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# Th14a

**Prepared May 24, 2024 (for June 13, 2024 Hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Kevin Kahn, Central Coast District Manager  
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**Subject:** **San Luis Obispo County Local Coastal Program Amendment Number LCP-3-SLO-21-0028-1-Part G (Los Osos Community Plan)**

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## SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to amend its LCP by updating the provisions that govern development in the unincorporated community of Los Osos via a new Los Osos Community Plan. The primary intent of such plan is to update policies addressing water supply, wastewater services, and habitat protections, and the impetus behind it is to help identify how and where this community of about 15,000 residents can grow, essentially exclusively via infill development. The plan represents the culmination of literally decades of overlapping efforts to identify a sustainable vision for Los Osos' future that addresses what have historically been severe constraints to development related to those three primary issue areas. Commission staff have worked closely with County staff on plan provisions, and the two staffs are in agreement with the staff recommendation here.

Los Osos is located in central San Luis Obispo County at the south end of Morro Bay roughly due west of the City of San Luis Obispo. Upcoast lies the City of Morro Bay, and past that the community of Cayucos. Los Osos extends south and east from Morro Bay proper into the Los Osos Valley to the lower foothills of the Irish Hills. While the community had been a small summer retreat of second homes, it experienced a suburban residential boom in the 1970s that, in many respects, disregarded its physical constraints. It developed in excess of what the Los Osos groundwater basin – the community's sole source of water to this day – could accommodate, and with individual septic systems whose discharge found its way into that same water supply and the bay itself. The end result was that, by the 1980s, it was well understood that Los Osos was suffering from groundwater overdraft, seawater intrusion, and nitrate contamination. This resulted in a Regional Board order in 1988 that banned nearly all new septic systems, and that essentially resulted in a type of building moratorium in the community. In addition to these public service constraints, the community is sited atop an ancient dune landform, where the unique geography and climate produce a soil type called baywood fine sands that support certain species found nowhere else on earth. As such,

the Commission has generally considered all of Los Osos to constitute an environmentally sensitive habitat area (ESHA), including where that is reflected in the LCP, which is a severe constraint to non-habitat related development. Put another way, development in this community has been historically stifled by water, wastewater, and habitat constraints since the inception of the coastal program in the 1970s.

In response to these issues, and after several failed attempts at doing so, the County applied for and the Commission in 2010 approved a CDP that authorized construction of the Los Osos Water Recycling Facility (LOWRF), which allowed the community to essentially rid itself of individual septic systems and their adverse effects, and instead to replace them with a public sewerage system that treats wastewater to tertiary levels that is then used for groundwater replenishment. The LOWRF became operational in 2016, and helped 'solve' one of the three growth and development constraints that had plagued the community for so many years. However, given that water and habitat issues had not by that time similarly been addressed, and to avoid inappropriate growth inducement from the new plant that could exacerbate such issues, the Commission's CDP required the County to update its LCP to identify sustainable development parameters for Los Osos that also addressed water supply capacities and ESHA (where the latter was envisioned to be accounted for via a USFWS-approved Habitat Conservation Plan (HCP)) prior to adding new units in the community. The proposed amendment is the County's response to that Commission requirement.

Thus, the proposed Community Plan is meant to provide the regulatory blueprint for how new development can address the three problems that have stunted new development in the community for all these years. However, as submitted there is some question as to whether the plan can appropriately meet such objectives, primarily because it is quite complex, with information and requirements somewhat buried in some 400 pages of text, and it includes some internal inconsistencies and redundancies on certain issues, which tends to happen with regulatory documents of such a scale and magnitude. It also lacks clarity on core requirements (e.g., including wastewater and ESHA provisions, and the relationship of the LCP to the HCP), particularly around water supply, where the plan includes a series of complex provisions, some of which are conflicting (e.g., basin health versus water offsets). All of this is exacerbated because the plan was initially drafted multiple years ago, and thus it references older versions of the draft HCP prior to USFWS adoption in 2024, it includes references to water infrastructure programs and projects that have already been implemented, and it generally does not reflect the best available information regarding groundwater basin health (which is all the more the case since the basin was arguably in/near overdraft when the first plan drafts were developed) where, understandably, the policies thus appear written with that uncertainty in mind, and reference future determinations of groundwater health rather than making affirmative conclusions. And finally, the manner in which the plan would integrate into the LCP is a little unclear.

The good news is that the submitted plan includes the foundation for what can be a clear, succinct, and directive set of provisions that address today's understanding of core water, wastewater, and habitat protection issues, and that can effectively guide sustainable development in Los Osos moving forward. And Commission and County staff worked collaboratively to refine the amendment to do just this, and are in

agreement on the staff recommendation. Procedurally, only those portions of the Community Plan needed to guide development on these and other core coastal resource issues would be inserted into the LCP's Estero Area Plan (EAP), and the remainder of the plan would be housed outside the LCP where it could continue to provide helpful background information on Los Osos demographics and other characteristics, as it currently does. Importantly, the EAP would allow for additional new development in the community, focused predominantly on infill residential development, which will tremendously help with the community's (and the County's overall) housing objectives. And such new development will be accommodated consistent with sound resource conservation principles.

In terms of water supply, the groundwater basin has been under court adjudication<sup>1</sup> for about a decade and has been managed by the Los Osos Basin Management Committee (BMC), an entity created to comprehensively manage and monitor water resources to stop overdraft and seawater intrusion, and meet water quality requirements. The BMC has shown that the community has used less water for several years now than the basin's calculated sustainable/safe yield, or the amount of water the BMC has determined can be used while both meeting applicable drinking water standards and protecting basin health. In fact, the latest numbers from the BMC's 2023 report show the basin is trending positively, and only 69% of its sustainable/safe yield is being used. Moreover, there aren't any documented problems with community water extractions having any specific adverse impacts on Los Osos aquatic resources, such as wetlands, streams, or Morro Bay itself. Thus, staff believes that the available data shows the basin is no longer in overdraft, that current water usage isn't having adverse impacts on coastal resources, and thus can be found to be a sustainable supply for Coastal Act purposes.

Staff does not make this determination lightly, including as it understands the gravity of what it means: that a community that for a generation was essentially under a building moratorium due to public service inadequacies is now offered a path to developing once again. And staff is also cognizant that not all in the community agree that the basin is healthy enough to support new development. Staff has taken their concerns seriously and did its collective best to understand the complex technical underpinnings of BMC groundwater management, and has applied such understandings through a Coastal Act lens. As explained in detail in the report, staff believes that the evidence shows that there aren't coastal resource problems with the basin, and that there is enough water to provide for new housing, visitor-serving uses, and other core needs to keep Los Osos a thriving coastal community, which is also a core Coastal Act objective. The modified plan would allow new development if it can be served by an adequate and long-term sustainable water supply based on the best available science, including as defined by the BMC's annual report documenting sustainable yield. And to be cautious and meter out new growth over time, and not overburden the groundwater basin with a rush of new development, staff is also recommending applying a maximum 1% growth rate for new residential units in the community per year (equating currently to over 50 such units per

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<sup>1</sup> A court ruling that establishes who has legal water rights, how much groundwater those owners can extract, and how the groundwater will be managed.

year).

With respect to wastewater, the suggested modifications require that new development within the service boundaries of the public sewer system must connect to such system, and any septic system outside of such service area (which applies to just a handful of neighborhoods outside the core of the community) is required to meet all applicable water quality requirements and to not adversely impact coastal resources.

And finally, with respect to habitat protections, the modifications provide a refined regulatory framework to incorporate the HCP's provisions into a Coastal Act/ESHA protection context. The policies mirror the HCP in terms of requiring new development within the existing developed community core to employ measures that minimize any site disturbance, and then to mitigate any remaining impact via payment into the County's greenbelt/habitat preservation program. Put another way, as opposed to piecemeal takings evaluations and potentially different outcomes for any individual project/site, the program would ensure that habitat benefits are pooled, and focused to protect larger and more contiguous habitat areas, including a primary conservation area of over 1,500 acres meant to be acquired, restored, protected, and managed for habitat purposes. Infill habitat impacts (that would be expected in takings cases anyways) would thus be more clearly leveraged to provide greater benefit and protection for habitat more broadly, and the resultant program represents good public policy in terms of creating a comprehensive program that marries two seminal environmental laws, and provides applicants, the public, USFWS, the County, and Commission a clear and united policy approach to Los Osos' specific habitat needs.

In conclusion, the end result of the suggested modifications is to provide for infill development in a manner that has adequate water supply to serve it, wastewater capacity to treat it, and all within a protected habitat greenbelt area that will preserve the community's periphery while allowing for increased infill development. The amendment as modified serves to implement many Coastal Act goals and requirements, including ensuring that development in Los Osos is sustainable, that the legal framework to build housing and community services to keep Los Osos a thriving community is provided, and that statewide and local housing supply needs are met. All of which can hopefully provide some certainty for this community, and all of which definitely shows that, with good planning, communities can indeed solve tough problems related to public services and natural resources. The community should be proud of its efforts and commitment to doing so, and it can be reflected in a comprehensive coastal land use planning document that should ably serve the Los Osos community into the future. Thus, the proposed LUP amendment with the suggested modifications can be found consistent with the Coastal Act.

Commission staff very much thanks the County and its staff for their commitment here to thoughtful long-range coastal planning and their open dialogue throughout the amendment process. And staff also very much thanks the local community, including those who may still disagree on certain elements. Staff believes that the results of this overall collaboration are robust Los Osos development provisions that should ably guide development and protect the community's coastal resources into the future. Thus, staff

recommends that the Commission approve the amendment as modified, and the motions and resolutions to do so – there are two each –are found on page 7 below.

**Staff Note: LCP Amendment Action Deadline**

The proposed LCP amendment was filed as complete on May 22, 2024. The proposed amendment affects only the LUP portion of the LCP and the 90-working-day action deadline is September 30, 2024. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until September 30, 2024 to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case at this Commission meeting (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

*Alternate Time Extension Motion: I move that the Commission extend the time limit to act on San Luis Obispo County Local Coastal Program Amendment Number LCP-3-SLO-21-0028-1-Part G to September 30, 2025, and I recommend a yes vote.*

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**EXHIBITS**

- Exhibit 1 – Los Osos Location Maps and Photos
- Exhibit 2 – Proposed LCP Amendments (Los Osos Community Plan and Estero Area Plan Changes)
- Exhibit 3 – Suggested Modifications

**CORRESPONDENCE**

- Correspondence Received

## 1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, **approve** the LUP amendment with suggested modifications. To implement this recommendation, the Commission needs to make two motions, the first to deny as submitted and the second to approve as modified.

### **A. Deny the LUP Amendment as Submitted**

Staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the LUP 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.

**Motion:** *I move that the Commission certify Land Use Plan Amendment LCP-3-SLO-21-0028-1-Part G as submitted by San Luis Obispo County, and I recommend a no vote.*

**Resolution to Deny:** *The Commission hereby denies certification of Land Use Plan Amendment LCP-3-SLO-21-0028-1-Part G as submitted by San Luis Obispo County and adopts the findings set forth below on the grounds that the Amendment as proposed does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Amendment may have on the environment.*

### **B. Certify the LUP Amendment with Suggested Modifications**

Staff recommends a **YES** vote on the following motion. Passage of the motion will result in certification of the LUP 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.

**Motion:** *I move that the Commission certify LCP-3-SLO-21-0028-1-Part G if it is modified as suggested in this staff report, and I recommend a yes vote.*

**Resolution to Certify:** *The Commission hereby certifies Land Use Plan Amendment LCP-3-SLO-21-0028-1-Part G if modified as suggested and adopts the findings set forth below on the grounds that the 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 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Amendment may have on the environment.*

## 2. FINDINGS AND DECLARATIONS

### A. Background and Description of LCP Amendment

Los Osos is an unincorporated coastal community of about 15,000 residents that is located in central San Luis Obispo County at the south end of Morro Bay roughly due west of the City of San Luis Obispo (see **Exhibit 1**). Upcoast lies the City of Morro Bay, and past that the community of Cayucos. Los Osos extends south and east from Morro Bay proper into the Los Osos Valley and the lower foothills of the Irish Hills that forms the community's southern boundary. Historically, the Los Osos area was subdivided in the late nineteenth century into smaller lots (generally 25 to 50 feet by 125 feet) arranged along wider (generally 40 to 80 feet) streets arranged in a grid-like pattern, and the area was primarily intended as a location for summer homes and retreats. By the early 1960s, Los Osos had evolved into a tight-knit community of small-scale homes, many of them vacation homes. But starting in the 1960s and through the 70s, the community was subject to a suburban residential building boom that increased its population from less than 4,000 residents to about 11,000. As described subsequently, this near tripling of population in a decade's time is the culprit behind many of the community's land use issues, particularly related to water, wastewater, and sensitive habitats.

And on habitat issues, Los Osos is located directly adjacent to Morro Bay, a designated State and National Estuary that is well known and recognized as one of the most important biologic and wetland resources in California's coastal zone.<sup>2</sup> Anchored by iconic Morro Rock, Morro Bay sustains a variety of distinct habitats as well as many sensitive plant and animal species. The Bay's rich resources support one of the state's largest waterfowl habitats, and it is an important stop on the Pacific Flyway attracting vast numbers of migrating birds to the area. Morro Bay also serves as an important nursery for both marine and anadromous fish, and provides a forage and resting area for marine mammals. The Bay also serves as a significant resource and home base for commercial and recreational fishing, recreational boating, and a diverse range of other water-oriented recreational opportunities. The Morro Bay watershed stretches inland to the foothills of the Santa Lucia Range, and a variety of coastal creeks and tributaries (including Los Osos, Warden, Chorro, and Morro Creeks) wend their way from the hills down through Los Osos and to Morro Bay. Los Osos' prime location along the back bay's frontage anchors its vitality directly to that of the Bay and its related resources, and vis versa.

Its location along the back Morro Bay environment also means that Los Osos is located atop an ancient dune system formed by centuries of wind-blown sand coming from the southern end of the Bay. As a result, the terrain consists primarily of gently rolling hills and sandy soils. The sandy soils of Los Osos, its connection to the Bay, and its generally mild marine climate have combined to produce a unique coastal ecosystem that is home to a wide variety of adapted plant and animal species, some of which are found nowhere else in the world. In fact, based on this unique interplay between climate and geography, the undeveloped portions of Los Osos are generally understood to rise

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<sup>2</sup> Morro Bay was established as the first designated State Estuary in 1994, and it was accepted into the National Estuary Program shortly thereafter in 1995.



to the level of environmentally sensitive habitat areas (ESHA) under the Coastal Act and LCP. The Commission has a long history in recognizing these rare habitat features, including stating the following in 2010:<sup>3</sup>

*Most of the Los Osos built environment has been constructed on ancient dunes formed by centuries of wind-blown beach sand that was deposited along the south end of Morro Bay, and as a result, the terrain of Los Osos consists of gently rolling hills and sandy soils, often referred to as “Baywood fines”. The sandy soils and marine climate combine to produce a unique coastal ecosystem that is home to a wide array of plant and animal species, some of which are found nowhere else in the world. The dune, bluff, dune scrub, and chaparral communities that comprise this unique coastal ecosystem are all environmentally sensitive habitat areas (ESHAs). Since nearly all the urban area of Los Osos is underlain by sandy soil that supports ESHA or ESHA seed bank, the rebuttable presumption is that all sandy soil in Los Osos is considered ESHA.*

These same landform attributes and others, such as varying depths to groundwater, had also led to wastewater treatment problems, particularly since the community had been relying solely on individual private septic systems to serve individual developed properties, and in some cases on larger septic systems serving multiple properties. Beginning in the early 1970s, just about when the community’s growth began, the Central Coast Regional Water Quality Control Board (Regional Board) and other health agencies began to raise environmental health and safety concerns regarding the use of such septic systems in the community.<sup>4</sup> In particular, the depth to groundwater was determined to be shallow enough in some areas to lead to inadequately treated septic discharges into ground and surface water, including due to flooding of leach fields in wet weather,<sup>5</sup> thus leading to environmental degradation, including to adjacent Morro Bay (from both surface flow and lateral seepage of inadequately treated septic discharge) and to groundwater resources more generally.<sup>6</sup>

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<sup>3</sup> From CDP A-3-SLO-09-055/069.

<sup>4</sup> Septic systems handle sewage by separating the sewage solids from the sewage fluids. Solids are collected in septic tanks and eventually pumped out and disposed off-site, while fluids flow directly into on-site soil through septic leach fields. Thus, a septic system’s efficiency in neutralizing the liquid waste is dependent on the ability of the soil to treat and disperse sewage pollutants. Key controlling factors for soil in this respect include its composition and the vertical distance between leach fields and groundwater. When septic systems fail, either by direct leakage or by clogged and/or inoperative leach fields, there is high potential for ground and surface water contamination.

<sup>5</sup> For example, in the low-lying Baywood Park area of Los Osos few of the septic systems could meet Regional Board criteria for separation between the bottom of a leach field and groundwater. In addition, many of the smaller lots in Los Osos were too small for leach fields, and as a result they utilized deeper seepage pits that can also lead to inappropriate discharge to groundwater.

<sup>6</sup> Sewage contains a variety of constituents of significant concern to human and environmental health and safety, including primarily nitrates, bacteria (such as fecal coliform), and viruses. Excessive nitrate levels can lead to health problems and can also cause algal blooms in surface water, which consume large quantities of dissolved oxygen resulting in adverse impacts to aquatic life. Bacteria and viruses likewise pose potential health risks from direct contact with and ingestion of contaminants in surface and ground water, as well as through secondary consumption (e.g., eating contaminated shellfish).

The Regional Board took a series of steps to address these concerns, beginning with adopting an interim Basin Plan in 1971 that included a provision prohibiting septic system discharges in much of Los Osos after 1974. In 1983, the Regional Board subsequently determined that the situation was worsening, and adopted a wastewater discharge prohibition for a portion of the Los Osos area known as the Prohibition Zone, which is essentially all of the community outside of the elevated foothill areas, finding as follows:<sup>7</sup>

- *Previous studies (Brown and Caldwell, 1983) indicated that the quality of water derived from the shallow aquifer underlying the community was deteriorating, particularly as it relates to increasing concentrations of nitrates in excess of State standards.*
- *The current method of wastewater disposal by individual septic tank systems located in areas of high groundwater may be a major contributing factor to this degradation of water quality. And,*
- *Continuation of this method of waste disposal could result in health hazards to the community and the continued degradation of groundwater quality in violation of the Porter-Cologne Act.*

Based on the studies that were undertaken to date, and without any clear change to address the then status quo in terms of the proliferation of new septic systems in the community, in 1988, the Regional Board established a discharge moratorium that effectively halted all new construction and all major expansions of existing development until a solution to the septic tank pollution problem could be developed and implemented. This septic moratorium is still in effect today.

The Commission too, in addition to the Regional Board, had acknowledged the public service limitations affecting Los Osos. The LCP and its Estero Area Plan (EAP), which provides specific development provisions for Los Osos, recognizes that Los Osos has long suffered from inadequate public services,<sup>8</sup> particularly related to water supply and wastewater capacity. The EAP states that “[p]erhaps no factor is of greater concern today than the future availability of potable water for Los Osos” and that “Los Osos is confronted with two basic problems[:] Groundwater extraction levels are rapidly increasing while groundwater quality is showing indications of possible deterioration.” Because Los Osos wastewater was traditionally handled through septic disposal within the same groundwater basin that supplies the community’s potable water, the EAP states the two issues are “closely interrelated” due to a combination of highly permeable soils, high groundwater tables, and extensive community development that led to inadequately treated septic discharges into ground and surface water. As a result, water

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<sup>7</sup> Regional Board Resolution Number 83-13.

<sup>8</sup> As discussed in detail subsequently in this report, the Commission in its past LCP and CDP actions associated with the San Luis Obispo County LCP has consistently understood “adequate” public services in relation to water and wastewater to mean that a sustainable water supply and adequate wastewater capacity exists to accommodate new development in a manner that will not lead to adverse coastal resource impacts.

supply and wastewater service questions have historically been inextricably linked in Los Osos.

The EAP acknowledges the community's need to resolve the interrelated issues of water and wastewater, particularly in relation to the important coastal resources impacted by these issues, including the groundwater basin, Morro Bay Estuary, and other sensitive habitats found throughout Los Osos. The EAP identified the need to create community-wide programs to deal with water and wastewater service constraints, but also recognized the need for any public services projects to identify the appropriate "extent and density of development and its impact on groundwater quantity and quality."

With both the Commission and the Regional Board identifying the need for public service solutions, there were a series of attempts to address the identified ground and surface water pollution issues in Los Osos through construction and operation of a wastewater project. In 1990, the Coastal Commission approved an amendment to the Estero Area Plan that would have allowed a conventional wastewater collection and treatment plant on rural agricultural land off Turri Road, which was subsequently abandoned in favor of an alternative site at South Bay Boulevard and Pismo Avenue. A County-approved CDP for a wastewater treatment project at this site was appealed to the Coastal Commission, but ultimately no action was taken by the Commission to allow the community an opportunity to pursue potential alternative wastewater projects. In 1998 a local ballot measure formed the Los Osos Community Services District (LOCSD). The LOCSD pursued a new CDP for a conventional wastewater collection and treatment project for a plant in the middle of town at the Tri-W site along Los Osos Valley Road. The Commission approved an LCP amendment in 2002 to allow a wastewater treatment plant at that site. In 2004, the Commission, on appeal, approved the project with conditions. Project construction commenced at the Tri-W site in 2005, but a newly elected LOCSD board suspended construction and the project was abandoned.

In 2006, wastewater authority for the Los Osos area was returned from the LOCSD to the County. The County embarked on an extensive alternatives evaluation to understand potential solutions to deal with the disposal of the wastewater for existing development. The County ultimately approved the Los Osos Wastewater Project (LOWWP, which has been subsequently renamed the Los Osos Water Recycling Facility, or LOWRF), which provided for the construction and operation of a community sewer system, including a treatment plant on 30 acres located about one-half mile inland of Morro Bay, collection/disposal/reuse facilities, and all associated development and infrastructure. The County's approval of a CDP and a CDP amendment for the LOWRF project were appealed to the Coastal Commission and, upon a finding of substantial issue, in 2010 the Commission subsequently approved the project with a series of special conditions in 2010 (CDP A-3-SLO-09-055/069).<sup>9</sup>

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<sup>9</sup> Due to the manner in which the County acted on the CDP for the LOWRF (an overall approval action followed by an amendment action to modify a portion of the project), there are two Coastal Commission permit numbers associated with the project.

The approval, construction, and ultimately use of the community sewer system (starting in 2016) was clearly an important milestone in the journey to community public service sustainability. The community was able to replace the use of individual septic systems and to fund, construct, and operate a public wastewater system that treated water to tertiary levels for groundwater recharge and reuse. Today, the plant treats an average of 0.48 million gallons per day and produces some 522 (as of 2022) acre-feet of recycled water for beneficial reuse, including via groundwater replenishment for indirect potable reuse and direct reuse for non-potable purposes, such as for community facilities and landscaping.

That all said, and while the Commission's 2010 CDP approval recognized the immediate need for the LOWRF to resolve issues of groundwater contamination caused by the existing individual septic systems, the Commission also noted that the County had not done the planning necessary in order to determine the appropriate level of additional future development and growth within Los Osos that could be accommodated while avoiding coastal resource impacts, particularly related to water supply and habitat protection. As noted in the EAP, and in the Commission's approval of the LOWRF, the issues of water and wastewater are interrelated due to their impacts to the groundwater basin. Thus, a sustainable basin management program is critical to ensure that future development is limited to an environmentally sustainable level. The Commission was concerned with several potential growth inducement impacts of the LOWRF, including on a water supply for which sustainable pumping/use limits and the amount of development that could be supported within those limits had not been identified. The Commission was also concerned with potential growth inducement impacts to ESHA resources and found that there was a need to proactively and comprehensively plan for growth and mitigate impacts (including via a United States Fish and Wildlife Service (USFWS)-approved Habitat Conservation Plan (HCP)). With these concerns in mind, the Commission approved the LOWRF subject to Special Condition 6, which states:

***Wastewater Service to Undeveloped Properties.*** *Wastewater service to undeveloped properties within the service area shall be prohibited unless and until the Estero Area Plan is amended to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats.*

Per the Commission's findings:

*The project would treat wastewater to a tertiary level, and would reuse as much of the treated effluent as possible for urban and agricultural irrigation with disposal prioritized to reduce seawater intrusion and otherwise improve the health and sustainability of the underlying Los Osos groundwater basin. ... Only existing developed properties would be allowed to hook up to the new wastewater system, and the project includes a requirement that a communitywide Habitat Conservation Plan (HCP) and an LCP amendment precede development on undeveloped properties in Los Osos to ensure that habitat is protected and that there are adequate services for any new future development consistent with Coastal Act and*

*LCP objectives. ...*

*Special Condition 6 of this permit limits wastewater service to undeveloped properties within the service area unless and until the Estero Area Plan is amended to identify appropriate and sustainable buildout limits. This requirement builds on County conditions 86 and 92 requiring an HCP be prepared to address the potential for ESHA impacts as a result of community buildout. The HCP is intended to carry out LCP ESHA protection requirements and be effectively implemented before development of vacant land begins to occur and before providing service to undeveloped parcels. ...*

*Therefore, similar to the proposed project (i.e., via incorporated County condition 86), Special Condition 6 prohibits the provision of wastewater service to undeveloped properties within the service area unless and until the Estero Area Plan is amended to identify appropriate and sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on conclusive evidence indicating that adequate water is available to support development of such properties without adverse impacts to ground and surface waters, including wetlands and all related habitats.*

Thus, unless and until the EAP is amended to identify sustainable buildout limits, including in terms of water usage/supply and ESHA considerations, the County and its LOWRF is prohibited from serving undeveloped properties within Los Osos.<sup>10</sup> As such, the County has been working on addressing such water and ESHA issues as required of the CDP over the past decade.

And more specifically with respect to water, the community receives all of its water locally from the Los Osos Groundwater Basin (Basin), and there are no surface reservoirs or State or Federal water project canals/pipelines that serve the community. The Basin has historically suffered from critical overdraft past its safe yield, presenting the natural environment and the community of Los Osos with a wide range of challenges, including potential increased costs for groundwater treatment, rendering wells unusable, threats to agriculture, and adverse effects to the surrounding wetlands and marine environment. To help address water supply issues, the Los Osos Basin Plan<sup>11</sup> was drafted by the three Los Osos water purveyors<sup>12</sup> and San Luis Obispo County starting in 2015 as a means to better manage Basin water resources, and to establish appropriate safeguards and triggers that would help to determine when the Basin was no longer being over drafted and could be considered to be an available and sustainable water source, including because extraction no longer exceeded safe yield.

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<sup>10</sup> And, in subsequent findings, the Commission has clarified that the intent of Special Condition 6 in this regard extends to additional units on developed properties. In other words, to disallow all additional water-using units until the required LCP planning was completed.

<sup>11</sup> In August 2008, an Interlocutory Stipulated Judgment (ISJ) between the Los Osos Community Services District (LOCS), Golden State Water Company (GSWC), the S&T Mutual Water Company (S&T), and the County was approved by the Superior Court of the State of California for the County of San Luis Obispo. In 2015, under the ISJ, the Los Osos Basin Plan was created by these parties.

<sup>12</sup> LOCS, GSWC, and S&T.

The Basin Plan identified that the two main threats to the groundwater basin are water quality degradation and seawater intrusion. To address these threats, the Basin Plan has identified a series of basin metrics (such as sustainable/safe yield, nitrate levels, chloride levels, seawater intrusion, and groundwater levels) as a basis for understanding the health of the Basin. The Basin Management Committee<sup>13</sup> releases an annual groundwater monitoring report, which includes monitoring of these metrics and provides recommendations based on the results. The three water purveyors as well as the County, the Basin Management Committee, the public, and regulatory agencies use these metrics and the annual Basin Reports to help to objectively assess the health and sustainability of the Basin. To that end, and as explained in more detail subsequently, the 2023 Annual Monitoring Report shows the Basin to no longer be in overdraft because the amount of water used is less than the amount of water needed to ensure no adverse effects (i.e., the amount used is below the sustainable/safe yield).<sup>14</sup>

And on the habitat front, for about a decade the County has worked with USFWS on the development of an HCP to ensure that new development in the community complies with the federal Endangered Species Act. Under federal law, the “take” of endangered or threatened species is prohibited, with take defined as “...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”<sup>15</sup> That said, take is potentially allowed with the USFWS-issuance of an Incidental Take Permit and corresponding HCP. The HCP is a planning document that describes the anticipated effects on the federally listed species that may result from proposed activities, how those impacts will be minimized or mitigated, and how the HCP is to be funded. The HCP describes measures designed to avoid, minimize, and offset the effects of the covered activities on federally listed wildlife and plant species. Individual property owners may apply for an HCP/ITP, or, in some cases, a jurisdiction can serve as the umbrella agency for its activities (e.g., in relation to planning and permitting development) and then the ‘master’ HCP can serve as coverage for any individual that agrees to abide by its terms and requirements. This latter concept has been envisioned as the regulatory construct for Los Osos for some time, with the County’s review and issuance of CDPs and other land use permits as part of its broad land use authorities being the ‘activity’ to provide coverage under the ESA for purposes of take (e.g., the HCP would provide ESA coverage to the County and the property owner for building a new home that disrupts listed habitat and results in take, with the HCP specifying the applicable provisions, including mitigation/restoration, for doing so).

On February 15, 2024, USFWS approved the County’s HCP and issued the ITP. Broadly, the HCP serves as a management plan that treats Los Osos from a community planning level as opposed to a parcel-by-parcel level. The HCP divides the community

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<sup>13</sup> Which is an entity specified in the Basin Plan to enforce its overall mandates and programs, including studying Basin health overall, and is made up of representatives from LOCSD, GSWC, S&T, and the County.

<sup>14</sup> The current BMC/BMP estimates that the 2023 safe yield for the basin is 2,380 acre-feet. The latest (2023) groundwater production estimate (1,650 AF) is 69 percent of the latest sustainable yield estimate (2,380 AF). The County concluded that because groundwater production from the Basin is less than the Basin’s sustainable yield, the Los Osos Groundwater Basin is not in overdraft.

<sup>15</sup> 16 U.S. Code § 1532.

into two areas: the infill area within town and the greenbelt area surrounding it, termed the Priority Conservation Area, or PCA. The HCP's intent is to preserve the PCA, which totals some roughly 1,510 acres, in part by allowing development within the infill area subject to minimization of impacts and the payment of a mitigation fee. The fee would then go to the County (or other USFWS-approved entity) for purposes of acquiring, restoring, and maintaining/managing the PCA. The end result is intended to be a protected greenbelt surrounding the existing urban developed community core, with such infill development serving as a revenue stream for greenbelt protection. Per USFWS:

*The county is required to develop an HCP as part of their application for an incidental take permit under the Endangered Species Act. Land within the 3,209-acre permit area provides habitat for the federally listed Morro shoulderband snail, Morro Bay kangaroo rat, Morro manzanita, and Indian Knob mountainbalm, as well as many other native plant and animal species. The permit authorizes take of the federally threatened Morro shoulderband snail that could incidentally result from the covered activities. The HCP includes conservation measures for not only the Morro shoulderband snail, but also the Morro Bay kangaroo rat, Morro manzanita, Indian Knob mountainbalm, as well as migratory birds protected under the Migratory Bird Treaty Act.*

*By collaborating with the Service, the county has developed a plan to focus on conservation of larger more intact habitat and development within areas of Los Osos where habitat is fragmented and degraded. Proponents of covered activities, including private landowners, agencies, and organizations that choose to participate in the HCP, will receive "take coverage" through Certificates of Inclusion. The county will offer Certificates of Inclusion to applicants who qualify under the HCP.*

As a result of such efforts, the County's position is that the three primary issues that traditionally plagued Los Osos have been addressed: there is adequate water to serve new development within the identified safe yield and without coastal resource impairment, that there is adequate wastewater to serve new development in the form of the public wastewater management system, and there is a comprehensive habitat management program approved by the USFWS for purposes of protecting endangered species.

In light of the County's status on addressing the three topics required of CDP Special Condition 6, the County proposes updates to the LCP's Estero Area Plan by including a new Los Osos Community Plan. The Community Plan would replace the current EAP's discussion of and policies regulating development within Los Osos with a new standalone document that provides updated background information regarding the community, as well a series of new policies governing development. While the plan largely carries forward many of the existing EAP provisions governing new development in the community (e.g., issues related to building heights, Morro Bay setbacks, and public view protections along scenic rural roads), it also includes significant new policy direction with respect to water, wastewater, and habitat protection. It should also be noted that the County's Board of Supervisors approved this LCP amendment in late

2020, prior to USFWS' adoption of the HCP (which wasn't until 2024), and prior to the Basin Management Plan's most recent annual reports documenting conformance with sustainable yield and other Basin metrics.

Broady, for water, the Community Plan requires new residential development to be served by water within the identified sustainable yield as defined by the Basin Plan and annual monitoring reports without causing seawater intrusion. If the Basin cannot accommodate such increased water demand, then the development may still proceed but is required to offset its water usage in an amount equal to at least 1:1. Non-residential development is not allowed until the Board of Supervisors adopts a resolution certifying successful completion of various Basin Plan-specified programs and provisions, including groundwater monitoring and neighborhood water efficiency programs. And for land divisions, new lots shall not be created unless water is within its sustainable yield state. And in all cases, the applicable water provider must include a 'will serve letter' that they are willing to provide service to the proposed development. This latter requirement also applies to wastewater service as well, with new policies stating that land divisions must similarly have evidence of either public sewer service or adequate private septic systems. And for habitat needs, the Community Plan requires either conformance with the HCP or with the LCP's ESHA protections, including as the LCP maps Los Osos as ESHA.

In sum, the County has spent several decades on programs to address the issues that were spurred from the building boom in the 1970s that generally overtaxed the community's ability to provide adequate services and in a manner that respected sensitive habitats. The Community Plan is the County's solution to these issues by specifying the required standards that new development must meet, and thereby allow for new development in a community that has generally not been allowed to do so given such resource problems. See the proposed Community Plan in **Exhibit 2**.

## **B. Standard of Review**

The standard of review for proposed LUP amendments is consistency with Coastal Act Chapter 3.

## **C. Coastal Act Consistency Analysis**

### ***Applicable Coastal Act Provisions***

The following sections of the Coastal Act guide the appropriate kinds, locations, and intensities of development and use, as well as necessary coastal resource protection standards. As a general rule, the Coastal Act seeks to promote infill development within existing developed communities with adequate public services and where such development will not cause adverse impacts to coastal resources. Applicable provisions include:

**30250.** *(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. ...*

**30254.** *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 1 in rural areas of the coastal zone remain a scenic two-lane 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 reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.*

And within such infill areas, Sections 30210 through 30224 speak to the need to maximize public coastal access and recreation opportunities for all, including by ensuring adequate overnight accommodations, visitor-serving commercial uses, and parks, trails, and other recreational amenities. The intent with such language is to ensure that the coast remains open and available to all, and to do so by requiring access not just to be provided or even encouraged, but rather to be maximized. In addition, the Coastal Act also speaks to the need to prioritize affordable and workforce housing for those with low and moderate incomes, stating in Section 30604 as follows:

**30604(f):** *The commission shall encourage housing opportunities for persons of low and moderate income. ...*

**30604(g):** *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

In other words, while the Coastal Act places a strong priority on visitor-serving development and public recreational uses more broadly, it also recognizes those visitor-serving economies are dependent on workers, who oftentimes are dependent on reasonably affordable and available workforce housing. Oftentimes such workers are contributors to the communities in other ways and reflect a part of its fabric and character in that sense, as well. Thus, protecting those communities as visitor destinations implicitly requires that workforce housing also be appropriately accommodated. In addition, when viewed in that light, the public recreational opportunities that are required to be protected and enhanced by other Coastal Act provisions can themselves necessarily only be achieved with adequate workforce housing and where such residents, workers, and visitors contribute to and can be a part of the character and proper functioning of that place. Put another way, the Coastal Act can be understood as ensuring healthy, productive, accessible, and affordable coastal communities.

Further strengthening the Coastal Act's infill development goals, the Act includes strong policies protecting rural scenic lands, including in terms of limiting conversion of prime and nonprime agricultural land, requiring stable urban/rural boundaries, and protecting scenic views and minimizing alteration of natural landforms. Applicable provisions include:

**30241.** *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 prime agricultural lands.*

**30242.** *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. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

**30251.** *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 land forms, 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.*

And in all cases, urban and rural, the Coastal Act protects natural resources and sensitive habitats. The following sections of the Coastal Act pertain to preservation and enhancement of marine resources, coastal waters, wetlands, and environmentally sensitive habitat areas (ESHAs):

**30107.5.** *"Environmentally sensitive area" means 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.*

**30230.** *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.*

**30231.** *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 wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

**30233.** *(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. (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities. (4) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines. (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. ...*

**30236.** *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 flood plain 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.*

**30240.** (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those 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.*

### **Analysis**

The proposed amendment at its core seeks to provide a means of ensuring that development in Los Osos is sustainable from a water supply, wastewater, and sensitive habitat perspective. That is, and based on the requirements specified in Special Condition 6 of the Commission's LOWRF CDP, the Community Plan is meant to provide the regulatory blueprint for how new development can address these three constraints that have limited new development in the community for all these years. Again, without such amendment, new units are not allowed to connect to the LOWRF per the CDP's requirements, most new development is not allowed a private septic system per the Regional Board, and non-resource-dependent development is not allowed in ESHA. In addition, the Commission has not yet affirmatively found there to be an adequate water supply to serve new growth. In short, and has been the case for essentially a generation, the LCP does not currently provide for most new development in the community. The County's proposal seeks to change that.

However, the submitted Community Plan raises several questions as to whether it appropriately meets the overall objective of specifying the clear road map for how to provide new development in the community. For one thing, it suffers from unnecessary complexity. The plan itself is some 400 pages, and it includes some internal inconsistencies and redundancies on certain issues, which tends to happen with regulatory documents of such a scale and magnitude. It also includes some problems in terms of how to implement certain core requirements. For example, it doesn't include any provisions regarding wastewater collection for new development (it only includes such requirements for new subdivisions), thus not providing any clarity or direction on this point. For ESHA, the plan requires conformance with the HCP or with the LCP's ESHA provisions. This is problematic in two ways: first, the LCP does not allow for residential or commercial development in such habitats, and thus the amendment does not meet the goal of specifying the criteria for how to allow for infill development, for example. And second, the plan specifies that only the periphery of town is ESHA, rather than the entire community, where the existing LCP, the Commission in its past findings articulated previously, and the USFWS and HCP itself all specify that the entire community includes such sensitive habitats. And given that the HCP itself applies to all development – both within the infill area and the PCA – the different standards for HCP and LCP purposes raise implementation problems. And as for water, the plan includes a series of complex provisions that are difficult to understand and clearly carry out. It appears to suggest that development is always allowed regardless of the groundwater basin's health so long as a project offsets its water usage.<sup>16</sup> It also only allows certain

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<sup>16</sup> The Commission has previously found in numerous CDPs and appeals in Los Osos (including just in recent years alone in adopted Commission findings in A-3-SLO-21-0004 (Wise Second Unit), A-3-SLO-21-0005 (Kimball Second Unit), A-3-SLO-21-0007 (Bodine and Townsend Second Unit), A-3-SLO-21-

types of development when certain water infrastructure projects are built/operational, while also stating that development is only allowed if the Board of Supervisors affirmatively finds the groundwater basin to not be in overdraft. It's unclear whether this is to suggest the Board has already done so as part of its Community Plan submittal, or whether they still need to (and what form or action that would need to be), as well as what constitutes the Board's finding that there has been "successful completion and implementation" of water supply projects specified under the Basin Plan. Again, it would be rather difficult to apply such provisions to a proposed new residential house, for example.

All of these issues are exacerbated because the plan was initially drafted multiple years ago, and thus it references and includes maps of older versions of the draft HCP prior to its 2024 adoption (and thus this may help explain some of the ambiguities and differing standards between what was ultimately approved by USFWS and what is included in the proposed Plan), it includes references to water infrastructure programs and projects that have already been implemented, and it generally does not reflect the best available information regarding basin health today, particularly the fact that that the groundwater basin is not in overdraft as it arguably was when the first drafts of the plan were developed. In addition, the Community Plan's water policies were written at a time when the Basin Management Plan was in its infancy, and its efficacy in addressing groundwater issues was still to be determined. The policies thus appear written with that uncertainty in mind, and reference future determinations of groundwater health rather than making affirmative conclusions. In sum, and as might be expected from a multi-year effort, the proposed plan is actually quite unclear, and a bit out of date, all of which suggests that it would lead to implementation difficulty.

In addition, the plan is proposed to be a new standalone document rather than fitting into the existing LCP construct where the Los Osos-specific provisions are embedded within the Estero Area Plan (which applies to the Estero Area stretching from Montana de Oro State Park downcoast of Los Osos through the community of Cayucos in the north), which also raises readability and implementation issues. While there isn't anything necessarily wrong about incorporating a whole new plan into the LCP, it detracts in this case from solving the core issues related to water, sewer, and ESHA. And it should also be noted that the rest of the LCP currently and will continue to govern new development in the community. In other words, there already is an entire LCP in effect in Los Osos with policies addressing a host of coastal resource issues – issues related to public views, public access and recreation, coastal hazards, and others – and

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0008 (Robertson Second Unit), A-3-SLO-19-0180 (Shear Development SFDs), and A-3-SLO-23-0020 (Dick Residence)) that there are multiple concerns with this approach, including that it does not address nor is it consistent with other LCP requirements that only allow a level of development commensurate with the safe yield groundwater extraction level, and because the efficacy and ability of retrofits to provide bona fide, long-term water savings have not been borne out. Furthermore, in areas with water supply limitations, simply offsetting a proposed development's estimated water usage does not mean that it can meet LCP water availability requirements. In other words, when a project is proposed based on water supplied from an already over-extracted Basin where the demand is already greater than its supply, even projects with offsets and retrofits cannot address that core problem and be found LCP consistent. Rather, the reviewing authority must affirmatively show that long-term and sustainable water supplies are ready and available to serve the proposed development.

what's really needed is not to write a 'new LCP' for Los Osos, but rather a clear, succinct, and directive set of policies that address today's understanding of core water, wastewater, and habitat protection issues.

The good news is that the submitted plan includes the foundation for what can be a clear, succinct, and directive set of provisions that address today's understanding of core water, wastewater, and habitat protection issues, and that can effectively guide sustainable development in Los Osos moving forward. And Commission and County staff worked collaboratively to refine the proposed language (and its location/structure within the LCP) to do just this, with the County acknowledging that it may be better to house Los Osos-specific policies not as part of a standalone plan, but rather within the existing structure of the LCP's Estero Area Plan, including for ease of use and readability. And rather than a myriad of policies (and the 400 pages that comprise the proposed Community Plan), to provide such provisions in a clearer and more succinct manner. Suggested modifications are thus added that refine provisions accordingly, and specify that only those portions of the plan needed to guide development on these and other core coastal resource issues would be inserted into the LCP's Estero Area Plan,<sup>17</sup> and the remainder of the plan would be housed outside the LCP where it could continue to provide helpful background information on Los Osos demographics and other characteristics, as it currently does (see such modifications on page 1 of Exhibit 3).

And substantively, suggested modifications are added to EAP Chapter 7 to include specific, direct, and clear policies to address the water, wastewater, and habitat protection issues required by Special Condition 6. While wastewater is more straightforward, in that new development within the service boundaries of the LOWRF must connect to such system, and any septic system outside of such service area meet all applicable water quality requirements and not adversely impact coastal resources (see Policy 7.B on page 35 of Exhibit 3 for this suggested modification for wastewater service), water and habitat considerations require more discussion.

With respect to water, as noted before, the Los Osos groundwater basin is under Court-ordered adjudication and cooperatively managed under the auspices of the Los Osos Basin Management Committee (BMC). The BMC is comprised of various entities, including the County and the three water purveyors, and, among things, is required by the Court's adjudication to monitor the health of the Basin in terms of inflows, outflows, and sustainable yields. The BMC prepares an annual report that documents these trends and otherwise monitors the health of the groundwater basin with respect to various targets and metrics. One of the metrics is what is called the Basin Yield Metric, which is a percentage of the amount of water used/extracted for a given year compared with the sustainable/safe yield. And the sustainable/safe yield is defined as the amount of water that can be extracted without impairing Basin health; namely, the amount of water that can be pumped while ensuring that all water-producing wells meet the recommended secondary drinking water standard for chloride of 250 milligrams/liter

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<sup>17</sup> Thus maintaining the existing LCP construct where the specific regulatory provisions that apply solely within Los Osos (as defined by the Los Osos Urban Reserve Line in Chapter 7) are located within EAP Chapter 7.

(mg/l),<sup>18,19</sup> which itself is half of the 500 mg/l Upper Secondary Maximum Contaminant Level as defined by the State Water Resources Control Board (and thus twice as conservative as the State Board on this metric), and does not result in any advance of seawater intrusion relative to 2021 levels. A ratio of 100, or 100%, would mean that the amount of water used is equal to this sustainable amount (i.e., an amount that will not lead to adverse basin health impacts). The BMC's target goal for this metric is 80, meaning that water usage is 80% of the available sustainable supply. The intent with this target is to primarily be conservative with respect to water usage, including accounting for margins of error in what is an inherently complex groundwater modeling and management exercise. Relatedly, the BMC has individual nitrate and chloride metric targets that monitor these levels at discrete wells. The BMC's chloride maximum target is 100 mg/l, and its nitrate maximum target is 10 mg/l, with these numbers selected as overall goals to one day bring the Basin's levels on these pollutants back to their historic state prior to known problems. On this point, the BMC acknowledges that it will take decades to do so, and that these metrics are not a target threshold to measure Basin sustainability and health in real time overall, but rather point-in-time measurements at discrete locations to ascertain the trajectory of nitrate and chloride concentration improvements over time. This is distinguished from the Basin Yield Metric that relates to overall Basin health in terms of inputs, outputs, and overall sustainable/safe yield numbers that can be used to ensure that any such nitrate and chloride issues are not exacerbated.

In terms of sustainable/safe yield, the latest numbers from the BMC's 2023 report show the Basin is using 69% of its sustainable/safe yield (or a Basin Yield Metric of 69). That is, the community used 1,650 acre feet of water while 2,380 acre feet is the identified as the sustainable/safe yield. As such, the community's water use is both below the BMC's 80% target, and well below the sustainable/safe yield amount itself (again, which would be 100%). And while the BMC's 2023 report shows that the chloride and nitrate metrics are above target values (with two of the four chloride-monitoring wells above the 100 mg/l target (at 211 mg/l and 346 mg/l respectively), and four of the five nitrate-monitoring wells above 10 mg/l (for an average of about 14 mg/l)), the report indicates that this is to be expected, including because, for example: "The Chloride Metric is a simplification of Basin conditions and can vary significantly from year to year due to localized chloride fluctuations." What's most important is to understand overall trends rather than point-in-time numbers, and the trends are following the BMC's projections where there is a slight uptick in such values now (which is expected given the lag time between how these pollutants respond to changes in groundwater production) followed by an expected decline. That trend is what the BMC is looking for, where the long term goal is a 'reset' condition where concentrations are below such targets eventually, where such concentrations are expected to be reduced over time based on various actions taken. To be clear, however, those targets are different than the

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<sup>18</sup> Secondary standards relate to aesthetic concerns, such as taste and color. Primary contaminant levels relate to public health concerns. There is no primary standard for chloride.

<sup>19</sup> The 250 milligrams/liter amount is commonly used as a proxy for determining seawater intrusion since this is the threshold at which public welfare considerations (e.g., related to taste and color for human consumption, as well as for agriculture and industrial use) may be adversely affected.

sustainable/safe yield of the Basin, which, as identified above, current usage is below that amount, meaning that the Basin is not being over-drafted any longer.

So the question then, is how to apply such understandings to the Coastal Act and LCP. The Commission is not a party to nor a member of the BMC, and the Basin Plan and its metrics and targets have no legal LCP status for implementation. In other words, the Commission is not bound by the Basin Plan in any way. The Commission, of course, implements the Coastal Act, and enforces such provisions through LCP policies that guide new development. And the Commission can and does use the best available information and science as evidence to make certain decisions and findings. As noted before, the Commission has generally understood the Coastal Act to require that new development be served by an adequate water supply, and has interpreted 'adequate' to mean in an amount that will not result in any adverse impacts to sensitive coastal resources, including creeks, rivers, wetlands, bays, and/or the ocean.<sup>20</sup> And for groundwater basins/supplies, bracketing some other demonstrated tangible impact related to pumping/withdrawal (e.g., a study showing excessive extractions resulting in adverse creek/wetlands impacts), the Commission has looked at some type of 'sustainable/safe yield' metric (generally defined to be the amount of water that meets applicable water quality standards and that can be used without impacting basin health overall) to serve as an overall proxy for this determination.<sup>21</sup>

In this case, there isn't any documented problem with current community water extractions having any specific adverse impacts related to Los Osos aquatic resources. In fact, the County has been monitoring wetland and creek resources in Los Osos for a decade since 2014, prior to the wastewater treatment plant's commencement of operation in 2016, and has produced annual reports for the Commission's Executive Director to ascertain any issues on such habitats related to septic system decommissioning, groundwater replenishment, or water extractions. The reports have found no adverse impacts from such issues, finding:<sup>22</sup>

*Overall conclusions from the 2023 monitoring and analysis compared to 2014 conditions are that wetland conditions at the sites have generally remained stable and do not show evidence of decline attributable to septic system decommissioning ... the monitoring from baseline to 2021 has not identified significant changes in surface hydrology or large-scale losses of wetland vegetation in the sites that can be attributed to changes in changes in groundwater.*

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<sup>20</sup> See additional discussion of this topic, including both defining what constitutes an 'adequate water supply' and how to understand various other water laws for purposes of Coastal Act implementation, as part of the Commission's findings and analysis in the American Tin Cannery CDP appeal (A-3-PGR-22-0004) related to the Carmel River and Seaside Groundwater Basin in the Monterey Peninsula.

<sup>21</sup> See, for example, Commission findings related to the application of LCP policies regarding groundwater supplies in North Monterey County (e.g., CDP A-3-MCO-05-027).

<sup>22</sup> See "Los Osos Wastewater Project Recycled Water Management Plan Environmental Monitoring Program Seventh Annual Monitoring Report," required of Special Condition 5(c) of the LOWRF.



And, as noted before, the BMC's definition of sustainable/safe yield comports with the Commission's general interpretation, namely identifying the amount of water that can be extracted while meeting water quality requirements without damage to Basin health. With such understandings, namely that the best available science shows that the Basin is not in overdraft, that extractions are not resulting in any documented adverse impact to coastal resources, and as affirmed by the review and recommendations from the Commission's former Staff Geologist (and current Manager of the Commission's Energy, Ocean Resources, and Federal Consistency Unit) Dr. Joe Street,<sup>23</sup> the Commission can find that there is an adequate water supply under the Coastal Act.

At the same time, the Commission acknowledges the fact that some in the community disagree with this assessment,<sup>24</sup> and argue that the Basin is not yet healthy enough to accommodate growth. They point to the chloride metrics being in excess of BMC targets, and to climate change and fluctuations in rainfall that they allege make the Basin – which is the community's only source of water – chronically unable to satisfy any growth at all. In other words, they opine that there is not an adequate water supply, and that the Commission should reject the proposed amendment for that reason.<sup>25</sup>

While the Commission understands this perspective, it has to respectfully disagree. It appears rather clear that the overall extraction amounts, as determined by the sustainable/safe yield, are well below that which will impair coastal resources, and in fact will help not only maintain the status quo but improve it over time. And while the nitrate and chloride metrics are certainly helpful tools to help understand trends in overall basin management, these are meant to be conservative to assess the trajectory of improvement at only a handful of wells in areas historically known to be problematic (i.e., testing the lower aquifers to ascertain chlorides in areas nearest the shore, and testing upper aquifers near old septic discharge locations to assess nitrates). The BMC acknowledges that it will take decades for these metrics to meet respective targets given that these are legacy pollutants from decades of inadequate groundwater management. But, and perhaps most importantly for the Commission's review under the Coastal Act, it isn't readily apparent that meeting such targets is required to be able to determine adequacy of water supply here, including because there isn't any evidence now of any sensitive aquatic impairments from current extraction levels nor any exceedances of applicable water quality standards. Again, the Commission is not tasked with ensuring compliance with the Basin Plan's targets, rather it is tasked with ensuring compliance with the Coastal Act that requires adequate water supply without coastal resource harm, and the evidence suggests that this finding can be made.

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<sup>23</sup> Dr. Street has reviewed the relevant BMC reports and worked with BMC members to understand the metrics, data, and assumptions used in Basin management, and concurs on BMC's sustainable/safe yield conclusions.

<sup>24</sup> Primarily represented by the viewpoints expressed by the Los Osos Sustainability Group (LOSG), where such viewpoints can be seen in the Correspondence package for this item.

<sup>25</sup> LOSG also argues that the Commission can only determine water supply adequacy if "conclusive evidence" supports such a determination, pointing to the wording of Special Condition 6. However, it is up to the Commission to determine whether such evidence is conclusive or not, including as it is the Commission's responsibility to interpret, understand, and decide on whether the CDP condition has been met. Here, as discussed above, the Commission determines that it has been met.

Further, while drought and swings in water supply are indeed important issues to countenance, a few things should be noted. First, this issue isn't unique to Los Osos, and all of California is facing similar climate and drought related water supply uncertainties. But what is unique in Los Osos is that the community appears ready and able to address such potential problems, including through water recycling that helps bolster relatively drought-proof supplies, as well as an adjudicated Basin managed by the BMC where they are required by the court to monitor and take action to ensure Basin health, including to proactively plan for the future. As indicated in the adjudication:

*The parties expressly reserve to the Court continuing jurisdiction, upon motion by any party to...order any further remedy or injunctive relief as may be legally appropriate, after affording due process and hearing, should any party contend the Basin Plan is not being implemented timely; any party is not acting in good faith to undertake its obligations to participate in the implementation of the Basin Plan; the Basin Plan as implemented is not effective in restoring the long-term integrity of Basin groundwater...*

In other words, while it is not codified by the LCP, the BMC is likewise mandated to protect Basin health, and this alone provides a backstop of sorts against which the LCP should be evaluated and understood. And in fact, the BMC has shown itself to be nimble enough to make changes to the sustainable/safe yield based on new information, including changes in precipitation, swings in water usage, and other issues that affect whether the amount of water extracted actually does meet applicable requirements.<sup>26</sup> Put another way, the community appears to have the physical, legal, and social infrastructure in place to tackle future uncertainties head on. And further, the Commission doesn't base its conclusions here on a one year anomaly from a particularly wet 2023 that shows that Basin extractions are below the sustainable/safe yield, as some have suggested. Rather, the Basin has been trending in the right direction since 2016, across both wet years and historically dry ones as well. Again, taking all of this into consideration, the Commission can be comfortable making the finding that there is an adequate and sustainable water supply to serve new development.

Next, with respect to habitat protection, the HCP provides a blueprint for providing for infill development within the existing urban core of town, and discourages development along the periphery of town, where the proposed Primary Conservation Area creates a protected greenbelt/habitat area where conservation efforts can be focused. In many respects, such an outcome is precisely what was envisioned by the Commission in its 2010 LOWRF CDP approval. And since that time, Commission, County, and USFWS staff have worked together on the overall parameters of such HCP, and the resultant approved document provides a means of accommodating infill development subject to mitigation monies that will then go towards acquisition, restoration, and management of the rural periphery.

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<sup>26</sup> For example, the BMC reduced the sustainable yield from 2,760 acre feet to the current 2,380 acre feet in 2021 to better reflect the groundwater basin's extraction impacts.

Specifically, and as discussed previously, the HCP identifies and maps an ‘infill area’ and a ‘Priority Conservation Area’. The infill area is demarcated around the existing developed footprint of the community, and the PCA is essentially all of the undeveloped, or substantially undeveloped, public and private properties surrounding the built up area. Per the HCP, the PCA is a greenbelt area with large, connected, and relatively intact habitats. These areas are ripe for preservation and conservation. And the infill area is comprised of predominantly of small, typically-sized suburban residential lots. Yes, they are ESHA and have the unique baywood fine sands that make the community special habitat for listed species, including the morro shoulderband snail, but their small, fragmented nature limits the ability to provide for larger-scale habitat connectivity and/or preservation, and their private ownership means that some type of development must be provided in order to stave off regulatory takings claims. Indeed, one of the overarching sentiments during HCP development was to create a comprehensive land use development and conservation strategy that specifies the parameters for Los Osos habitat needs as a whole rather than a parcel-by-parcel analysis, including avoiding the type of individual takings claims that would apply to such infill development through each individual CDP action to allow for non-resource-dependent development within ESHA. Instead, the HCP provides a proactive planning tool that looks at the community as a whole, including requiring minimization of impacts in any particular case, and requiring mitigation monies that can be better applied to provide for more holistic habitat management in the PCA, effectively leveraging and intensifying the effect of such preservation efforts.

The HCP does all of this by first acknowledging that all of Los Osos, unless otherwise currently committed to hardscape/urban development, is habitat for rare and endangered species. It then maps the rural periphery where the primary public policy goal is long-term protection via either acquisition or protective easement, and commensurately identifies the infill area where a program of allowing limited infill development, including to avoid individual takings claims (and individual HCPs under the federal ESA), makes sense. It then implements such directives with several regulatory provisions: it requires all proposed development with the infill area to pay a mitigation fee<sup>27</sup> that goes to the USFWS-approved implementing entity that is charged with administering the HCP’s greenbelt/PCA requirements. The end result of this construct would be to provide a comprehensive funding strategy to protect and manage the 1,510-acre community greenbelt habitat area.<sup>28</sup>

Similar to the discussion previously about the Basin Plan for water supply purposes, the Commission is not tasked with directly implementing the HCP, as that document is a legal requirement to satisfy the provisions of federal endangered species law and not the Coastal Act. The Commission is tasked with regulating development that might affect ESHA under the Coastal Act (for which species and habitats listed as threatened

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<sup>27</sup> The HCP includes an extensive analysis that went into determining the appropriate mitigation fee, based on real estate, restoration, and management cost estimates. This fee is currently \$52,234 per acre, and the HCP also includes adaptive management provisions to modify the fee to ensure it is correct and able to actually carry out its objectives, including in terms of greenbelt management.

<sup>28</sup> Which, for purposes of scale, is almost 50% larger than San Francisco’s Golden Gate Park (1,017 acres), and 80% larger than New York City’s Central Park (843 acres).

or endangered under the ESA typically qualify), which only allows a very limited subset of uses within such habitat areas, and urban development is not one of them. That said, the Coastal Act also requires conformance with the State and Federal Constitutions to avoid taking of private property.<sup>29</sup> In light of such restrictions, the Commission has approved comprehensive habitat management programs – including allowing for development within ESHA subject to certain minimization and mitigation requirements – as part of LCPs in order to provide umbrella regulatory coverage rather than case-by-case takings analysis.<sup>30</sup> As the Commission found in its 2019 approval of Pacific Grove’s LCP when discussing provisions specifying the permissible parameters regarding residential development within dune ESHA:

*These requirements, particularly related to coverage limits and restoration/protection requirements for the remaining dune areas, has been an important component of the Commission’s Asilomar Dunes program, including because they protect dune resources as much as possible while still providing a means to allow residential use, thereby essentially balancing Section 30240’s ESHA requirements with 30010’s regulatory taking requirements. The Commission’s program has also helped to bring greater certainty to the public and property owners in the Asilomar area.*

The Commission uses a similar lens to understand how to address infill development and habitat protection here in Los Osos, where the HCP’s framework provides an effective means to avoid individual takings cases and instead develop a comprehensive and proactive planning effort to address the resource needs from a community scale. In other words, and consistent with the general concept articulated back in 2010’s LOWRF approval, while the Commission isn’t approving the HCP, it can incorporate its overall tenets of creating a program of infill development, with its impacts mitigated through mitigation monies that go towards protecting, restoring, and enhancing a community greenbelt habitat area.

In light of these water and habitat considerations, suggested modifications are included to create a set of policies addressing water and habitat concerns. For water supply, the suggested modifications specified in Policy 7.A (see page 35 of Exhibit 3) mirror the Commission’s typical requirements for such issues, including ensuring that new development is served by an identifiable, available, and long-term sustainable water supply. Such requirement is to be understood as being satisfied when the Los Osos groundwater basin is at or below its sustainable yield as identified by the best available science. The intent with such language is to ensure that the policy is 'living and breathing' in a certain respect, including utilizing the data provided yearly by the BMC’s annual reporting to identify its sustainable yield and other basin health metrics. Should

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<sup>29</sup> Coastal Act Section 30010 states: “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 therefor. 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.”

<sup>30</sup> For example, such LCP programs have been applied within the Asilomar Dunes area of the City of Pacific Grove, native Monterey Cypress habitat along 17 Mile Drive in the Del Monte Forest area of Monterey County, and in coastal sage scrub and chapparal habitat in the Santa Monica Mountains.

that document or other best science identify the Basin to be in excess of such yield, or otherwise shown to be having adverse coastal resource impacts, then the LCP's water adequacy findings cannot be made. But so long as it's within the sustainable yield, like it is currently, the Commission can affirm that the development's water usage will not adversely affect coastal resources and the LCP requirement can be deemed satisfied.

That said, and while the Commission is comfortable determining that there is an adequate and sustainable water source at this time, it also finds it appropriate to move forward with such determination with some deliberation and in a cautious manner. The community has not seen essentially any large-scale development in quite some time, and there is currently a wait list for some 250 or so residential units pending EAP approval.<sup>31</sup> In order to gradually meter out such new residential development over time, and to help further ensure that the groundwater basin can accommodate such growth while avoiding a 'full rush' all at once, Policy 7.A also includes a 1% residential unit per year cap. As of 2024, this equates to about 53 units of new residential units per year.<sup>32,33</sup> Again, this is an appropriately precautionary approach, and if trend data suggests that the cap should be increased, the County could always apply for an LCP amendment to respond to such new data.<sup>34</sup>

And lastly, suggested modifications include a regulatory framework to incorporate the HCP's provisions into a Coastal Act/ESHA protection manner (see Policy 7.B on pages 35-37 of Exhibit 3). The policies mirror the HCP in terms of requiring new development within the infill area to employ measures that minimize any site disturbance, and then to mitigate any remaining impact via payment into the County's greenbelt program. Such funds would then be used for what can essentially be considered off-site mitigation in terms of protection of the Priority Conservation Area. The modifications also make clear that, while all of Los Osos and the HCP area is considered ESHA, a broad mix of urban development is potentially allowed in the infill area (again, subject to the required mitigations), while development proposed within the PCA itself is subject to a more traditional ESHA policy review, including making clear that the only allowed development in this area is that which is dependent on the resource, generally understood to be low-intensity public access and recreational pursuits, scientific

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<sup>31</sup> There are 238 individuals on the waitlist for new single-family dwelling units and an additional 19 for multi-family units.

<sup>32</sup> Where the unit cap would apply to new residential ADUs, but would not apply to LCP-defined guesthouses because such structures are better understood as room additions to existing single-family homes than their own independent units, including as they are prohibited from having kitchen facilities and/or utility services.

<sup>33</sup> New water-using development that is not subject to the residential unit cap could be allowed if the groundwater basin is at or below its sustainable yield.

<sup>34</sup> In addition, outside of the LCP, the County currently requires water offsets in an amount equal to 2:1. While the Commission has traditionally voiced concern with offset programs serving as a basis to provide for new development in an area otherwise without an adequate water supply, in this case, the offsets would help ensure that the basin remains adequate. That is, by requiring water offsets as a conservation strategy, new development won't add pressure to the groundwater basin, and this in turn will help maintain its sustainability over time. The County indicates that such offset requirements will remain in place for several more years until there is a natural end point where there isn't enough development remaining to be retrofitted. Until that time, such retrofitting will both help make the community more water efficient, as well as ensure that new development does not further tax the groundwater basin.

research and nature study, and habitat restoration. The end result is good public policy in terms of creating a comprehensive program that marries two seminal environmental laws and provides applicants, the public, USFWS, the County, and Commission a clear and united policy approach to Los Osos' specific habitat needs.

Finally, other suggested modifications carry forward some of the specific provisions that address other coastal resource concerns, many of which are already part of the Estero Area Plan and were moved to the Los Osos Community Plan (and thus the modifications would just move these standards back into the Estero Area Plan to continue to guide new development for CDP purposes<sup>35</sup>). These issues relate to specific setbacks along the Morro Bay shoreline, building heights in these areas, archaeological review, and scenic view protections along the community's rural roads. None of these provisions raise any Coastal Act conformance issues, and should help provide additional clarity regarding the kinds, locations, and intensities of use and development in the community. See such provisions beginning on page 37 of Exhibit 3.

In conclusion, the end result of such suggested modifications is to provide for infill development in a manner that has adequate water supply to serve it, wastewater capacity to treat it, and all within a protected habitat greenbelt area that will preserve the community's periphery while allowing for infill development. The amendment as modified serves to implement many Coastal Act goals and requirements, including ensuring that development in Los Osos is sustainable, that the legal framework to build housing and community services to keep Los Osos a thriving community is provided, and that statewide and local housing supply needs are met. All of which can hopefully provide some certainty for this community, and all of which definitely shows that, with good planning, communities can indeed solve tough problems related to public services and natural resources. The community should be proud of its efforts and commitment to doing so, and it can be reflected in a comprehensive coastal land use planning document that should ably serve the Los Osos community into the future. Thus, the proposed LUP amendment with the suggested modifications can be found consistent with the Coastal Act.

#### **D. California Environmental Quality Act (CEQA)**

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. Here, San Luis Obispo County prepared and certified an EIR for the proposed Los Osos Community Plan amendment.

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<sup>35</sup> Again, it should be reiterated that the changes here are essentially just relocating the County's proposed language from the Community Plan back to the EAP with just a few wordsmithing modifications. Thus, while it's all shown in strikethrough and underline, these changes can be understood as procedural rather than substantive ones.

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, has addressed all comments received, and has concluded that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein (all above findings are incorporated herein in their entirety by reference). Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

### 3. APPENDICES

#### **A. Substantive File Documents<sup>36</sup>**

- LCP Amendment Submittal LCP-3-SLO-21-0028-1-Part G

#### **B. Staff Contact with Agencies and Groups**

- San Luis Obispo County Department of Planning and Building
- San Luis Obispo County Public Works Department
- U.S. Fish and Wildlife Service
- California Department of Fish and Wildlife
- Los Osos Groundwater Basin Management Committee
- Los Osos Community Services District
- Golden State Water
- S&T Water
- Los Osos Sustainability Group

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<sup>36</sup> These documents are available for review from the Commission's Central Coast District office in Santa Cruz.