



July 26, 2022

Board of Supervisors  
County of Ventura  
800 South Victoria Avenue  
Ventura, CA 93009

**SUBJECT:** Consideration of Resolution to Acknowledge Receipt of, Accept, and Agree to the California Coastal Commission's Suggested Modifications to the Phase 2C Amendments to the Ventura County Local Coastal Program, commonly referred to as the "ESHA Project", (PL17-0083); County of Ventura, Applicant; All Supervisorial Districts.

**RECOMMENDED ACTIONS:**

1. **CERTIFY** that your Board of Supervisors (Board) has reviewed and considered this Board letter and all exhibits hereto, and has considered all comments received during the public hearing process;
2. **APPROVE** and **ADOPT** the Resolution attached as Exhibit 1, acknowledging the receipt of the California Coastal Commission's (Coastal Commission) resolution of certification (Exhibit 6), which includes the Coastal Commission's suggested modifications (Exhibits 2, 3 and 4) to the Phase 2C amendments to the County's Local Coastal Program (No. LCP-4-VNT-21-0069-2), and accepting and agreeing to those modifications;
3. **DIRECT** the Planning Director pursuant to the directive provided in the Coastal Commission action letter attached as Exhibit 5, to transmit your Board's Resolution to the Executive Director of the Coastal Commission; and
4. **SPECIFY** the Clerk of the Board of Supervisors, 800 S. Victoria Avenue, Ventura, CA 93009, as the custodian and location of the documents and materials that constitute the record of proceedings upon which these decisions are based.

**FISCAL IMPACTS/MANDATES:**

Mandated: No

Source of Funding: Planning Division Budget

Funding Match Required: None

Impact on Other Departments: None

<b><u>Summary of Revenues and Costs:</u></b>	<b><u>FY 2022-23</u></b>	<b><u>FY 2023-24</u></b>
Revenues:	\$0	\$0
Costs:		
Direct	\$53,825	\$4,453
Indirect-Agency/Dept.	\$0	\$0
Indirect-County CAP	\$0	\$0
Total Costs	\$53,825	\$4,453
Net Costs:	\$53,825	\$4,453
Recovered Indirect Costs:	\$0	\$0

There is no fiscal impact associated with the recommended actions. The review and acceptance of the Coastal Commission's suggested modifications to the Phase 2C amendments was completed by County staff within the Planning Division's prior FY 2021-22 budget, and there are sufficient appropriations in the Planning Division's FY 2022-23 budget to cover the costs associated with implementation of the Phase 2C amendments. Post-adoption tasks include the codification of the approved ordinances, implementation of the proposed programs, including the County's In-Lieu Fee program, training Planning Division and Code Compliance Division staff, updating application materials, and preparing additional public information materials. The next Planning Division Work Plan anticipated for your Board's review and direction in 2023 will identify the specific ESHA related work projects for FY 2023-24 and beyond.

<b>FY 2022-23 Budget Projection for Planning – Division 2910</b>				
	Adopted Budget	Adjusted Budget	Projected Actual	Estimated Savings/(Deficit)
Appropriations	\$10,382,005	\$10,382,005	\$10,382,005	\$ -
Revenue	\$ 5,195,406	\$ 5,195,406	\$ 5,195,406	\$ -
Net Cost	\$ 5,186,599	\$ 5,186,599	\$ 5,186,599	\$ -

### **EXECUTIVE SUMMARY:**

The conditionally certified Local Coastal Program (LCP) Phase 2C amendments before your Board address Environmentally Sensitive Habitat Areas (ESHA), removal of the Harbor Planned Development Zone, and incorporate the Board's 2016 directive to develop Dark Sky outdoor lighting provisions for the Santa Monica Mountains (M) Overlay Zone.

Your Board adopted these Phase 2C amendments on October 19, 2021. On April 6, 2022, the Coastal Commission conditionally certified the amendments with 81 modifications during a public hearing. If these modifications are accepted by your Board, the amendments will then be submitted to the Coastal Commission for final certification at the next available Coastal Commission hearing. In contrast, if your Board rejects or changes any of the Coastal Commission's suggested 81 modifications, the Phase 2C amendments

would be required to be resubmitted to the Coastal Commission as though they were for initial review.

Planning Division staff worked closely with County agencies and Coastal Commission staff to ensure that the modifications proposed are feasible to implement and enforce. The Coastal Commission staff report at Exhibit 6 provides a detailed explanation about why the modifications are suggested. Exhibit 2 shows the Commission's suggested modifications in legislative format with staff explanations. The bulk of the Coastal Commission's text modifications were mostly for minor grammatical corrections and clarifications to permit processing procedures. However, several of the proposed modifications are intended to fulfill state-mandated protections for ESHA, are based on requirements of the Coastal Act, or are consistent with other ESHA chapters from other jurisdictions such as Los Angeles County's and the City of Malibu's LCPs. While key issues were resolved between the County and Coastal Commission staff without the need for substantial modifications leading up to the April 6, 2022 Coastal Commission hearing, there are a few notable changes from your Board-adopted Phase 2C LCP amendments that are categorized under the following five topics: 1) clarification of the amount of vegetation removal allowed in fuel modification zones; 2) planning for ESHA in beach management and maintenance; 3) align the in-lieu fee study requirements with other jurisdictions; 4) prohibit nighttime lighting of new outdoor sports courts that are accessory to dwellings; and 5) and prohibit fencing around the perimeter of lots and outside the mandatory fuel modification zone.

## **DISCUSSION:**

### **A. Board of Supervisors' Adoption of Phase 2C Amendments**

The Phase 2C amendments apply to both the Coastal Area Plan (CAP) and Coastal Zoning Ordinance (CZO) and were unanimously adopted by your Board on October 19, 2021. The Phase 2C amendments primarily address policy and implementation issues related to the following three topics:

- Clarified protections and expanded mitigation options for Environmentally Sensitive Habitat Areas (ESHA),
- Addition of Dark Sky Outdoor Lighting Provisions to the Santa Monica Mountains (M) Overlay Zone, and
- Removal of the Harbor Planned Development Zone.

On October 27, 2021, the adopted text amendments were forwarded to the Coastal Commission for review and action pursuant to Public Resources Code Section 30514 (part of the California Coastal Act); Title 14, California Code of Regulations, sections 13542, 13544 and 13544.5; and the County's CZO Section 8184-5.2.

## **B. California Coastal Commission Action Regarding Phase 2C Amendments**

On April 6, 2022, the Coastal Commission heard, deliberated and conditionally certified the Phase 2C amendments subject to the County's acceptance of the following suggested modifications, which are now before your Board. During the Coastal Commission's public hearing, public comments were transmitted through three letters and by three public speakers, which are discussed below.

### **Coastal Commission Suggested Modifications**

For the Phase 2C amendments to take effect as conditionally certified by the Coastal Commission, your Board must acknowledge receipt of the Coastal Commission's resolution of certification and accept and agree to all Coastal Commission's 29 suggested modifications to the CAP and all 52 suggested modifications to the CZO, which are shown in their entirety in legislative format (with County Planning staff explanations) in Exhibit 2. The Coastal Commission's suggested modifications are also shown in context of the entire LCP, in legislative format in the CAP in Exhibit 3, and in the CZO in Exhibit 4.

The overall package of suggested modifications was classified by Coastal Commission staff as clarifications or minor modifications that did not affect the broader issues addressed by the overall package of Phase 2C amendments. The Planning Division staff agrees with that overall assessment.

Most of the suggested modifications are related to ESHA standards in the CAP and CZO and are intended to fulfill state-mandated protections for ESHA or to mirror certified language in other LCP ESHA chapters from jurisdictions in the region. In some cases, as with the modifications to the program to establish an in-lieu fee, they would provide additional flexibility for the County during implementation. While there are a few suggested modifications made for consistency with the Coastal Act outside of the ESHA chapter (i.e., Santa Monica Mountains Dark Sky Outdoor Lighting Requirements, Animal Husbandry, and Agency Repair and Maintenance Activities, see Exhibit 2, pages 17, 21, and 23), they are very limited in scope and do not affect either the intent or substance of the Board-approved LCP amendments. The notable changes to the Board-approved Phase 2C amendments are described below and are organized by topic areas of Fuel Modification, Outdoor Lighting, Beach Maintenance, the In-Lieu Fee, and Fencing.

#### **1. Fuel Modification**

Although the proposed policies and provisions contain standards guiding implementation of the two types of fuel modification zones, "mandatory" and "expanded", Coastal Commission staff did not agree that the proposed amendments adequately balanced the standards for Coastal Act protections with fuel clearance standards in ESHA. Specifically, the Commission's modifications addressed an unintended consequence of the LCP amendments where an applicant would be able to completely remove up to ten acres of ESHA in a 300-foot expanded fuel modification zone.

To address this concern, the Ventura County Fire Protection District (VCFPD), Planning Division, and Coastal Commission agreed upon an approach described in suggested modifications (#10 (CAP Policy 5.6) and #25 (Policy 10.5) / CZO #1 (Sec. 8172-1), #16 (8178-2.6.3); #18 (Sec. 8178-2.6.9), #19 (Sec. 8178-2.6.9.1), #20 (Sec. 8178-2.6.9.2), #40 (Sec. 8181-3.5.3); and #52 (AE-2.5)) that would allow the mandatory 100-foot fuel modification zone to be expanded up to 200 feet within ESHA. The suggested modification would limit full vegetation clearance to 200 feet or less, when the VCFPD determines that the site-specific environmental conditions (such as topography, type of vegetation present, width of access road) requires the full vegetation clearance to protect life and property. Both the mandatory and expanded fuel modification zone widths are subject to standards that require fire safe site design and building techniques (e.g., home hardening) to be applied during the permitting process (Section 8178-2.6.3 (b)) and therefore the increase in the fuel modification zones would only be recommended by VCFPD when there are no other feasible mitigation measures possible to protect life and property.

2. Outdoor Lighting

Although the ESHA section Policy 5.18 and Visual Resources section Policy 10 within the CAP required avoiding and minimizing lighting at night, the Coastal Commission found that the policies do not acknowledge the harmful effects that night lighting can cause such as light trespass, glare, skyglow and light pollution. In addition, the Commission found that the CZO does not contain specific standards to ensure that light encroachment on other properties and ESHA are avoided to the maximum extent feasible. Therefore, within the Santa Monica Mountains (M) overlay zone, the Commission's suggested modification #6 (CZO Section 8177-4.1.11) would only exempt outdoor light fixtures with a maximum output of 60 lumens or less and when they are fully shielded and directed downward.

The Coastal Commission's suggested modifications would also prohibit outdoor sports lighting for new residential accessory recreation facilities in ESHA and buffer zones. The suggested modification #24 (CZO Section 8178-2.6.15) addresses unnecessary night lighting of new residential accessory structures, such as tennis courts, which have the potential to cause significant individual and cumulative adverse impacts to ESHA and the scenic, rural dark-sky character of the area. The suggested modification strengthens standards for the allowable amount of light trespass, the duration of time that uses may be illuminated, as well as specifications for the color temperature of the lighting. The Coastal Commission noted these changes are needed to achieve a consistent approach to lighting among the three jurisdictions with LCPs for the Santa Monica Mountains.

3. Beach Maintenance and Natural Resource Conservation

Hollywood Beach and Silver Strand Beach contain ESHA dune habitats and nesting/spawning areas for sensitive species such as grunion fish, Western snowy

plover, and California least terns. These beaches are also groomed, dredged for sediment management, and serve as popular recreational destination points for both residents and visitors to the County.

The numerous activities that occur at these beaches can result in adverse impacts to ESHA and other shoreline natural resources. To ensure that the various maintenance activities and land uses are evaluated holistically with partner agencies, the Coastal Commission-suggested modification # 27 (CAP Program 6) requires the development of a comprehensive beach management plan and the processing of a multi-year programmatic permit to coordinate maintenance activities on these beaches that would be coordinated by the Harbor Department. The Phase 2C amendment also required that allowable visitor-serving uses in dunes and dune restoration include design for higher levels of sea level rise. Although sea level rise must be considered in new development, the County is currently preparing a specific amendment to address sea level rise and as such, specifying projections in the subject amendment would be premature. Therefore, Commission suggested modification #15 (CAP Policy 6.1) and #25 (CZO Sec. 8172-2.7.1.1) to remove references to specific sea level rise projections.

4. In-Lieu Fee Program

The Coastal Commission's recommended modifications #26 (CAP Program 5), #37 (CZO Sec.8178-2.10.4), and #39 (CZO Sec. 8178-2.10.8) clarify the administrative functions, standards, and plans for the creation of a new in-lieu fee program that will allow applicants to meet State compensatory mitigation requirements when ESHA is impacted by new development. The modifications include adjustments to the calculation of the amount of the interim in-lieu fee to reflect changes in inflation; corrections to the long-term maintenance and monitoring costs; adjustments to the mitigation ratio used in the interim fee; and the extension of the interim in-lieu fee expiration date (from five to six years). These modifications ensure that the in-lieu fee program is more comparable to Los Angeles County's program for ESHA mitigation. The modification also granted the County more flexibility to develop the permanent in-lieu fee by allowing more time for the County to submit a LCP amendment application by the end of six years, since the certification review and timeframe is a process controlled by the Coastal Commission staff.

5. Fencing

The Coastal Commission's recommended modifications #14 (CAP Policy 5.19) and #23 (CZO Sec. 8178-2.6.14.1) would not allow fencing within an expanded fuel modification zone located in ESHA, and it prohibits fencing the perimeter of a lot in ESHA. Coastal Commission staff again noted these changes are needed to achieve a consistent approach to fencing among the three jurisdictions with LCPs for the Santa Monica Mountains.

**Public Comments**

Public comments from three public speakers and three letters (Exhibit 7) were presented at the Coastal Commission hearing on April 6, 2022. Of the six public

comments received, one was in opposition to the amendment, four were in general support, and one stated no clear position on the amendment. The Coastal Commission considered these suggestions but did not request any additional modifications as a result of public comments. After the public comments, the Coastal Commission did not grant any changes to the proposed LCP amendments.

### **C. Board Action on Phase 2C Amendments Following Coastal Commission's Resolution of Certification**

If your Board accepts the suggested modifications, the Coastal Commission will certify the Phase 2C amendments to the LCP pursuant to the following procedures:

- The modified set of Phase 2C amendments will be submitted to the Coastal Commission's Executive Director for a formal determination of legal adequacy; and
- The Executive Director will submit the determination to the Coastal Commission for concurrence, at which point the amendments would be certified and take effect.

In contrast, if your Board rejects or changes the Coastal Commission's suggested modifications, the Phase 2C amendments, originally adopted by your Board on October 19, 2021, would not be certified or take effect. Instead, the County would be required to submit a revised set of Phase 2C amendments to the Coastal Commission for consideration as though the amendments were being submitted to the Coastal Commission for initial review.

Given the nature of the modifications suggested by the Coastal Commission, the Planning Division recommends that your Board approve the Coastal Commission's suggested modifications and approve the Resolution attached in Exhibit 1. This would allow the Phase 2C amendments, as modified, to be certified by the Coastal Commission and take effect. Should your Board approve the proposed modifications, it is anticipated that they would be presented to the Coastal Commission for final certification at the next available Coastal Commission hearing.

### **D. Public Notice**

The Planning Division provided public notice regarding this public hearing in accordance with Government Code section 65091. Since the proposed LCP amendments could affect more than 1,000 property owners, a one-eighth page legal advertisement providing notice of this hearing was published in the Ventura County Star, which appeared on July 15, 2022. Information regarding this hearing and the location of the Phase 2C amendment language for public review was also e-mailed to all interested parties who requested notification (580+ recipients), including community members, the cities of Ventura, Oxnard, Port Hueneme, and other government stakeholders (e.g., Ventura Harbor District, Coastal Commission, Naval Base Ventura County, etc.). The LCP amendment project website was updated to include information about this hearing and links to the hearing materials were provided in the email announcement.

This letter was reviewed by the County Executive Office, the Auditor-Controller's Office, and County Counsel's Office. If you have any questions regarding this item, please contact me at (805) 654-2481, or Abigail Convery, Case Planner at (805) 654-2489 or [abigail.convery@ventura.org](mailto:abigail.convery@ventura.org).



**David Ward, AICP, Director**  
Ventura County Planning Division

### **EXHIBITS**

- Exhibit 1:** Resolution approving Coastal Commission suggested modifications to the Phase 2C amendments
- Exhibit 2:** Coastal Commission suggested modifications to the Phase 2C amendments in legislative format with Planning Division staff explanations
- Exhibit 3:** Coastal Area Plan, with the Coastal Commission's suggested modifications shown in legislative format
- Exhibit 4:** Coastal Zoning Ordinance, with the Coastal Commission's suggested modifications shown in legislative format
- Exhibit 5:** Coastal Commission action letter dated May 5, 2022
- Exhibit 6:** Coastal Commission staff report dated March 24 with addendum dated April 4, 2022
- Exhibit 7:** Coastal Commission correspondence dated April 4, 2022