan area is grazing, although citrus, avocado, and cherimoya orchards can be found in

the canyons and coastal terraces from the eastern boundary of the Plan area to El Capitan State Beach. Flowers are also grown in the eastern Gaviota Coast area, and an abalone aquaculture operation is located offshore near Dos Pueblos Creek.

Santa Barbara County administers its Agricultural Preserve Program under the California Land Conservation Act of 1965, better known as the Williamson Act. The purpose of the Williamson Act is the long-term conservation of agricultural and open space lands. The Williamson Act establishes a voluntary program to enroll land in Williamson Act contracts whereby the land is restricted to agricultural, open space, or recreational uses in exchange for substantially reduced property tax assessments. In the application of the Williamson Act, the key standard is also agricultural productivity. Landowners must demonstrate continuous agricultural production to retain their agricultural contract eligibility. The available supportive or compatible uses on contracted land are narrowly defined by the Williamson Act. Approximately 76% of the privately-held land within the Gaviota Coast (coastal zone and inland area combined) is under Williamson Act contract.

According to the proposed Plan, "The key policy approach for agriculture in Santa Barbara County is the preservation of productive land for agriculture…" All of the agricultural land within the Plan area has a zoning designation of "Agriculture II (AG-II)," the purpose and intent of which is to preserve lands for long-term agriculture. With the proposed Plan, the County's approach is to maintain agricultural viability and economic productivity, while also allowing for "increased flexibility and/or appropriate incentives [to] allow the agriculturalist to respond to changing market forces, improve land management techniques and broaden allowed uses to enhance income on agricultural lands assuming agricultural viability is not impaired." The Plan proposes goals, policies, actions, and development standards to carry out this approach.

4. LUP Amendment Consistency Analysis

In recognition of the importance of agriculture in coastal areas such as the Gaviota Coast, Coastal Act policies require protection of agriculture in the coastal zone as both a coastal resource and a priority land use. Specifically, Coastal Act Sections 30113 and 51201(c) define prime agricultural land, and Coastal Act Section 30241 requires preservation of the maximum amount of prime agricultural land. Coastal Act Section 30242 requires the preservation of lands suitable for agricultural use, the long-term productivity of soils, and limits the conversion of agricultural lands to non-agricultural uses. Coastal Act Section 30241.5 provides the parameters for economic feasibility evaluations to determine agricultural viability when a local government is proposing the conversion of existing agricultural lands to another non-agricultural use.

The County's certified LUP also contains policies that protect existing agricultural land uses within the Plan area. Policies 8-1 and 8-2 provide for the designation of agricultural lands and limit the conversion of agricultural land uses to non-agricultural land uses. Policy 8-4 prohibits any land division of agricultural land that would diminish the long-term agricultural productivity of the property. Policies 8-4, 8-8, and 8-10 address land divisions in agricultural areas.

Chapter 3 of the Gaviota Coast Plan contains policies and provisions that would apply to the agricultural land uses within the Plan area in addition to the existing policies of the certified

LUP. Proposed Policy Goal AG-1.A directs the County to protect and enhance the vitality of agricultural operations and resources in the Plan area. This goal also broadly directs the County to support "expansion and intensification" of agricultural operations, while "taking into account environmental impacts" and "where conditions allow." However, it is unclear what is meant by "where conditions allow" or "taking into account environmental impacts." Therefore, **Suggested Modification No. 3** is necessary to modify Policy Goal AG-1.A to clarify that expansion and intensification of agricultural operations, which by Coastal Act definition is considered development, shall be supported only where otherwise consistent with the LCP.

Proposed Policy AG-1.B and Development Standard (Dev Std) AG-1 are proposed to protect the long-term agricultural production and resources on the Gaviota Coast. Policy AG-1.B requires the County to protect agricultural land, continued agricultural uses and the agricultural economy by sustaining agricultural production and discouraging conversions or other uses that are incompatible with long-term agricultural production but only "to the extent feasible." Similarly, proposed Dev Std AG-1 requires non-agricultural structural development and associated hardscape to be "minimized on prime soils to the maximum extent feasible." These provisions are inconsistent with Section 30241, which states that the maximum amount of prime agricultural land shall be maintained in agricultural production, and Section 30242, which states that lands suitable for agricultural use shall not be converted to non-agricultural uses unless continued or renewed agricultural use is not feasible or such conversion would preserve prime agricultural land or concentrate development. Additionally, the provision to discourage conversions in proposed Policy AG-1.B is inconsistent with existing LUP Policy 8-4, which states that parcels designated for agricultural use shall not be converted to non-agricultural uses unless such conversion of the entire parcel would allow for another priority use under the Coastal Act, e.g., coastal dependent industry, recreation and access, or protection of an environmentally sensitive habitat.

Therefore, the Commission finds that **Suggested Modification No. 3** is necessary to modify proposed Policy AG-1.B and Dev Std AG-1 to apply to the inland area of the Plan area and create coastal versions of Policy AG-1.B and Dev Std AG-1 to adequately protect agricultural resources in the Plan area consistent with the Coastal Act and certified LUP. The suggested coastal version of Policy AG-1.B requires the maximum amount of prime agricultural land to be maintained in agricultural production and requires the minimization of conflicts between agriculture and other land uses. Further, suggested Policy AG-1.B requires parcels designated for agriculture in the coastal zone to not be converted to a non-agricultural use unless the conversion is consistent with the existing LUP Policy 8-2. The suggested coastal version of Dev Std AG-1 is intended to address non-agricultural development that is not in direct support of agriculture but may be an allowable supplemental use on property zoned for agriculture in addition to an existing or proposed agricultural use (such as a guesthouse) and requires particular findings to be made in order to allow such non-agricultural uses. These include finding that the non-agricultural use is compatible with the continued agricultural use on the premises and adjacent lands and finding that the non-agricultural use preserves prime agricultural land and is clustered with other development. These changes to Policy AG-1.B and Dev Std AG-1 are necessary to find that the proposed Plan is consistent with the agricultural resource protection policies of the Coastal Act and certified LUP.

While the Plan's proposed policies and development standards serve to protect agricultural resources and regulate non-agricultural uses, regulation of agricultural structural development is not addressed. Agricultural structural development, as defined in the proposed amendment, means agricultural structures that are directly accessory and ancillary to the agricultural use of the property, such as greenhouses, processing facilities, and agricultural employee dwellings. While supporting agricultural production, the development of such structures can also harm the long-term productivity of agricultural soils and land suitable for agriculture. The cumulative effect of these structures may encourage urbanization or industrialization of an area. In order to ensure that prime agricultural soils and other land suitable for agriculture are preserved in the Plan area, it is necessary to address the siting of agricultural structural development as well. Thus, **Suggested Modification No. 3** is necessary to include suggested Dev Std AG-1.A in the proposed Plan. Since agricultural structures are generally necessary for the continued use and operation of agricultural land, siting such structures to avoid prime and non-prime land suitable for agriculture is not always feasible. Therefore, suggested Dev Std AG-1.A requires agricultural structural development to be sited and designed to avoid prime soils and non-prime land suitable for agriculture to the maximum extent feasible. Additionally, suggested Dev Std AG-1.A allows for agricultural structures to be sited on prime soil only when it is not possible to utilize non-prime lands. Further, the suggested development standard requires approved agricultural structures to be designed to use as little agricultural land as possible and be clustered with other existing structures to the maximum extent feasible.

In addition to agriculture, the Plan area contains many areas for existing and future recreational uses, and several proposed trail alignments, including the California Coastal Trail, are proposed on agricultural lands. Proposed Policy AG-1.D requires the imposition of any condition requiring an offer of dedication of a recreational trail or other recreation easement to be discretionary and directs the County to consider the impact of such an easement on the agricultural production of all lands affected by and adjacent to said trail or easement. While it is important for the County to evaluate potential impacts from trails or other recreational uses on agricultural lands and operations, proposed Policy AG-1.D implies that agriculture is a higher priority land use than recreation; however, in the coastal zone, both uses are considered priority uses. Therefore, **Suggested Modification No. 3** is necessary to apply proposed Policy AG-1.D to the inland portion of the Plan area and create a coastal Policy AG-1.D to require the County to evaluate potential conflicts between the recreational use that is imposed by condition and the agricultural production on lands adjacent to the trail or recreational easement. Suggested Policy AG-1.D also requires the County to implement measures to mitigate for potential conflicts. As suggested to be modified, the policy will ensure that conflicts between agricultural and trail uses are minimized, consistent with Coastal Act Section 30241.

Several other policies within the proposed Plan address additional land uses on agricultural lands in the Plan area. Policy AG-1.D.1 requires trails to be sited to minimize impacts to prime soils and agricultural operations in addition to public safety and environmental impacts. Policy AG-1.F allows for agricultural tourism where such activities would promote and support the primary agricultural land use and would not create conflicts with on-site or adjacent agricultural production, and Policy AG-1.J requires the quality and availability of water, air, and soil resources to be protected through the maintenance of buffer areas around agricultural areas, the promotion of conservation practices, and maintaining a stable urban-rural boundary line. As

proposed, these policies are consistent with the agricultural protection policies of the Coastal Act and existing, certified LUP policies.

Additional proposed goals, policies and development standards are intended to protect agriculture and promote sound agricultural practices in the Plan area. Examples include measures that encourage agricultural land preservation, such as transfer, purchase, or donation of development rights, use of the Williamson Act, projects that encourage pollinators and sustainable agricultural practices, and recognition of rights of operation. As proposed, these agricultural policies and provisions of the Gaviota Coast Plan are consistent with the overarching goal of the Coastal Act (Sections 30241 and 30242) to preserve and protect lands suitable for agricultural land uses within the coastal zone.

In addition to adding the proposed Area Plan to the existing LUP, the proposed LUP amendment would delete existing LUP Policy 8-8, which is intended to preserve non-prime agricultural operations on large properties of 10,000 acres or more. Policy 8-8 was created to avoid subdivisions to the minimum parcel size of 320 acres by allowing clustered residential development at densities greater than allowed by the minimum parcel size; however, the clustered development would only be allowed on no more than two percent of the gross acreage of the property with the remaining acreage to be left in agricultural production and/or open space. Thus, this policy was intended to incentivize landowners to maintain their large non-prime agricultural operations. However, Policy 8-8 does not negate a property owner's right to propose subdivision to the minimum lot size nor does it require development to be clustered. Rather, the policy was simply intended as a voluntary incentive to maintain large agricultural operations. The County has stated that there is only one large property, known as the Cojo-Jalama Ranch, that is known to be eligible for application of Policy 8-8. The Environmental Impact Report for the Gaviota Coast Plan states that due to concerns for the large amount of theoretical development allowed by the policy, Policy 8-8 is proposed to be deleted. In December of 2017, The Nature Conservancy bought the Cojo-Jalama Ranch in order to preserve the property in perpetuity for open space and conservation purposes. Thus, the voluntary incentive provided by Policy 8-8 to maintain the agricultural and open space values of this large property is no longer needed. For these reasons, deletion of Policy 8-8 does not impact the LUP's consistency with the agricultural protection requirements of the Coastal Act.

The proposed amendment also includes changing the land use and zoning designations of the following properties in the coastal zone from Agriculture to another designation:

- The land use designation of the portion of the approximately 782-acre Arroyo Hondo Preserve site within the coastal zone would change from Agriculture (AG-II) to Mountainous Area (MA-100) under the Plan, and the zoning designation would change from Agriculture (AG-II) to Resource Management (RES-100).

- The land use and zoning designation of two properties within the coastal zone that were recently acquired by State Parks in El Capitan Canyon and Gaviota State Park would change from Agriculture (AG-II) to Recreation (REC).

These land use and zoning changes are proposed to reflect existing ownership as State and conservation lands. State Parks recently acquired properties in the Plan area near their existing parkland properties and the proposed land use and zoning changes reflect the appropriate designations for State Parks properties. The Arroyo Hondo Preserve is a canyon located between Refugio State Beach and Gaviota State Park in the Plan area that was purchased by The Land Trust for Santa Barbara County in 2001. The Preserve is now protected in perpetuity and managed by the Land Trust as a natural and historic preserve. The proposed land use and zoning designation change for these properties better reflects the existing land use. These lands are not currently in agricultural use and there are no prime agricultural soils or livestock or crop productivity potential on these lands that would be affected. Further, the proposed designations would be compatible with agricultural use and productivity on surrounding agricultural lands. Any new development on the subject properties that are adjacent to agricultural land would continue to be required to demonstrate consistency with the agricultural resource protection policies of the LCP. For these reasons, the proposed land use and zoning designation changes are consistent with the agriculture protection policies of the Coastal Act.

For all of the reasons stated above, the Commission finds that the Land Use Plan amendment, only if modified as suggested, meets the requirements of, and is in conformity with the policies of Chapter 3 of the Coastal Act concerning the protection of agriculture.

5. IP/CZO Amendment Consistency Analysis

As previously described, the proposed IP/CZO amendment includes a new overlay district for the Plan area that includes additional regulations specific for the Plan area that are intended to carry out the policies of the proposed Gaviota Coast Plan. Development standards regarding structural development on agricultural lands are necessary to adequately carry out the protection policies and provisions of the proposed Plan. The IP/CZO amendment includes standards for agricultural structural development in proposed IP/CZO Section 35-430.E.6. These standards require agricultural development to avoid or minimize significant impacts to agriculture to the maximum extent feasible by siting structures so as to minimize impacts to productive agricultural land, prime soils, and adjacent agricultural operations. In order to ensure consistency with existing LUP policies and Sections 30241 and 30242 to maintain the maximum amount of prime land in agricultural production and concentrate development to preserve prime agricultural land and land suitable for agriculture, **Suggested Modification No. 13** modifies this development standard in to require that agricultural structural development is sited and designed to avoid prime agricultural land and non-prime land suitable for agriculture to the maximum extent feasible, and such structure shall only be sited on prime agricultural land if it is not possible to utilize non-prime lands. Further, Suggested Modification 13 is necessary to ensure that as little agricultural land as possible is used for structural development.

The proposed development standards in proposed IP/CZO Section 35-440.C for all development within the Plan area include the requirement that development, including agricultural facilities, residential structures, and greenhouses that do not rely on in-ground cultivation, shall be sited to avoid prime agricultural soils to the maximum extent feasible. However, Coastal Act Section 30241 requires that the maximum amount of prime agricultural land be maintained in agricultural production, and Coastal Act Section 30242 requires that lands suitable for

agricultural use shall not be converted to non-agricultural uses unless continued or renewed agricultural use is not feasible or such conversion would preserve prime agricultural land or concentrate development. The proposed development standard does not accurately reflect these Coastal Act requirements.

Suggested Modification No. 13 is necessary to modify Section 35-440.C to clarify that agricultural structural development and structures that are identified as a component of the agricultural principal permitted use shall avoid prime agricultural soils and non-prime land suitable for agriculture to the maximum extent feasible in compliance with suggested Dev Std AG-1.A (Coastal) of the LUP discussed in subsection 4 above. Agricultural structural development, as defined in the proposed amendment, means agricultural structures that are directly accessory and ancillary to the agricultural use of the property, such as greenhouses, processing facilities, and agricultural employee dwellings. While such structures have the potential to harm the long-term productivity of agricultural soils and land suitable for agriculture, agricultural structures are generally necessary for the continued use and operation of agricultural land, and siting such structures to avoid prime and non-prime land suitable for agriculture is not always feasible. Therefore, Section 35-440.C has been modified to reference suggested Dev Std AG-1.A (Coastal), which allows for agricultural structures to be sited on prime soil only when it is not possible to utilize non-prime lands, and requires approved agricultural structures to be designed to use as little agricultural land as possible and be clustered with other existing structures to the maximum extent feasible.

Section 35-440.C has also been modified to clarify that all other development that is not in direct support of agriculture but may be an allowable supplemental use on property zoned for agriculture in addition to an existing or proposed agricultural use (such as a guesthouse) shall be consistent with suggested Dev Std AG-1 (Coastal) of the LUP portion of the Plan. The suggested coastal version of Dev Std AG-1 is intended to address non-agricultural development and requires particular findings to be made in order to allow such non-agricultural uses. These include finding that the non-agricultural use is compatible with the continued agricultural use on the premises and adjacent lands, and finding that the non-agricultural use preserves prime agricultural land and is clustered with other development. This change is necessary to find that the proposed amendment is consistent with the agricultural resource protection policies of the LUP as suggested to be modified. Therefore, the Commission finds that **Suggested Modification No. 13** is necessary to revise the proposed development standards to be consistent with the provisions of the LUP amendment, as suggested to be modified, and Coastal Act Sections 30241 and 30242.

The proposed standards for specific land uses in the Agriculture – II zone require certain findings to be made before a use or operation can be approved. Such findings include the requirement that a use or operation will not significantly compromise the long-term productive agricultural capability of the subject lot(s) or adjacent lot(s). However, this finding is only required for uses and operations that may be allowed in compliance with a Coastal Development Permit, while a similar finding is not required for the same use or operation that may be allowed in compliance with a Major Conditional Use Permit. Additionally, it is not clear what is meant by "significantly compromise." Therefore, due to the inconsistency in the permit requirements for the same use and similar operations and to clarify that an operation will not have a significant adverse impact

on agricultural resources, the Commission finds it necessary to require modification to these findings (Suggested Modification 13) in the IP/CZO amendment.

The proposed Gaviota Coast Plan Overlay includes development standards for rural recreational uses that may be permitted on land zoned for agriculture. Such uses include private campgrounds, the development of which may be appropriate in compliance with the development standards in the IP/CZO amendment. However, it is necessary to ensure that such a use is consistent with the agricultural lands and operations on the proposed development site or adjacent properties. Therefore, Suggested Modification 13 is necessary to include language that states that private campgrounds will not interfere with agricultural production on or adjacent to the lot on which it is located. Additionally, since campgrounds are often developed with urban services, such as water and sewer, and the extension of such services can induce development, it is necessary to require that approved campgrounds do not include an expansion of urban services that would increase pressure for conversion of the affected agricultural lands in order to protect and preserve land suitable for agriculture within the coastal zone. Therefore, if modified, the proposed development standards regarding campgrounds on agricultural lands is consistent with the agricultural resource protection policies of the existing, certified LUP, the proposed LUP amendment, and the policies of the Coastal Act.

The existing, certified IP/CZO contains the Agriculture – Residential Cluster (ARC) Overlay District. This overlay district was intended to work in conjunction with LUP Policy 8-8 to preserve large non-prime agricultural operations of 10,000 acres or more. To implement Policy 8-8, the owner of property on which an eligible non-prime agricultural operation is located would need to request a re-zone to apply the ARC Overlay District to the property. In addition to deleting Policy 8-8, the IP/CZO amendment proposes to delete the ARC Overlay District. Like Policy 8-8, the ARC Overlay District can be entered into voluntarily. The rationale for deleting Policy 8-8 is the same for deleting the ARC Overlay District, since the overlay district is intended to implement the policy. The County has stated that there is only one large property, known as the Cojo-Jalama Ranch, that is known to be eligible for application of Policy 8-8. In December of 2017, The Nature Conservancy bought the Cojo-Jalama Ranch in order to preserve the property in perpetuity for open space and conservation purposes. Thus, the voluntary incentive provided by Policy 8-8 to maintain the agricultural and open space values of this large property is no longer needed. For these reasons, deletion of Policy 8-8 and the associated ARC Overlay District does not conflict with the agricultural protection requirements of the Coastal Act. Therefore, deletion of the ARC Overlay District is consistent with the agricultural protection requirements of the certified LUP, as amended.

6. Conclusion

For all of the reasons stated above, the Commission finds that (1) the Land Use Plan amendment, only as suggested to be modified, is consistent with the agricultural resource protection policies of Chapter 3 of the Coastal Act; and (2) the IP/CZO amendment, only as suggested to be modified, conforms with and is adequate to carry out the agricultural resource protection policies of the certified Land Use Plan, as amended.

E. LAND USE, NEW DEVELOPMENT, AND HAZARDS

1. Coastal Act Policies

Section 30250(a) states, in relevant part:

> (a) *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources…*

Section 30253 states, in relevant part:

> *New development shall…*
>
> *(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
>
> *(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
>
> *(c) Be consistent with the requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
>
> *(d) Minimize energy consumption and vehicle miles traveled*
>
> *(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Section 30254 states, in relevant part:

> *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-land road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

Section 30235 states:

> *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

2. Existing LUP Policies

Policy 2-5 states:

> *Water-conserving devices shall be used in all new development.*

Policy 2-6, in relevant part, states:

> *Prior to issuance of a development permit, the County shall make the finding…that adequate public or private services (i.e., water, sewer, roads, etc.) are available to serve the proposed development.*

Policy 2-13 states:

> *The existing townsite of Naples is within a designated rural area and is remote from urban services. The County shall discourage residential development of existing lots. The County shall encourage and assist the property owner(s) in transferring development rights from the Naples townsite to an appropriate site within a designated urban area which is suitable for residential development. If the County determines that transferring development rights is not feasible, the land use designation of AG-II-100 should be re-evaluated.*

Policy 3-1 states:

> *Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shorefront property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms. Adequate provision for lateral beach access shall be made and the project shall be designed to minimize visual impacts by the use of appropriate colors and materials.*

Policy 3-2 states:

> *Revetments, groins, cliff retaining walls, pipelines and outfalls, and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and so as not to block lateral beach access.*

Policy 3-4 states:

> *In areas of new development, above-ground structures shall be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such standard will make a lot unbuildable, in which case a standard of 50 years shall be used. The County shall determine the required setback. A geologic report shall be required by the County in order to make this determination. At a minimum, such geologic report shall be prepared in conformance with the Coastal Commission's adopted Statewide Interpretive Guidelines regarding "Geologic Stability of Bluff top Development."*

Policy 3-5 states:

> *Within the required bluff top setback, drought-tolerant vegetation shall be maintained. Grading, as may be required to establish proper drainage or to install landscaping, and minor improvements, i.e., patios and fences that do not impact bluff stability, may be permitted. Surface water shall be directed away from the top of the bluff or be handled in a manner satisfactory to prevent damage to the bluff by surface and percolating water.*

Policy 3-6 states:

> *Development and activity of any kind beyond the required bluff-top setback shall be constructed to insure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself.*

Policy 3-7 states:

> *No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.*

Policy 3-14 states:

> *All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site*

preparations is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

3. Land Use and Development within the Plan area

The Gaviota Coast Plan area is 101,199 acres in size and located entirely within a designated rural area of Santa Barbara County. The urban-rural boundary is located at the City of Goleta boundary to the east of the Plan area. Approximately 77% of the land within the Plan area is zoned for agriculture. Agriculture, specifically cattle grazing, is the primary and dominant land use in the Plan area. Residential development is broadly dispersed, with single-family dwellings in the Plan area located primarily at Arroyo Quemada, El Capitan Ranch, the upper reaches of Refugio Road near West Camino Cielo, and Hollister Ranch. In addition to agriculture, land uses in the Plan area include public recreation and publicly managed County, State, and National Forest parkland and conservation land. Two state beaches (El Capitan and Refugio State Beaches) and one state park (Gaviota State Park) are located with the Plan area, and together comprise approximately 5,000 acres. The County owns and operates Jalama Beach County Park on the west end of the Plan area and the Tajiguas Landfill and adjoining Baron Ranch on the eastern end of the Plan area. The Land Trust for Santa Barbara County owns and operates the 782-acre Arroyo Hondo Preserve. Oil and gas production also occurs on the Gaviota Coast with Freeport McMoRan/Plains Exploration and Production Company, Point Arguello and Las Flores Canyon oil and gas processing facilities located in the central portion of the Plan area. Approximately 100 acres in the Plan area is designated and zoned as coastal dependent industry for oil and gas production use. Highway 101 is the main transportation corridor through the Plan area, while Highway 1 provides access to the Lompoc Valley on the west end of the Plan area. The residential neighborhood of Arroyo Quemada is located on the coast south of Highway 101 and the Tajiguas Landfill. Remaining land uses in the Plan area within the coastal zone consist of residential parcels outside of the Arroyo Quemada neighborhood, the old Vista Del Mar Union School that is designated for education and zoned for agriculture, and commercial highway at the Gaviota Village. Approximately 50 percent of the Plan area is located in the coastal zone.

4. LUP Amendment Consistency Analysis

Section 30250 of the Coastal Act requires new residential, commercial, and industrial development to be located within, or in close proximity to, existing developed areas so that new development is sited to avoid adverse impacts on coastal resources and within areas with adequate public services. Section 30254 of the Coastal Act requires new or expanded public works facilities to be designed and limited to accommodate the needs generated by land uses and development and prioritizes services to coastal dependent land uses, essential public services, industries vital to economic health, public and commercial recreation, and visitor-serving land uses. LUP Policy 2-6 requires the County to make a finding, prior to issuance of a development permit, that adequate public or private services are available to serve a proposed new development. LUP Policy 2-5 requires water conserving devices in all new development.

Section 30253 of the Coastal Act requires new development to (a) minimize risks to life and property in areas of high natural hazards, (b) assure structural stability and structural integrity and neither create nor contribute to erosion, geologic instability, or destruction of the site or surrounding area that would substantially alter natural landforms along bluffs and cliffs, (c) be consistent with air quality requirements, (d) minimize energy consumption and vehicle miles traveled, and (e) where appropriate, protect special communities that serve as unique and popular visitor destination points for recreational uses. Section 30253 also disallows new development that requires the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. Notwithstanding this general limitation on the construction of shoreline armoring, Section 30235 of the Coastal Act provides that revetments, breakwaters, groins, seawalls, and cliff retaining walls and other structures that alter natural shoreline processes are permitted when necessary to serve coastal dependent uses, protect existing development or public beaches in danger from erosion, and when the protection device is designed to avoid or mitigate adverse impacts on local shoreline sand supply.

LUP Policy 3-1 prohibits the use of seawalls unless the County makes the determination that there are no other less environmentally damaging alternatives reasonably available to protect existing principal structures and adequate provisions for lateral beach access are made. LUP Policy 3-2 prohibits the construction of revetments, groins, cliff retaining walls, pipelines, and outfalls unless such slope protection, shoreline protection, and drainage systems are designed to avoid and mitigate adverse impacts to local shoreline sand supply and lateral beach access. LUP Policy 3-3 prohibits permanent structures on the dry sandy beach, with limited exceptions for facilities necessary for public safety, to avoid the need for future shoreline protection devices. LUP Policy 3-12 prohibits development from causing or contributing to flood hazards, and LUP Policy 3-14 requires development to be designed to avoid the alteration of natural landforms and native vegetation on the development site. LUP Policy 3-17 requires the revegetation of all graded soils with native vegetation and appropriate nonnative vegetation. LUP Policy 3-18 requires development to include and properly site drainage systems for water runoff to prevent the erosion of soils.

The County proposes several additional policies, actions, and development standards regarding land use, transportation, energy, and infrastructure within the Plan area. Specifically, Proposed Policies LU-3, LU-4, LU-5, LU-6, LU-10 and LU-11 and Development Standard (Dev Std) LU-1 regulate development with regards to the type and location of allowed development. Since agriculture is the dominant land use in the Plan area, most of the proposed Plan provisions specifically relate to development located on agriculture. Proposed Policy LU-3 is directed at residential development on land zoned for agriculture and requires the County to ensure that lands designated for agriculture are protected to ensure the long-term productivity of such lands. Residential uses are allowed on land zoned for agriculture within the County's certified LCP, and the Plan area currently contains 234 single-family dwellings. The County estimates the buildout of residential development with the Plan area over the next 20 years to be 167 additional single-family dwellings. Therefore, in order to protect coastal resources in the Plan area, including agriculture, the County proposes Policies LU-4 and LU-5 to regulate the siting and design of proposed non-agricultural development, while proposed Policy LU-10 is intended to regulate the siting of all development in the Plan area.

As discussed in Section C above, due to the inconsistencies in Policies LU-4 and LU-10 with Coastal Act Section 30240, **Suggested Modification No. 8** is required to apply the policies to the inland portion of the Plan area and create a coastal version of Policy LU-10, which is consistent with Section 30240. Suggested Policy LU-10 also includes the proposed measures of Policy LU-4 to site and design development to avoid and reduce impacts to coastal resources in order to ensure that Plan policies that apply to the coastal zone remain consistent with Section 30250, which requires development to be sited to avoid impacts to coastal resources. Therefore, if modified, Policies LU-4 and LU-10 are consistent with Coastal Act requirements to protect coastal resources.

Policy LU-5 provides requirements for development of non-agricultural uses on land designated for agriculture, including land divisions and land use or zoning designation changes. In addition to requiring non-agricultural uses to be compatible with continued existing agricultural use on the property and adjacent lands, to avoid prime agricultural land, and to not have significant adverse impacts on biological, visual or other coastal resources, Policy LU-5 requires non-agricultural development to be located contiguous with or in close proximity to existing developed areas able to accommodate the use. Therefore, Policy LU-5, as proposed, is consistent with Section 30250 of the Coastal Act.

Proposed Policy LU-6 directs the County to support development of agricultural employee housing units in agricultural zones. Agricultural employee housing units are already an existing allowed use on land zoned for agriculture, and the certified IP/CZO provides development standards and requirements for proposed agricultural employee housing. The County estimates that nine (9) agricultural employee housing units will be built during the 20-year Plan horizon. This estimate is based on the average number of units built per year since the first agricultural employee housing unit was approved. Since Policy LU-6 simply directs the County to support development of agricultural employee housing units and does not require approval of agricultural employee housing, the Commission finds that, as proposed, Policy LU-6 is consistent with the coastal resource protection provisions of the Coastal Act. Additionally, as previously discussed in Section D of this staff report, **Suggested Modifications 3 and 8** work together to regulate development, including agricultural structural development, through suggested Policies LU-10 and AG-1.B and Dev Stds AG-1 and AG-1.A to protect coastal resources, including prime agricultural land and other land suitable for agriculture.

The Plan area contains several parks and the Arroyo Hondo Preserve that are destination points for residents within Santa Barbara County as well as visitors from outside of the County. The Gaviota Coast is a primary location for residents from northern parts of the County to access the coast as well, since much of the coast in the northern County is located within Vandenberg Air Force Base and is therefore inaccessible. Further, since Highway 101 is a major thoroughfare through the Plan area, people driving through often stop to take in the extraordinary beauty of the coast on their way to their particular destination. Due to the large numbers of visitors in the Plan area at any given time, there is potential demand for increased development of commercial uses. The County proposes Policy LU-11 and Dev Std LU-1 in order to regulate commercial uses in the Plan area. Policy LU-11 states that visitor-serving and other commercial uses allowed by the LCP shall be low-intensity in nature and compatible with and subordinate to the rural setting. Dev Std LU-1 specifically requires that development within the Commercial Highway zone

designation is compatible with and subordinate to the surrounding landscape and sensitive to the rural character and historical context of the area. Coastal Act Section 30253 requires that, where appropriate, new development shall protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. As proposed, the Commission finds that Policy LU-11 and Dev Std LU-1 are consistent with Section 30253 to protect the unique characteristics and special nature of the Gaviota Coast.

Plan Policy LU-8 provides that any existing lot zoned for agriculture that was legally established, except for fraction lots, is allowed all of the uses and structures allowed by the applicable zone regardless of the lot's size. However, since the term "legally established" is not defined in Policy LU-8 or anywhere else in the Plan, it is unclear if a lot is legally established only pursuant to the Subdivision Map Act or to all applicable laws in effect at the time of creation. Coastal Act Section 30610 and the certified LCP both define the term "development," in relevant part, as any "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." Because they constitute development, all land divisions must be authorized in a coastal development permit. Land divisions include subdivisions (through parcel map, tract map, grant deed or any other method), lot line adjustments, redivisions, and mergers. Lot line adjustments are "land divisions" that require a coastal development permit because they constitute "development" as defined in the Coastal Act. *(La Fe, Inc. v. County of Los Angeles (1999) 73 Cal.App.4th 231; see also Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles (2012), 55 Cal. 4th 783, 795)*. A land division also includes any certificates of compliance that grants legal recognition to a lot that was created through a land division that occurred previously but was illegal because it failed to comply with applicable state laws or local ordinances at the time. An owner of property may request that the local government determine whether a parcel was created in conformance with the requirements of the Subdivision Map Act. (See Government Code § 66499.35(a).) After review, the local government may issue a certificate of compliance with or without conditions. If the local agency determines that the lot was not created in compliance with the rules applicable to lot creation at the time, it must issue a "conditional certificate of compliance." (id. at § 66.499.35(b).) Certificates of compliance recognize property as a separate legal parcel for purposes of conveyance, transfer or financing, but they do not grant any right to develop the parcel. The situations in which the issuance of a certificate of compliance may be requested can be divided into three categories as relevant to the Coastal Act:

1. The land division occurred prior to the effective date of the Coastal Act and the lot was created in compliance with laws in effect at the time.
2. The land division occurred prior to the effective date of the Coastal Act and the lot was not created in compliance with laws in effect at the time.
3. The land division occurred after the effective date of the Coastal Act without approval of a coastal development permit.

In the first case described above, the certificate of compliance confirms that creation of the parcel already occurred legally prior to the Coastal Act; therefore, issuing the certificate of compliance does not constitute "development" and does not require a coastal development permit. In the second and third instances, the action of issuing a certificate of compliance grants

legal legitimacy to a parcel that was previously created illegally, through means that did not comply with the laws in effect at the time. This type of certificate, for the first time, authorizes the land division that created a new parcel. Therefore it constitutes development under the Coastal Act, and requires that the lot creation be considered by the decision maker through a coastal development permit. The coastal development permit can only be approved if the land division is consistent with all of the policies of the LUP. Compliance with the various LUP policies ensures that the land division is consistent with the various resource protection policies of Chapter 3 of the Coastal Act. Therefore, **Suggested Modification No. 8** is necessary to clarify that the existing lot must have been legally established pursuant to all applicable laws in effect at the time of creation, which would include the Coastal Act/LCP if such lots were created after the effective date of the Coastal Act.

The proposed amendment also includes several actions for the County to consider to develop future ordinances and programs related to land use in the Plan area. Action LU-2 prompts the County to develop an ordinance for transferring development rights in order to balance potential development with important coastal resources. This is consistent with existing Policy 2-13, which intends to discourage development of existing small lots on the Naples townsite to achieve a better balance that provides for low density residential units, public access and recreation opportunities, preservation of the scenic and rural character of the Naples area, conservation of open space and biological resources, and is compatible with the surrounding agricultural uses of the Gaviota Coast. Proposed Action LU-3 prompts the County to develop a rural clustering ordinance to encourage clustering of development to protect coastal resources. This is consistent with Coastal Act Section 30250, which requires new development to be contiguous with or in close proximity to existing developed areas. This clustering ordinance would be in addition to the suggested Dev Stds AG-1 and AG-1.A (**Suggested Modification No. 3**), which respectively require non-agricultural development on agricultural land to be clustered with other development and agricultural structural development to be sited with other existing structures to the maximum extent feasible.

Proposed Action LU-4 directs the County to adopt a voluntary Land Use Incentive Program within three years of Plan adoption. This action is supported by proposed Policy LU-12, which requires the County to promote voluntary programs to incentivize landowners to provide public benefits such as public trails. The Land Use Incentive Program would be intended to support and increase agricultural viability, public access, enhance habitat preservation and restoration opportunities, and preserve the rural character of the Plan area. Proposed Action LU-5 lays out the first phase of the proposed Land Use Incentive Program, which would allow for property owners to voluntarily propose an action (such as trail easement dedication) in exchange for an Incentive Dwelling Unit on the landowner's property. Proposed Actions LU-5 and LU-6 include detailed criteria related to the Incentive Dwelling Unit, such as the size limit for the unit and types of existing structures that can be converted to an Incentive Dwelling Unit. While these Actions are not binding and only state general elements of the program that the County should give consideration to, it is important to note that the County has proposed a specific land use incentive program as part of the subject LCP amendment, the details of which are located within the proposed Implementation Plan/Coastal Zoning Ordinance (IP/CZO) portion of the amendment request (discussed later in this Section). Since the proposed incentive program in the IP/CZO portion of the amendment request differs from the program outlined in Actions LU-5

and LU-6 of the Gaviota Coast Plan, **Suggested Modification No. 8** includes making Actions LU-5 and LU-6 applicable to the inland area only (outside the coastal zone).

Land Use and Zoning Designations

The County is proposing land use and zoning designation changes for three properties within the coastal zone portion of the Plan area. All other property in the Plan area would keep the same land use and zoning designations as in the certified LUP. The Plan proposes to re-designate the 782-acre Arroyo Hondo Preserve, which is owned and operated by the Land Trust for Santa Barbara County from Agriculture to Mountainous Area (MA-100). The zoning designation of the Preserve would also be changed from agriculture to Resource Management (RES-100). This re-designation will serve to better reflect the existing and intended land use of the site for conservation and open space. Additionally, the Plan would re-designate 2,645 acres of State-owned lands from Agriculture to Recreation. This land at El Capitan Canyon was acquired in 2002 by The Trust for Public Land and then conveyed to the California Department of Parks and Recreation. Both the state parkland and the Preserve are no longer used for agricultural purposes. Furthermore, neither land contains prime soils. Therefore, re-designation of these lands would not impact agricultural resources in the Plan area, because these lands are not currently in agricultural use and there is little to no potential for future agricultural use due to their conservation status as park and open space lands.

In addition to the land at El Capitan Canyon, State Parks also recently acquired the old Gaviota Village site near Mariposa Reina, which the Plan proposes to re-designate to Recreation. The property at the 13-acre Gaviota Village was a commercial development that became vacant and was purchased by the County and then donated to the California Department of Parks and Recreation. The Gaviota Village site is currently designated and zoned as Commercial Highway. However, this use no longer exists at this site since it became vacant. The property is also adjacent to the existing Gaviota State Park and is surrounded by land that is also designated as Recreation and part of the Gaviota State Park. Therefore, it is appropriate to change the land use designation as well as rezone the site at the Gaviota Village from Commercial Highway to Recreation.

Additionally, the Plan proposes the addition of a Rural Neighborhood boundary around the existing Arroyo Quemada neighborhood on the "Gaviota Coast Plan Land Use Designations & Overlays" and the "Gaviota Coast Plan Zoning" maps. The certified LUP defines a Rural Neighborhood as "a neighborhood area that has developed historically with lots smaller than those found in the surrounding rural lands. The purpose of the neighborhood boundary is to keep pockets of rural residential development from expanding onto adjacent agricultural lands. Within the rural neighborhood boundary, infilling of parcels at densities specified on the land use plan maps is permitted." There are no existing Rural Neighborhoods in the Plan area. However, the proposed Plan designates the Arroyo Quemada neighborhood, which is on the coast just south of the Tajiguas Landfill and Highway 101, as a Rural Neighborhood to recognize the historical development of lots less than one acre in size and which are much smaller than currently allowed in the Rural Area.

Public Services and Facilities

Public services on the Gaviota Coast include fire protection, transportation, water in portions of the Plan area, and parks, recreation, trails, and open space management. The County proposes Policies TEI-2 through TEI-7 to provide a regulatory framework for development at Highway 101, the Pacific Coast Bike Route, and the railroad to improve safety for each of the transportation corridors by limiting at-grade crossings, separating bikeways from roadways, and installing grade separations or warning signals at pedestrian railroad crossings. Proposed Action TEI-4 prompts the County to plan for future uses of existing underutilized frontage roads as bikeways or coastal access points. Dev Std TEI-1 requires that new roads serving residential development meet the development standards as set forth in the Santa Barbara County Fire Department's Private Road and Driveway Standards. Policy TEI-17 prohibits annexation to a water or sanitary district or extensions of sewer lines unless to prevent adverse impacts on ESH or to protect public health. Proposed Actions TEI-8 and TEI-9 to direct the County to consider adopting recent state updates for non-potable water reuse systems and consider alternative waste disposal and conservation systems. As proposed, these policies and development standards are consistent with the requirements of Coastal Act Section 30254 to limit new or expanded public works facilities to accommodate the needs generated by land uses and development rather than for the purpose of inducing further development. Further, these provisions are consistent with the requirements of LUP Policy 2-5 to conserve water and Policy 2-6 to ensure adequate services are available to serve existing and permitted new development.

Air Quality

Section 30253 of the Coastal Act requires development to be consistent with the requirements established by the air pollution control district or state Air Resources Board and minimize energy consumption. The County proposes Dev Stds LU-4, LU-5, LU-6, and LU-7 to provide a regulatory framework for development to comply with air quality requirements. The County also proposes Policy TEI-11 and Actions TEI-6 and TEI-7 to encourage development of renewable energy. Collectively, these policies, development standards, and actions require development to be sited and designed to avoid and minimize exposure to sources of air pollution and radon gas as well as implement measures to minimize the use of fossil fuels which contribute to global climate change. As proposed, Dev Stds LU-4, LU-5, LU-6, and LU-7 are consistent with the requirements of Section 30253 of the Coastal Act to be consistent with state air quality requirements and energy consumption. For these reasons, the Commission finds that the Land Use Plan amendment, as submitted, is consistent with the policies of Chapter 3 of the Coastal Act regarding air quality.

Trail Siting Guidelines

The County is proposing Trail Siting Guidelines as part of the Plan to guide future trail development for hiking, biking and horseback riding opportunities through the Plan area's varied environments. The guidelines are intended to ensure that trail segments are located and designed to protect and preserve natural, cultural, agricultural, and visual resources while respecting private property rights, and the safety and security of both the user and landowner. Therefore, as

proposed, the Trail Siting Guidelines are consistent with the public access and recreation provisions of the Coastal Act as well as Coastal Act requirements to protect coastal resources.

Steep Slope Guidelines

Since agriculture is the main land use in the Plan area, the County has proposed Steep Slope Guidelines to be used to design orchards or other suitable crops on steep slopes to avoid erosion of the planted areas. Properly designing orchards or other planted areas on steep slopes is important to maintain healthy watersheds and reduce sediment deposition downstream from the planted areas. Therefore, as proposed, the Steep Slope Guidelines are consistent with Sections 30230 and 30231 to protect the biological productivity of coastal waters.

The Gaviota Coast Plan Design Guidelines

The County is proposing to certify the Gaviota Coast Plan Design Guidelines ("Design Guidelines") for the entirety of the Plan area, including the portion of the Plan area within the coastal zone boundary. The County's Central Board of Architectural Review (CBAR) has design review authority for projects subject to design review in the Plan area; the Design Guidelines would be used by the CBAR to guide their review of a project and to make the required findings for permit approval. The County developed the Design Guidelines to provide reasonable, practical and objective guidelines to assist decision-makers, residents, home-owners, and architects in the design of new residential development and to encourage home-owners and architects to work with neighbors of new development to reduce the number of local appeals of permit decisions. The guidelines are intended to preserve the area's natural, agricultural, and scenic resources by establishing architectural and aesthetic goals for the proposed Plan area. The guidelines support existing County policies that protect public views and community character and ensure that new structures are visually compatible with the design objectives of the proposed Plan and specific building site. The Design Guidelines would apply to all residential structures and associated improvements as well as landscaping. As proposed, the Gaviota Coast Plan Design Guidelines are consistent with the Chapter 3 policies of the Coastal Act to protect coastal resources, including ESH and visual resources.

Climate Change

The County proposes several policies and actions in order to adapt to climate change and sea level rise. Policy LU-7 requires the County to support scientific studies regarding climate change and related hazards, such as sea level rise and fire. Action LU-7 lays out a framework for conducting research and responding to impacts of climate change related hazards on the Gaviota Coast shoreline. Dev Std LU-2 requires analyses for near-shore development to analyze potential impacts of sea level rise on the proposed development. It is also important to note that the County is currently working on a significant LCP update (Coastal Resiliency Project) to identify and plan for mitigation of potential coastal hazards within the entire County in consideration of climate change and sea level rise. The Commission and the Ocean Protection Council awarded the County grant funding for this work and the County has commenced drafting the LCP amendment having completed its Sea Level Rise Vulnerability Assessment and review of regional coastal development and adaptation strategies in conjunction with the Commission's Sea Level Rise Policy Guidance document.

In the proposed Transportation, Energy, and Infrastructure chapter, Policy TEI-9 requires the County to consult with the California Department of Transportation and Union Pacific Railroad to protect access to the coast and minimize impacts of sea level rise on the rail corridor, Highway 101, and County roads. Action TEI-2 directs the County to work with partner agencies to prepare a comprehensive corridor plan from the Gaviota Tunnel in the Plan area to Farren Road, which is located just east of the Plan area. The comprehensive corridor plan would include elements to adapt planning to address sea level rise impacts, implement the California Coastal Trail, and retain and enhance public coastal access.

Action TEI-3 prompts the County to work with state and federal agencies and local communities to develop an adaptation strategy to deal with the encroachment of the ocean into the existing railroad bed or roadway network due to climate change. Although this action specifically pertains to the railroad, it does not direct the County to work with Union Pacific Railroad. **Suggested Modification No. 12** includes language to direct the County to work to engage the Union Pacific Railroad in order to develop an adaptation strategy.

Finally, the proposed Site Design Hierarchy does not include standards for siting development with regard to coastal hazards. Therefore, **Suggested Modification No. 10** is necessary to include requirements to site development to minimize avoid coastal hazards, such as flooding, inundation, and erosion, including future hazards exacerbated by sea level rise. This suggested modification is necessary for the Site Design Hierarchy to be consistent with the hazard protection requirements of Section 30253.

Climate change adaptation is necessary to minimize risks to life and property consistent with Section 30253 as well as to continue to provide public coastal access well into the future. Therefore, the policies, development standards and actions, as proposed or modified as suggested are consistent with the Coastal Act requirements for public access and the requirements of Section 30253.

Bluff/Shoreline Development and Geologic Hazards

The shoreline along the Gaviota Coast includes many coastal bluff top areas, and due to their geologic structure and soil composition, bluffs are often susceptible to surficial failure. Structures on a bluff not only have the potential to adversely impact visual resources and public access, but can destabilize the bluff system, degrade coastal bluff habitat, and contribute to coastal erosion. Such impacts are inconsistent with the resource protection policies of the Coastal Act and the LUP; however, the County is not proposing any policies or development standards to update the existing LUP with regards to requirements for development to be sited to avoid or minimize risks within areas of high geologic hazard, such as on coastal bluffs in the Plan area. Due to the intention of the proposed Plan to be an update to the existing LUP for the Plan area, it is necessary to include a policy that incorporates updated measures to regulate bluff top development that carries out the provisions of Section 30253. Therefore, **Suggested Modification No. 8** includes suggested Policy LU-13 to require development on coastal bluff-top property to be sited to avoid areas subject to erosion and designed to avoid reliance on shoreline protection devices. Suggested Policy LU-13 also includes a general provision requiring

a consideration of climate change and sea-level rise during the planning and design phases for coastal bluff-top development.

By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. As previously stated, bluffs are often susceptible to surficial failure, especially with excessive water infiltration. Existing LUP Policy 3-7 prohibits drainage devices that extend over bluff faces if the property can be feasibly drained away from the bluff face. **Suggested Modification No. 8** includes this language consistent with the existing LUP.

The County's existing LUP contains Policy 3-7, which states that "no development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, …" Because the policy is silent as to whether the engineered staircases or accessways are intended for private and/or public beach access, this has led to inconsistent interpretation of the existing certified LCP. The County has interpreted LUP Policy 3-7 to allow beach stairways for private use down the bluff face provided that they are appropriately engineered. However, given the very limited types of bluff face development that are consistent with Coastal Act and LCP policies, the most logical interpretation of LUP Policy 3-7 is that it does not allow engineered staircases for all private residential properties. Such an interpretation would result in the continued proliferation of private stairways on coastal bluffs, and result in significant cumulative adverse impacts to visual resources, habitat, shoreline processes, and erosion hazards as the bluff face is developed. Therefore, interpreting Policy 3-7 as allowing only *public* access staircases on bluff faces is more consistent with the Coastal Act's mandate to maximize public access as well as its directives to protect natural landforms, coastal processes, and other coastal resources. This is how the Commission has interpreted the County's policy in prior actions, as well. Thus, **Suggested Modification No. 8** includes a prohibition of development on bluff faces, except for engineered staircases or accessways to provide public beach access as well as pipelines for scientific research and coastal dependent industry.

Fire and Other Hazards

The proposed Plan includes Dev Std LU-3, Action LU-10, and Policy TEI-15 to minimize risks to life, property and the natural environment from fire hazards. These proposed provisions require coordination with the County Fire Department and U.S. Forest Service to ensure effective emergency service, compliance with vegetation management and fuel modification standards, and County encouragement and support for Community Wildfire Protection Plans. As proposed, these provisions are consistent with the directive of Coastal Act Section 30253 to minimize risks to life and property from fire hazards.

The Plan proposes Policy TEI-12 to discourage the use of enhanced oil and gas recovery techniques, such as hydraulic fracturing and steam injection. Such techniques have been known to create regional geologic instability. Therefore, this policy is consistent with Section 30253 to assure that new development neither creates nor contributes significantly to geologic instability.

For all of the reasons stated above, the Commission finds that the Land Use Plan amendment, as suggested to be modified, meets the requirements of and is in conformity with the applicable

hazard and bluff/shoreline development policies of Chapter 3 of the Coastal Act.

Maps

The County is proposing to replace the Plan area shown on existing maps in the certified LCP with several new maps in the Gaviota Coast Plan. These maps include the "Gaviota Coast Plan Land Use Designations & Overlays" and the "Gaviota Coast Plan Zoning" maps. The amendment also proposes to add the "Gaviota Coast Plan – Water Systems" map to the LCP as well, which depicts the parcels served by water districts or municipal or private water systems. Collectively, the proposed land use and zoning maps associated with the Plan are consistent with the general directives of Coastal Act Section 30250 to adequately plan for the location of new development. Therefore, as proposed, the Commission finds that the land use, zoning and water systems maps within the Plan are consistent with the land use and development provisions of Section 30250.

The maps are also necessary to establish the boundaries of the new Plan area and the Arroyo Quemada Rural Neighborhood boundary. The maps also depict where the coastal zone boundary is within the Plan area. However, due to the small scale of the proposed maps, the maps should not be used to define the coastal zone boundary on a parcel level. Therefore, **Suggested Modification No. 9** is necessary to include a notation on all of the proposed maps that depict the coastal zone boundary to clarify that the maps are not intended for the purpose of defining the boundary on a parcel level. Additionally, the narrative within the Land Use chapter of the proposed Plan discusses the coastal zone depiction on the land use maps of the certified LUP. The narrative states that the LUP "established" a coastal zone boundary, which in some locations was inconsistent with the boundary established by the Coastal Act. However, it is incorrect to state that the LUP established the coastal zone boundary, because the Legislature established the boundary. The land use maps in the existing LUP simply depict the coastal zone boundary. Therefore, **Suggested Modification No. 7** revises this statement to clarify what is depicted versus what is established.

For all of the reasons stated above, the Commission finds that the Land Use Plan amendment, only if modified as suggested, meets the requirements of, and is in conformity with the policies of Chapter 3 of the Coastal Act concerning land use, new development, hazards, and the provision of public services.

5. IP/CZO Amendment Consistency Analysis

The Plan proposes a new Gaviota Coast Plan Overlay district, which includes new definitions, a table of allowed uses within each zone district in the Plan area, standards for all development and land uses in the Plan area, permit requirements and development standards for specific land uses in the Agriculture – II zone (AG-II), and a new Gaviota Coast Plan Area Land Use Incentive Program, which would allow incentive dwelling units to be built in exchange for a trail easement on the premises where a proposed trail is shown on the proposed Plan maps.

The proposed overlay district includes several new definitions for the Plan area. The County included a separate definitions section that is specific to the Plan area, because there are some

uses and terms that are addressed differently in the Plan area than the rest of the County. New definitions are proposed for agricultural structural development, equestrian facility, farmstay, incentive dwelling unit, seawall, and trail, among other defined terms. **Suggested Modification No. 13** revises the definitions for sea wall and trail. The Gaviota Coast Plan area includes shoreline areas subject to coastal hazards and as discussed above, there are policies regarding shoreline protective devices. The County proposes a definition for the term seawall but not revetment or shoreline protective device which are similar but not identical terms. The Sea Level Rise Policy Guidance that was certified by the Commission in 2015 includes definitions for sea wall, revetment, and shoreline protective device. Although a definition for revetment and shoreline protective device are not proposed, Suggested Modification 13 includes definitions for these terms for clarification purposes. Additionally, Suggested Modification 13 revises the proposed definition for sea wall to be consistent with the definition in the Sea Level Rise Policy Guidance. Suggested Modification 13 also revises the definition for agricultural employee housing to be consistent with the County's existing definition, and revises the definition for trail to fully capture all types of trails that may be designed, designated, constructed or established in the Plan area.

Further, there are several terms, which are used in the proposed IP/CZO amendment but are not defined. Definitions added through Suggested Modification 13 include: accessory agricultural structure, coastal resources, confined animal facilities, fishing operation, private kennel, non-principal permitted use, principal use/principal structure, and principal permitted use. It is important to include definitions for these terms, because they are allowed uses in the Plan area or pertain to development and coastal resources in the Plan area.

Principal Permitted Use

Proposed Section 35-430 (Allowable Development and Planning Permit Requirements) describes the type of permit and permit requirements for the uses allowed within the Gaviota Coast Plan Overlay District. Section 35-430.C refers to proposed Table 18-2 (Allowed Land Uses and Permit Requirements for the Gaviota Coast Plan Area), which lists a range of "permitted uses" for each zone district in the Plan area, but does not identify the "principal permitted use" as required under Section 30603(a)(4).

Section 30603(a)(4) of the Coastal Act provides that approval, by a coastal county, of any development that is not designated in the LCP as "the principal permitted use" is appealable to the Coastal Commission. Neither the Coastal Act, nor the Commission's regulations provide further interpretation regarding the term "principal permitted use" or specify an exact method that must be used by a local government to designate the principal permitted use. As a result, interpretation of principal permitted use must be based on Coastal Act Section 30603 which is provided in full below.

Section 30603 of the Coastal Act states:

> *(a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:*

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(5) Any development which constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) Any action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail within seven calendar days from the date of taking the action.

Subsection 30603(a)(4) specifically provides an additional level of public review for coastal counties. In addition to the other geographic and specified development that is appealable under Section 30603, Section 30603 (a)(4) requires that all development within the coastal zone of a county be appealable unless the development is designated as the principal permitted use under the zoning ordinance or zoning district map. As an example of the diversity of uses that may be found within a zone, the list of permitted uses in the Agriculture II (AG-II) zone includes all types of agriculture, farming, and animal keeping as well as single-family residential, a guest house or artist studio, commercial boarding of animals, and special care homes among other uses. Due to the fact that the County has not proposed a principal permitted use for each zone district but that a range of uses are permitted within each zone district, it is necessary to clarify the concept of the "principal permitted use" of each zone in order to adequately execute the provisions of Section 30603(a)(4).

Therefore, the Commission finds **Suggested Modification No. 13** is required to add a definition for principal permitted use to Section 35-420 (Definitions) of the proposed overlay district. The proposed definition states that a principal permitted use is a use that clearly carries out the designated land use and the intent and purpose of a particular zone. For example, the principal permitted use on land zoned for agriculture would include, but not be limited to, forms of cultivated agriculture, grazing, and ancillary agricultural accessory structures, while the principal permitted use on land zoned as residential would be residential structures. For clarity, Suggested Modification 13 is necessary to also add definitions for non-principal permitted use and principal use, which are also terms used in the subject amendment.

As previously stated, the proposed IP/CZO amendment lists multiple permitted uses for each zone in Table 18-2 (Allowed Land Uses and Permit Requirements for the Gaviota Coast Plan Area), but does not identify the "principal permitted use" for each zone. Therefore, **Suggested Modification No. 13** is necessary to revise Table 18-2 to denote which uses are principal permitted uses that may be allowed with a Coastal Development Permit (CDP) but are not appealable to the Coastal Commission (unless they are otherwise located within a geographic appeals area) versus other uses that may be allowed with a CDP or Conditional Use Permit (CUP) and are appealable to the Coastal Commission. Additionally, Section 35-430.C, which refers to Table 18-2, is required to be modified to clarify how the permitted and principal permitted uses are denoted within the table. It should also be noted that due to the structure of the IP/CZO, there are three other types of development that are included as incidental to, or part of, the principal permitted use in all zones pursuant to Suggested Modification 13, including limited utility connections, individual wastewater treatment systems, and water connections. These limited utilities and connections would be considered subordinate and accessory to the principal permitted use and have therefore been identified as part of the principal permitted use category.

Additionally, Table 18-2 lists several accessory uses and structures, some of which could be considered a component of the principal permitted use. Therefore, the Commission finds that it is necessary to clarify that accessory uses and structures that are incidental, appropriate and subordinate to the designated principal permitted use may be considered a component of the principal permitted use. Section 35-430.E (Allowed land uses and permit requirements) includes requirements for certain specific land uses, including accessory structures and uses. **Suggested Modification No. 13** is necessary to clarify which accessory structures and uses listed in Table 18-2 of the overlay district may be considered a component of the principal permitted use and therefore permitted as the principal permitted use and which uses are non-principal permitted uses. For example, agriculture is the principal permitted use on Agriculture – II (AG-II) zoned lots. Thus, accessory development that is subordinate to the agricultural principal permitted use can be processed as a component of the principal permitted use. Such uses include agricultural accessory structures as well as the primary single-family dwelling, agricultural employee housing for four or fewer employees, and farmworker dwellings. However, structures that are accessory to the primary single-family dwelling, farmworker dwelling, or agricultural employee housing, such as guest houses, cabañas, and artist studios, shall not be considered a component of the agricultural principal permitted use. The rationale for including a primary single-family dwelling, farmworker dwelling, or agricultural employee housing as part of the agricultural principal permitted use is because these dwellings are directly accessory and ancillary to the agricultural use of the property and, where permitted, are generally necessary for the continued

use and operation of the agricultural land. But the opposite is true for accessory residential structures, such as guest houses, which are not necessary for the agricultural operation of the property, and therefore, should not be permitted as a principal permitted use on land zoned for agriculture. Accessory structures and uses that are not listed in proposed Table 18-2 and are not agriculture related uses would also not be considered a component of the principal permitted use and thus would be appealable to the Commission. Due to state law regarding accessory dwelling units, the intent of which is to streamline the permitting for such structures and therefore create more affordable housing state wide, Suggested Modification 13 includes accessory dwelling units as a component of the agricultural principal permitted use as well.

Further, the subject amendment proposes Table 18-3 (Animal Keeping in the Gaviota Coast Plan Area), which lists types of animal keeping and the permit requirement for each type in each zone district. In addition to Table 18-2, modification of Table 18-3 is necessary to denote which types of animal keeping are considered a principal permitted use. For example, cattle, dairy, and hogs and swine are denoted as principal permitted uses in the AG-II zone, because they can all be considered components of the agricultural principal permitted use on land zoned for agriculture. Table 18-3 also lists types of animal keeping that are exempt from permit requirements, which include household pets. The County incorrectly labeled dogs as requiring a permit on AG-II zoned lots and requested the requirement be changed to exempt. In order to apply the principal permitted use denotation to the uses in Table 18-3 and correct inadvertent errors, the Commission finds that **Suggested Modification No. 13** is required for the IP/CZO be consistent with Coastal Act requirements.

In addition to Table 18-3, the proposed overlay district includes standards for specific land uses, including animal keeping, which specifies that standards for each type of animal keeping and the related required permits. However, the standards do not specify that confined animal facilities require a CDP, unless otherwise exempt in compliance with the certified IP/CZO. Therefore, **Suggested Modification No. 13** is necessary to include this specification as well as note that confined animal facilities that are incidental, appropriate and subordinate to animal keeping designated as a principal permitted use are also considered a principal permitted use. Furthermore, Suggested Modification 13 clarifies that the replacement of animals or the addition of animals, provided that the total amount of animals does not exceed the maximum number allowed on the lot on which the animal keeping occurs, does not require a CDP so long as the confined animal facilities have been legally established for the given animal-keeping activity.

The proposed IP/CZO amendment also includes Section 35-460 (Permit Requirements and Development Standards for Specific Land Uses in the AG-II Zone), which the County has described as an agricultural tiered permit structure, which allow landowners to develop small-scale uses with a lower-level permit in order to explore the long-term value of the use. Higher intensity uses would still require a conditional use permit for approval. The uses listed in Section 35-460 include agricultural processing facilities, agricultural product sales, aquaculture, composting, firewood processing and sales, lumber processing and milling (small scale), rural recreation, and wineries. The types of allowed agricultural processing facilities include cleaning, freezing, packing, storage, and sorting facilities, product preparation facilities, small-scale processing (beyond the raw state) facilities, and tree nut hulling facilities. Farmstands are the only use allowed under agricultural product sales. The types of allowed rural recreational uses

include campgrounds, farmstays, fishing operations, horseback riding, and other non-specified low-intensity recreational development.

Since many of the land uses listed in proposed Section 35-460 are not listed separately in proposed Table 18-2, changes are required to proposed Section 35-460 to clarify which are considered part of agricultural principal permitted use and which are not. As such, **Suggested Modification No. 13** is necessary to clarify that product preparation facilities, small-scale processing facilities (beyond the raw state), and tree nut hulling facilities, which, among other standards, are less than 3,000 sq. ft. in net floor area and where more than half of the products processed originate on site, as well as farmstays may be considered a component of the principal permitted use. Similarly, Suggested Modification 13 clarifies that a composting operation that has no more than 500 cubic yards on site at any time and sells or gives away no more than 1,000 cubic yards annually, among other standards, may be considered a component of the principal permitted use. Such facilities and operations that do not meet the standards listed in Section 35-460 may be allowed as a non-principal permitted use. Additionally, Suggested Modification 13 clarifies that all cleaning, freezing, packing, storage, and sorting facilities, firewood processing and sales, lumber processing and milling (small scale), campgrounds, fishing operations, horseback riding, other low-intensity recreational development, and wineries may be permitted as a non-principal permitted use only. While these uses may be allowed in the AG-II zone district, these uses and their associated structures are not necessarily ancillary and accessory to an agricultural operation. Therefore, the Commission finds that Suggested Modification 13 is necessary to clarify which uses in Section 35-460 may be considered a component of the agricultural principal permitted use on AG-II zoned lots and which are non-principal permitted uses.

New Land Uses

Further, some of the uses listed in Section 35-460 are uses that were not previously listed as allowed uses in the certified IP/CZO. These include firewood processing and sales and lumber processing and milling (small scale). The standards for firewood processing and sales and lumber processing and milling include the requirement that the premises where the processing occurs is planted with the source product prior to commencement of any processing allowed in compliance with the standards. Additionally, the firewood and lumber processing must be in compliance with Section 35-97 (Environmentally Sensitive Habitat Overlay District) and Section 35-140 (Tree Removal). It is assumed from the standards that the permitted uses of firewood and lumber processing/milling are intended to be for trees that were planted on site. In order to clarify that existing native trees (other than those that have been planted) are not permitted to be used in such operations, **Suggested Modification No. 13** is necessary to add a standard for each operation, which states that the operation shall not remove existing native trees pursuant to Policy NS-12 of the Gaviota Coast Plan, other than planted trees in compliance with the standards for the operation.

Another new use proposed in the IP/CZO amendment that is allowed on AG-II zoned lots are farmstays. A farmstay is defined as a type of working farm or ranch operation that is partially oriented towards visitors or tourism by providing guest accommodations. Such an operation may include interactive activities where guests participate in basic farm or ranch operations such as

collecting eggs and feeding animals. The proposed standards for farmstays require the farmstay to be located in a single permitted or nonconforming dwelling and require the primary purpose of the farmstay to be the education of registered guests regarding the agricultural operations on the premises. **Suggested Modification No. 13** is necessary to make a few corrections for the farmstay standards. First, the suggested modification is necessary to clarify that only one farmstay is allowed on a premises, which the County defines as the area of land in one ownership surrounding a house or building, and second, Suggested Modification 13 is necessary to note that farmstays may be considered a component of the principal permitted use.

The final new use proposed in the IP/CZO amendment is a fishing operation. The purpose of the proposed fishing operation standards is to allow a commercial recreational fishing operation on a property that has an artificial pond or reservoir. The intent is to allow landowners that have artificial ponds or reservoirs for other uses be allowed the fishing operation to supplement the agricultural operation on their land. However, the intent to allow this use in already existing ponds or reservoirs is not clear from the standards in Section 35-460. Therefore, **Suggested Modification No. 13** is necessary to clarify that the permitted fishing operation must occur within an existing permitted or nonconforming artificial pond or reservoir. (The County defines "nonconforming" as any use of land, building, or structure which was lawful prior to the effective date of the IP/CZO).

Exemptions

The certified IP/CZO contains Section 35-131 (Agricultural Sales), which includes standards for farmstands that may be allowed as exempt development. A farmstand is a stand that sells farm produce and other incidental items. Section 35-460 of the proposed amendment states that agricultural sales allowed in compliance with Section 35-131 is not allowed, and instead, includes standards that specifically pertain to farmstands in the Plan area. These standards require that farmstands that are 800 sq. ft. or less be permitted with a CDP. The County has requested that the farmstand standards be modified to exempt farmstands of 800 sq. ft. or less in the Plan area. However, the existing IP/CZO standards only exempt farmstands that are 600 sq. ft. or less. In order to be consistent with the existing IP/CZO, **Suggested Modification No. 13** adds exemption requirements for farmstands in Section 35-430.D of the proposed overlay district. Suggested Modification 13 also modifies proposed Section 35-460, which include the development standards for farmstands that are not exempt, to clarify that farmstands that meet the listed standards may be allowed as a component of the agricultural principal permitted use.

Additionally, the County has requested that existing cultivated agriculture, orchards and vineyards, as well as grazing be specifically called out as exempt development in the Plan area. Currently, the LCP is silent on whether or not cultivated agriculture and grazing within existing areas of cultivated agriculture or grazing respectively is considered exempt from permitting requirements. In past actions, the Commission has found that cultivated agriculture, including orchards and vineyards, within existing areas of ongoing cultivated agriculture is exempt where there is evidence of historic legal use of the site. Similarly, the Commission has found that grazing is exempt when located in existing areas of ongoing grazing, including the normal rotation of livestock from one pasture to another, and where there is evidence of historic ongoing legal use on the site. Therefore, Suggested Modification 13 includes language in Section 35-

430.D, which states the requirements for cultivated agriculture and grazing to be found exempt from permitting requirements. Moreover, Suggested Modification 13 notes that new or expanded agriculture and grazing is not exempt and shall be subject to the permit requirements of the overlay district.

Land Use Incentive Program

The proposed amendment includes a land use incentive program for the Plan area. The purpose of the program is to allow landowners within the Plan area on property zoned agriculture (AG-II) to develop additional dwelling units (i.e., incentive dwelling units) in exchange for taking actions that provide a demonstrated public benefit such as the provision of public trails. Specifically, the proposed program allows (1) one attached or detached incentive dwelling unit and one attached incentive dwelling unit in exchange for dedication of a trail easement to the County for the California Coastal Trail primary route alignment shown on the proposed Gaviota Coast Plan Parks, Recreation and Trails Map; or (2) one attached or detached incentive dwelling unit in exchange for dedication of a trail easement to the County for trails shown on the proposed Gaviota Coast Plan Parks, Recreation and Trails Map other than the California Coastal Trail primary route alignment.

Proposed Section 35-470 (Gaviota Coast Plan Area Land Use Incentive Program) describes procedures for trail dedication and includes the requirements and development standards for the incentive dwelling units, such as height limits, maximum gross floor area, and existing structures that may be converted to incentive dwelling units. Additionally, the development project and the offered trail must demonstrate compliance with all applicable provisions and required findings of the LCP. However, the proposed program is consistent with applicable Coastal Act and LCP policies only if modified pursuant to **Suggested Modification No. 13**.

As proposed, the land use incentive program requires the landowner to record an irrevocable offer to dedicate a trail easement instead of requiring the landowner to directly grant the trail easement to the County or a third party. This creates an additional step where the County or other third party has to accept the offer to dedicate, which creates the potential for the offer to dedicate to expire unless it is accepted by a third party within the term of the offer. Since the proposed program is a County program, it would be beneficial if the trail easements were directly granted to the County in order to streamline the trail dedication process. Therefore, Suggested Modification 13 is necessary to reflect minor changes to clarify and amend details and processing of the recorded trail dedication documents, and to require a grant of easement (where the easement is granted directly to the County or other third party) instead of an offer to dedicate a trail easement.

As previously stated, the proposed program would allow existing structures to be converted to incentive dwelling units. These structures include agricultural employee dwellings and guest houses. The proposed program requires an incentive dwelling unit to be limited to a maximum gross floor area depending on the lot size where the dwelling is located. However, the limits on the gross floor area would not apply if the incentive dwelling unit was converted from an agricultural employee dwelling. This provision inadvertently creates a loophole for landowners to obtain larger incentive dwelling units by converting their existing agricultural employee dwelling and does not restrict the landowner from building additional agricultural employee dwellings after the incentive dwelling unit is established. Further, allowing for such conversion could impact agricultural

employee housing and create a disincentive for that type of housing which supports the agricultural use at the site. Thus, Suggested Modification 13 is necessary to delete the provisions that allow for conversion of agricultural employee dwellings to incentive dwelling units from the proposed amendment.

Additionally, at the County's request, Suggested Modification 13 revises the height limit standards for the incentive dwelling units to match the height limit standards for a proposed LCP amendment for accessory dwelling units. The changes to the height limit standards are mostly regarding the way the standards are structured and do not alter the substance or requirements for the height limits. However, due to the County's requested changes the revised height limit standards would allow for an exception to the height limit in the Critical Viewshed Corridor Overlay, which would not be allowed in the rest of the Plan area. Therefore, Suggested Modification 13 is also necessary to delete this exception from the incentive dwelling unit standards.

6. Conclusion

For all of the reasons stated above, the Commission finds that (1) the Land Use Plan amendment, only as suggested to be modified, meets the requirements of, and is in conformity with the land use, new development, and hazard policies of Chapter 3 of the Coastal Act; and (2) the IP/CZO amendment, only as suggested to be modified, conforms with and is adequate to carry out the land use, new development and hazard policies of the certified Land Use Plan, as amended.

F. PUBLIC ACCESS AND RECREATION

1. Coastal Act Policies

Section 30210 states:

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 states:

> *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a) states:

> *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
>
> *(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*

(2) adequate access exists nearby, or,
(3) *agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 states, in relevant part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30214 states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
(1) Topographic and geologic site characteristics.
(2) The capacity of the site to sustain use and at what level of intensity.
(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.
(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.
(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30220 states:

> *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221 states:

> *Oceanfront land suitable for recreational uses shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for the area.*

Section 30222 states:

> *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30223 states:

> *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Section 30252 states:

> *The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

2. Existing LUP Policies

Policy 7-1 states:

> *The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. At a minimum, County actions shall include:*

a. Initiating legal action to acquire easements to beaches and access corridors for which prescriptive rights exist consistent with the availability of staff and funds.
b. Accepting offers of dedication which will increase opportunities for public access and recreation consistent with the County's ability to assume liability and maintenance costs.
c. Actively seeking other public or private agencies to accept offers of dedications, having them assume liability and maintenance responsibilities, and allowing such agencies to initiate legal action to pursue beach access.

Policy 7-2 states:

For all development between the first public road and the ocean granting of an easement to allow vertical access to the mean high tide line shall be mandatory unless:

a. Another more suitable public access corridor is available or proposed by the Land Use Plan within a reasonable distance of the site measured along the shoreline, or

b. Access at the site would result in unmitigable adverse impacts on areas designated as Habitat Areas' by the Land Use Plan or

c. Findings are made, consistent with PRC § 30212 of the Coastal Act, that access is inconsistent with public safety or military security needs, or that agriculture would be adversely affected, or

d. The lot is too narrow to allow for an adequate vertical access corridor without adversely affecting the privacy of the property owner. In no case, however, shall development interfere with the public right of access to the sea where acquired through use unless an equivalent access to the same beach area is guaranteed.

The County may also require the applicant to improve the access corridor and provide bike racks, signs, parking, etc.

Policy 7-3 states:

For all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, all beach seaward of the base of the bluff shall be dedicated. In coastal areas where the bluffs are less than five feet, the area of the easement to be granted shall be determined by the County based on findings reflecting historic use, existing and future public recreational needs and coastal resource protection. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the lateral easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval.

Policy 7-17 states:

Since existing parking in the Ellwood to Gaviota area already provide extensive facilities for recreational vehicle camping, priority in future development shall be for

campgrounds that would be accessible by bicycle and pedestrian trails only and for hostels.

Policy 7-18 states, in relevant part:

Expanded opportunities for access and recreation shall be provided in the Gaviota Coast Planning area.

Policy 7-25 states:

Easements for trails shall be required as a condition of project approval for that portion of the trail crossing the parcel upon which the project is proposed.

Policy 7-26 states:

All proposed trails for the coastal zone shall be incorporated into the County's Master Plans for hiking, biking, and equestrian trails.

Policy 7-29 states:

Visitor-serving commercial recreational development in rural areas should be limited to low intensity uses, i.e., campgrounds, that are designed to protect and enhance visual resources, and minimize impacts on topography, habitats, and water resources.

Policy 7-30 states:

Visitor-serving facilities shall be permitted in rural areas only if it is determined that approval of such development will not result in a need for major ancillary facilities on nearby lands, i.e., residences, stores, gas stations.

3. Public Access and Recreation within the Plan Area

The Gaviota Coast is well known as a coastal recreation destination of local and statewide importance due to its incredible scenic beauty and miles of relatively undeveloped coastline. Three major State Parks exist within the Gaviota Coast Plan area: Gaviota State Park, El Capitan State Beach, and Refugio State Beach. Over 5,000 acres and approximately 11 miles of coastline are in State ownership (State Parks) within the eastern Plan area. Activities at the State Parks include camping, picnicking, swimming, surfing, windsurfing, diving, fishing, walking on the beach, hiking, horseback riding, and bicycling. In addition to the developed parks, offshore recreational activities in the Plan area include sport fishing, diving, kayaking, and recreational boating. Boat launch facilities are provided at the Gaviota Pier within Gaviota State Park. California Department of Parks & Recreation (State Parks) also manages six other properties along the Gaviota Coast: Cañada del Leon, Cañada San Onofre, Cañada del Molino, Cañada de Guillermo, Corral Beach and Phillips Tajiguas West. There are no improvements at these locations; however, many of the locations have historically been used as undeveloped vertical beach access points from informal turnouts along Highway 101. In addition, the Los Padres

National Forest covers 15,634 acres within the Plan area. Recreational activities within the National Forest portion of the Plan Area primarily consist of hiking, mountain biking, horseback riding, and nature study along the crest of the Santa Ynez Mountain range.

Jalama Beach County Park, operated by the Santa Barbara County Parks Division, is located north of Gaviota State Park and south of Vandenberg Air Force Base within the Plan area. The park includes 116 campsites and cabins, including RV hook-ups, all overlooking the ocean or beachfront. Activities at the park include picnicking, camping, fishing, walking on the beach, and surfing (including windsurfing). Privately managed recreational areas also provide opportunities for public recreation within the Plan area. The 782-acre Arroyo Hondo Preserve is managed by the Land Trust for Santa Barbara County as a natural and historic preserve. Visitors can enjoy hiking, picnicking, and experience the natural setting of the preserve on a reservation basis. El Capitan Canyon Campground is a privately managed campground located directly north of El Capitan State Beach. The facility offers campsites, RV hook-ups, non-motorized RV cabins and a variety of recreational opportunities including hiking, bicycling, swimming, and volleyball.

In the Hollister Ranch portion of the Plan area, the Hollister Ranch Owners' Association in conjunction with the State Coastal Conservancy provides managed public access to and along the shoreline. The Hollister Ranch Owners' Association provides access for schoolchildren and researchers to its shoreline preserve and the tidelands adjacent to the beach. The Hollister Ranch Owners' Association also provides access to the Common Areas of the Ranch for community groups by appointment only. Section 30610.8(b) of the California Coastal Act specifically requires a $5,000 fee to be assessed with the development of each parcel in Hollister Ranch, in lieu of granting public access to/from each individual property, in order to mitigate for the potential impacts to public access in that area. Santa Barbara County has been requiring this fee as a condition of coastal development permits, and as of 2013, the County has collected $290,000. These funds are administered by the State Coastal Conservancy and will be used for future public access enhancements at Hollister Ranch. In addition, the Commission issued a coastal development permit (CDP No. A-4-STB-84-91) to Chevron in 1985 for their Point Arguello project which required Chevron to pay a $1,000,000 in lieu fee to Santa Barbara County to fund initial costs to implement a public access program at Hollister Ranch. The County holds these funds in their Coastal Resource Enhancement Fund account.

There are a number of existing dedicated public trails and beach access locations along the entire 39-miles of coastline within the Plan area. There are also many existing informal trails and vertical beach access points used by the general public for years to access the beach for recreation. These informal trails and vertical access points often cross both public and private lands. The more heavily used informal access points include Paradiso del Mare, Santa Barbara Ranch, Las Varas Ranch, Tajiguas Beach, Arroyo Quemada Lane, Arroyo Hondo Scenic Vista, Cañada San Onofre, and Cañada del Leon – Gaviota Marine Terminal. Visitors at these areas utilize informal parking along streets or roadside pullouts and many crossings through Highway 101 and/or the railroad to access many of the informal coastal trails and beach access points. Existing public trails in the inland portion of the Plan Area are primarily located within Gaviota State Park, El Capitan State Beach, and the Los Padres National Forest along West Camino Cielo. The Baron Ranch, located north of Highway 101 near Arroyo Quemada Creek and owned by Santa Barbara County, includes the 6-mile Baron Ranch Loop Trail.

The eastern half of the Plan area between the City of Goleta and Gaviota State Park consists of approximately 20 miles of coastline and about half of that area (11 miles of coastline) is made up of State parkland. The only formal, developed segment of the California Coastal Trail within the Plan area is 4.5 miles long and located on State parkland between El Capitan State Beach and Refugio State Beach in the eastern portion of the Plan area.

4. LUP Amendment Consistency Analysis

The County of Santa Barbara's existing certified LCP includes a number of public access and recreation policies, including the public access and recreation policies of the Coastal Act which are incorporated into the LCP. The full text of the relevant policies is listed in subsections 1 and 2 above. The Coastal Act requires the protection of public access and recreation opportunities, one of its fundamental objectives. The Act requires maximum public access to and along the coast, prohibits development from interfering with the public's rights of access, and protects recreational opportunities and land suitable for recreational use. Several policies contained in the Coastal Act work to meet these objectives. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); requires coastal areas suited for water-oriented recreational activities to be protected (30220); specifies the need to protect ocean front land suitable for recreational use (Section 30221); gives priority to the use of land suitable for visitor serving recreational facilities over certain other uses (Section 30222); requires the protection of upland areas to support coastal recreation, where feasible (Section 30223); and provides that the location and amount of new development should maintain and enhance public access to the coast through various means (Section 30252).

The proposed Gaviota Coast Plan includes an additional set of policies (in addition to the existing policies of Santa Barbara County's certified LCP) specific for the Plan area that address trails, coastal access, and recreation. A stated goal of the proposed plan is to protect existing public access and to actively promote expansion of recreation, open space, coastal access, lower cost recreational overnight accommodations, and trails within the Gaviota Coast. Proposed Policy REC-1 calls to substantially increase public trails and open space within the Plan area, including completion of the California Coastal Trail, as well as coastal vertical access points and foothill trails located on both public and private lands. Proposed Policy REC-2 states that the County shall actively promote expansion of public trails, coastal access and recreational opportunities within the Plan area, using its regulatory authority, incentives and other tools to acquire and develop trails, coastal access and recreational facilities, and to encourage provision of lower cost recreational overnight accommodations. Proposed Policy REC-5 includes a set of trail siting and design guidelines and requires that trail siting, design and/or maintenance should be low impact and foster sustainability.

Proposed Policies REC-3 and REC-4 require that opportunities to establish and enhance public trails, access, and recreation shall be pursued and opportunities for public trails within the general alignments and locations identified on the proposed Parks, Recreation and Trails (PRT) map shall be protected, preserved, and provided for during review and approval of development

and/or permits requiring discretionary approval. Proposed Development Standard (Dev Std) REC-1 provides that the dedication of a lateral and/or vertical accessway will be required as a condition of development where a nexus and rough proportionality exist between impacts of the proposed development and the provision of public access. These proposed policies are consistent with the requirements of Coastal Act Section 30210 to provide maximum access and public recreational opportunities and would supplement the existing requirements of the County's certified LCP that require protection of both vertical and lateral public access along the shoreline; require that new development not interfere with the public's right of access to the sea; and require that new development shall include public access from the nearest public roadway to the shoreline and along the coast in consideration of public safety needs, private property rights, and the protection of natural resources, where applicable. Proposed Policy AG-1.D of the Plan states that the imposition of any condition requiring an offer of dedication of a recreational trail or other recreational easement shall be discretionary (determined on a case-by-case basis) and, in exercising its discretion, the County shall consider the impact of such an easement upon agricultural production of all lands affected by and adjacent to said trail or other easement. While it is appropriate for the County to consider the impacts of proposed recreational development on adjacent agricultural lands, the County's proposed policy has a chilling effect on public access and trail dedications and implies that agriculture is a higher priority land use than public access. The Coastal Act requires the protection of the productivity of agricultural lands while also protecting and promoting other coastal resources and land uses in the coastal zone. In addition to coastal agriculture, the Coastal Act identifies public access and recreational facilities, visitor-serving facilities, and commercial fishing as priority land uses that deserve informed consideration and protection. As such, the Commission finds that it is important to clarify in Policy AG-1.D that the County shall evaluate potential conflicts between a proposed recreational use and agricultural production on lands adjacent to a proposed trail or other recreational easement and shall implement measures to mitigate such conflicts. This clarification is reflected in **Suggested Modification No. 3**.

In order to realize the County's vision of creating a complimentary network of trails throughout the Plan area that connect to the sea and the mountains, the proposed Gaviota Coast Plan also includes a set of maps (proposed Gaviota Coast Parks, Recreation, and Trails maps) that graphically depict parkland areas and a network of existing and planned trail alignments, including trailheads, the California Coastal Trail, and vertical beach accessway alignments. The planned/proposed trails that are depicted are further broken down into primary, secondary, and alternate routes. The "primary" routes reflect the preferred trail location with respect to general alignment, connectivity, and user experience. The "secondary" and "alternate" routes reflect optional trail locations if the primary route is deemed infeasible or to compliment the primary route to enhance connectivity and/or user experiences. The proposed set of maps consist of five more detailed segment maps and each segment map is accompanied by a trail alignment narrative that provide additional supporting information regarding proposed trail alignments and locations, alignment preferences and intent (where specified), and other considerations to be addressed in conjunction with future trail planning efforts. The network of existing and planned trail alignments that are depicted on the proposed Gaviota Coast Parks, Recreation, and Trails Maps are accurate and thoughtfully planned in consideration of site-specific opportunities and constraints. The proposed map will serve as an important resource for public access planning

within the Plan area, and as a tool for the implementation of certain policies and provisions of the LCP, including the proposed trail dedication incentive program discussed further below.

The proposed Plan includes a narrative that accompanies the proposed Gaviota Coast Parks, Recreation, and Trails Maps. The narrative describes the types of trails shown on the maps and state that "existing trails" on the map are either legally dedicated to the County or are located on existing public land managed by the U.S. Forest Service or State Parks. The narrative also states that "proposed trails" are not yet legally dedicated for public use. However, these descriptions are limiting and may result in potential confusion regarding what may constitute an existing trail or proposed trail as depicted on the maps. There are trails that may have been legally dedicated to an entity other than the County, may exist on land that is not state or federally owned, and there are trails that are legally dedicated but not yet open for public use, and it is unclear from the proposed descriptions which category such trails are in. There are also existing trails in which public rights have been acquired through historic use. Therefore, the Commission finds that it is important to clarify these distinctions. As such, **Suggested Modification No. 4** includes additional language applicable to the coastal zone that clarifies an existing trail, as shown on the proposed maps, is a trail that is legally dedicated to the County of Santa Barbara or other entity or is located on land managed by the U.S. Forest Service, State Parks, or other entity, and is open for use by the public. The additional language of Suggested Modification 4 also states that the proposed maps do not depict all existing trails in which public prescriptive rights may exist and that a proposed trail as shown on the proposed maps is a trail that is either not yet legally dedicated for public use and is contingent upon a trail easement offer by a property owner, acquisition from landowners, or through conditions on development entitlements, or trail easements that have been legally dedicated but are not yet open for public use.

The proposed trail alignment narrative that accompanies each segment of the proposed Gaviota Coast Parks, Recreation, and Trails Maps includes additional information regarding trail alignment and vertical beach accessway preferences and other considerations that are location-specific. The network of existing and planned trail alignments that are depicted on the proposed maps and described in the narrative for each map segment are accurate and thoughtfully planned in consideration of site-specific opportunities and constraints. As described previously, there are also many existing informal trails and vertical beach access points used by the general public for years to access the beach for recreation. Visitors at these areas utilize informal parking on streets or roadside pullouts along County roads, Highway 101, and/or the railroad right-of ways to access many of the informal coastal trails and beach access points. The proposed Plan recognizes the importance of these existing informal parking areas and includes Policy REC-13, which states that the existing free roadside parking on county roads and U.S. Highway 101 are key to public use and enjoyment of the Gaviota Coast and shall be protected. While these informal parking areas are not depicted on the proposed maps, the Commission finds that it is important to also describe the general location of the significant existing informal roadside parking areas within the narrative list that accompanies each map segment so that they can be considered in future planning and better protected as a public access resource. In addition, several public access amenities, including a segment of coastal trail, were offered to the County as part of their approval of residential development on a specific property (known as Paradiso Del Mare) in the eastern Plan area and it is important that these planned public access amenities be included in the narrative list for map segment 1 of the Plan. Therefore, **Suggested Modification No. 5** is

required which includes these additions to the narrative list accompanying each map segment within Chapter 4 of the Plan.

Proposed Policy REC-19 includes another list of opportunities to expand vertical access to the beach from coastal trails as well as other public recreational improvements within the Gaviota Coast planning area. This policy is proposed to replace existing LUP Policy 7-18, which is proposed to be deleted from the LUP. Since existing Policy 7-18 only applies to the Gaviota Coast Plan area, replacement of this policy with a policy specific to the Plan area that matches the intent and scope of the original policy is appropriate. There is one vertical beach access opportunity at Arroyo Quemada, one public recreation opportunity at the Gaviota Marine Terminal site, and one public recreation day use opportunity at San Onofre that the County inadvertently left off the list of Policy REC-19 and are being added as part of **Suggested Modification No. 6**.

Further, the availability of parking is a critical component of public access in this Plan area. Without adequate parking, beach and trail users will experience difficulty getting to the access site. Similarly, a lack of adequate support facilities on a site that is perceived by the public as overcrowded may make a particular beach or trail less desirable for use. In other situations, it may be necessary to balance the provision of support facilities with the need to protect sensitive resources. Therefore, managing coastal access involves managing not only the physical supply of access, but all of the other factors that contribute to ensuring maximum public access to the beach and inland trails. The proposed plan includes adequate provisions that aim to provide and expand parking for coastal public access; however, additional policies are required to carry out Coastal Act Sections 30210, 30212.5, and 30252 relative to public parking. **Suggested Modification No. 6** includes the addition of Policy REC-13a applicable to the coastal zone, which requires that adequate parking to serve recreation uses be provided, and existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided. The policy also requires that new parking areas and associated facilities shall be distributed throughout the Plan area to minimize the impacts, social and otherwise, of overcrowding or overuse by the public of any single area. **Suggested Modification No. 6** also includes the addition of Dev Std REC-2, which prohibits parking restrictions, such as the posting of no parking signs, physical barriers, imposition of time limited parking, and preferential parking programs, which would impede or restrict public access to beaches, trails or parklands, except where such restrictions are necessary for public safety and where no other feasible alternative exists. If parking restrictions are permitted, this policy requires that an equivalent number of public parking spaces shall be required nearby to mitigate for the loss of the parking.

Prescriptive Rights and Historic Use

Along the California coast the general public has historically used numerous coastal areas. Trails to the beach, informal parking areas, beaches, and bluff tops have provided recreational opportunities for hiking, picnicking, fishing, swimming, surfing, diving, viewing and nature study. California law provides that under certain conditions, long term public access across private property may result in the establishment of a permanent public easement. This is called an implied dedication, or public prescriptive right of access. As a component of the proposed Gaviota Coast Plan, the County has proposed a policy to protect these rights. Specifically,

proposed Policy REC-8 states: "Ensure to the extent feasible that development does not interfere with the public's right of access to the sea where acquired through use." While this policy is similar to Coastal Act Section 30211, which is incorporated into the County's existing certified LCP, it is different in a couple of significant ways and would introduce an internal inconsistency within the LCP. Therefore, the Commission finds that **Suggested Modification No. 6** is necessary to modify Policy REC-8 in order to accurately reflect Coastal Act Section 30211, which provides that development not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

However, in addition to those areas where long term public access has resulted in an adjudicated or established public access easement, there are also areas with historic public use where there may be an implied dedication, but where the public's legal rights of access have not yet been confirmed by a court. New development could threaten continued use of these historically-used areas and adversely impact public access. As such, **Suggested Modification No. 6** to Policy REC-8 also requires that when there is substantial evidence that implied dedication or prescriptive rights may exist, the public access area shall be protected through public acquisition measures or through permit conditions for new development which incorporate measures to provide, maintain, or protect public access.

California Coastal Trail

The California Coastal Trail (CCT) is a statewide trail alignment mapped along the entire 1,100-mile coast of California between Oregon and Mexico. The CCT has been designated a Millennium trail by the governor of California and has been officially established by Senate Bill 908. This bill provides for the construction of the CCT along the state's coastline from the Oregon Border to the border with Mexico, to the extent feasible. This bill also requires the CCT be developed in a manner that respects property rights, privacy of adjacent property owners, and the protection of coastal resources. Specifically, the CCT is designed to foster appreciation and stewardship of the scenic and natural resources of the coast and serves to implement aspects of Coastal Act policies promoting public access, recreation, and non-motorized transportation.

The only formal, developed segment of the CCT within the Plan area is 4.5 miles long and located on State parkland between El Capitan State Beach and Refugio State Beach in the eastern portion of the Plan area. However, the proposed Gaviota Coast Plan includes a set of specific policies that address CCT planning and implementation, and the proposed Gaviota Coast Parks, Recreation, and Trails maps depict existing and planned CCT alignments that run along the entire length of the 39-mile Plan area. The alignments are thoughtfully planned in consideration of CCT goals and site-specific opportunities and constraints. The proposed CCT alignments on the maps will serve as an important resource for CCT and public access planning within the Plan area in order to carry out the public access and recreation policies of the Coastal Act.

Proposed Policy REC-7 requires that the CCT should be a continuous trail as close to the ocean as possible with connections to the shoreline at appropriate intervals and, wherever feasible, the Coastal Trail should be within the sight, sound, or at least the scent of the sea. This policy reflects the goals of the CCT; however, the Commission finds that **Suggested Modification No.**

6 is necessary to include a minor clarification to Policy REC-7 that acknowledges the CCT should be a continuous trail *system*. This is an important clarification, because the CCT may include lateral and vertical trails, as well as parallel trail segments that are tailored for different non-motorized uses, and the trail segments function together as the CCT in order to provide maximum access. Further, Proposed Policy REC-6 and the narrative that accompanies the proposed Gaviota Coast Parks, Recreation, and Trails Maps both include a list of objectives and standards that are to be followed in the siting, design and maintenance of the CCT. Each list includes a number of excellent CCT objectives and standards; however, the Commission finds it necessary to supplement each list in order to better reflect the goals of the CCT and implement Coastal Act policies that promote public access, recreation, and non-motorized transportation. As such, **Suggested Modifications 4 and 6** add standards to each list to require that the CCT shall be located as close to the shoreline as possible to maximize ocean views and scenic coastal vistas; shall provide maximum access for a variety of non-motorized uses by utilizing parallel trail segments when feasible; provide a trail system that has connections to trailheads, parking areas, vertical shoreline access points, inland trail segments, and transit stops at reasonable intervals; utilize parallel trail segments when feasible in order to provide maximum access as close to the shoreline as possible for a variety of non-motorized uses; and if Highway 101 and/or the railroad are relocated farther inland, relocation to a more seaward location should be considered for existing or proposed portions of the coastal trail that are sited inland of either transportation facility.

Proposed Action REC-7 includes a list of specific public access and trail improvements within the Plan area that the County will strive to complete in cooperation with the County Riding and Hiking Trails Advisory Committee. As discussed above, the approximately 19-mile stretch of coast between Vandenberg Air Force Base and Gaviota State Park in the western half of the Plan area is primarily private lands and represents a significant gap in the CCT. As such, the County should strive to acquire easements for the CCT from the eastern end of Hollister Ranch to Jalama Beach County Park. This goal is reflected in Suggested Modification 6 in order to carry out the public access and recreation policies of the Coastal Act. Further, Public Resources Code Section 30610.8(b) of the California Coastal Act specifically requires a $5,000 fee to be assessed with the development of each parcel in Hollister Ranch, in lieu of granting public access to/from each individual property, in order to mitigate for the potential impacts to public access in that area. While the County's existing certified LCP includes reference to this requirement, the LCP does not contain the detailed requirements of Section 30610.8(b) and it is important that it be included in the proposed Gaviota Coast Plan so that applicants, decision-makers, and the public are aware of this specific provision as it applies to Hollister Ranch. Therefore, **Suggested Modification No. 6** is necessary to add a policy (Dev Std REC-3) which requires that a fee shall be assessed with the development of each parcel in Hollister Ranch, as required by Section 30610.8 of the California Public Resources Code, and the fee shall be paid to the California Coastal Conservancy for use in implementing the public access program at Hollister Ranch as a condition of development permit approval.

As stated previously, proposed Policy REC-2 promotes the expansion of public trails, coastal access and recreational opportunities within the Plan area, using its regulatory authority, incentives and other tools to acquire and develop trails, coastal access and recreational facilities, and to encourage provision of lower cost recreational overnight accommodations. Proposed

Policy REC-10 states that private property owners shall be encouraged through the use of incentives and other measures to voluntarily offer opportunities for public access on private lands. Proposed Actions LU-5 and LU-6 state that the County should consider a land use incentive program that would allow for property owners to voluntarily propose an action (such as trail easement dedication) in exchange for an Incentive Dwelling Unit on the landowner's property. Proposed Actions LU-5 and LU-6 also include detailed criteria related to the Incentive Dwelling Unit program. While these Actions are not binding and only state general elements of the program that the County should give consideration to, it is important to note that the County has proposed a specific land use incentive program as part of the subject LCP amendment, the details of which are located within the proposed IP/CZO portion of the amendment request (discussed later in this Section). Since the proposed incentive program in the IP/CZO portion of the amendment request differs from the program outlined in Actions LU-5 and LU-6 of the Gaviota Coast Plan, **Suggested Modification No. 8** includes making Actions LU-5 and LU-6 applicable to the inland area only (outside coastal zone).

Visitor and Recreation Serving Uses and Transportation

The public parklands, campgrounds, trails, and beaches in the Gaviota Coast Plan area serve visitors not only from the immediate region and State but from all over the country and world. Overall, a wide variety of recreational opportunities exist within this area such as swimming, surfing, diving, boating, camping, biking, hiking and equestrian use. As previously noted, over 5,000 acres and approximately 11 miles of coastline are in State ownership (State Parks) within the eastern Plan area and these areas provide for a variety of low cost visitor serving and recreation activities. There is also a privately managed campground (El Capitan Canyon Campground) in the eastern plan area, and a County campground and day use area (Jalama Beach County Park) in the western plan area. Given the rugged topography, sensitive habitats, limited infrastructure, and primarily agricultural zoned lands in the Plan area, the typical types of commercial/retail visitor serving uses found in coastal beach communities such as hotels, motels, retail uses and restaurants are simply not compatible uses in this landscape. The land use and zoning designations within the coastal zone portion of the Plan area include agriculture, recreation/open space, resource management, rural residential, transportation corridor, and coastal dependent industry. The recreation and resource management zones allow for outdoor public or private recreational uses such as campgrounds, trails, and associated facilities. The agricultural zone may also allow limited rural recreation uses such as campgrounds, farmstays, and low intensity recreational development only if such uses are compatible with the agricultural use and would not impact the agricultural capability of the site. Allowing these uses within the majority of land use designations in the Plan area will provide for additional facilities that are consistent with the resource protection policies of the LCP to be added to the stock of visitor serving overnight accommodations. The proposed Plan protects existing public trails, coastal access and recreational opportunities and promotes the expansion of these uses when sited and designed to be compatible with surrounding uses and the rural character of the area. Further, existing policies of the County's certified LCP regarding protection and enhancement of lower cost visitor-serving recreational facilities and visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation (Sections 30213, 30222, 30223) would continue to apply in the Plan area.

Proposed Actions REC-1 through REC-8 of the Gaviota Coast Plan address future County actions to help implement the public access and recreation policies of the Plan, including inter-agency coordination to plan, fund, and implement future public access and trail improvements, and to identify incentives for trail dedications from willing landowners. Action REC-5 provides that the County should establish a Memorandum of Understanding (MOU) with the California Department of Parks and Recreation, Caltrans, and the U.S. Forest Service to coordinate planning and funding of future trail implementation, managed access, environmental review, construction, and long-term maintenance. Policy REC-12 states that the County shall work cooperatively with organizations including but not limited to the California Coastal Conservancy, California Department of Parks and Recreation, Caltrans, Union Pacific Railroad or its successor, non-profits, and the U.S. Forest Service to establish an effective network of inland and coastal trails where jurisdictions overlap. These provisions of the Plan that emphasize cooperation and collaborative partnerships among agencies and other groups are important in order to protect and enhance public access and recreation opportunities consistent with Coastal Act policies.

Proposed Policy REC-16a replaces LUP Policy 7-14, and specifically addresses the siting of campground development and requires that campgrounds and ancillary facilities sited south of Highway 101 shall be set back as far as feasible from the beach in order to reserve near-shore areas for day use. The proposed policy also requires that new recreational facility development, particularly campgrounds and parking lots (except trailhead parking lots), shall be located north of Highway 101 where feasible. Given the orientation of Highway 101 in the planning area, areas north of Highway 101 are farther away from the coast. The proposed policy is placing a priority on siting new recreational facility development north of Highway 101 and therefore farther away from the coast. While the intent of the policy may be to protect near shore areas for day use and to preserve views of the ocean from Highway 101, there are appropriate areas to site recreational facilities south of Highway 101 that both meet those objectives and that better facilitate coastal public access and recreation in comparison to a more inland location. Therefore, the Commission finds that **Suggested Modification No. 5** is necessary to modify Policy REC-16a to clarify that campgrounds and ancillary facilities sited south of U.S. 101 shall be set back as far as feasible from the beach in order to reserve near-shore areas for day use, except for trails and public accessways that facilitate coastal public access to the beach. Further, new recreational facility development, particularly campgrounds and associated parking lots (except trailhead parking lots), shall be sited in appropriate locations to facilitate coastal public access and recreation, in consideration of site constraints. As suggested to be modified, the policy will ensure consistency with Coastal Act Sections 30210, 30212, and 30252 regarding the siting and distribution of facilities to maintain and enhance public access to the shoreline and along the coast.

Proposed Policy REC-17 is proposed to replace existing LUP Policy 7-16, which states that new development on State-owned lands shall be in conformance with a recreational master plan approved by the County and the Coastal Commission, as applicable. However, trails and public accessways on State parklands that facilitate coastal public access to the beach should be encouraged and not required by the County to go through a potentially costly and time-consuming update to their master plan. This is particularly true since all new development would also require a permit that must be found in conformance with the certified LCP. Therefore,

Suggested Modification No. 5 is required to clarify in Policy REC-17 that trails and public accessways that facilitate coastal public access to the beach are an exception to the requirement of conformance with the recreational master plan.

Highway 101 is the principal access route to the Gaviota Coast and serves as the main coastal route between Los Angeles and San Francisco. Highway 101 is a four lane highway that runs east-west along the coast from Goleta to Gaviota State Park and then turns inland north towards Buellton. Within the Plan area, Highway 101 utilizes many at-grade crossings with no stop signs or traffic signals at the intersections; however, there are also several grade separated interchanges. Highway 101 is considered the Pacific Coast Highway, until it diverges from Highway 101 at Las Cruces as State Highway 1 With the exception of the highways and County roads (Calle Real, Refugio Road, West Camino Cielo, and Jalama Road), most local roads on the Gaviota Coast are private paved and private unpaved ranch roads. Proposed Policy REC-14 of the Plan requires that all improvements to the U.S. Highway 101, County roads, and the Union Pacific Railroad or its successor agency shall be designed to protect and expand public access to and along the coast. This policy will ensure that any improvements to existing transportation facilities will be required to maintain and enhance public access to the shoreline and along the coast, consistent with Coastal Act Sections 30210, 30212, and 30252.

The Union Pacific Railroad operates the single line railroad (Coast Route) that passes along the entire Gaviota Coast adjacent to the beach. The Coast Route serves markets along the coast and acts as an alternative route between the Los Angeles Basin and points north if there is a line outage through the Central Valley or other routes are operating at capacity. The Amtrak Pacific Surfliner and Coast Starlight use the tracks for passenger trains that run between San Diego and San Luis Obispo. Currently, there are no stops in the Plan area. Proposed Action REC-8 of the Plan states that the County shall identify locations where public lateral trails are not otherwise available and could be located safely within the Union Pacific Railroad right-of-way, including trails that would require safety improvements. Action REC-8 also provides that the County shall identify locations where access across, over, or under the railroad is necessary or desirable to allow for public access to the beach, along the bluff, and/or for trail connectivity and shall approach the Union Pacific Railroad and the Public Utilities Commission to gain authorization for formal trail segments within the right-of-way and/or where railroad crossings are necessary or desirable to allow for public access to the beach, along the bluff, and/or for trail connectivity. This provision of the Plan is important in order to protect and enhance public access and recreation opportunities consistent with Coastal Act policies.

There are no accessible public transit services on the Gaviota Coast, though the Clean Air Express provides through-service with stops located in Lompoc and Buellton. Since the Gaviota Coast is a rural undeveloped area, there are no formal sidewalks present and few formalized bikeways with the exception of the Pacific Coast Bike Route. The Pacific Coast Bike Route is a Class III bikeway that runs along the shoulder of Highway 101 and continues west on State Highway 1. Proposed Policy REC-17 of the Plan states that alternative transportation systems to provide access to State parks (i.e., shuttle buses, bicycles) shall be used where feasible. And proposed Policy TEI-3 encourages safety improvements to enhance the Pacific Coast Bike Route by (1) establishing paths, completely separated from roadways, for the exclusive use of bicycles with cross flow by motorists minimized; (2) connecting existing bikeways, including linkages to

and between communities and recreation areas; and (3) allowing for flexible, site specific design and routing to minimize impacts on adjacent development and fragile habitat. This policy, in addition to the other public trail and parking policies of the proposed plan (as suggested to be modified), provide for alternative means of circulation and adequate parking to facilitate public access consistent with Coastal Act Section 30252.

Four additional Plan policies are proposed to replace existing policies in the certified LUP. Policy REC-15 is proposed to replace existing Policy 7-13, which regulates the development of recreational facilities to protect coastal views. Policy REC-16b is proposed to replace existing Policy 7-15, which protects the vegetation in the small canyons at the mouths of Cañada San Onofre and Cañada del Molino streams from disturbance by recreational development or use. Policy REC-18 is proposed to replace existing Policy 7-17, which states that future recreational development shall be encouraged to prioritize low-intensity campgrounds or day use, and Policy REC-20 is proposed to replace existing Policy 7-19, which is intended to protect the marine resources and harbor seal haulout area at Naples Reef. The language for these proposed policies has been updated to address the proposed Plan area and existing conditions; however, the intent and substance of each of the policies remains the same. Therefore, the Commission finds that proposed policies REC-15, REC-16b, REC-18, and REC-20 to replace existing policies 7-13, 7-15, 7-17, and 7-19, respectively, are consistent with the County's certified LUP and the public access and recreation policies of the Coastal Act.

For all of the reasons stated above, the Commission finds that the proposed Land Use Plan amendment, as suggested to be modified, meets the requirements of and is in conformity with the applicable public access and recreation policies of Chapter 3 of the Coastal Act.

5. IP/CZO Amendment Consistency Analysis

The County proposes to amend the IP/CZO portions of the LCP to include additional regulations specific for the Plan area that are intended to carry out the policies of the proposed Gaviota Coast Plan. Specifically, the County is proposing to modify the allowed land use and permit requirements for the zoning designations within the Plan area. The land use and zoning designations within the coastal zone portion of the Plan area include agriculture, recreation/open space, resource management, rural residential, transportation corridor, and coastal dependent industry. The recreation and resource management zones allow for outdoor public or private recreational uses such as campgrounds, trails, and associated facilities. The agricultural zone may also allow limited rural recreation uses such as campgrounds, farmstays, and low intensity recreational development only if such uses are compatible with the agricultural use and would not impact the agricultural capability of the site. Allowing these uses within the majority of land use designations in the Plan area will provide for additional facilities that are consistent with the resource protection policies of the LCP to be added to the stock of visitor serving overnight accommodations. The proposed amendment clarifies that trails for bicycling, hiking, and riding are permitted in all of the zoning designations within the Plan area in order to promote expansion of trails and coastal access opportunities.

The proposed IP/CZO portion of the amendment request also includes a provision that specifically addresses the siting of campground development and requires that campgrounds and

ancillary facilities sited south of Highway 101 shall be set back as far as feasible from the beach in order to reserve near-shore areas for day use. The proposed provision also requires that new recreational facility development, particularly campgrounds and parking lots (except trailhead parking lots), shall be located north of Highway 101 where feasible. This provision mirrors proposed Policy REC-16a of the Gaviota Plan, discussed above. In order to ensure consistency with Policy REC-16a (as suggested to be modified pursuant to LUP Suggested Modification 6), the Commission finds that is necessary to modify the proposed IP/CZO to clarify that campgrounds and ancillary facilities sited south of U.S. 101 shall be set back as far as feasible from the beach in order to reserve near-shore areas for day use, except for trails and public accessways that facilitate coastal public access to the beach. Further, new recreational facility development, particularly campgrounds and associated parking lots (except trailhead parking lots), shall be sited in appropriate locations to facilitate coastal public access and recreation, in consideration of site constraints. As suggested to be modified, the provision will conform with and be adequate to carry out the LUP as amended.

The IP/CZO portion of the amendment request also proposes to include a new Land Use Incentive Program for the Gaviota Coast Plan Area. The stated purpose of the program is to allow landowners within the Plan area on property zoned Agriculture (AG-II) to develop additional dwelling units (i.e., incentive dwelling units) in exchange for taking actions that provide a demonstrated public benefit such as the provision of public trails. Specifically, the proposed program allows (1) one attached or detached incentive dwelling unit and one attached incentive dwelling unit in exchange for dedication of a trail easement to the County for the California Coastal Trail primary route alignment shown on the proposed Gaviota Coast Plan Parks, Recreation and Trails Map; or (2) one attached or detached incentive dwelling unit in exchange for dedication of a trail easement to the County for trails shown on the proposed Gaviota Coast Plan Parks, Recreation and Trails Map other than the California Coastal Trail primary route alignment. The development project and the offered trail must demonstrate compliance with all applicable provisions and required findings of the LCP. The network of existing and planned trail alignments that are depicted on the proposed Gaviota Coast Parks, Recreation, and Trails Maps are accurate and thoughtfully planned in consideration of site-specific opportunities and constraints, and will serve well as a tool for implementation of the proposed trail dedication incentive program. As described more fully in the Land Use and New Development Section of this staff report, the proposed program is consistent with applicable Coastal Act and LCP policies only if modified as suggested. The suggested modifications related to the trail dedication aspects of the proposed program reflect minor changes that are necessary to clarify and amend details and processing of the recorded trail dedication documents, and to require a grant of easement (where the easement is granted directly to the County or other third party) instead of an offer to dedicate an easement (which would have to undergo another step of being accepted by the County or other third party and have the potential of expiring unless accepted by a third party within the term of the offer).

6. Conclusion

For all of the reasons stated above, the Commission finds that (1) the Land Use Plan amendment, only as suggested to be modified, meets the requirements of and is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act; and (2) the IP/CZO amendment,

only as suggested to be modified, conforms with and is adequate to carry out the public access and recreation policies of the certified Land Use Plan, as amended.

G. SCENIC AND VISUAL RESOURCES

1. Coastal Act Policy

Section 30251 states:

> *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

2. Existing LUP Policies

Policy 3-13 states:

> *Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

Policy 3-14 states:

> *All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.*

Policy 4-3 states:

> *In areas designated as rural on the land use plan maps, the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.*

Policy 4-5 states:

In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Bluff top structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.

Policy 4-6 states:

Signs shall be of size, location, and appearance so as not to detract from scenic areas or views from public roads and other viewing points.

Policy 4-8 states:

The County shall request the State of California to designate that portion of Highway 101 between Winchester Canyon and Gaviota State Park as a "Scenic Highway."

Policy 4-9 (View Corridor Overlay) states:

Structures shall be sited and designed to preserve unobstructed broad views of the ocean from Highway #101, and shall be clustered to the maximum extent feasible.

Policy 4-10 (View Corridor Overlay) states:

A landscaping plan shall be submitted to the County for approval. Landscaping when mature, shall not impede public views.

Policy 4-11 (View Corridor Overlay) states:

Building height shall not exceed one story or 15 feet above average finished grade, unless an increase in height would facilitate clustering of development and result in greater view protection, or a height in excess of 15 feet would not impact public views to the ocean.

3. LUP Amendment Consistency Analysis

Coastal Act Section 30251 requires that the scenic and visual quality of coastal areas be protected and recognizes the public importance of these resources. Further, Section 30251 states that new development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

In addition, the County's existing certified LUP contains numerous policies to protect visual resources within the coastal zone. Specifically, LUP Policies 3-13 and 3-14 require the

minimization of any alteration of natural landforms. LUP Policy 4-3 relates to designated rural areas and requires that the height, scale, and design of structures shall be compatible with the character of the surrounding natural environment, designed to follow the natural contours of the landscape, and sited so as not to intrude into the skyline as seen from public viewing places. LUP Policy 4-5 requires that oceanfront structures be setback from the bluff edge a sufficient distance to minimize or avoid impacts on public views from the beach. LUP Policy 4-6 regulates signage to prevent any potential adverse visual impacts to scenic areas and public roads. In addition, substantial areas south of Highway101 are designated as View Corridors and are thus subject to specific policies regarding the protection of public views of the ocean from Highway 101 (LUP Policies 4-9, 4-10, 4-11). In addition, LUP Policy 4-8 recommends that this area be designated as a State Scenic Highway.

The Gaviota Coast of Santa Barbara County is an area of incredible scenic beauty. The landscape consists of chaparral-covered sandstone mountains, wooded canyons, grassland mesas, coastal bluffs, narrow sandy beaches, and the Pacific Ocean. The area also contains grazing lands, orchards, limited residential and other development, Highway 101 and the railroad, and significant public parkland and open space areas. This segment of California's coast is rural in character and remarkably scenic. There are many public viewing areas that offer diverse and dramatic views of the Pacific Ocean and Channel Islands, the coastal terrace, and the ridgelines of the Santa Ynez Mountain range. The dramatic topographic features, native habitats, and the rural character of this region make the area's scenic resources very special for residents and visitors alike.

As such, the proposed Gaviota Coast Plan includes a number of additional policies that aim to protect the scenic qualities of the Plan area. Proposed Policy VIS-2 requires that new development be visually subordinate to the surrounding environment as seen from public viewing places. The policy also requires adherence to the proposed Site Design Hierarchy and Gaviota Coast Plan Design Guidelines, which address project-level siting and design criteria guidelines such as site selection, architecture, grading and landscaping to ensure development does not adversely affect views and is compatible with the scale and rural character of the existing community and the natural environment. Proposed Policies VIS-1 and VIS-3 requires that the height, scale, and design of new development be compatible with the character of the area and, where feasible, avoid intrusion into the skyline as seen from public viewing areas. Proposed Policy VIS-4 prohibits development from being sited on ridgelines to the maximum extent feasible. Policy VIS-5 of the proposed Plan requires that lighting associated with development avoid adverse impacts on the night sky and surrounding land uses.

As proposed, these policies are consistent with the general requirements of Coastal Act Section 30251 to protect and enhance the scenic and visual quality of coastal areas and to minimize the alteration of natural landforms. However, in addition to these policies, the Commission finds that it is important to add Policy VIS-1a for the coastal zone (**Suggested Modification No. 11**) that is a general visual resource protection policy regarding siting and designing development to first avoid visual impacts from public viewing areas, and if there is no feasible building site that would not be visible, then minimize impacts to the maximum extent feasible through other measures. The policy states that those other measures may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures,

designing structures to blend into the natural setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, and incorporating screening elements such as landscaping or artificial berms. The suggested policy also clarifies that landscape screening and artificial berms shall not substitute for siting and design alternatives that avoid impacts to public views of the ocean and other scenic areas and minimize alteration of natural landforms.

The proposed Site Design Hierarchy includes a site selection section that includes two standards (entitled "Resource Sensitivity" and "Consideration of Agriculture") that relate to siting new development in relation to environmentally sensitive habitat (ESH) and agriculture. However, these two standards are not consistent with the ESH and agricultural resource protection policies of the Plan, as suggested to be modified pursuant to this staff report to ensure consistency with Coastal Act Sections 30240, 30241, and 30242. As such, **Suggested Modification No. 10** includes removing those two subsections from applicability in the coastal zone portion of the plan area so as to not create an internal inconsistency within the planning document. With the exception of the "Resource Sensitivity" and "Consideration of Agriculture" subsections within the site selection section of the Site Design Hierarchy discussed above, the proposed Site Design Hierarchy and Gaviota Coast Plan Design Guidelines are consistent with the general requirements of Coastal Act Section 30251 and the County's visual resource protection policies of the LCP to protect and enhance the scenic and visual quality of coastal areas.

The proposed Plan includes Action VIS-3 that states that the County shall apply to the California Department of Transportation (Caltrans) to designate Highway 101 as a State Scenic Highway in order to formalize the recognition of its scenic values. The length of Highway 101 from the eastern Plan area boundary to the Gaviota tunnel includes spectacular views of the Pacific Ocean, grassy rolling hills, and the Santa Ynez Mountains. The route also adjoins three California State Parks: Gaviota State Park, Refugio State Park, and El Capitan State Beach. This stretch of highway provides a rural, open space transition from highly urbanized, coastal, Southern California into Central California. The County was pursuing their application to Caltrans to achieve the State Scenic Highway designation during processing of the proposed Gaviota Coast Plan. In December of 2016, soon after the County adopted the proposed Plan, Caltrans approved the Gaviota Coast section of Highway 101 as a State Scenic Highway. The officially designated segment travels through one of the longest remaining rural coastlines in southern California, along 21 miles of Highway 101 from the City of Goleta's western boundary, to Route 1 at Las Cruces. A component of the application process to achieve this designation was the development of a Corridor Protection Program that consists of adopted land use policies and development standards applicable to the scenic corridor area to ensure that its scenic qualities are protected to the maximum extent feasible. The County's Corridor Protection Program for the Gaviota Coast included the existing policies and provisions of the County's LCP as well as those proposed as part of the subject Gaviota Coast Plan.

Due to the striking beauty of the relatively undisturbed coastline and its visibility from Highway 101, the proposed Plan designates a Critical Viewshed Corridor (CVC) Overlay over the coastal portion of the Plan area from Gaviota State Park to the eastern boundary of the plan area near Goleta (Figure 6-1 in the Gaviota Coast Plan (Exhibit 4)). The proposed Plan includes a map of the Overlay area and several new policies that are specific to the CVC Overlay (Policies VIS-12

through VIS-17). Proposed Policies VIS-15 and VIS-17 require that new development be sited and designed to protect unobstructed broad views of the ocean from Highway 101. Proposed Policies VIS-13, VIS-14, and VIS-16 address building height, landscaping, and screening standards to preserve public views of the ocean. Policy VIS-16 establishes a height limit of one story or 15 feet above existing grade for new buildings south of Highway 101, unless an increase in height would facilitate clustering of development and result in greater view protection. Since the proposed policy does not state a maximum height that the structures may be increased to should an increase be justified, the Commission finds that **Suggested Modification No. 11** is necessary to modify Policy VIS-16 to clarify that where a building height may exceed the 15 foot maximum in the Critical Viewshed Corridor, the maximum allowable height shall not exceed the height allowed in the zone district, and 25 feet in the Agricultural II (AG-II) zone designation since there is no building height maximum specified in the LCP for the AG-II zone.

Proposed Development Standard (Dev Std) VIS-2 of the Gaviota Coast Plan directs the County's Planning & Development staff to evaluate methods to minimize excessive road construction and removal of native vegetation when new roads and driveways are proposed. Given the potential impacts that roads and driveways can have in this rural, scenic area, it is important for the policy to be framed as a standard that a new development proposal is measured against rather than as guidance for County staff to evaluate road construction methods. In order to strengthen this standard for coastal zone application in order to ensure consistency with Coastal Act Section 30251 and the other visual resource policies of the County's LUP, the Commission finds that it is necessary to add Dev Std VIS-2 for the coastal zone portion of the plan area (Suggested Modification 11) to require that the siting and alignment of new roads and driveways serving development shall minimize grading, landform alteration, removal of natural vegetation, and related visual impacts.

The proposed Plan does not address the protection of individual native trees that may not be part of a larger woodland, savannah, or other habitat area that is an environmentally sensitive habitat area (ESH). However, native trees are an important component of the visual character of the area and must be protected in order to ensure that new development is visually compatible with this character, as required by Section 30251 of the Coastal Act. Additionally, native trees (including, but not limited to, oak, walnut, sycamore, and bay trees) are an important coastal resource, especially where they are part of a larger woodland, savannah, or other habitat area that is an ESH area, or when they serve as raptor nesting/roosting sites or Monarch butterfly habitat. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, and provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife. Individual native trees still serve important functions within the landscape and are considered to be an important part of the character and scenic quality of the area.

Therefore, the Commission finds it necessary to add Policy NS-12 for the coastal zone portion of the Plan area (**Suggested Modification No. 2**), which requires that individual mature native or roosting/nesting trees be protected from damage or removal to the maximum extent feasible, except in cases where preservation of trees would preclude reasonable use of a parcel, or threaten life and/or property. Where the removal of protected trees cannot be avoided through the implementation of project alternatives, or where development encroachments into the protected

zone of protected trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every one tree removed. Where on-site mitigation is not feasible, the most proximal off-site mitigation shall be required. Replacement trees, particularly oak trees, are most successfully established when the trees are seedlings or acorns. Many factors, over the life of the restoration, can result in the death of the replacement trees. In order to ensure that adequate replacement is eventually reached, it is necessary to provide a replacement ratio of at least ten replacement trees for every tree removal or significant encroachment to account for the mortality of some of the replacement trees.

A significant portion of the Plan area consists of steep coastal bluffs and sandy beaches that are adjacent to the Pacific Ocean. While the County has proposed several policies that relate to the consideration of impacts associated with sea level rise and bluff erosion for new development, the proposed plan does not address development setbacks from the bluff edge or development on bluff faces. Structures on a bluff face have the potential to adversely impact visual resources, as well as public access where structures destabilize the bluff system, coastal bluff habitat, and coastal erosion hazards. The County's existing LUP contains Policy 3-7, which states that "no development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, …" Because the policy is silent as to whether the engineered staircases or accessways are intended for private and/or public beach access, this has led to inconsistent interpretation of the existing certified LCP. The County has interpreted LUP Policy 3-7 to allow beach stairways for private use down the bluff face provided that they are appropriately engineered. However, given the very limited types of bluff face development that are consistent with Coastal Act and LCP policies, the most logical interpretation of LUP Policy 3-7 is that it does not allow engineered staircases for all private residential properties. Such an interpretation would result in the continued proliferation of private stairways on coastal bluffs, and resulting significant cumulative adverse impacts to visual resources, habitat, shoreline processes, and erosion hazards as the bluff face is developed. Therefore, **Suggested Modification No. 8** to add Policy LU-13 (Bluff Development) for application in the coastal zone is required to limit allowable development on bluff faces to engineered staircases and accessways to provide *public* beach access and require the siting of drainage systems away from bluff faces. In addition, the suggested modification is necessary to require the siting and setback of development on bluff top property to be sufficient to avoid the threat of bluff erosion or slope instability and analyzed using climate change and sea-level rise studies that are based upon the best available science. These suggested modifications provide consistency with both the Coastal Act's mandate to maximize public access as well as its directives to protect natural landforms, visual resources, coastal processes, and other coastal resources.

For all of the reasons stated above, the Commission finds that the Land Use Plan amendment, only as suggested to be modified, meets the requirements of and is in conformity with the visual resource protection policies of Chapter 3 of the Coastal Act.

4. IP/CZO Amendment Consistency Analysis

The County proposes to amend the IP/CZO portions of the LCP to include additional regulations specific for the Plan area that are intended to carry out the policies of the proposed Gaviota Coast

Plan. Specifically, the County is proposing to add specific standards relative to the Critical Viewshed Corridor (CVC) Overlay District and to depict the boundaries of this Overlay District on the proposed Gaviota Coast Plan Zoning Overlay map. The proposed CVC Overlay standards require that new development be sited and designed to protect unobstructed broad views of the ocean from Highway 101, and to be clustered to the maximum extent feasible. The proposed CVC Overlay standards also address building height, landscaping, and screening standards to preserve public views of the ocean. Structures located south of Highway 101 are limited to 15 feet above existing grade, unless an increase in height would facilitate clustering of development and result in greater view protection. Since the proposed policy does not state a maximum height that the structures may be increased to, should an increase be justified, the Commission finds that it is necessary to modify this standard (**Suggested Modification No. 13**) to clarify that where a building height may exceed the 15 foot maximum in the Critical Viewshed Corridor, the maximum allowable height shall not exceed the height allowed in the zone district, and 25 feet in the Agricultural II (AG-II) zone designation since there is no building height maximum specified in the LCP for the AG-II zone. The proposed CVC Overlay standards also address landscaping, screening, and the height, scale, and appearance of new development to preserve public scenic views and to be compatible with the surrounding area. The CVC Overlay District standards also require that greenhouses located on lots within the overlay district would be limited to 4,000 sq. ft. per lot, and new overhead electrical transmission and distribution lines for non-agricultural development that are subject to regulation by the County would be prohibited. In addition, all structural development proposed on lots located within the CVC Overlay District would be required to undergo Design Review with the County Board of Architectural Review. However, single agricultural structures with an individual gross floor area of less than 5,000 square feet would not be subject to the requirements of CVC Overlay District only if: (1) the existing cumulative structural development located on the lot that the structure is proposed to be located on does not exceed a footprint area of 10,000 square feet, (2) the structure uses building materials, earth tone colors, and non-reflective paints that are compatible with the surrounding natural environment to maximize the visual compatibility of the development with surrounding areas, and (3) exterior lighting is limited to that required for safety and is fully shielded to minimize impacts to the rural nighttime character.

The County's proposed exterior lighting regulations for the Gaviota Coast Plan require the preparation of a lighting plan for permit applications that include non-exempt outdoor light fixtures. Outdoor light fixtures are required to be fully shielded (full cutoff) and directed downward to minimize light pollution, glare, and light trespass, as well as conserve energy and preserve the nighttime sky. In addition, the County's proposed outdoor lighting regulations restrict the use of illuminated advertising signs, outdoor illumination for aesthetic/decorative purposes, outdoor recreational facility lighting, and high intensity lights (e.g., search lights and laser source lights). As proposed, the exterior lighting regulations are consistent with the visual resource protection policies of the LUP as amended.

5. Conclusion

For all of the reasons stated above, the Commission finds that (1) the Land Use Plan amendment, only as suggested to be modified, would remain consistent with the visual resource protection policies of Chapter 3 of the Coastal Act; and (2) the IP/CZO amendment, only as suggested to be

modified, conforms with and is adequate to carry out the visual resource protection policies of the certified Land Use Plan, as amended.

H. GENERAL LUP ADMINISTRATION

COASTAL and INLAND Application

As a result of the Coastal Commission's review of the Gaviota Coast Plan for certification as an amendment to the County's certified LCP, a number of the proposed policies, actions, and development standards originally adopted by the County for the entire Plan area (including areas outside of the coastal zone boundary) were modified as they apply within the coastal zone. In these instances, there are similar, but different, provisions that apply within the coastal zone portion as compared to the inland portion (outside of the coastal zone) of the Plan area. To avoid confusion in application and implementation of these proposed policies and provisions, the policies and provisions that have been modified by the Coastal Commission pursuant to the Suggested Modifications (Exhibits 2 and 3) and will only apply to the coastal zone portion of the Plan area have been marked as "COASTAL" or will only apply to the inland portion of the Plan area have been marked as "INLAND." In addition, **Suggested Modification No. 1** is needed to add a policy to the proposed Plan to explain that where the Plan contains different standards for the inland and coastal portions of the Plan areas, the relevant provision will be clearly marked as either "COASTAL" or "INLAND" at the beginning of the provision's text, and further, that provisions without a "COASTAL" or "INLAND" notation must be interpreted to apply to the entire Plan area.

I. 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 (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission, and 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.

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 alternative 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).

The County's LCP Update amendment consists of an LUP and an IP amendment. As discussed above, the LUP amendment as originally submitted does not conform with, and is not adequate to carry out Chapter 3 of the Coastal Act. The Commission has, therefore, suggested modifications to the proposed LUP to include all feasible measures to ensure that such

significant environmental impacts of new development are minimized to the maximum extent feasible consistent with requirements of the Coastal Act. 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 LUP 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 amendment into conformity with the policies of the Coastal Act.

Further, the IP amendment as originally submitted does not conform with, and is not adequate to carry out, the policies of the LUP, as amended. The Commission has, therefore, suggested modifications to the proposed IP to include all feasible measures to ensure that such significant environmental impacts of new development are minimized to the maximum extent feasible consistent with the requirements of the Coastal Act. 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 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 amendment into conformity with the LUP, as amended, consistent with the requirements of the Coastal Act.

Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.