

From: [Tara Messing](#)
To: [Anne Wells](#); [Andy Newkirk](#); [Jay Ritterbeck](#)
Cc: [Linda Krop](#); [Brian Trautwein](#)
Subject: EDC Comment Letter on City of Goleta's Public Hearing Draft New Zoning Ordinance
Date: Thursday, September 05, 2019 2:42:00 PM
Attachments: [EDC Comment Ltr to PC re NZO and SPAs Exhibits 2019_09_05.pdf](#)

Hi All,

Attached please find the comment letter submitted today by the Environmental Defense Center ("EDC") on behalf of our clients, Urban Creeks Council and EDC, regarding Streamside Protection Areas and the implementation of Policy CE 2.2 of the General Plan.

Best regards,
Tara



September 5, 2019

Ms. Jennifer Smith, Chair
Planning Commission
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

Re: Comments on the Public Draft of the City of Goleta's New Zoning Ordinance Regarding Streamside Protection Areas and the Implementation of Policy CE 2.2 of the General Plan

Dear Chair Smith and Commissioners:

The Environmental Defense Center ("EDC"), on behalf of EDC and Santa Barbara Urban Creeks Council ("UCC"), submits these comments regarding revisions to the City of Goleta's ("City") Draft New Zoning Ordinance ("NZO") concerning Streamside Protection Areas ("SPAs").

UCC is a non-profit grassroots organization dedicated to protecting and restoring streams and watersheds in Santa Barbara County ("County"). Over the past thirty years, UCC has partnered with a number of organizations on creek restoration projects and has been committed to educating people of all ages about the values of creeks. UCC has 3,000 members, including many families who live and recreate in Goleta and Santa Barbara. EDC is a non-profit, public interest law firm that protects and enhances the environment in Santa Barbara, Ventura, and San Luis Obispo counties through education, advocacy, and legal action.

Since 2014, EDC and UCC have advocated for the development of a robust creek protection ordinance that adequately implements the City's General Policy Conservation Element ("CE") 2.2 concerning streamside protection areas.¹ We have drafted language that effectively sets forth a process, required findings, and evidentiary requirements to inform the City's decisions allowing reductions in creek setbacks. Our proposed language mirrors provisions previously recommended by the California Coastal Commission ("CCC"), adopted by

¹ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13 to 4-14.

the County in Article II of the Coastal Zoning Ordinance, and incorporated by reference in the Eastern Goleta Valley Community Plan ("EGVCP"). Throughout the NZO revision process, we have provided written and oral comments to support the adoption of our proposed language and have been in direct communication with staff. Despite our efforts, the draft language set forth in Section 17.30.070, "Changes to Required ESHA Buffers," and Section 17.30.080, "Streamside Protection Areas," still fails to include an adequate process for implementing General Plan Policy CE 2.2. We oppose the language proposed in these sections in the NZO and urge the City to adopt our recommended language for the reasons set forth herein.

I. The Purpose of a Creek Protection Ordinance in the NZO is to Effectively Implement the City's General Plan Policy CE 2.2.

Policy CE 2.2 of the City's General Plan pertains to the protection of creeks and riparian areas. The purpose of the Policy is to "[e]nhance, maintain, and restore the biological integrity of creek courses and their associated wetlands and riparian habitats as important natural features of Goleta's landscape."² To that effect, Policy CE 2.2 establishes strong protections for SPAs³ "to preserve the SPA in a natural state in order to protect the associated riparian habitats and ecosystems."⁴ The Policy requires a minimum SPA upland buffer of 100-feet on both sides of the creek.⁵ Studies, ordinances, and government publications indicate that a 100-foot creek setback is the bare minimum needed to protect water quality, creek and riparian habitats, and wildlife.⁶

Setbacks provide a variety of important benefits to water quality, plants and wildlife, and people. Vegetation, leaves, microbes, and soil found within the setback area serve to minimize water pollution by breaking down and filtering pollutants, such as oil and grease, sediment, fertilizers, and harmful pathogens. Setbacks also safeguard habitats for nesting birds, such as birds of prey, and endangered species, like the Southern California steelhead. For example, the white-tailed kite is a fully protected species in California that has been all but eliminated from the City due to loss of nesting and foraging habitats.⁷ Moreover, from 2010 through 2015, four of the thirty-eight steelhead observed in southern California were spotted in a waterway within the City.⁸ In 2017, one of seven steelhead observed in southern California spawned in a Goleta

² *Id.* at 4-13.

³ SPAs are located along both sides of the creek and are identified in Figure 4-1, "Special Status Species and Environmentally Sensitive Habitat Areas."

⁴ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13.

⁵ *Id.*

⁶ James M. McElfish, Jr., Rebecca L. Kihlslinger, and Sandra Nichols, *Setting Buffer Sizes for Wetlands*, Volume 30, no. 2, National Wetlands Newsletter at 7 (Buffers of 100 feet or larger are effective at nitrogen removal and wildlife protection) (2008); *See also* United States Environmental Protection Agency, *Aquatic Buffer Model Ordinance* at 4-5.

⁷ Email from Mark Holmgren, Wildlife Biologist, to Brian Trautwein, Environmental Analyst/Watershed Program Coordinator for the Environmental Defense Center (August 21, 2019); *See also* Gail Brown, *White-tailed Kites Under Siege Says Researcher* (November 3, 1998), available at <https://www.news.ucsb.edu/1998/011182/white-tailed-kite-under-siege-says-researcher>.

⁸ Rosi Dagit, Senior Conservation Biologist, Resource Conservation District of the Santa Monica Mountains, *So Cal Steelhead Sightings southern DPS* (March 2015).

creek.⁹ In order for steelhead to persist in the City's waters, adherence to the minimum 100-foot SPA requirement under Policy CE 2.2 is vital. Finally, setbacks protect life and property from the devastating impacts due to flooding, streambank erosion, and debris flows—the threat of which is heightened today due to climate change.

However, upon request, Policy CE 2.2(a) allows the City to reduce the SPA upland buffer “if (1) there is no feasible alternative siting for development that will avoid the SPA upland buffer; and (2) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream.”¹⁰ Although the Policy identifies two broad standards for decreasing the 100-foot setback, the process for evaluating each factor is more appropriately set forth in an ordinance. This is because the purpose of the NZO “is to implement the General Plan,” (Revised Draft New Zoning Ordinance (“NZO”) at Section 17.01.020) Thus, provisions in the NZO must provide more direction for implementation of the Policy, particularly with regards to feasibility.

The need for an ordinance that details the process for implementing the provisions under Policy CE 2.2 is evidenced by a case study conducted by EDC in 2014 of reductions to riparian setbacks for various development projects in the City. Based on this study, EDC discovered that the required 100-foot setback was often significantly reduced to approximately 50 to 25 feet and that these approvals were made without the analysis required by Policy CE 2.2(a).¹¹ For example, the City's decision to reduce the SPA upland buffer for the ATK Space Systems project to 25-feet in some areas was not based on adequate evidence or findings as required by Policy CE 2.2(a).¹² The Staff report, attached hereto as Exhibit A, analyzes the project's consistency with the Conservation Element of the General Plan, but omits Policy CE 2.2 from the discussion.

EDC summarized its findings and recommendations in a letter dated February 19, 2014 to Anne Wells, Advance Planning Manager for the City.¹³ Shortly thereafter, EDC and several local groups had a meeting with City staff and the former City attorney to discuss the repeated failure to conduct an adequate analysis of feasibility prior to a decision on an SPA buffer reduction. The meeting confirmed the need for an ordinance to establish a process for making a reduced setback determination if an applicant asserts that the 100-foot setback is infeasible. Since 2018, EDC, on behalf of its clients, has been working with staff to develop a creek protection ordinance that effectively implements Policy CE 2.2.

⁹ Memorandum from Mark H. Capelli, Steelhead Recovery Coordinator for the Southern California Branch of the National Marine Fisheries Service, to File (March 30, 2017).

¹⁰ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13.

¹¹ It is important to note that feasibility analyses are not necessarily included in environmental review documents pursuant to the California Environmental Quality Act (“CEQA”). CEQA documents evaluate whether the project will have significant adverse impacts. Thus, analyzing the feasibility of alternative siting is ultimately left up to the decision-makers and can be based on evidence outside of the scope of the CEQA documents.

¹² Staff Report to the Planning Commission Chair and Members from Steve Chase, Director of Planning and Environmental Services at 9 (January 26, 2009, meeting date)(“Exhibit A”).

¹³ Letter to Anne Wells, Advance Planning Manager for the City of Goleta, from Brian Trautwein, Environmental Analyst and Watershed Program Coordinator for the Environmental Defense Center (February 19, 2014).

II. CEQA Case Law is Instructive in Identifying a Process for Evaluating Feasibility, which is Necessary to Implement Policy CE 2.2.

Under General Plan Policy CE 2.2, the decision to reduce a SPA buffer is guided by the doctrine of feasibility. “Feasible” is defined in the NZO as “[c]apable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” (NZO at VI-37) The definition is identical to the definition of “feasible” under the California Environmental Quality Act (“CEQA”).¹⁴ Questions of feasibility arise in the CEQA context with regards to analyzing feasible alternatives and feasible mitigation measures in an Environmental Impact Report (“EIR”). *Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal. App. 3d 1167 (“*Goleta I*”); *See also Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1988) 47 Cal. 3d 376, 406, *as modified on denial of reh’g* (Jan. 26, 1989) (“*Laurel Heights I*”). In fact, the Legislature has stated that “it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects,”¹⁵

The purpose of evaluating feasible alternatives and feasible mitigation measures under CEQA is to ensure that decisionmakers and the public are aware of the environmental consequences of the decision before it is made. *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564 (“*Goleta II*”). This required analysis in an EIR thus “protects not only the environment but also informed self-government.” *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123 (“*Laurel Heights II*”). To facilitate the informational role of an EIR, “[a]n EIR’s discussion of alternatives must contain analysis sufficient to allow informed decision making.” *Laurel Heights I*, 47 Cal.3d at 404. Moreover, CEQA mandates that the agency, not the applicant, is responsible for analyzing which alternatives are feasible.¹⁶

In *Laurel Heights I*, the court held that the discussion in the EIR of project alternatives was legally inadequate under CEQA because the EIR omitted a meaningful analysis of alternatives, depriving the public and the courts of the opportunity to be as equally informed as the project proponents. 47 Cal. 3d at 407. The court provided guidance as to the level of detail of the alternatives analysis that must be included in an EIR, explaining “the analysis must be specific enough to permit informed decision making and public participation.” *Id.* The court continued, “[a]bsolute perfection is not required; what is required is the production of information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned....” *Id.* (internal citations omitted)

The feasibility of the alternatives identified in an EIR “must be evaluated within the context of the proposed project.”¹⁷ However, CEQA Guidelines set forth a host of factors that

¹⁴ See Pub. Res. Code § 21061.1; CEQA Guidelines § 15364.

¹⁵ Pub. Res. Code § 21002.

¹⁶ CEQA Guidelines § 15126.6(c).

¹⁷ Pub. Res. Code § 21002.

may be considered when examining the feasibility of alternatives, which include, “site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or the site is already owned by the proponent).”¹⁸ A determination of feasibility by a decision maker must be based on findings that are supported by substantial evidence. ““Substantial evidence is defined as ‘enough relevant information and reasonable inferences from th[e] information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.’” *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 596. Substantial evidence includes ““facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”” *Id.*

In *Goleta I*, the court concluded, in relevant part, that there was not substantial evidence in the record to support that a smaller hotel as an alternative to the proposed hotel development was economically infeasible. 197 Cal. App. 3d at 1180. The court explained, “[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.” *Id.* at 1181. The real parties in interest also argued that substantial evidence demonstrated that a smaller hotel alternative “would require complete redesign and revision of the project.” *Id.* The court reasoned that even if this allegation was true, “it does not follow that the project would be rendered economically infeasible.” *Id.*

Finally, CEQA case law establishes that in evaluating economic feasibility of alternatives to a proposed project under CEQA, an applicant’s “personal wealth or ability to shoulder the costs of the proposed alternative is irrelevant.” 147 Cal. App. 4th at 599. In *Uphold Our Heritage v. Town of Woodside*, the court explained that “the question is not whether [a project proponent] can afford the proposed alternative, but whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent property owner would not proceed with the rehabilitation.” *Id.* at 600. There, the court held that the finding by the Town Council that two of the alternatives were not economically feasible was not supported by substantial evidence. *Id.* at 598-599.

Based on the foregoing, CEQA case law provides relevant guidance on the analysis necessary to evaluate feasibility in the NZO and must be considered as the City works to develop an ordinance that effectively implements Policy CE 2.2.

III. The City of Goleta Must Adopt an Ordinance that Clearly Sets Forth the Process to Make a Determination of Feasibility with Regards to a Creek Setback Reduction.

UCC and EDC are advocating for clear zoning ordinance language that effectively implements Policy CE 2.2. To do so, the NZO must set forth a process, required findings, and the evidentiary requirements to inform the City’s determination of feasibility. This clarity and

¹⁸ CEQA Guidelines § 15126.6(f)(1).

transparency will benefit not only City decisionmakers, but also applicants and interested members of the public.

EDC drafted revisions to Section 17.30.080,¹⁹ “Streamside Protection Areas,” which was submitted to the City on March 8, 2019, and is attached hereto as Exhibit B.²⁰ The language clearly states the required findings and the evidence necessary to support the findings to determine when a reduction of the minimum required SPA buffer may be allowed. EDC continues to recommend the adoption of this language but suggests that the language be incorporated into the NZO in a stand-alone provision that is generally applicable to any requests to modify City zoning or policy requirements. Section 17.30.080, concerning SPAs, would then cite to the general section with the EDC-recommended language. This is the same approach utilized by the County when adopting the EGVCP.

The language proposed by EDC mirrors the CCC's Suggested Modification No. 13 to the County's EGVCP Local Coastal Program Amendment, which is directly relevant and instructive in crafting the City's ordinance in the NZO. The CCC's recommended language establishes a detailed and clear process for making determinations of feasibility by evaluating whether adherence to the policy would not provide an economically viable use. The County adopted the CCC's suggested language in Sections 35-192.4 through 35-192.6 in the County's Coastal Zoning Ordinance and these sections are incorporated by reference in Policy EGV-1.5 of the EGVCP. The language suggested by the CCC is attached hereto as Exhibit C.²¹ It is logical for the City to adopt this same language in the NZO because it was recommended by the CCC for the EGVCP and the County adopted this language.

Finally, adopting language previously recommended by the CCC in the City's NZO is strategic because the CCC is required to certify the City's proposed NZO. Thus, in order to avoid future delays and unexpected surprises, it is important for the City to consider what language the CCC will require later in the adoption process.

IV. The Proposed Revisions to Section 17.30.070 Concerning Changes to Required ESHA Buffers and Section 17.30.080 about Streamside Protection Areas Fail to Include an Adequate Process for Deciding Whether to Reduce a Buffer.

EDC opposes the proposed revisions to the NZO that concern SPA buffers because they will not effectively implement Policy CE 2.2 and protect creeks in the City. The draft language, particularly in Section 17.30.070, does not provide adequate protections against encroachment into SPAs because the provisions do not set forth a sufficient process for evaluating reductions to a creek setback. Neither Section 17.30.070 nor Section 17.30.080 *implements* the provisions under Policy CE 2.2. Section 17.30.070(B) repeats the two factors set forth in the Policy for

¹⁹ In the previous version of the NZO, this Section was identified as 17.30.070.

²⁰ Letter from Tara Messing, Staff Attorney for the Environmental Defense Center, to Anne Wells, Advance Planning Manager for the City of Goleta (March 8, 2019)(“Exhibit B”).

²¹ Letter from the California Coastal Commission to Joan Hartmann, Chair of the Board of Supervisors for the County of Santa Barbara, regarding Santa Barbara County Local Coastal Program Amendment No. LCP-4-STV-17-0048-1 (Eastern Goleta Valley Community Plan) (August 18, 2017)(“Exhibit C”).

reducing a creek setback. Contrary to the purpose of Policy CE 2.2, which is to “[t]o preserve the SPA in a natural state in order to protect the associated riparian habitats and ecosystems,” the revisions in these sections may open the door for applicants to circumvent the strong creek protections afforded under Policy CE 2.2.²²

Section 17.30.070, “Changes to Required ESHA Buffers,” would be added to Chapter 17.30 on “Environmental Sensitive Habitat Areas” (“ESHA”) and is allegedly intended to “strengthen the protections for all forms of ESHA.”²³ However, the “Required Findings” under subsection (B), which must be made prior to reducing an ESHA buffer, are deficient and do not identify what information is required to evaluate feasibility in the context of requests for buffer reductions. For example, the first finding is that “[t]here is substantial evidence in the record to support the decision to reduce the required ESHA buffer,” but no guidance is provided to inform decision-makers what information should be provided as “evidence” to support the findings. (NZO at Section 17.30.070(B)(1)) It is important for the NZO to specify what evidence is required in order to avoid inconsistent analyses by decision-makers, and to increase the transparency of the decision-making process for applicants and the public. Identifying the evidence necessary to support the analysis in the ordinance benefits applicants because they are made aware of what information may be requested at the beginning of the process. For these reasons, Section 17.30.070 must be deleted, and the NZO should be revised to include language similar to Sections 35-192.4, *et seq.* of the County’s Coastal Zoning Ordinance.

In its Response to Planning Commission Comments, City staff claims that it “revisited the issue of ‘feasibility’ in the context of SPA buffer reductions and included a new requirement for an alternatives analysis in subsection 17.30.070(C) of the Public Hearing Draft NZO.”²⁴ This provision reads as follows:

C. Alternate Site Designs. If a reduction in a required ESHA buffer is requested, alternate site designs must depict the overall project design with reductions of 20 percent and 40 percent in the overall footprint area being proposed for consideration by the Review Authority or other alternatives as determined by the Director. The resulting alternatives will become part of the evidence for the Review Authority to consider. (NZO at Section 17.30.070(C))

This proposed language actually makes matters worse. First, the proposed provision does not provide decision-makers with any criteria for evaluating whether an alternative site design would or would not be feasible. This analysis should not be left open-ended for decision-makers to make on a case-by-case basis. The ordinance must clearly state the categories of information that may be relied upon in the decision to ensure that decision-makers have the necessary information to allow them to sufficiently analyze the feasibility of an alternative site design.

²² City of Goleta, General Plan, Ch. 4 Conservation Element at 4-13.

²³ City of Goleta, *Response to Planning Commission Comments* at 45 (August 16, 2019), available at: <http://nebula.wsimg.com/8714bb8793746cd61a460185ef09ae69?AccessKeyId=8B11547F66E8794DD29E&disposition=0&alloworigin=1>.

²⁴ *Id.* at 40-41.

Second, the approach under subsection (C) relies on two arbitrary percentages to assess reduced project site designs. Nothing in Policy CE 2.2 limits the analysis of feasibility to two alternative site designs. An alternative is “feasible” and therefore worthy of consideration if it is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account, economic, environmental, social, and technological factors.” (NZO at VI-37) Therefore, the ordinance must allow for the consideration of a reasonable range of alternatives to provide for informed decision-making and public participation.

Perhaps most important, this proposed requirement will encourage applicants to improperly inflate their projects such that a 40% reduction, for example, could actually represent the applicant's desired project and could still result in a reduced buffer. Hypothetically, an applicant seeking to build 90 residential units could instead apply for a project of 150 residential units. Both the 20% and 40% reduced alternatives to the 150-unit project may still require a buffer reduction. However, if the applicant applied for the desired project of 90 residential units, the 100-foot buffer could be feasible. The foregoing hypothetical demonstrates how Subsection (C) incentivizes applicants to pad their projects to avoid the 100-foot setback without accurately evaluating feasibility.

Finally, Section 17.30.080(C), would allow for a *further* buffer reduction in addition to the reduction permitted under Section 17.30.070(A)(1) “to allow reasonable economic use of the lot.” (NZO at Section 17.30.080(C)) The language recommended by the CCC in the EGVCP regarding economically viable use determinations is directly relevant to this analysis, yet these provisions have not been adopted in the NZO. Instead, a new requirement was added to Section 17.30.080 to obtain a Variance prior to reducing a SPA buffer in addition to the requirement under Section 17.30.070(A)(1) to get a Major Conditional Use Permit (“CUP”). (*Id.*) Sections 17.60.010, *et seq.* for Variances²⁵ and Sections 17.57.010, *et seq.* for Conditional Use Permits are silent as to the evidence necessary to support the requisite findings and do not include an adequate process for making a determination of “reasonable economic use” as compared to the provisions in the EGVCP and Article II of the County's Coastal Zoning Ordinance. It is imperative that a sufficient process for evaluating “reasonable economic use” is set forth in the NZO to aid decision-makers and provide transparency for applicants and the public.

For the foregoing reasons, the NZO provisions do not set forth a clear process for evaluating feasibility and thus fail to effectively implement Policy CE 2.2. EDC opposes these provisions and urges the Planning Commission to direct staff to replace these provisions with the EGVCP language suggested by the CCC and adopted by the County.

²⁵ The required findings for approval for a Variance from a zoning ordinance under Section 17.60.040 of the NZO are based on Government Code Section 65906. In *Topanga Assn. for a Scenic Cmty. v. Cty. of Los Angeles*, the court held that an administrative grant of a variance must be accompanied by administrative findings under Government Code Section 65906, reasoning that “by requiring that administrative findings must support a variance, we emphasize the need for orderly legal process and the desirability of forcing administrative agencies to express their grounds for decision so that reviewing courts can intelligently examine the validity of administrative action.” 11 Cal. 3d 506, 522 (1974). The City must reveal “the analytic route the administrative agency traveled from evidence to action.” *Id.* at 515.

V. Miscellaneous Comments Regarding Proposed Revisions to the NZO.

In addition to the above comments regarding the provisions governing SPA buffer reductions, we identified issues with other sections in the NZO that must be corrected prior to approving the NZO:

- **The revisions to Section 17.30.080(D) of the NZO removed certain activities that should be allowed within SPAs.**

Under Section 17.30.080, “Allowable Uses within SPAs,” “[r]esource restoration or enhancement projects” and “[n]ature education and research activities” have been deleted in the NZO as allowable activities within SPAs. (NZO at Section 17.30.080(D)) General Plan Policy CE 2.3, however, lists these activities as permitted in SPAs.²⁶ Although the General Plan Policy governs, it is important for the NZO to also list these activities under Section 17.30.080(D) for clarity and transparency, especially given that the City’s Creek and Watershed Management Plan will involve restoration projects within the City’s creeks.

In an email sent by Anne Wells to EDC on September 3, 2019, Ms. Wells explained that “these types of projects [resource restoration or enhancement projects] should be dealt with more broadly but we have identified a need for clarity.”²⁷ As part of an Errata Sheet, staff proposes to include a Zoning Clearance requirement for small habitat restoration or enhancement projects that are exempt from CEQA and a requirement for a Minor CUP where a restoration project within ESHA does not qualify for the Zoning Clearance.²⁸ Nevertheless, resource restoration and enhancement projects should be listed as an allowed activity in Section 17.30.080(D) to ensure consistency with General Plan Policy CE 2.3. Please direct staff to include “[r]esource restoration or enhancement projects” and non-structural “[n]ature education and research activities” as allowable uses within SPAs in the NZO.

- **The NZO is inconsistent with the California Coastal Act and the City’s General Plan policies by limiting ESHA to only “mapped or designated ESHA.”**

Section 17.30.020 states that “[n]o new development, except as specifically identified in this Title, is allowed within a *mapped or designated* ESHA.” (NZO at Section 17.30.020 (emphasis added)) As phrased, the language improperly limits the definition of “ESHA.” Under the California Coastal Act, ESHA does not have to be mapped or designated to be “ESHA.”²⁹ Moreover, General Plan Policy CE 1.3 explicitly states that “[a]ny area not designated on the ESHA map in Figure 4-1 that meets the ESHA criteria for the resources specified in CE 1.1 shall be granted the same protections as if the area was shown on the map.”³⁰ The NZO must be

²⁶ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-14.

²⁷ Email from Anne Wells, Advanced Planning Manager for the City of Goleta, to Tara Messing, Staff Attorney for the Environmental Defense Center (September 3, 2019).

²⁸ *Id.*

²⁹ Pub. Res. Code § 30107.5.

³⁰ City of Goleta, General Plan, Ch. 4 Conservation Element at 4-9 to 4-10.

consistent with the City's General Plan policies. We raised this issue with staff and in response, staff has agreed to remove two references to "mapped or designated ESHA" in Sections 17.30.020 and 17.30.040(A) as part of the Errata Sheet.³¹

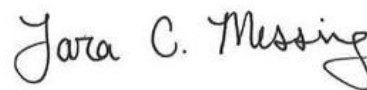
- **The minimum wetland mitigation ratio must be increased to 4:1 to adequately compensate for wetland impacts and to comply with the California Coastal Act.**

Wetlands are ESHA that should be protected "as highly productive and complex ecosystems that provide special habitats for flora and fauna as well as for their role in cleansing surface waters and drainages."³² Wetlands which cannot be avoided and are filled must be mitigated.³³ The CCC requires a minimum four-acre to one-acre ("4:1") compensatory mitigation for permanent impacts to wetlands. The 4:1 requirement mandated by the CCC was adopted by the City of Santa Barbara in its Local Coastal Plan,³⁴ and by the County of Santa Barbara in the EGVCP³⁵ and Gaviota Coast Plan.³⁶ All three of these examples were modified in response to CCC's direction to include a 4:1 minimum wetland mitigation ratio. To ensure adequate protection of and compensation for Goleta's wetlands and consistency with communities surrounding the City of Goleta, the NZO must establish a minimum wetland compensation ratio of 4:1 for Goleta's important wetlands in Section 17.30.120 of the NZO.³⁷

VI. Conclusion

Therefore, we urge the Planning Commission to reject the proposed revisions in Sections 17.30.070 and 17.30.080 in the NZO and instruct staff to develop a general provision that is referenced in Section 17.30.080 based on the language recommended by the CCC in the EGVCP regarding economically viable use determinations, attached hereto as Exhibit C. We also request that the Planning Commission direct staff to make the necessary changes to the miscellaneous sections discussed above in this letter.

Sincerely,



Tara C. Messing
Staff Attorney

³¹ Email from Anne Wells, Advanced Planning Manager for the City of Goleta, to Tara Messing, Staff Attorney for the Environmental Defense Center (September 3, 2019).

³² City of Goleta, General Plan, Ch. 4 Conservation Element at 4-2; *See also* Guiding Principle and Goal 4 at 4.4.

³³ *Id.*; *See also* Policy CE 3.6 at 4-17.

³⁴ City of Santa Barbara, Local Coastal Plan, Policy 4.1-13(A) at 4.1-27 (August 2019).

³⁵ County of Santa Barbara, Eastern Goleta Valley Community Plan, Policy ECO-EGV-2.5 at 140 (December 14, 2017).

³⁶ County of Santa Barbara, Gaviota Coast Plan, Policy NS-11 at 2-19 (November 8, 2016).

³⁷ Policy CE 3.6 of the City's General Plan sets forth a lower mitigation ratio and thus we recommend that the City amend this section to ensure compliance with the Coastal Act and NZO.

cc: Santa Barbara Urban Creeks Council

Attachments:

- A – Staff Report to the Planning Commission Chair and Members from Steve Chase, Director of Planning and Environmental Services (January 26, 2009, meeting date)
- B – Letter from Tara Messing, Staff Attorney for the Environmental Defense Center, to Anne Wells, Advance Planning Manager for the City of Goleta (March 8, 2019)
- C – Letter from the California Coastal Commission to Joan Hartmann, Chair of the Board of Supervisors for the County of Santa Barbara (August 18, 2017)

EXHIBIT A



**Agenda Item B.2
PUBLIC HEARING**

Meeting Date: January 26, 2009

TO: Planning Commission Chair and Members

FROM: Steve Chase, Director of Planning and Environmental Services

CONTACT: Patricia S. Miller, Manager, Current Planning
Scott Kolwitz, Senior Planner

SUBJECT: 08-157-OA, -DP RV 01, Towbes/ATK Space Systems located at 600 Pine Avenue; APN 071-130-040

RECOMMENDATION:

The Planning Commission's action should include the following:

1. Adopt Planning Commission Resolution 09-___ (Attachment 1), entitled "A Resolution of the Planning Commission of the City of Goleta, California, Recommending to the Goleta City Council Approval of Various Actions Related to the ATK Space Systems Project; Case No. 08-157-OA, -DP RV 01; 600 Pine Avenue; APN 071-130-040".

Refer back to staff if the Planning Commission decides to make another recommendation to the City Council.

PROPERTY OWNER

The Towbes Group, Inc.
Craig Zimmerman
21 East Victoria Street,
Suite 200
Santa Barbara, CA 93101

AGENT

Suzanne Elledge Planning and Permitting Services
Laurel Perez and Heidi Jones
800 Santa Barbara Street
Santa Barbara, CA 93101

APPLICANT

ATK Space Systems
600 Pine Avenue
Goleta, CA 93117

REQUEST

A hearing on the request of Suzanne Elledge Planning and Permitting Services, agent for the property owner, The Towbes Group, Inc, for approval of an Ordinance Amendment (08-157-OA) to the Goleta Growth Management Ordinance (GGMO), pursuant to Chapter 35, Article III, §35-325 to exempt the proposed project from GGMO requirements subject to the condition that the property owner execute and deliver and Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwill Street; for approval of a Development Plan Revision (08-157-DP RV01) for construction of a 25,026-square foot addition to an existing 59,535-square foot research and development building, parking lot expansion, landscaping and grading in the M-RP zone district, including modifications to required landscape coverage and setbacks for the building and parking, pursuant to Chapter 35, Article III, §35-317; and adoption of the Mitigated Negative Declaration (MND, 08-MND-003), pursuant to the Guidelines for the Implementation of the California Environmental Quality Act (CEQA).

Application Filed: August 20, 2008
Application Complete: September 18, 2008
Processing Deadline: 180 days from adoption of the Mitigated Negative Declaration

JURISDICTION

Pursuant to State Planning Law, final action on any request for an ordinance amendment is the responsibility of the City Council pursuant to Section 35-325 of the City's Inland Zoning Ordinance. Development Plans are under the jurisdiction of the Planning Commission.

Pursuant to Section 35-292d, when multiple applications are under the jurisdiction of more than one decision maker, the decision maker with the highest jurisdiction is the decision maker for all of the applications. Therefore, the Planning Commission acts in an advisory capacity and is charged with the responsibility for making a recommendation to the City Council.

PROJECT DESCRIPTION

Ordinance Amendment (08-157-OA):

The proposal includes a request to amend the Goleta Growth Management Ordinance (GGMO) to exempt the project from its provisions subject to the condition that the property owner execute and deliver and Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwill Street.

Development Plan Revision (08-157-DP RV01):

The property includes a 59,535-square foot 28.25-foot tall research and development building, consisting of a 42,875-square foot first-floor and a 16,660-square foot second-

floor mezzanine, a 475-square foot detached masonry building, an 875-square foot storage building, an 850 square foot storage building a 2,500-square foot mechanical yard, two existing liquid nitrogen tanks, 165 automobile parking spaces, 3 loading zones, 20 indoor bicycle parking spaces and 161,350 square feet of landscaping on a 6.58-acre parcel.

The two, existing storage buildings on site located on the southeast corner of the property are unpermitted and as such, these two as-built structures are included as a part of the proposed project.

Also, the two existing liquid nitrogen tanks on-site (one measuring 8 feet in diameter, 20 feet vertical and one measuring 10 feet in diameter and 25 feet horizontal - screening is provided by an approximately 10 foot high fence) were installed without permits. As such, they are also included as a part of the proposed project.

The applicant proposes to construct a 23,376-square foot manufacturing/office addition (18,694-square foot first-floor & 4,682-square foot second-floor mezzanine) on the east end of the building and a 1,650-square foot "airlock" addition on the north side of the building. The application also includes a parking lot expansion from 165 to 226 parking spaces including 43 compact stalls (19.7%) and seven (7) accessible spaces. 218 of these spaces will be permanent while 8 spaces will be demolished when the future Ekwill extension is installed by the City. The percentage of compact stalls (19.7%) is based on the final 218 permanent parking spaces. The existing 3 loading zones and the 20 indoor bicycle parking spaces would be retained.

The resulting 2-story structure would be 84,561 square feet with a maximum height of 35 feet, consisting of a 63,219-square foot first-floor & a 21,342-square foot second floor mezzanine. Landscaping would be reduced to 33,994 square feet and would require the removal of 18 trees (2 Jacaranda, 1 Liquidambar, 2 Lophostemon, 3 Brazilian Pepper, 5 Tipuana, 1 mature Coast Live Oak, 3 oak tree saplings, and an Island oak tree sapling). However, 78 new trees (25 Jacaranda/Purple-Leaf Plum, 45 Australian Willow/Brisbane Box, 8 Queen Palm) and additional shrubs and ground cover are proposed. Grading would consist of 3,500-cubic yards of cut and 300-cubic yards of fill. Stormwater would be directed to two detention basins prior to reaching Old San Jose Creek.

BACKGROUND

The proposed project is located within the Redevelopment Area overlay (RDA). The property has a General Plan Business Park land use designation and is zone M-RP (Industrial – Research Park).

Although no parcel or tract map was found for the subject parcel two Records of Survey (Book 30, Page 147 in 1951 and Book 87, Page 60 in 1974) identify the project parcel in its current configuration.

A Land Use Rider (LUR), following architectural review and the adoption of a CEQA Negative Declaration (72-ND-102), to construct an office and manufacturing building and install associated landscaping was issued on February 6, 1973. On June 11, 1975, a Partial and Final Development Plan (DP) 75-DP-11 was approved recognizing an office and manufacturing building and associated landscaping and to construct 144 parking spaces and a 540-square foot masonry mixing and storage building. On June 12, 1975, a LUR for 75-DP-11 was issued.

On January 7, 1976, 75-DP-34 was approved, following architectural review and the adoption of a CEQA Negative Declaration (74-ND-181), recognizing an existing 27,280-square foot office and manufacturing building, a 540-square masonry building, associated landscaping and 206 parking spaces, and to construct a 12,783-square foot addition with a maximum height of 29-feet to be used for industrial purposes for a total of 40,063-square feet, to revise 38,090-square feet of landscaping, to reduce parking from 206 parking spaces to 190 parking spaces, to add a loading ramp, and to add an employee patio area. On January 8, 1976, a LUR for 75-DP-34 was issued.

On June 27, 1979, 79-DP-9 was approved, following architectural review and the adoption of a CEQA Negative Declaration (79-ND-43), to construct a 10,400-square foot addition to the east side of the existing building where parking existed for storage use for a total of 50,463-square feet, to increase landscaping to 43,900-square feet, and to add 79 additional parking spaces to retain 190 parking spaces onsite. Subsequently, numerous minor permits were issued for accessory structures.

PROJECT INFORMATION

Site Information	
General Plan Land Use Designation	Business Park
Zoning Ordinance, Zone District	Article III (Inland Zoning Ordinance), Zoned M-RP Industrial Research Park within the Redevelopment Area overlay
Site Size	6.58 acres
Present Use and Development	Research-manufacturing facility / 59,535-square foot 28.25-foot tall research and development building, consisting of a 42,875-square foot first-floor and a 16,660-square foot second-floor mezzanine, a 540-square foot detached masonry building, a 2,500-square foot mechanical yard, 165 automobile parking spaces, 3 loading zones, 20 indoor bicycle parking spaces and 161,350 square feet of landscaping on a 6.58-acre parcel.
Surrounding Uses/Zoning	North: Old San Jose Creek, University Mobile Home Park and Research/Manufacturing (DR-20 and M-RP Industrial Research Park, respectively) South: General Industrial (M-1 Light Industry) East: Agriculture (C-V Regional/Visitor Serving Commercial) West: Pine Avenue, United Parcel Service, and General

Site Information	
	Industrial (M-RP and M-1 Light Industry, respectfully)
Access	Existing: Two driveways off of Pine Avenue: one is a two-way driveway and the other is a one-way driveway. Proposed: Two, one-way access driveways off of Pine Avenue
Utilities and Public Services	Water Supply: Goleta Water District Sewage: Goleta Sanitary District Fire: SB County, Fire Station 12 School Districts: N/A

ANALYSIS

Environmental Analysis

An original Mitigated Negative Declaration was prepared for the Towbes/ATK Space systems Project and released in December 2008. The Draft MND was issued for a 20-day review period in December 2008. Comments received during the review period indicated the need for a 30-day review period as a result of "Trustee Agency" jurisdiction over the project by responding public agencies. This resulted in the issuance of a Revised Draft MND on January 21, 2009 and recirculation for a 30-day period.

The Revised Draft MND is provided as Attachment 2 to this staff report, and all applicable mitigation measures have been incorporated into recommended conditions of approval set forth in Attachment 1, Exhibit 2.

The following potentially significant impacts are identified:

Aesthetics: The proposed project includes a 23,376 SF addition that could impact views towards the Santa Ynez Mountains and could affect the visual quality and character of the existing neighborhood. The MND identifies mitigation measures that address the project landscaping and landscaping maintenance, lighting, utilities, trash enclosure area, mechanical equipment, and Design Review Board review and approval of project plans prior to LUPs. With implementation of these mitigation measures, residual project specific and project contributions to cumulative Aesthetic impacts would be considered less than significant.

Air Quality: The proposed project would result in both short-term and long-term mobile and stationary air quality emissions. With incorporation of mitigation measures, including implementation of APCD dust mitigation and construction equipment control measures, compliance with all other APCD rules and regulations, limited idling of diesel trucks, and recommended use of energy conserving techniques and materials in the project construction, Air Quality impacts would be reduced to less than significant levels. With implementation of the above mitigation measures, residual project specific as well as project contributions to cumulative Air Quality impacts involving ROG_s, NO_x and

PM₁₀ would be considered less than significant. Project contributions to GHG emissions, would be reduced through implementation of the recommended mitigation measures noted above.

Biological Resources: The subject property is adjacent to Old San Jose Creek. This creek is considered an environmentally sensitive habitat area (ESHA) and is mapped as such in the Conservation Element of the City's General Plan. The creek corridor area includes riparian woodland habitat and oak trees. Wildlife associated with the corridor includes primarily common species. The potential exists for certain sensitive plant and wildlife species such as saltbush, southern tarplant, monarch butterfly, least Bell's vireo, and raptor nests. The creek corridor is also upstream from the Goleta Slough, which is habitat for numerous common and sensitive plant and wildlife species, including the tidewater goby. The area of construction includes existing paving, landscaping, and nonnative grassland habitat.

The MND identified mitigation measures to reduce impacts to the Old San Jose Creek and associated water quality. Mitigation includes implementation of a riparian buffer zone, replacement landscaping, temporary fencing, bird breeding surveys/redirection of construction activity, approval of final drainage and grading design, Best Management Practices/erosion control, identification of appropriate wash off areas during the construction period on the project plans, and stormwater system maintenance program. With implementation of these mitigation measures, residual project specific and cumulative impacts on Biological Resources would be considered less than significant.

Cultural Resources: The project site has been the subject of a Phase 1 archaeological survey (Dudek; 2008). The study did not reveal any cultural resources and concluded that it is highly unlikely that any intact prehistoric or historical archaeological deposits exist onsite. In the event that currently unknown sensitive archaeological resources are encountered during project development, mitigation is identified to require evaluation of the resource and appropriate measures to protect and/or mitigate impacts to the resource. With implementation of the above mitigation measure, the project's residual impacts on Cultural Resources would be less than significant.

Geology and Soils: The property includes soil and geologic conditions that could become unstable. Additionally, grading and excavation would result in erosion and sediment loss from stockpiled soils and graded areas. The MND identifies mitigation measures to address constrained soils on the project site and potential for drainage impacts include compliance with the Geotechnical Engineering Reports for ATK and Liquefaction Evaluation Report. With implementation of the mitigation measure, residual project specific and cumulative impacts on Geology and Soils would be considered less than significant.

Hazards and Hazardous Materials: The proposed project would involve the routine transport, use, or disposal of hazardous materials. This poses a potentially significant public health risk and/or environmental impact. Mitigation identified to reduce hazards and hazardous material impacts includes compliance with Santa Barbara County Fire

Department conditions regarding the handling and storage of hazardous materials. Upon implementation of this mitigation measure, residual project specific and cumulative Hazards and Hazardous Materials impacts would be less than significant.

Hydrology and Water Quality: The proposed project would result in potentially significant impacts associated with grading/erosion, an increase in impervious surfaces and associated stormwater runoff, and flooding impacts. Mitigation measures include the submittal of a drainage and hydrology study for review and approval by the City that identifies how the site drainage meets the City's Storm Water Management Plan and retention and/or detention of stormwater on site to the maximum extent feasible, submittal of engineered details on stormwater filtration elements, limit excavation and grading to the dry season, and obtain proof of exemption or proof that a National Pollutant Discharge Elimination System Storm Water Permit from the California Regional Water Quality Control Board has been applied. With implementation of these measures, project specific and cumulative impacts would be reduced to less than significant levels.

Noise: The proposed project would result in the generation of noise during the construction phase of the project and long-term operational noise could increase ambient noise levels in the vicinity. The nearest sensitive noise receptor includes a mobile home park adjacent to the north. The MND identifies mitigation to address short-term construction noise and long-term exposure to noise. Mitigation measures identified to reduce short and long-term exposure to excessive noise levels limitations on construction activity and site preparation to limited hours, shielding of particularly loud stationary construction equipment, adequately maintain new and existing HVAC equipment and commercial/industrial equipment, and installing noise shielding or insulation for equipment if equipment results in objectionable noise levels at adjacent properties. Noise impacts would be reduced to less than significant levels with incorporation of these measures. With implementation of the required mitigation measures, the residual project specific and project contribution to cumulative noise impacts would be less than significant.

Public Services: The project would result in the potential need for increased fire protection services. Mitigation identified to reduce such impacts includes installation of five fire hydrants to serve the proposed project meeting all applicable Santa Barbara County Fire Department requirements. Upon implementation of this mitigation measure, residual project specific impacts on fire protection services would be less than significant. All other residual project specific and project contributions to cumulative impacts on public services would be less than significant.

Transportation/Traffic: The proposed ATK addition would result in 306 new average daily trips, 42 AM peak hour trips, and 43 PM peak hour trips. These new trips would not result in any significant project-specific or cumulative impacts at area intersections. Proposed parking includes 218 spaces, which exceeds the ordinance requirement of 170 spaces. Potentially significant impacts could occur if driveways and drive aisles are not constructed to support emergency vehicle access and if construction vehicle parking is not controlled.

Mitigation identified to reduce project-related traffic impacts, includes a prohibition of construction vehicle parking and/or staging of construction equipment or materials, including vehicles of construction personnel, along Pine Avenue. With implementation of the mitigation measure listed above and through payment of traffic mitigation fees established by the Goleta Transportation Improvement Plan, residual project specific and cumulative traffic impacts would be less than significant.

Utilities and Service Systems: The proposed ATK addition would increase service by the Goleta Sanitary District and the Goleta Water District. The project would also result in the generation of increased solid waste. Mitigation identified to reduce utilities and service system impacts includes obtaining a Can and Will Serve letter from the Goleta Sanitary District, obtaining a Can and Will Serve letter from the Goleta Water District, submittal of a Waste Reduction and Recycling Plan for Community Services review and approval, and onsite separation of demolition and/or excess construction materials for reuse/recycling or proper disposal. With implementation of the above mitigation measures, residual project specific and cumulative impacts on utilities and service systems would be considered less than significant.

General Plan Consistency Analysis

A summary of the project's consistency with all applicable General Plan policies is provided in Attachment 3 of this staff report. The proposed project (Specific Plan Amendment and Development Plan) was found to be consistent with all applicable policies. The following policy issues are highlighted:

Good Cause Finding to Exceed Recommended Standards for Building Intensity:

As identified in Attachment 4 (Zoning Ordinance Consistency), the proposed research and development building coverage, maximum height, and parking are consistent with Zoning Ordinance requirements; however, the proposed project exceeds the Maximum FAR of 0.40 and doesn't meet the minimum Open Space/Landscaping Ratio of 0.30 as found within the *Recommended Standards for Building Intensity* for the I-BP land use designation in General Plan Land Use Table 2-3. These recommended standards may be exceeded based on the "good cause" finding:

"defined as a better site, or architectural design, will result in better resource protection, will provide a significant community benefit and/or does not create an adverse impact to the community character, aesthetics or public views."

The Design Review Board (DRB) reviewed the project on September 23, 2008, October 28, 2008, and November 12, 2008. The DRB's review considered the site plan, neighborhood compatibility, and the *Recommended Standards for Building Intensity*. At the end of the DRB's November 12, 2008, meeting, the DRB gave the project's architecture, landscaping and grading favorable comments. See the DRB section below for more details.

It is recognized that project does not comply with the Maximum FAR or Minimum Open Space/Landscaping Ratio of the *Recommended Standards for Building Intensity* due to the proposed dedication of the Irrevocable Offer to Dedicate the right of way for the extension of Ekwil Street. If the dedication right of way for the extension of Ekwil Street was not accepted, the proposed project would handily meet both the Maximum FAR and Minimum Open Space/Landscaping Ratio.

The project site is essentially a developed, infill lot, with a majority of its vegetation along Pine Avenue and Old San Jose Creek. The proposed structural changes will not likely be seen from Pine Avenue but would be seen from the future Ekwil Street extension. The proposed architecture is appropriate for the land use and in context with the variety of architectural styles and building sizes surrounding the project site. The project, as conditioned, will not create an adverse impact to community character, aesthetics or public views. Therefore, the good cause finding can be made in this instance.

Old San Jose Creek (Conservation Policies 1.8, 3.5 and 8.2)

The parcel's northern parcel is nearly coterminous with a drainage channel known as Old San Jose Creek. This drainage is the relic channel for San Jose Creek was a historical creek prior to the creek being realigned and channelized to its current location adjacent to Ward Memorial Boulevard. Old San Jose Creek receives surface water runoff from urban areas of Goleta and flows ephemerally, but Old San Jose Creek is not a USGS Blue-line stream and is not mapped by the General Plans' Conservation Element (CE); however, the Old San Jose Creek channel is mapped as Environmental Sensitive Habitat Area (ESHA) due to the presence of native and nonnative riparian vegetation. As such CE Policies apply, and in particular, CE Policies 1.8, 3.5, and 8.2 apply.

As Old San Jose Creek is not identified as a USGS Blue-line stream, CE Policy 3.5 Protection of Wetlands Outside the Coastal Zone applies. This policy reads "Generally a wetland buffer shall be 100 feet, but in no case shall a wetland buffer be less than 50 feet." The project maps a 50-foot buffer from the top of Old San Jose Creek's bank instead of a 100-foot buffer. This reduced buffer is justified for the following four reasons: 1) the project site is currently a developed site, 2) the project does not disturb the riparian/wetland ESHA, 3) the project includes improving the habitat quality of the buffer through removal of non-native species, and 4) the project includes restoring the buffer with native species.

Ekwil Street Extension (TE 3.5, 5.3, 10.1, 11.1; Transportation Improvement Plan Map Figure 7-3)

The proposed project includes a request to exempt the project from the provisions of the Goleta Growth Management Ordinance subject to the condition that the property owner execute and deliver and Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwil Street. The Ekwil Street extension is part of the City's General Plan and

Capital Improvement Plan. The dedication includes sufficient right-of-way for travel lanes, Class II bikeway, sidewalks and/or trail along Old San Jose Creek). The exact details and environmental impacts associated with implementation of this extension would be analyzed as part of the processing and environmental review associated with the Ekwil Street Extension public improvement. However, the dedication would be consistent with City standards

Zoning Ordinance Consistency Analysis

The proposed project would be consistent with all applicable requirements of the M-RP (Industrial Research Park) zone district, subject to approval of the modifications to allow the building and parking to encroach into the front yard (west), secondary front yard (north) and rear yard (east) setbacks and to allow a landscape coverage of 16.5% instead of 30%. Attachment 4 of this staff report provides a detailed discussion of project compliance with applicable zoning requirements and standards.

Modifications to Article III Standards:

The following modifications are proposed: pursuant to Article III, Section 35-233 and 35-317.8:

- Modification to allow 12 parking stalls and a portion of the existing building to be located within the front yard setback front yard (west) along Pine Avenue.
- Modification to allow 38 parking stalls and a portion of the existing building to be located within the secondary front yard setback (north – based upon the proposed Ekwil Street extension is constructed).
- Modification to allow 23 parking stalls to be located within the rear yard setback (east).
- Modification to allow landscaping to be reduced from 30% to 16.5%.

Parking

Section 35-274.5 of Article III requires every part of a setback to be unobstructed from the ground to the sky. Section 35-262.2 of Article III requires parking to be located outside of the front yard setback.

The existing 12 parking stalls are completely located within the front yard setback along Pine Avenue, and southwest and northwest portions of the existing building are slightly located within the front yard setback along Pine Avenue. This modification is justified in that the physical improvements already exist. The applicant does not propose intensification of these existing conditions.

The proposed 38 parking stalls and existing building are not located within any setback per the site's current configuration. Assuming construction of the propose Ekwil Street extension, the proposed 38 parking stalls and northwest portion of the existing building would be located within the future secondary front yard setback. This modification is justified in that the project as proposed today does not have a secondary front yard

setback, but assuming dedication of land/construction of the proposed Ekwil Street extension/creation of a secondary front yard setback, the modification is still justified in that the portion of the building that would encroach into the secondary front yard setback is existing and not proposed to be intensified, and the front yard and secondary front yard setback encroachments for parking purposes are routinely granted within the M-RP zone district provided the DRB has given favorable review and screening is provided. The DRB did give favorable review and landscaping/screening in excess of the standard five-foot-wide strip is proposed.

The proposed 23 parking stalls are located 5 feet into the rear yard setback. This modification is justified as rear yard setback encroachments for parking purposes are routinely granted within the M-RP zone district provided the DRB has given favorable review and screening is provided. The DRB did give favorable review and landscaping/screening of the standard five-foot-wide strip is proposed.

Landscaping

Section 35-233.13 of Article III requires not less than 30% of the net area of the property to be landscaped. The future Ekwil extension would reduce the net parcel size, essentially, increasing the site building coverage and reducing landscape coverage from 30% to 16.5%. It is recognized that project does not comply with the landscaping coverage due to the proposed dedication of the Irrevocable Offer to Dedicate the right of way for the extension of Ekwil Street. If the dedication right of way for the extension of Ekwil Street was not accepted, the proposed project would handily meet both the landscaping coverage requirement. As the extension of Ekwil Street is considered a public benefit, the modification can be justified.

Design Review Board

The DRB considered the project for *Conceptual* review on September 23, 2008, October 28, 2008, and November 12, 2008. The DRB's review considered the site plan, neighborhood compatibility, and the *Recommended Standards for Building Intensity*. On September 23, 2008, the DRB commented favorably about the project as a whole, but did expressed concern with the parking layout plans moving forward without knowing more about the Ekwil Street extension project plans. In response to comments received at the first DRB meeting, the applicant revised the project plans including a revised Ekwil Street easement location.

The DRB reviewed the revised project plans on October 28, 2008, and November 12, 2008 and found no further issue with the hotel's proposed parking layout in relation to the Ekwil Street extension easement. The applicant revised the project plans in response to comments received at their first and second DRB meetings, namely in regards to architectural details, landscaping and grading. The DRB had favorable comments on the project at all three meetings, and at the end of the DRB's November 12, 2008, meeting, the DRB gave the project's overall design (including architecture, landscaping, grading and trash enclosure) favorable comments.

The DRB requested mechanical equipment screening and lighting cut-sheets that incorporates dark sky lighting principles details be provided when the project returns to DRB for Preliminary and Final Approval.

Goleta Growth Management Ordinance (GGMO)

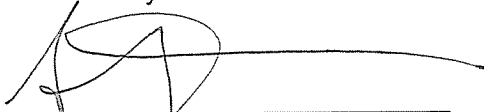
The project is subject to Ordinance 03-04, as amended by Ordinance 08-13, the GGMO. While the provisions of Section 8, Competitive System for Assigning Allocations to Non-Exempt Projects, are applicable, the applicant proposes to amend the GGMO, pursuant to Chapter 35, Article III, §35-325, to exempt the project from its provisions subject to the condition that the property owner execute and deliver and Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwil Street.

Staff supports the request for an exemption from the GGMO because of associated public benefits. These include the provision of land needed to complete the extension of Ekwil Street as identified in the General Plan in Policy TE 5.3 and as designated in the Transportation Improvement Plan Map Figure 7-3 on the subject property. Absent the GGMO exemption which would be subject to the dedication of Ekwil Street right-of-way, the right-of-way would have to be acquired at cost and/or as a credit against traffic fees owed. Therefore, the requested GGMO exemption subject to the Ekwil Street right-of-way dedication is considered a benefit that contributes to the general community welfare.

APPEALS PROCEDURE

A recommendation for approval to the City Council will automatically be forwarded to the Council for their consideration. The Planning Commission recommendation may be appealed to the City Council within 5 calendar days following final action.

Submitted By:



Scott Kolwitz
Senior Planner

Approved By:



Patricia S. Miller
Planning Commission Secretary

ATTACHMENTS

1. Planning Commission Resolution 09-__
2. Revised Draft Mitigated Negative Declaration (MND) dated January 21, 2009
3. General Plan Consistency Analysis
4. Zoning Ordinance Consistency Analysis
5. Project Plans

ATTACHMENT 1

PLANNING COMMISSION RESOLUTION 09-__

RESOLUTION NO. 09-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GOLETA, CALIFORNIA RECOMMENDING TO THE GOLETA CITY COUNCIL APPROVAL OF VARIOUS ACTIONS RELATED TO THE TOWBES/ATK SPACE SYSTEMS PROJECT; CASE NO. 08-157-OA, -DP RV 01; 600 PINE AVENUE; APN 071-130-040

WHEREAS, an application was submitted on August 20, 2008, by Suzanne Elledge Planning and Permitting Services on behalf of Pine Avenue Associates, property owner, requesting approval of a Ordinance Amendment, and Development Plan Revision; and

WHEREAS, the application was found complete for processing on September 18, 2008; and

WHEREAS, the application is for an Ordinance Amendment (08-157-OA) to exempt the proposed project from the Goleta Growth Management Ordinance requirements subject to the condition that the property owner execute and deliver and Irrevocable Offer to Dedicate the right of way for the extension of Ekwil Street; and

WHEREAS, the application is for a Development Plan Revision (08-157-DP RV01) for construction of a 25,026-square foot addition to an existing 59,535-square foot research and development building; and

WHEREAS, an Ordinance Amendment must be processed pursuant to the requirements of Section 35-325 of Chapter 35, Article III of the Goleta Municipal Code; and

WHEREAS, a Development Plan Revision is required pursuant to Section 35-317 of Chapter 35, Article III of the Goleta Municipal Code; and

WHEREAS, it was determined that the proposed project, inclusive of all of its various components, was subject to the California Environmental Quality Act and an Mitigated Negative Declaration, 08-MND-3, was prepared; and

WHEREAS, the procedures for processing the project application have been followed as required by state and local laws; and

WHEREAS, on January 26, 2009, the City of Goleta Planning Commission conducted a duly noticed public hearing on the project application, at which time all interested persons were given an opportunity to be heard; and considered the entire administrative record, including application materials, staff report, the Revsied Draft Mitigated Negative Declaration dated January 21, 2009, and oral and written testimony from interested persons; and

WHEREAS, the Planning Commission finds that approval of Case No. 08-157-OA, -DP RV01 would be consistent with the City's General Plan, the provisions of Article III, Chapter 35 of the Goleta Municipal Code (the Inland Zoning Ordinance); and the ability to make the required findings, including findings pursuant to the California Quality Act (CEQA).

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GOLETA AS FOLLOWS:

SECTION 1. Recommendation for Adoption of the Mitigated Negative Declaration 08-MND-003, dated January 21, 2009

The Planning Commission hereby recommends that the City Council adopt the CEQA findings set forth in Exhibit 1 to this Resolution pursuant to Section 15074 of the State Guidelines for the Implementation of CEQA.

SECTION 2. Recommendation for the Ordinance Amendment

The Planning Commission hereby recommends that the City Council adopt the findings for an Ordinance Amendment set forth in Exhibit 1 to this resolution, pursuant to Section 35-325 of Chapter 35, Article III, the Inland Zoning Ordinance, of the Goleta Municipal Code.

SECTION 3. Recommendation for the Development Plan Revision

The Planning Commission hereby recommends that the City Council adopt the findings set forth in Exhibit 1 and conditions set forth in Exhibit 2 of this resolution, pursuant to Section 35-317 of Chapter 35, Article III, the Inland Zoning Ordinance, of the Goleta Municipal Code. This recommendation includes the "good cause" finding for an exception to the recommended maximum FAR and minimum Open Space/Landscaping Ratio identified in the General Plan, Land Use Element, Table 2-3, for the I-BP land use designation.

SECTION 4. Documents

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the City Clerk, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California, 93117.

SECTION 5. Certification

The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2009.

BRENT DANIELS, CHAIR

ATTEST:

APPROVED AS TO FORM:

DEBORAH CONSTANTINO
CITY CLERK

TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Planning Commission Resolution No. 09-__ was duly adopted by the Planning Commission of the City of Goleta at a regular meeting held on the ___ day of _____, 2009, by the following vote of the Commission members:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH CONSTANTINO
CITY CLERK

**EXHIBIT 1
FINDINGS**

**TOWBES/ ATK SPACE SYSTEMS PROJECT
600 PINE AVENUE; APN 071-130-040
CASE NO. 08-157-OA, -DP RV**

1.0 CEQA FINDINGS

Findings pursuant to the California Environmental Quality Act Guidelines Section 15074:

1.1 Consideration of the Mitigated Negative Declaration

The Revised Draft Mitigated Negative Declaration (08-MND-003; dated January 21, 2009) for the ATK Space Systems Project was presented to the Planning Commission and all voting members of the Planning Commission have reviewed and considered 08-MND-003, prior to recommending that the City Council approve this proposal. In addition, all voting Planning Commissioners have reviewed and considered the testimony and additional information presented at or prior to the public hearing on January 26, 2009. 08-MND-003 reflects the independent judgment of the Planning Commission and is adequate for this proposal pursuant to Section 15074 of the State CEQA Guidelines.

1.2 Full Disclosure and Findings Regarding No Significant Effects

The Planning Commission finds that 08-MND-003 is a complete, accurate, adequate, and good faith effort at full disclosure under CEQA. The Planning Commission further finds that 08-MND-003 has been completed in compliance with CEQA. Mitigation measures identified in the 08-MND-003, which would avoid or reduce potentially significant impacts to less than significant levels, have been agreed to by the applicants and have been incorporated into the project. Based on the whole of the record before it, the Planning Commission finds that there is no substantial evidence that the Towbes/ATK Space Systems Project will have a significant effect on the environment. The Planning Commission recommends to the City Council adoption of 08-MND-003.

1.3 Environmental Reporting and Monitoring Program

Public Resources Code Section 21081.6 requires the City to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

1.4 *Location of the Record of Proceedings*

The documents and other materials which constitute the record of proceedings upon which this recommendation is based are in the custody of the Secretary of the Planning Commission, Planning and Environmental Services located at 130 Cremona Drive, Suite B, Goleta, CA 93117.

ADMINISTRATIVE FINDINGS

2.0 Ordinance Amendment

Pursuant to Section 35-325 of Article III, Chapter 35, of the Goleta Municipal Code (Inland Zoning Ordinance), an Ordinance Amendment shall be approved only if all of the following findings can be made:

2.1 The request is in the interests of the general community welfare.

The proposed Ordinance Amendment provides for an exemption of the proposed project from the Goleta Growth Management Ordinance requirements subject to the condition that the property owner execute and deliver an Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwill Street. The associated benefits include the provision of land needed to complete the extension of Ekwill Street as identified in the General Plan in Policy TE 5.3 and as designated in the Transportation Improvement Plan Map Figure 7-3 on the subject property. Absent the GGMO exemption which would be subject to the dedication of Ekwill Street right-of-way, the right-of-way would have to be acquired at cost and/or as a credit against traffic fees owed. Therefore, the requested GGMO exemption subject to the Ekwill Street right-of-way dedication is considered a benefit that contributes to the general community welfare.

2.2 The request is consistent with the General Plan, the requirements of State planning and zoning laws, and this Article.

The proposed Ordinance Amendment is consistent with the General Plan, the requirements of State planning and zoning laws, and Article III, as described in the staff report for the Planning Commission hearing of January 26, 2009.

2.3 The request is consistent with good zoning and planning practices.

The request is consistent with good zoning and planning practices in that it implements provides the land needed to complete the extension of Ekwill Street as identified in the General Plan in Policy TE 5.3 and as designated in the Transportation Improvement Plan Map Figure 7-3 on the subject property.

3.0 **Development Plan Revision:** Pursuant to Section 35-317 of Article III, Chapter 35, the Inland Zoning Ordinance, of the Goleta Municipal Code, a Preliminary or Final Development Plan Revision shall be approved only if all of the following findings can be made:

3.1 *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of development proposed.*

The project site is adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of development proposed, including structural development, landscaping, parking, and on-site circulation for pedestrians, passenger vehicles and emergency vehicles, to accommodate the project design. Overall, there is sufficient acreage onsite to accommodate the density and intensity of development proposed.

3.2 *That adverse impacts are mitigated to the maximum extent feasible.*

Potential impacts involving Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Public Services, Transportation/Traffic, and Utilities and Service Systems would be reduced to less than significant levels through implementation of the mitigation measures as incorporated into required conditions of approval included in Exhibit 2.

3.3 *That streets and highways are adequate and properly designed.*

All existing streets and highways serving the proposed project are adequate and properly designed. As indicated by the conclusions of the ATE traffic study for the project (and concurrence by Community Services staff regarding these conclusions), project-generated traffic would not trigger traffic thresholds or Circulation Element standards for roadways or intersections and local streets and highways can accommodate the traffic generated by the project.

Community Services review and approval of the final project plans for the new access driveways will further ensure that the project will not result in traffic safety impacts. Any potential impacts to site access and circulation changes as a result of the Ekwil Street extension will be analyzed in the Ekwil Street extension project.

The project is conditioned to execute and deliver an Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwil Street and contribute Goleta Transportation Improvement Fees to fund identified improvements to the area roadway network.

- 3.4 *That there are adequate public services, including but not limited to, fire protection, water supply, sewage disposal, and police protection to serve the project.*

The proposed project would be served by the Santa Barbara County Fire Department, the Goleta Water District, the Goleta Sanitary District, and the City of Goleta Police Department. These agencies and districts have adequate capacity to serve the proposed ATK Space Systems Project. Final sign-offs from these agencies will be required prior to issuance of Land Use Permits for the research and development building.

- 3.5 *That the project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding areas.*

The proposed project would not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and would not be incompatible with the surrounding areas. The project would be served by existing public services and would have safe and adequate primary and emergency/secondary vehicular access. The design of the project would be compatible with surrounding development and the expanded research and development use would continue to provide a transitional land use between the residential uses to the north and the industrial area to the south and the agricultural area to the east and the industrial area to the west.

- 3.6 *That the project is in conformance with 1) the General Plan and 2) the applicable provisions of this Article.*

As discussed in the Planning Commission staff report, the proposed project is consistent with the General Plan land use designation of I-BP, with the exception of the recommended building standards for Maximum Floor Area Ratio (FAR) of 0.40 and Minimum Open Space/Landscaping Ratio (OS/LR) of 0.30. The *Recommended Standards for Building Intensity* (including 0.40 FAR and 0.30 OS/LR in the I-BP land use designation) may be exceeded based on a "good cause" finding. "Good cause" is defined as a better site, or architectural design, will result in better resource protection, will provide a significant community benefit and/or does not create an adverse impact to the community character, aesthetics or public views. The DRB reviewed the project on September 23, 2008, October 28, 2008, and November 12, 2008. The DRB's review considered the site plan, neighborhood compatibility, and the *Recommended Standards for Building Intensity*. At the end of the DRB's November 12, 2008, meeting, the DRB gave the project's architecture, landscaping and grading favorable comments. It is recognized that project does not comply with the Maximum FAR or Minimum Open Space/Landscaping Ratio of the *Recommended Standards for Building Intensity* due to the proposed dedication of the Irrevocable Offer to Dedicate the right of way for the extension of Ekwil Street. If the dedication right of way for the extension of Ekwil Street was not accepted, the proposed project

would handily meet both the Maximum FAR and Minimum Open Space/Landscaping Ratio. The project site is essentially a developed, infill lot, with a majority of its vegetation along Pine Avenue and Old San Jose Creek. The proposed structural changes will not likely be seen from Pine Avenue but would be seen from the future Ekwil Street extension. The proposed architecture is appropriate for the land use and in context with the variety of architectural styles and building sizes surrounding the project site. The project, as conditioned, will not create an adverse impact to community character, aesthetics or public views. Therefore, the good cause finding can be made in this instance.

The project is consistent with all applicable General Plan policies, as specified in the policy consistency discussion of Planning Commission staff report for the hearing of January 26, 2009. The proposed project is also consistent with the M-RP zone district subject to approval of the requested modifications to allow parking and the existing building to encroach into the required set backs and to allow landscape coverage to be 16.5% instead of 30%. It is recognized that project does not comply with the landscaping coverage due to the proposed dedication of the Irrevocable Offer to Dedicate the right-of-way for the extension of Ekwil Street. If the dedication right-of-way for the extension of Ekwil Street was not accepted, the proposed project would meet the landscaping coverage requirement. As the extension of Ekwil Street is considered a public benefit, the modification can be justified.

3.7 *That the project will not conflict with any easements required for public access through, or public use of a portion of the property.*

The property does not include easements for use by the public at large, and would therefore not conflict with such easement for access through the site. The project would create an easement for use by the public at large.

EXHIBIT B



March 8, 2019

Anne Wells
Advance Planning Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117
(805) 961-7557
awells@cityofgoleta.org

Re: Revisions to Section 17.30.070 of the City of Goleta's Revised Draft New Zoning Ordinance Regarding Streamside Protection Areas

Dear Anne:

The following comments are submitted by the Environmental Defense Center ("EDC") on behalf of EDC and Santa Barbara Urban Creeks Council ("UCC") regarding proposed revisions to Section 17.30.070 the City of Goleta's ("City") Revised Draft New Zoning Ordinance concerning Streamside Protection Areas ("SPAs"). Attached hereto are EDC's proposed revisions to Section 17.30.070, which are based in large part on the California Coastal Commission's ("CCC") Suggested Modifications to the Eastern Goleta Valley Community Plan Local Coastal Program ("LCP") Amendment.

UCC is a non-profit grassroots organization dedicated to protecting and restoring streams and watersheds in Santa Barbara County. Over the past thirty years, UCC has partnered with a number of organizations on creek restoration projects and has been committed to educating people of all ages about the values of creeks. UCC has 3,000 members, including many families who live and recreate in Goleta and Santa Barbara. EDC is a non-profit, public interest law firm that protects and enhances the environment in Santa Barbara, Ventura, and San Luis Obispo counties through education, advocacy, and legal action.

Section 17.30.070 of the City's Revised Draft New Zoning Ordinance requires a minimum 100-foot SPA upland buffer on both sides of a creek, as is consistent with the requirements under Policy CE 2.2 of the City's General Plan.¹ The buffer may be increased or

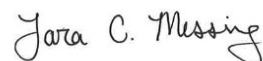
¹ City of Goleta Revised Draft New Zoning Ordinance, Section 17.30.070(B).

decreased upon a finding that (1) “[t]he project’s impacts will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream, and” (2) “[t]here is no feasible alternative siting for development that will avoid the buffer.”² As presently drafted, however, Section 17.30.070 is void of any process or standards by which to determine whether these factors are met. For this reason, UCC and EDC advocate for clear zoning ordinance language which effectively implements Policy CE 2.2. To do so, Section 17.30.070 must set forth a process, required findings, and evidentiary requirements to inform the City’s determination of significant adverse effects and infeasibility. This clarity and transparency will benefit not only City decisionmakers, but also applicants and interested members of the public.

In accordance with the CCC’s Suggested Modification No. 13 to Eastern Goleta Valley Community Plan LCP Amendment, EDC has drafted proposed revisions to Section 17.30.070. CCC’s recommended language is directly relevant and instructive in crafting the City’s creek protection ordinance, especially with regards to determining when creek setbacks reductions may be permitted. EDC also recognizes that its proposed language may be applicable to other sections such that the language should have more general applicability. As long as it is clear that the requisite findings and evidence applies to Section 17.30.070 as well, EDC is open to other approaches for incorporating this language in the City’s new Zoning Ordinance.

For the foregoing reasons, we respectfully request that the City consider EDC’s revisions and amend Section 17.30.070 based on EDC’s proposed language.

Sincerely,



Tara C. Messing
Staff Attorney

Attachments:

A - Redline version of EDC proposed revisions to Section 17.30.070

B - Clean version of EDC proposed revisions to Section 17.30.070

² City of Goleta Revised Draft New Zoning Ordinance, Section 17.30.070(B)(1)(a)-(b).

17.30.070 Streamside Protection Areas

- A. **Purpose and Applicability.** The purpose of a streamside protection area (SPA) designation in the General Plan is to preserve the SPA in a natural state, in order to protect the associated riparian habitats and ecosystems as well as the water quality of streams. The SPA must include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area, ~~based upon the following:~~
- B. **Buffers.** The width of the SPA upland buffer must be 100 feet outward on both sides of the creek, measured from the top-of-bank or the outer limit of wetlands and/or riparian vegetation, whichever is greater. The Review Authority may consider increasing or decreasing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review.
1. The ~~Planning Commission~~Review Authority may allow portions of a SPA upland buffer to be less than 100 feet wide, but not less than 25 feet wide, subject to approval of a Major Conditional Use Permit. ~~Any~~ decision to decrease the 100-foot buffer shall be based on ~~the Initial Assessment and Biological Report, if needed, and~~ a finding that:
 - a. The project's impacts will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream, and
 - b. There is no feasible alternative siting for development that will avoid the SPA upland buffer.
 2. A SPA upland buffer must not be adjusted downward unless the Review Authority makes affirmative findings of fact in writing supported by substantial evidence with respect to subsections (a) and (b) above.
 - a. The Review Authority must make one or more written findings for each potentially significant adverse effect on streamside vegetation or the biotic quality of the stream, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect.
 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - b. Any and all findings required by the above sections shall be supported by substantial evidence derived from a City-approved, third-party biologist review and consideration of the application, project plans, Initial Assessment and Biological Report, public testimony, reports, and other relevant materials presented to the Review Authority.
 - c. The Review Authority may decrease the 100-foot buffer only if the Review Authority makes the following findings in addition to the findings required in Title V for approval or denial of a project and for the issuance of a Major Conditional Use Permit:

1. Based on a City-approved, third-party economic consultant's review and consideration of the economic information provided by the applicant, as well as any other relevant evidence, adherence to the 100-foot SPA upland buffer would not provide an economically viable use of the applicant's property.
 2. Application of the 100-foot SPA upland buffer would unreasonably interfere with the applicant's investment-backed expectations.
 3. The use proposed by the applicant is consistent with the applicable zoning.
 4. The use and project design, siting, and size are the minimum necessary to avoid a taking.
 5. The project is the least environmentally damaging alternative and is consistent with all provisions of the Zoning Ordinance other than the provision for which the exception is requested.
 6. The development will not be a public nuisance or violate other "background principles of the State's law of property," as that phrase was used in the U.S. Supreme Court's decision in *Lucas v. South Carolina Coastal Council*, 505 U.S. 20 1003, 1028-30 (e.g., public trust doctrine). If it would violate any such background principle of property law, the development shall be denied.
 7. The project is located on a legally created lot.
 8. The project is consistent with all other applicable biologic goals, objectives, policies, actions and development standards from the Goleta General Plan, Local Coastal Program, and Zoning Ordinances.
- d. A finding of infeasibility must be supported by substantial evidence based upon a City-approved, third-party biologist and economic consultant's review and consideration of the application, project plans, Initial Assessment and Biological Report, public testimony, reports, and other relevant materials presented to the Review Authority. The applicant shall also provide the following information, unless the Review Authority determines that one or more of the particular categories of information is not relevant to its analysis:
1. The date the applicant purchased or otherwise acquired the property, and from whom.
 2. The purchase price paid by the applicant for the property.
 3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at that time.
 4. The general plan, local coastal program, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
 5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection 4

- above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
6. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
 7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
 8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
 9. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
 10. The applicant's costs associated with the ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
 11. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
 12. Any additional information that the Review Authority requires to make the determination.

2.3. If this provision above would result in any legally created lot being made unusable in its entirety, exceptions to the foregoing may be made to allow a reasonable economic or beneficial use of the lot, subject to the approval of a Major Conditional Use Permit.

17.30.070 Streamside Protection Areas

- A. **Purpose and Applicability.** The purpose of a streamside protection area (SPA) designation in the General Plan is to preserve the SPA in a natural state, in order to protect the associated riparian habitats and ecosystems as well as the water quality of streams. The SPA must include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area.
- B. **Buffers.** The width of the SPA upland buffer must be 100 feet outward on both sides of the creek, measured from the top-of-bank or the outer limit of wetlands and/or riparian vegetation, whichever is greater. The Review Authority may consider increasing or decreasing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review.
1. The Review Authority may allow portions of a SPA upland buffer to be less than 100 feet wide, but not less than 25 feet wide, subject to approval of a Major Conditional Use Permit. A decision to decrease the 100-foot buffer shall be based on a finding that:
 - a. The project's impacts will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream, and
 - b. There is no feasible alternative siting for development that will avoid the SPA upland buffer.
 2. A SPA upland buffer must not be adjusted downward unless the Review Authority makes affirmative findings of fact in writing supported by substantial evidence with respect to subsections (a) and (b) above.
 - a. The Review Authority must make one or more written findings for each potentially significant adverse effect on streamside vegetation or the biotic quality of the stream, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect.
 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - b. Any and all findings required by the above sections shall be supported by substantial evidence derived from a City-approved, third-party biologist review and consideration of the application, project plans, Initial Assessment and Biological Report, public testimony, reports, and other relevant materials presented to the Review Authority.
 - c. The Review Authority may decrease the 100-foot buffer only if the Review Authority makes the following findings in addition to the findings required in Title V for approval or denial of a project and for the issuance of a Major Conditional Use Permit:
 1. Based on a City-approved, third-party economic consultant's review and consideration of the economic information provided by the applicant, as well as any other relevant evidence, adherence to

- the 100-foot SPA upland buffer would not provide an economically viable use of the applicant's property.
2. Application of the 100-foot SPA upland buffer would unreasonably interfere with the applicant's investment-backed expectations.
 3. The use proposed by the applicant is consistent with the applicable zoning.
 4. The use and project design, siting, and size are the minimum necessary to avoid a taking.
 5. The project is the least environmentally damaging alternative and is consistent with all provisions of the Zoning Ordinance other than the provision for which the exception is requested.
 6. The development will not be a public nuisance or violate other "background principles of the State's law of property," as that phrase was used in the U.S. Supreme Court's decision in *Lucas v. South Carolina Coastal Council*, 505 U.S. 20 1003, 1028-30 (e.g., public trust doctrine). If it would violate any such background principle of property law, the development shall be denied.
 7. The project is located on a legally created lot.
 8. The project is consistent with all other applicable biologic goals, objectives, policies, actions and development standards from the Goleta General Plan, Local Coastal Program, and Zoning Ordinances.
- d. A finding of infeasibility must be supported by substantial evidence based upon a City-approved, third-party biologist and economic consultant's review and consideration of the application, project plans, Initial Assessment and Biological Report, public testimony, reports, and other relevant materials presented to the Review Authority. The applicant shall also provide the following information, unless the Review Authority determines that one or more of the particular categories of information is not relevant to its analysis:
1. The date the applicant purchased or otherwise acquired the property, and from whom.
 2. The purchase price paid by the applicant for the property.
 3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at that time.
 4. The general plan, local coastal program, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
 5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection 4 above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.

6. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
 7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
 8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
 9. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
 10. The applicant's costs associated with the ownership of the property, annualized for each of the last five calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
 11. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
 12. Any additional information that the Review Authority requires to make the determination.
3. If this provision above would result in any legally created lot being made unusable in its entirety, exceptions to the foregoing may be made to allow a reasonable economic or beneficial use of the lot, subject to the approval of a Major Conditional Use Permit.

EXHIBIT C

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



August 18, 2017

Joan Hartmann, Chair
Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

RE: Santa Barbara County Local Coastal Program Amendment No. LCP-4-STB-17-0048-1 (Eastern Goleta Valley Community Plan)

Dear Honorable Chair Hartmann and Supervisors:

On August 10, 2017 the Coastal Commission approved the subject Local Coastal Program (LCP) amendment with suggested modifications. The Commission's resolution of certification is contained in the staff report dated July 27, 2017. The suggested modifications, as approved by the Commission on August 10, 2017, are attached to this correspondence.

Section 13544 of the Commission's Administrative Regulations requires that after certification the Executive Director of the Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the governing authority, and any interested persons or agencies. Further, the certification shall not be deemed final and effective until all of the following occur:

- (a) The local government with jurisdiction over the area governed by the Local Coastal Program, by action of its governing body: (1) acknowledges receipt of the Commission's resolution of certification, including any terms or modifications suggested for final certification; (2) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and (3) agrees to issue coastal development permits for the total area included in the certified Local Coastal Program. Unless the local government takes the action described above the Commission's certification with suggested modifications *shall expire six months* from the date of the Commission's action.
- (b) The Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development required pursuant to Article 17, Section 2 are legally adequate to satisfy any specific requirements set forth in the Commission's certification order.
- (c) The Executive Director reports the determination to the Commission at its next regularly scheduled public meeting and the Commission does not object to the Executive Director's determination. If a majority of the Commissioners present object to the Executive Director's determination and find that the local government action does not conform to the provisions of the Commission's action

to certify the Local Coastal Program Amendment, the Commission shall review the local government's action and notification procedures pursuant to Articles 9-12 as if it were a resubmittal.

- (d) Notice of the certification of the Local Coastal Program Amendment shall be filed with the Secretary of Resources Agency for posting and inspection as provided in Public Resources Code Section 21080.5(d)(2)(v).

The Commission and staff greatly appreciate the County's consideration of this matter.

Authorized on behalf of the California Coastal Commission by:

John Ainsworth
Executive Director



By: Megan Sinkula
Coastal Program Analyst

Cc: Dianne Black, Santa Barbara County Planning and Development Department

**Final Suggested Modifications
LCP Amendment No. 4-STB-17-0048-1
(Eastern Goleta Valley Community Plan)**

SUGGESTED MODIFICATIONS TO THE COASTAL LAND USE PLAN

The County’s proposed and approved amendment language to the certified Coastal Land Use Plan is shown in straight type. Language approved by the Commission to be modified is shown in ~~line out~~ and underline. Other suggested modifications that do not directly change LCP text (e.g., revisions to maps, figures, instructions) are shown in *italics*.

SUGGESTED MODIFICATION NO. 1

The following shall be added to Section I (Introduction) of the Eastern Goleta Valley Community Plan as a new Subsection E (Important Differences Between the Coastal and Inland Portions of this Plan):

As a result of the Coastal Commission’s review of the Eastern Goleta Valley Community Plan for certification as an amendment to the Santa Barbara County Local Coastal Program (LCP), a number of the Goals, Policies, Actions, Programs, and Development Standards originally adopted by the County for the entire Plan area were modified as they apply within the Coastal Zone. In these cases there are similar, but different, provisions that apply within the coastal as compared to the inland (non-Coastal Zone) portions of the Plan area. These are clearly marked throughout the document as either “COASTAL” or “INLAND” at the beginning of the text of relevant Goals, Policies, Actions, Programs, and Development Standards. Goals, Policies, Actions, Programs, and Development Standards that are not marked as either “COASTAL” or “INLAND” shall be interpreted to apply to the entire Plan area.

SUGGESTED MODIFICATION NO. 2

**Eastern Goleta Valley Community Plan
General Land Use**

Policy EGV-1.5 (COASTAL): The County shall implement the policies and standards in the Local Coastal Program, including the EGVCP, in a manner that avoids a taking of private property for public use without just compensation as required by applicable law. If an applicant asserts that the application of the policies and standards of the Local Coastal Program or EGVCP would preclude a “reasonable use” of property and constitute a taking of property, the applicant shall submit an application for an Economically Viable Use Determination pursuant to Article II, Sections 35-192.4 through 192.6 in conjunction with the associated Coastal Development Permit application. Any deviation from a policy or standard of the Local Coastal Program, including the EGVCP, to provide a reasonable

use of property may only be allowed if the applications are approved by the County decision-maker consistent with Article II.

SUGGESTED MODIFICATION NO. 3

**Eastern Goleta Valley Community Plan
Project-Specific Development Standards—More Mesa**

DevStd LUDS-EGV-1A (COASTAL): No applications for development shall be accepted prior to approval of a Specific Plan for the entire site. A Specific Plan shall be prepared for the entire site (currently including APNs 065-320-001, 002, 007 through 010) which incorporates all of the conditions listed below and conforms to all other policies of the land use plan. ESH buffers for the site shall be established as part of the Specific Plan. The specific plan shall show the location of roads and structures and indicate the amount and location of open space for habitat preservation and public recreation. Any parcels within the More Mesa site purchased subsequent to the adoption of this Community Plan by the County or other public/private agencies for the purposes of resource/open space protection shall be excluded from the boundaries of the Specific Plan. All new development shall be confined to the eastern side of the site within the area designated as developable in Figure 13 of the Community Plan and outside of buffer areas on the eastern side of the site indicated as being acceptable for development on Figure 13 of the Community Plan, with the exception of minor public improvements such as trails, signs and restrooms. ~~Any h~~Higher density development shall be clustered toward the north end of the developable area, with lower density development toward the south.

DevStd LUDS-EGV-1I (COASTAL): To the maximum extent feasible, vegetation consisting of drought tolerant native species shall be used ~~for landscaping to screen development from public use areas and~~ to create buffers from ESH areas and to screen development from public use areas. ~~New~~ Landscaping, especially in areas near or adjacent to ESH or wetlands, shall be designed to complement, enhance and restore native habitats onsite. ~~As part of this buffer, a~~ A belt of native trees (e.g.: oaks, Sycamores, willows), with the exception of Monterey Cypress trees which may also be used, and non-native trees (e.g.: Monterey Cypress, Eucalyptus) shall be planted along the north and east perimeters of the developable area and access road.

SUGGESTED MODIFICATION NO. 4

**Eastern Goleta Valley Community Plan
Public Services and Facilities**

DevStd FIRE-EGV-1C (COASTAL): Within high fire hazard areas, vegetation management practices within Environmentally Sensitive Habitat (ESH)/~~Riparian Corridor (RC)~~ overlay and setback areas ~~should~~ shall be limited to

the following activities to balance environmental resources preservation against wildfire protection and shall be consistent with the requirements of DevStd ECO-EGV-2B:

- Removal of non-native trees ~~or immature native trees~~
- Removal of surface debris
- Removal of invasive non-native plants as defined and listed in the California Invasive Plant Council's "California Invasive Plant Inventory"
- Removal of vegetation in non-riparian oak woodland or forest within the minimum defensible space area from structures as required by the County Fire Department
- Selective limb removal of mature trees away from structures within minimum defensible space area as required by the County Fire Department
- Thinning, pruning or mowing of vegetation (except trees) to no less than that required to meet fuel modification criteria (in no case less than 4 inch stubble) and leaving the roots intact

SUGGESTED MODIFICATION NO. 5

**Eastern Goleta Valley Community Plan
Parks, Recreation, Trails and Open Space**

Policy PRT-EGV-3.2 (COASTAL): Public access and recreational opportunities at Tucker's Grove and Goleta Beach County Parks shall be maintained and enhanced.

Program PRT-EGV-3A (COASTAL): Continue to ameliorate ongoing beach erosion at Goleta Beach County Park in compliance with the County's Coastal Development Permit No. 4-14-0687 approved by the California Coastal Commission on May 13, 2015. develop and implement shoreline management plans at Goleta Beach County Park for public recreation areas subject to wave hazards, erosion, and impacts from sea level rise. Shoreline management plans should provide for the protection of existing development, public improvements, coastal resources, coastal access, foredune restoration and public opportunities for coastal recreation. Plans must evaluate the feasibility of hazard avoidance, maintaining and restoring natural sand supply, and beach nourishment and planned retreat, and encourage the use of non-structural shoreline protective methods.

DevStd PRT-EGV-7A (COASTAL): Opportunities for coastal public access shall be analyzed, considered, and maximized as feasible for any discretionary proposal within the coastal zone, including coastal development permit applications. Where the provision of public access is related and proportional to the impacts of the proposed development, the County shall require dedication of a public accessway or easement as a condition of permit approval for the development. Where staircase or other engineered access structures are proposed, public access shall be strongly encouraged where appropriate.

Action PRT-EGV-7B (COASTAL): Identify additional vertical access points and coastal parcels which could be acquired to preserve and maximize provide for adequate public access to coastal resources.

SUGGESTED MODIFICATION NO. 6

**Eastern Goleta Valley Community Plan
Wastewater Management**

DevStd WW-EGV-1F (COASTAL): ~~New development shall be evaluated for both individual or~~ and cumulative impacts of septic systems and for new development shall not cause pollution of creeks and waterways.

SUGGESTED MODIFICATION NO. 7

**Eastern Goleta Valley Community Plan
Transportation and Circulation**

DevStd TC-EGV-3C (COASTAL): ~~Roadway maintenance, w~~ Widening or new construction of roadways should shall be sited and designed to accommodate avoid restoration and preservation of the Goleta Slough, and Environmentally Sensitive Habitat (ESH), Riparian Corridor (RC), and other habitat areas so that these resources are preserved and, where appropriate, enhanced. Maintenance of roadways shall avoid the Goleta Slough and ESH areas to the maximum extent feasible.

SUGGESTED MODIFICATION NO. 8

**Eastern Goleta Valley Community Plan
Water Resources and Conservation**

Policy WAT-EGV-1.4 (COASTAL): The County shall protect the quality and quantity of groundwater resources. New groundwater wells and replacement wells that are not intended to serve agricultural purposes shall not be permitted where the project site can be or is already serviced by a public water district or an existing mutual water company. All new groundwater wells or replacement wells shall be metered and water use shall be monitored by the property owner and reported to the County. Efforts to comprehensively monitor the condition of private wells shall be encouraged.

Policy WAT-EGV-1.6 (COASTAL): Creek channelization or other impermeable paving which significantly reduces groundwater recharge shall be prohibited except as allowed pursuant to DevStd HYD-EGV-2C and Policy HYD-EGV-2.3 discouraged.

Policy WAT-EGV-1.7 (COASTAL): Subdivisions or projects that result in increased residential density shall be analyzed to ensure that sufficient supply of water exists to serve existing commitments and the proposed project.

SUGGESTED MODIFICATION NO. 9

Eastern Goleta Valley Community Plan Environmental Resources and Constraints

Policy LUA-EGV-1.3 (INLAND): Atascadero and Maria Ygnacio Creeks shall be maintained appropriately to serve as buffers between agricultural areas, recreational uses and adjacent commercial, industrial and residential uses.

Policy ECO-EGV-2.4 (COASTAL): Where sites proposed for development contain sensitive ~~or important~~ habitats ~~and areas to be preserved over the long term,~~ and impacts to these habitats are unavoidable consistent with Policy ECO-EGV-5.8, degradation of these habitats shall be avoided to the maximum extent feasible, and demonstrated unavoidable impacts minimized as a component of a project, including but not limited to, one or more of the following conditions:

- Dedication of onsite open space easements covering habitat areas.
- Onsite habitat restoration programs utilizing appropriate native, drought-tolerant, and, ~~or~~ where appropriate, fire-resistant species propagated from plants in close proximity to the site.
- ~~Monetary contributions toward habitat acquisition and management.~~
- Offsite easement and/or restoration and open space conservation (through an easement or other means) of comparable habitat/area when onsite ~~preservation~~ restoration is infeasible.

Policy ECO-EGV-2.5 (COASTAL): (Restoration) In cases where adverse impacts to biological resources as a result of new development cannot be avoided ~~after~~ and impacts have been minimized, restoration shall be required. A minimum replacement ratio of ~~23:1~~ shall be required to compensate for adverse impacts to the destruction of native habitat areas and or biological resources, except that mitigation for impacts to wetlands shall be a minimum 4:1 ratio. ~~The area or units to be restored, acquired, or dedicated for a permanent protective easement shall be twice the biological value of that which is destroyed. Restoration may also be required for parcels on which development is proposed and on which disturbance has previously occurred if the currently proposed development would exacerbate the existing impact.~~ Where onsite restoration is infeasible ~~or not beneficial~~ with regard to long-term preservation of habitat, an offsite easement and/or restoration which provides adequate quality and quantity of habitat will ensure long-term preservation shall be required.

DevStd ECO-EGV-2A (COASTAL): If potentially suitable habitat exists for sensitive plant species, prior to permit approval and the commencement of approved development onsite any grading or vegetation clearing for future projects in the Plan area, focused rare sensitive plant surveys shall be conducted during the appropriate time of year to optimize detection of potentially occurring rare sensitive plants. Focused surveys shall be conducted in accordance with ~~the County's Environmental Thresholds and Guidelines Manual (County of Santa Barbara 2008 and any subsequent revisions)~~ and applicable

county and resource agency survey protocols to determine the potential for impacts resulting from the project on these species.

DevStd ECO-EGV-2B (COASTAL): ~~Where appropriate and feasible, as determined by County staff, if~~ potentially suitable habitat or critical habitat exists for sensitive wildlife species on or adjacent to a project site, prior to permit approval and the commencement of approved development onsite any grading or vegetation clearing for future projects in the Plan area, focused presence/absence surveys shall be conducted in accordance with applicable county and resource agency protocols the County's Environmental Thresholds and Guidelines Manual (County of Santa Barbara 2008 and any subsequent revisions) to determine the potential for impacts resulting from the project on these species.

DevStd ECO-EGV-2C (COASTAL): If sensitive species, suitable nesting habitat, or other sensitive areas are found on or adjacent to a project site in the Plan area and have potential to be impacted by implementation of the project, the following avoidance and mitigation measures would apply:

- **Fairy Shrimp:** Direct impacts to vernal pool habitat and species may require permits from USACE, RWQCB, and CDFW ~~(also discussed under Impact BIO-4).~~ Mitigation shall be determined at the project level and be developed in consultation with the County and resource agencies.
- **Nesting Avian Species:** If project activities are proposed during the general avian breeding season of January 15 to September 15, the project biologist shall conduct a pre-construction survey for active nests within 500 feet of the construction area ~~100 feet of the development area for species protected by MBTA, and 300 feet for federally listed, state listed, or raptor species,~~ and submit a letter report to County prior to the preconstruction meeting. If active nests are detected, clearing and construction within a minimum of 300 feet shall be postponed until the nest(s) is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. If an active raptor or rare, threatened, endangered, or species of special concern bird nest is found, clearing and construction within a minimum of 500 feet shall be postponed until the nest(s) is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. The report submitted to the County shall include mitigation measures including, but not limited to, 1) worker environmental awareness training, 2) daily biological monitoring during construction activities, and 3) the locations of flags and/or stakes to provide the appropriate avoidance buffers. and/or nesting season avoidance. If no nesting birds are detected during the pre-construction survey, no mitigation is required. The project biologist shall continue to perform site surveys during all construction activities to detect any nesting birds that may nest on the project site after the pre-construction survey. Pre-construction clearance surveys shall be completed as required to comply with the FESA, MBTA, Bald and Golden Eagle Protection Act, California Fish and Game Code, and/or County Regulations. If the biological monitor determines that project activities are disturbing or disrupting the nesting activities, the monitor will make recommendations to County staff to reduce the noise or disturbance in the vicinity. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce

noise, (2) working in other areas until the young have fledged and (3) stopping work until young are independent of their nests.

- ~~When determined appropriate by County staff, a~~ A qualified biologist possessing a valid Endangered Species Act Section 10(a)(1)(a) Recovery Permit shall conduct protocol level focus presence/absence surveys for state and federally listed species in areas that support suitable habitat for those species. ~~When deemed necessary by County staff, s~~ Surveys for state and federally listed species shall be conducted prior to permit approval and the commencement of approved development onsite the commencement of any construction. If state and federally listed species are present on or adjacent to a project site, then the following conditions must be met:
 - 1) No clearing, grubbing, grading, or other construction activities shall occur within suitable habitat for state and federally listed avian species during their respective breeding seasons. Areas restricted from such activities shall be staked or fenced under supervision of a qualified biologist. State and ~~F~~ federally listed species that may occur within the Plan area include southwestern willow flycatcher and least Bell's vireo; **and**
 - 2) During the breeding seasons for state and federally listed species, no construction activities shall occur within any portion of the site where construction activities would result in indirect impacts resulting from noise, lighting, or other construction-related activity. Prior to the commencement of construction activities during the breeding season, areas restricted from construction activities shall be staked or fenced under the supervision of a qualified biologist; **or**
 - 3) Prior to commencement of the breeding season and construction activities, attenuation measures (e.g., berms, walls, directed and shielded lighting) may be implemented to reduce potential impacts from noise or lighting. If noise attenuation techniques implemented are determined to be inadequate by a qualified biologist, then the associated construction activities shall cease until such time that adequate noise/lighting attenuation is achieved or until the end of the breeding season.; ~~or~~
 - 4) ~~If an active nest for a federally listed species is located within any portion of the site where construction activities would result in indirect impacts, a qualified biologist will monitor the active nest(s) daily until (1) project activities are no longer in the vicinity of the nest or (2) the fledglings become independent of their nest. If the nest monitor determines that project activities are disturbing or disrupting the nesting activities, the monitor will make practicable recommendations to reduce the noise or disturbance in the vicinity. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce noise and (2) working in other areas until the young have fledged. If~~

~~no construction activity can continue without disturbing nesting activities, the biologist may stop work until young are independent of their nests.~~

If federally listed species are not detected during the focused survey, the qualified biologist shall submit substantial evidence to the County, which demonstrates whether or not mitigation measures such as noise walls are necessary ~~during the breeding season~~ as follows: If this evidence indicates the potential is high for a federally listed species to be present based on historical records or site conditions, then conditions (2) or (3) shall be adhered to as specified above; and (2) if this evidence concludes that no impacts to federally listed species are anticipated, no further mitigation measures are necessary.

- **Burrowing Owls:** When determined appropriate ~~and feasible~~ by County staff, prior to permit approval and the commencement of approved development ~~the issuance of construction permits for future projects~~ in the Plan area, a habitat assessment shall be conducted to determine whether or not occupancy surveys are needed. Should burrowing owl habitat or signs be encountered on or within 500 feet of a project site, breeding season surveys would be conducted. If occupancy is determined, site-specific avoidance and mitigation measures would be developed in accordance with the protocol established in the Staff Report on Burrowing Owl Mitigation (State of California 2012). Measures to avoid and minimize impacts to burrowing owl may include take avoidance (pre-construction) surveys, site surveillance, and the use of buffers, screens, or other measures to minimize impacts during project activities.
- **California Red-legged Frog:** When determined appropriate ~~and feasible~~ by County staff, prior to permit approval and the commencement of approved development ~~issuance of construction permits for future projects~~ on rural parcels ~~proposed for development~~ that are located within the species' range or within 1.2 miles of known occurrences or potential breeding habitat for this species, USFWS protocol habitat assessments for California red-legged frog shall be conducted by qualified biologists. This includes agricultural conversion of rangeland if that requires a Land Use Permit for grading. Projects which are proposed on parcels that are completely surrounded by development on all sides (e.g., urban parcels) are generally not subject to this survey requirement based on the assumption that these urban areas are not suitable habitat for California red-legged frog. Habitat assessments and field surveys shall be conducted in accordance with current USFWS guidelines ~~(USFWS 2005 at the time of this report preparation)~~.

Policy ECO-EGV-4.1 (COASTAL): (Protecting Existing Trees) Existing trees in Eastern Goleta Valley shall be preserved to the maximum extent feasible, prioritizing "protected trees." Protected trees are defined for the purpose of this policy as mature native, naturalized, or roosting/nesting trees that do not pose a threat to health and safety ~~are healthy, structurally sound, and have grown into the natural stature particular to the species~~. Protected trees include, but are not limited to:

- Oaks (*Quercus agrifolia*).
- Sycamores (*Platanus racemosa*).

- Willow (Salix sp.).
- Redwoods (Sequoia sempervirens).
- Maples (Acer macrophyllum).
- California Bay Laurels (Umbellularia californica).
- Cottonwood (Populus fremontii & Populus balsamifera).
- White Alder (Alnus rhombifolia).
- California Walnut (Juglans californica).
- Any tree serving as known or discovered raptor nesting and/or key raptor roosting sites.
- Any trees serving as Monarch butterfly habitat, including aggregation sites.

Policy ECO-EGV-4.2 (COASTAL): All existing “protected trees” shall be protected from damage or removal to the maximum extent feasible, except in cases where preservation of trees would preclude reasonable use of a parcel, or threaten life and/or property. Where the removal of protected trees cannot be avoided through the implementation of project alternatives, or where development encroachments into the protected zone of protected trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every one tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be required.

DevStd ECO-EGV-4A (COASTAL): Where development may ~~damage or destroy~~ adversely impact existing trees, a Tree Protection Plan shall be required by the County when either the project site contains protected trees per Policy ECO-EGV-4.1, or where threatened protected trees on adjacent properties have drip lines which reach onto the project site. This requirement for a Tree Protection Plan may be modified or deleted where it can be found that no trees (proposed to be retained) would be adversely impacted ~~potentially damaged~~ by the development project activities. This decision shall be based on ~~the location of trees and~~ the project’s potential to ~~directly or indirectly damage~~ adversely impact trees through such activities as grading, brush clearing, construction, vehicle parking, supply/equipment storage, trenching or the proposed use of the property. The Tree Protection Plan shall be developed by a County approved arborist, biologist, or other qualified professional as determined by the County. The plan shall be approved by P&D prior to issuance of a CDP or LUP. The plan shall be included and considered with all grading and building plans. ~~The County’s standard Tree Protection Plan is included in the Standard Mitigation Measures/Standard Conditions Manual.~~

DevStd ECO-EGV-4B (COASTAL): A sufficient permanent buffer shall be established around trees serving as raptor nesting sites and/or key roosting sites, except in cases where such a buffer would preclude reasonable use of a parcel. The size of the buffer shall be determined by P&D and with a qualified biologist based on site conditions and constraints, including a detailed analysis of the nesting and/or roosting sites present and

the buffer distance necessary to protect those resources from adverse impacts of the proposed development and the proposed use of the property needs of individual cases.

Policy ECO-EGV-5.2 (COASTAL): Environmentally sensitive habitat (ESH) means any area in which plant or animal life or their habitats are either (1) rare or (2) especially valuable because of their special nature or role in an ecosystem. The presence and extent of ESH shall be identified on a case-by-case basis based upon site-specific evidence provided by a biological report prepared by a qualified biologist.

1. Rare Species or Habitats. Areas with plant or animal life or their habitats included in the following lists and categories are considered “rare” for the purposes of this policy:
 - Federal and State listed Rare, Threatened, and Endangered Species.
 - Plants, Animals, and Natural Communities ranked as Global or State G1 or S1 (critically imperiled), G2 or S2 (imperiled), or G3 or S3 (vulnerable to extirpation or extinction).
 - California Fully Protected Species, California Species of Special Concern, and their habitats.
 - California Rare Plant Ranking System plant species designated 1B (rare, threatened, or endangered in California and elsewhere) and 2B (rare, threatened, or endangered in California but more common elsewhere).
 - Federal and State Plants, Animals, and Natural Communities that are candidates for listing.

2. Especially Valuable Species or Habitats. Areas with plant or animal life or their habitats may be especially valuable because of their “special nature,” such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. Areas may be especially valuable because of their special “role in the ecosystem,” such as providing habitat for endangered species, protecting water quality, providing essential corridors linking one sensitive habitat to another, or providing critical ecological linkages such as the provision of pollinators or crucial trophic connections.

~~The following general criteria are utilized to determine which resources and habitats in Eastern Goleta Valley are identified as ESH. Significant habitat resources within the urban, EDRN and Mountainous Areas that meet one or more of these criteria shall have coverage of the ESH overlay.~~

- ~~1. Unique, rare, or fragile communities which should be preserved to ensure their survival into perpetuity.~~
- ~~2. Habitats of rare or endangered species that are also protected by State and Federal laws.~~
- ~~3. Plant communities that are of significant interest because of extensions of ranges, or unusual hybrid, disjunctive, or relict species.~~
- ~~4. Specialized wildlife habitats which are vital to species survival, e.g., White-tailed kite habitat, butterfly trees.~~

5. ~~Outstanding representative natural communities that have values ranging from a particularly rich flora and fauna to an unusual diversity of species.~~
6. ~~Areas which are important because of their high biological productivity and ecological function as wetlands and vernal pools.~~
7. ~~Areas which are structurally important in protecting watershed ecology and species, e.g., riparian corridors that protect stream banks from erosion and provide shade.~~

Policy ECO-EGV-5.4 (COASTAL): (ESH and RC Habitat Types) Specific biological resources and habitats shall be considered environmentally sensitive and designated on the Eastern Goleta Valley Community Plan ESH/Riparian Corridor map (EGVCP Figure 22 or where determined to exist during a site survey) based on the criteria of Policy ECO-EGV-5.2. *(Note: The scale of the overlay map precludes complete accuracy in the mapping of habitat areas. In some cases, the precise location of habitat areas is not known and is therefore not mapped. In addition, the migration of species or the discovery of new habitats may result in the designation of new areas, or site-specific reviews may indicate different habitat designations.)*

A. ESH Habitat Types: ~~In the Urban, Inner Rural, EDRNs and Mountainous Areas,~~ ¶The following habitats shall be considered environmentally sensitive and shall be protected and preserved through provisions of the ESH Overlay, including but not limited to:-

- Creeks and streams
- Riparian woodlands and riparian corridors (including but not limited to willow, riparian mixed hardwood, California sycamore, and riparian mixed shrub alliances)
- Monarch butterfly roosts
- Sensitive native flora
- Coastal sage scrub (including but not limited to California sagebrush and soft scrub – mixed chaparral alliances)
- Coastal bluff scrub
- Chaparral (e.g., chamise chaparral, lower montane mixed chaparral, ceanothus chaparral, and soft scrub – mixed chaparral alliances) where it supports rare or vulnerable native vegetation alliances and/or sensitive native plant and/or animal species
- Oak woodlands (including but not limited to coast live oak and coastal mixed hardwood alliances)
- ~~Bigcone Douglas fir alliance~~
- Vernal pools
- Native grasslands (including but not limited to perennial grasses and forbs alliance)
- Wetlands (including but not limited to tule-cattail alliance)
- Dunes
- White-tailed kite foraging habitat
- Western burrowing owl habitat
- Raptor/turkey vulture roosts

- Critical wildlife habitat
- Wildlife corridors

~~B. RC Habitat Types: On land designated Agriculture in the Rural Area, the following habitats shall be considered environmentally sensitive and shall be protected and preserved through the provisions of the RC Overlay.~~

- ~~Riparian woodlands and riparian corridors (including but not limited to willow, riparian mixed hardwood, California sycamore, and riparian mixed scrub alliances).~~

Policy ECO-EGV-5.5 (COASTAL): (Minimum Buffer Areas for ESH Streams and Creeks) The minimum buffer strip and setbacks from streams and creeks for development and activities within the ESH overlay that are regulated by the County Coastal Zoning Ordinances shall be as follows, ~~except on parcels designated for agriculture in rural areas where Policy ECO-EGV-5.6 shall apply:~~

- ~~**ESH areas within the Urban Area and EDRNs:** a minimum setback of 50 feet from either side of top-of-bank of streams and creeks or existing edge of riparian vegetation, whichever is the further furthest distance from the stream or creek. The setback shall be indicated on all site plans. Plans shall minimize ground disturbance and vegetation removal.~~
- ~~**ESH areas within the Mountainous GOL zone district:** a minimum buffer of 200 feet from the edge of existing riparian vegetation. Grading and vegetation removal within these buffers shall be restricted while not precluding the reasonable use of a parcel.~~

Policy ECO-EGV-5.7 (COASTAL): (Minimum Buffer Areas for ESH): A minimum setback of 50 feet from the outer edge of all ESH habitats shall be required unless otherwise specified in the Local Coastal Program.

Policy ECO-EGV-5.8 (COASTAL): Resource dependent uses may be allowed in ESH where sited and designed to avoid significant disruption of habitat values. A resource dependent use is a use that is dependent on the ESH resource to function (e.g., nature study, habitat restoration, and public trails). Non-resource dependent development, including fuel modification, shall be sited and designed to avoid ESH and ESH buffer areas. If avoidance is infeasible and would preclude reasonable use of a parcel, then the alternative that would result in the fewest or least significant impacts shall be selected.

DevStd ECO-EGV-5C (COASTAL): ~~Development within ESH areas in the Urban Area, EDRNs and Mountainous GOL Zone Districts shall provide onsite restoration of any project-disturbed ESH or ESH buffer or riparian vegetation, unless restoration would preclude reasonable use of the parcel. If onsite restoration is infeasible, offsite restoration shall be required.~~ A restoration plan, approved by the County, shall be developed by a County-approved biologist (or other experienced individual acceptable to the County) and implemented at the applicant's expense, per the requirements for Restoration Plans.

DevStd ECO-EGV-5D (COASTAL): Required minimum buffers for stream/riparian ESH and RC may be adjusted upward or downward on a case-by-case basis given site

specific evidence provided by a biological report prepared by a qualified biologist. Where adjusted upward where necessary in order to prevent significant disruption of habitat values, the required minimum buffer ~~but~~ shall not preclude reasonable use of a parcel. The buffer shall be established based on an investigation of the following factors and, ~~when appropriate,~~ after consultation with the Department of Fish and Wildlife and Regional Water Quality Control Board. All buffers shall be sufficient in order to protect the biological productivity and water quality of streams, to avoid significant disruption of habitat values, and to be compatible with the continuance of the habitat area:

- Existing vegetation, soil type and stability of stream and riparian corridors
- How surface water filters into the ground
- Slope of the land on either side of the stream,
- Location of the 100 year flood plain boundary
- Consistency with adopted plans, particularly Biology and Habitat policies

In all cases listed above, buffer areas on sites within the Coastal Zone may be adjusted downward only in order to avoid precluding reasonable use of property.

DevStd ECO-EGV-5F (COASTAL): Projects subject to ~~land use~~ coastal development permits within the ESH ~~and RC~~ Overlays shall provide onsite restoration of any unavoidable project-disturbed creek buffer or riparian vegetation within the riparian corridor boundary to maintain a continuous canopy of appropriate native trees along such corridors. If the project would result in unavoidable disturbance of habitat, a restoration plan shall be required. When restoration is not feasible onsite, offsite restoration which covers comparable quality and quantity of habitat and will ensure long-term preservation shall be ~~considered~~ required consistent with Policy ECO-EGV-2.4.

DevStd ECO-EGV-6E (COASTAL): Any construction, or grading ~~or development~~ within 200 feet of known or historic butterfly roosts shall be prohibited during the months between November 1 and April 1. This requirement may be adjusted on a case-by-case basis where P&D with a qualified biologist concludes that construction and grading will one or more of these activities would not impact monarchs using the trees on or near the site. ~~or where it would preclude reasonable use of the parcel.~~

DevStd ECO-EGV-6G (COASTAL): New development, including fuel modification, shall be sited and designed to protect riparian vegetation. Adverse impacts to riparian vegetation shall be avoided to the maximum extent feasible. Where avoidance is infeasible and would preclude reasonable use of a parcel, then the alternative that would result in the fewest or least significant impacts shall be selected. Riparian protection and ~~reasonable~~ riparian restoration measures shall be required in the review of a project requiring a coastal development permit or other discretionary approval and shall be based on a project's proximity to riparian habitat and the project's unavoidable potential to directly or indirectly damage ~~adverse impacts to~~ riparian habitat through activities such as grading, bush clearing, construction, vehicle parking, supply/equipment storage, or the proposed use of the property. ~~Damage~~ Adverse impacts could include, but ~~is~~ are not limited to, vegetation removal/disturbance, reduced buffer, erosion/sedimentation, trenching, and activities which hinder or prevent wildlife access and use of habitat. ~~All~~

~~development, including dredging, filling and grading within stream corridors, shall be limited to activities necessary for construction. Resource dependent uses may be allowed in riparian habitats where sited and designed to avoid significant disruption of habitat values. A resource dependent use is a use that is dependent on the ESH resource to function (e.g., nature study, habitat restoration, and public trails).~~

DevStd ECO-EGV-6I (INLAND): No structures shall be located within a riparian corridor, except:

- Public trails or paths that would not adversely affect existing habitat.
- Flood control projects, where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety.
- Alternative structures or developments that have been approved by the Army Corps of Engineers pursuant to a Section 404 permit.
- Other development where the primary function is for the improvement of fish and wildlife habitat, such as fish passage structures.
- Where this policy would preclude reasonable use of a parcel.

Culverts, dams for water supply projects, agricultural roads and crossings in rural areas zoned for agricultural use, fences, pipelines, and bridges may be permitted when no alternative route or location is feasible, or where other environmental constraints or site design considerations (e.g., public safety) would require such structures. All development shall incorporate the best mitigation measures feasible to minimize the impact to riparian vegetation.

DevStd ECO-EGV-6K (COASTAL): Where restoration of ~~stream wetland~~ areas and surrounding habitats is ~~sought-proposed or required~~, the result shall re-establish a continuous riparian corridor along the affected section of the stream or waterway, with appropriate native vegetation and natural conditions, including avoidance of lighting and noise, extending outward a minimum of 25 feet from the top of bank or historic habitat edge.

DevStd ECO-EGV-6M (COASTAL): Mitigation for unavoidable impacts to wetlands ~~and waters~~ shall be based on the type of wetland resource impacted ~~type of wetland and project design~~. Mitigation for impacts to wetlands should prevent any net loss of wetland area functions and the functions and values of the impacted wetland. Mitigation for impacts to wetlands shall be a minimum 4:1 ratio. ~~The Plan update policies require mitigation of impacts to sensitive biological resources at a minimum 2:1 replacement ratio.~~ However, the resource agencies may require higher mitigation ratios depending on the type and quality of the resource impacted. Mitigation ratios for impacts to wetlands and riparian habitat are typically around 2:1 or 3:1, but can be as high as 8:1 for especially rare or valuable wetland types such as vernal pools.

DevStd ECO-EGV-6O (COASTAL): Mitigation for projects impacting vernal pools shall be managed by a qualified vernal pool restoration ecologist. Mitigation shall include, but not be limited to, salvage of soil that supports sensitive species from vernal pools to be impacted, introduction of salvaged material into restored vernal pool habitat

where appropriate (e.g., same vernal pool series), and maintenance of salvaged material pending successful restoration of the vernal pools. Salvaged material shall not be introduced to existing vernal pools containing the same species outside the vernal pool series absent consultation with and endorsement by vernal pool species experts not associated with the project (e.g., independent expert). The mitigation sites shall include preservation of the entire watershed and a buffer based on functions and values; however, if such an analysis is not conducted, there shall be a default of a 100-foot buffer from the watershed. Restoration of vernal pools should only be conducted within an area that has been known to historically support vernal pools. Identification and implementation of restoration in such “vernal pool preserve(s)” should occur in coordination with the County and Wildlife Agencies.

Policy HYD-EGV-2.3 (COASTAL): As part of its on-going maintenance operations, the County Flood Control District shall minimize impacts to stream channels ~~where~~ to the maximum extent feasible and consistent with sound flood control practices, and incorporate mitigation measures from the County Flood Control Maintenance Program Environmental Impact Report (PEIR) to restore channels and stream banks and mitigate unavoidable adverse impacts to coastal resources to the maximum extent feasible. The District should incorporate and project costs for these efforts into County budget planning.

DevStd HYD-EGV-2A (COASTAL): A Hydrologic/Hydraulic Report shall be prepared by a Registered Civil Engineer for any development within a floodplain that requires ~~channel~~ improvements within a creek channel. Said Hydrologic/Hydraulic Report shall be submitted to the County Flood Control District and P&D for review and approval. ~~Channel i~~ Improvements within a creek channel shall be consistent with Policy HYD-EGV-2.3, DevStd HYD-EGV-2B and DevStd HYD-EGV-2C and sufficient to convey the 100-year discharge, or applicable discharge deemed appropriate by the County Flood Control District, and revegetation shall be required allow for revegetation of any areas of riparian vegetation and creek banks disturbed by the approved improvements. Any creek revegetation plans shall be reviewed and approved by P&D and County Flood Control. Revegetation plans shall provide for complete revegetation of the creek banks and top of banks with appropriate native species consistent with the policies of this Plan.

DevStd HYD-EGV-2B (COASTAL): New flood control protection shall be the least environmentally damaging alternative that achieves flood protection objectives consistent with all applicable policies of the Local Coastal Program and shall consider less intrusive solutions as a first priority over engineering structural solutions. Less intrusive measures (e.g., biostructures, vegetation, and soil bioengineering) shall be preferred for flood protection over “hard” solutions such as concrete or riprap channels. “Hardbank” measures (e.g., use of concrete, riprap, gabion baskets) or channel redirection may be permitted only if all less intrusive flood control efforts have been considered and have been found to be infeasible. Natural building materials such as rock, heavy timber, and erosion control shrubs and wire revetment planted with native or naturalized plants shall be used wherever possible in replacing or constructing flood control infrastructure.

DevStd HYD-EGV-2C (COASTAL): Channelizations or other substantial alterations of streams shall be prohibited except for: 1) necessary water supply projects where no feasible alternative exists; 2) flood control projects for existing development where necessary for public safety and there is no other feasible alternative, or 3) the improvement of fish and wildlife habitat. Any channelization or stream alteration permitted for one of these three purposes shall minimize impacts to coastal resources, including ESH and the depletion of groundwater, and shall include maximum feasible mitigation measures to mitigate unavoidable impacts. Bioengineering alternatives shall be preferred for flood protection over “hard” solutions such as concrete or riprap channels.

Policy GEO-EGV-1.1 (COASTAL): Development on coastal bluff-top property shall be sited to include sufficient setbacks to avoid areas subject to erosion and designed to avoid reliance on coastal armoring and/or bluff protection devices pursuant to Policy GEO-EGV-1.2. No development shall be permitted on a bluff face, except for engineered staircases or accessways to provide public beach access, and pipelines for scientific research or coastal dependent industry; such uses are permitted only where no other less environmentally damaging alternative is feasible and the development is sited and designed to not contribute to erosion and to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can feasibly be drained away from the bluff face.

Policy GEO-EGV-1.2 (COASTAL): Development on coastal bluff-top property shall be sited and designed to have a setback from the bluff edge that is sufficient to avoid the threat of bluff erosion or slope instability considering 100 years of bluff erosion and to not contribute to increases in bluff erosion (e.g., piping). ~~Coastal bluff top development shall consider~~ factoring in the long term effects of climate change and sea-level rise based on best available science and without the need for new or existing slope or shoreline protection devices that would substantially alter natural landforms or otherwise adversely impact coastal resources (e.g., public access, visual impacts) during planning and design stages.

DevStd GEO-EGV-1A (COASTAL): The County shall require development proposed to be located on ocean bluff-top property or on the bluff face to perform a site specific analysis by a registered or certified geologist prior to project review and approval to determine the extent of the hazards (including bluff retreat, potential impacts to coastal resources and shoreline sand supply, and effects of climate change, including locally relevant sea-level rise projections based on best available science) on the project site and identify appropriate setbacks, adaptation and protective measures other than shoreline protective devices seawalls and revetments to ensure the development is safe from hazards while avoiding adverse impacts on local shoreline sand supply, public access, and biological, recreational, archeological, and other coastal resources. These measures can include, but not be limited to adequate bluff setbacks, restriction of irrigation, directing drainage away from the bluff edge/face appropriate placement of drainage culverts, restriction of the use of septic tanks, use of appropriate landscaping on bluff top or face, etc.

Policy GEO-EGV-2.1 (COASTAL): Excessive grading for the purpose of creating or enhancing views or aesthetics shall not be permitted.

SUGGESTED MODIFICATION NO. 10

Revise all proposed maps that depict the Coastal Zone Boundary to add a note within the map legend that states the following:

Given the small scale of this map, the Coastal Zone Boundary depicted on this map is not intended for the purpose of defining the Coastal Zone Boundary on a parcel level.

SUGGESTED MODIFICATION NO. 11

Relevant Goals, Programs, Policies, Actions, and Development Standards that are modified herein for application only within the Coastal Zone are marked as “COASTAL” at the request of the County. An “INLAND” version of these relevant Goals, Programs, Policies, Actions, and Development Standards using the County’s originally adopted language shall be marked as “INLAND.”

**SUGGESTED MODIFICATIONS TO THE EASTERN GOLETA VALLEY
RESIDENTIAL DESIGN GUIDELINES**

The County’s proposed and approved amendment language to the certified Coastal Land Use Plan is shown in straight type. Language approved by the Commission to be modified is shown in ~~line-out~~ and underline.

SUGGESTED MODIFICATION NO. 12

Trees and Vegetation

Large canopy trees provide a neighborhood its character and significantly benefit stormwater quality. During a rain event, canopy trees slow the path of rainfall to the ground and increase ground absorption. Trees with trunk diameters greater than 6 inches should be considered integral components of a neighborhood and thus retained whenever feasible.

When siting a new dwelling or addition on a parcel, the goal should be to disturb as little vegetation as possible, with a priority placed on retaining healthy, native species and those trees that, by definition are protected (i.e., mature native trees that are healthy and structurally sound and have grown into the natural stature particular to the species).¹ Fire prevention measures should also be considered. Refer to fire hazard prevention requirements in Section 10, page 55.

¹ Goleta Community Plan Policy BIO-GV-16

In the Coastal Zone, when siting a new dwelling or addition on a parcel, the goal should be to disturb as little vegetation as possible, with a priority placed on retaining healthy, native species and those trees that, by definition are protected (i.e., mature native trees that do not pose a threat to health and safety).² Fire prevention measures should also be considered. Refer to fire hazard prevention requirements in Section 10, page 55.

SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE

The County's proposed amendment language to the certified Implementation Plan/Coastal Zoning Ordinance is shown in straight type. Language approved by the Commission to be modified is shown in ~~line-out~~ and underline.

SUGGESTED MODIFICATION NO. 13

Article II Coastal Zoning Ordinance

Section 35-192.4 *Economically Viable Use.* If an applicant asserts that the application of the policies and standards contained in the Local Coastal Program regarding use of property within the Eastern Goleta Valley Community Plan area would constitute a taking of private property without just compensation, the applicant shall apply for an economic viability determination in conjunction with the associated Coastal Development Permit application and shall be subject to the provisions of this section.

Section 35-192.5 *Economically Viable Use Determination.* The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a Coastal Development Permit and economic viability determination is accepted for processing, the applicant shall provide the following information, unless the County determines that one or more of the particular categories of information is not relevant to its analysis:

1. The date the applicant purchased or otherwise acquired the property, and from whom.
2. The purchase price paid by the applicant for the property.
3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at that time.
4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection 4 above, that applied to the

² Eastern Goleta Valley Community Plan Policy ECO-EGV-4.1 (COASTAL)

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

Section 35-192.6 Supplemental Findings for Approval of Coastal Development Permit. A Coastal Development Permit that allows a deviation from a policy or standard of the Local Coastal Program to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or Board of Supervisors, makes the following supplemental findings in addition to the findings required in Section 35-169 (Coastal Development Permits):

1. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the Local Coastal Program policies and/or standards would not provide an economically viable use of the applicant's property.
2. Application of the Local Coastal Program policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations.
3. The use proposed by the applicant is consistent with the applicable zoning.
4. The use and project design, siting, and size are the minimum necessary to avoid a taking.
5. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified Local Coastal Program other than the provisions for which the exception is requested.
6. The development will not be a public nuisance or violate other "background principles of the State's law of property," as that phrase was used in the U.S. Supreme Court's decision in *Lucas v. South Carolina Coastal Council*, 505 U.S.

1003, 1028-30 (e.g., public trust doctrine). If it would violate any such background principle of property law, the development shall be denied.