

**CALIFORNIA COASTAL COMMISSION**

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May 5, 2022

Abigail Convery  
County of Ventura  
800 South Victoria Ave, L# 1740  
Ventura, CA 93009-1740

RE: County of Ventura Local Coastal Program Amendment No. LCP-4-VNT-21-0069-2

Dear Ms. Convery:

On April 6, 2022, the Coastal Commission approved Local Coastal Program Amendment No. LCP-4-VNT-21-0069-2 with suggested modifications. The Commission's resolution of certification is contained in the staff report dated March 24, 2022. The suggested modifications, as approved by the Commission on April 6, 2022, 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: Jacqueline Phelps  
District Supervisor

**SUGGESTED MODIFICATIONS TO THE COASTAL AREA PLAN (LUP)**  
**LCP Amendment No. LCP-4-VNT-21-0069-2**  
**(ESHA)**

Existing language of the certified Coastal Area Plan (LUP) is shown in straight type. The County's proposed amendment language to the certified Coastal Area Plan is shown in ~~strikeout~~ and underline. Language recommended by Commission staff to be deleted is shown in ~~double-strikeout~~. Language recommended by Commission staff to be inserted is shown in double underline. Other instructional suggested modifications to revise maps or figures are shown in *italics*.

**1. Policy 1.1: Environmentally Sensitive Habitat Areas (ESHA):**

Environmentally Sensitive Habitat Areas (ESHA). ESHA shall be protected against any significant disruption of *habitat* values, and only uses dependent upon those resources shall be allowed within those areas, except as specifically allowed in ESHA Policy 4.1(b) and Policy 4.2 below. In those all cases, adverse impacts on ESHA shall be avoided, to the maximum extent feasible, and unavoidable impacts shall be minimized and mitigated.

**2. Policy 1.4: Applicability of ESHA Policies and corresponding footnote:**

Applicability of ESHA Policies<sup>8</sup>: The provisions of this section apply to all *coastal development permit* applications with the potential to result in adverse impacts to an ESHA or *buffer zone* as follows:

- a. Areas mapped as ESHA, and areas that meet the definition of ESHA (whether or not such areas are identified as ESHA on certified LCP maps), shall be subject to the ESHA-related policies and provisions of the LCP; and
- b. Where multiple ESHA policies have different requirements that are applicable, then the policy that is most protective of the biological resource shall apply (~~see Public Resources Code section 30007.5~~). However, if policies specifically allow or regulate uses in *wetlands* or *rivers/streams* that would otherwise not be allowed in ESHA, those specific policies shall apply to those uses, not the more general ESHA policies.

Permit applications that are subject to ESHA policies in Section 4.1.3-2 of the Coastal Area Plan are set forth in the Coastal Zoning Ordinance, Section 8178-2.2.

<sup>8</sup>The annual dredging operation at Channel Islands Harbor, when conducted by the U.S. Army Corps of Engineers (USACE), is reviewed by the Federal Consistency Unit of the Coastal Commission (see Sec. 8174-6.3.1 of the Coastal Zoning Ordinance for the maintenance dredging exemption, ~~which is applicable to the USACE's annual dredging operation at Channel Islands Harbor~~).

**3. Policy 3.1: ESHA Determinations:**

ESHA Determinations: ESHA shall be defined as any area in which plant or animal life or their *habitats* are either rare or particularly especially valuable because of their special nature or role in an *ecosystem* and which could be easily disturbed or degraded ~~harmed~~ by human activities and *developments*. Habitat categories that qualify as ESHA are set forth in Section 8178-2.4.1 of the Coastal Zoning Ordinance. Habitat areas that previously met the definition

of ESHA shall continue to be defined as ESHA under any of the following circumstances: (a) ESHA is retained within an expanded fuel modification zone in accordance with an ESHA Vegetation Management Plan; (b) the ESHA supports a critical life stage for a special status species (e.g., nesting, denning, breeding or roosting sites); (c) the ESHA habitat was illegally removed or degraded ~~damaged or destroyed by the illegal removal/degradation of ESHA;~~ or (d) ~~habitat areas that previously met the definition of ESHA shall continue to be defined as ESHA when the ESHA habitat was damaged or destroyed by natural disaster~~ except when the County finds that the ESHA was permanently destroyed, in accordance with Sec. 8178-2.4.2 of the Coastal Zoning Ordinance.

#### **4. Policy 3.4: Buffer Zones:**

Buffer Zones: To provide distance and physical barriers to human disturbance, buffer zones shall be established between new development and 1) ESHA; and ~~for 2)~~ parklands/protected open space areas acquired by natural resource agencies or conservation organizations for natural resource protection (e.g., Point Mugu State Park, Leo Carrillo State Park). Buffer zones shall meet the following criteria:

- a. The width shall be sufficient to ensure the biological integrity and preservation of the biologically sensitive area and ecosystem they are designed to protect, and the minimum width of a buffer zone shall be 100 feet; and
- b. ESHA buffer zones shall be designed to protect the adjacent ecosystem and be compatible with the continuance of the protected habitat.

Also, see ESHA Policy 5.2(b) for information on the application of buffer zones in existing communities and Policy 5.14 for parkland/open space buffers.

#### **5. Part b of Policy 4.1: Allowable Uses**

b. Non-Resource-Dependent Use: A non-resource dependent use may only be allowed in ESHA or buffer zone when necessary for a new wireless communication facility mandated by federal law or a new public works facility is necessary to protect public health/safety or provide essential public services for legally permitted development. Existing public works facilities ~~may shall be maintained, and repaired, and replaced~~ in accordance with Coastal Zoning Ordinance provisions in Sec. 8174-6.3.2 – Statutory Exemptions and Categorical Exclusions.

#### **6. Policy 5.1: Least Environmentally Damaging Alternative**

Least Environmentally Damaging Alternative: Development, including the fuel modification zone, ~~including all private and public recreational uses,~~ shall be sited and designed to ~~preserve~~ protect ESHA against any significant disruption of habitat values and avoid adverse impacts to the ESHA ecosystem (both on-site and off-site). Where development is permitted in ESHA or buffer zone pursuant to ESHA Policies 4.2 and 4.3 – Economically Beneficial Use, such development shall be sited and designed to protect ESHA and avoid adverse impacts to the ESHA ecosystem to the maximum extent feasible. ~~all unique native vegetation, such as Giant Coreopsis and Dudleya cymosa ssp. marcescens.~~ If there is no feasible alternative that avoids all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Mitigation shall not be used as a substitute for the

selection of the least damaging site-design alternative. During the least damaging alternatives analysis, an applicant shall confirm the width of the proposed fuel modification zone with the Ventura County Fire Protection District. A least damaging alternatives analysis shall include evaluation of the proposed fuel modification zone and maximum allowable expanded zone. A least damaging alternatives analysis is not required for a project that is limited to expanding upon an existing fuel modification zone for existing, legally established development.

#### **7. Part B of Policy 5.2: Allowable Building Site (Economically Beneficial Use):**

b. In the existing communities of Rincon Point, La Conchita, Mussel Shoals, Seacliff, Faria, Solimar, Hollywood-by-the Sea, Silver Strand, and Solromar (outside (M) overlay zone), development shall not be subject to a maximum allowable building site if required solely because an existing legal lot contains the buffer zone of off-site ESHA. If an existing legal lot contains ESHA, the maximum allowable building site is 10,000 square feet, or 25 percent of the lot size, whichever is greater. In either case, the building site shall not exceed the maximum lot coverage allowed by zoning, and a smaller building site shall be required if the proposed development would adversely impact a wetland or other wet environment. In all cases, new development in these existing communities shall be subject to all other policies and provisions of the LCP and shall not increase the size or degree of any existing ESHA buffer non-conformity.

#### **8. Policy 5.3: Adjacent Development:**

Adjacent Development: Development in areas adjacent to ESHA, in buffer zones, and in parklands/protected open space areas acquired by natural resource agencies or conservation organizations for natural resource protection, shall be sited and designed to prevent the degradation of, and be compatible with the continuance of, the adjacent biological resources.

#### **9. Policy 5.4: Clustered Development:**

Clustered Development: To minimize the loss or fragmentation of ESHA, proposed development shall be located away from ESHA and steep slopes and clustered near existing/development and roadways/services. Also, if a building site is in or adjacent to ESHA or buffer zone, pursuant to ESHA Policy 4.2 — Economically Beneficial Use, then structures within the building site shall be configured to maximize the use of overlapping fuel modification zones.

#### **10. Policy 5.6: Fuel Modification Zones in ESHA or Buffer Zone**

Fuel modification zones are permitted in ESHA or buffer zones to protect legally established structures development from identified wildfire hazards. The following regulations are intended to minimize adverse impacts of vegetation management activities to ESHA and buffer zones:

- a. All Fuel Modification Zones.
  1. Site development techniques and/or building design measures, such as clustered development, ember resistant building materials, etc. shall be used to

- minimize the size of *fuel modification zones* that results in the loss or fragmentation of *ESHA* or *buffer zone*.
2. When vegetation removal or thinning are ~~is~~ conducted for fire safety, vegetation removal and thinning techniques shall be utilized that minimize impacts to *native vegetation* and water quality to the maximum extent feasible.
  3. To the maximum extent feasible, *development* shall be sited and designed to locate all *fuel modification zones* onsite when the proposed *fuel modification zone* would impact (i) *ESHA* or *buffer zone* on an *adjacent lot* or (ii) impact undeveloped open space that is owned or managed by a *natural resource agency* or *conservation organization*.
  4. No *development* shall be approved that results in a *mandatory fuel modification zone* that extends onto federal or state parklands without written authorization from the National Park Service, the California Department of Parks and Recreation as applicable.
  5. Structural storm water retention or protection features shall only be allowed within a *mandatory fuel modification zone* when there is no feasible alternative for placing them within the *building site*.
- b. Mandatory Fuel Modification Zones. The standard width of the *mandatory fuel modification zone* around legally-established structures within the *building site* is 100 feet. Under unique site-specific conditions, the Ventura county Fire Protection District may determine that it is necessary to expand the mandatory fuel modification zone of new development to 200 feet if needed to protect life and property from wildland fires. Allowable *development* outside the *building site* but within the first 100 feet of the *fuel modification zone* shall be limited to the following:
1. *Resource-dependent* and non-*resource dependent* uses pursuant to Coastal Area Plan ESHA Policy 4.1;
  2. Drought-tolerant native landscaping (see Coastal Area Plan Section 4.1.8 - Water Efficient Landscaping, Policies 1, 4, 8 and 9);
  3. Confined animal facilities that do not require additional *fuel modification*; and
  4. Water wells/septic drainage fields not located in the *building site*.
- c. Expanded Fuel Modification Zones.
1. Pursuant to Section AE-2.5, An *expanded fuel modification zone* may be authorized up to 300 feet from a legally-established structure within the *building site* or to the property line, whichever distance is shorter, if it is determined by the Ventura County Fire Protection District that it is necessary to protect life, property, and natural resources from unreasonable risks associated with wildland fires. In making this determination, the Ventura County Fire Protection District may consider whether there are any other feasible mitigation measures possible. Notwithstanding the foregoing, a 300-foot wide fuel modification zone

is allowed to protect the existing communication and tactical assets facility of U.S. Naval Base Ventura County at Laguna Peak.

2. An ESHA Vegetation Management Plan shall be required for an expanded fuel modification zone that contains ESHA or buffer zone.

3. Expanded fuel modification zones that ~~retain~~ contain ESHA and buffer zones shall be protected and maintained for the life of the permitted development through an ESHA Vegetation Management Plan. The County shall condition coastal development permits to record a notice on the property title that discloses the maintenance requirements associated with the ESHA Vegetation Management Plan including a copy of said plan. Any modifications to the ESHA Vegetation Management Plan shall be recorded on the property title upon approval of the modified plan.

4. Allowable uses in expanded fuel modification zones shall be limited to thinning for fuel modification and resource-dependent uses (see Coastal Area Plan ESHA Policy 4.1) that do not require any additional expansions of the fuel modification zone.

~~5. A proposed expanded fuel modification zone shall not encroach onto an adjacent property without written consent from the adjacent property owner.~~

## **11. Part a of Policy 5.7: Water and On-Site Wastewater Treatment Systems:**

### Water and On-Site Wastewater Treatment Systems:

- a. Water Wells - Construction of Development dependent upon a water wells to support new development or an intensified use of existing development may be permitted approved only if such well(s) would not either individually or cumulatively cause significant adverse impacts on affected groundwater aquifers, streams, riparian vegetation areas, or other coastal resources. This policy shall be implemented as data becomes available through the County CEQA process and other review procedures based on assessments submitted by a qualified professional during the discretionary permitting process. Although water can be imported by truck to serve existing, permitted development during a severe water shortage (i.e. a well runs dry for a residential home), new or intensified development shall not be permitted based on a water supply delivered by truck.

## **12. Policy 5.8: Steep Slopes:**

### Steep Slopes and Open Space Requirement:

a. To minimize impacts on ESHA, building site development shall not be permitted in areas of slope over 30 percent gradient, unless there is no other feasible location on the subject lot and the development is allowed pursuant to Biological Resource Policy 4.3- Economically Beneficial Use.

b. All coastal development permits that include the approval of development within ESHA, buffer zones, steep slopes, or adjacent to parklands shall be conditioned to require the

~~remaining identified ESHA, buffer zones, environmentally sensitive habitat areas and slopes over 30 percent gradient located outside of the approved building site and mandatory fuel modification zone development envelope on the same lot shall be~~ are preserved in perpetuity through a conservation easement or conservation instrument, according to the policies and standards of the LCP permanently maintained in their natural state.

### 13. Policy 5.18: Outdoor Lighting:

Outdoor Lighting: Development, outdoor festivals, and outdoor sporting events shall be sited and designed to avoid light encroachment into ESHA, as well as to minimize outdoor lighting in the Santa Monica Mountains to reduce light trespass or spill, glare, skyglow and light pollution and to preserve the night sky.

### 14. The heading above Policy 5.19 and Policy 5.19: Fencing, Gates, and Walls:

~~Standards for ESHA, Buffer Zones and the Santa Monica Mountains (M) Overlay Zone:~~

Fencing, Gates, and Walls: Fences, gates and walls are prohibited within ESHA or buffer zones, except when the fence is located within an approved development envelope or the fence is used for habitat protection or restoration. Fences, gates and walls within the development envelope shall not isolate wildlife from core habitat areas and shall be sited and designed to avoid in areas that minimize impacts to the movement of wildlife.

### 15. Policy 6.1: Coastal Dune Habitats:

~~a. Development that would result in significant disruption the substantial degradation, erosion, or destruction of coastal dunes, or the removal of native vegetation in such areas, will shall not be permitted-allowed.~~

~~b. The modification or disturbance of coastal dunes shall not be permitted, except as permitted by the "allowable use" provisions in ESHA Policies 4.1 and 4.2. In those all cases, coastal dune modification or disturbance shall be the minimum amount necessary to accommodate the allowable use and shall utilize the higher levels of current sea level rise projections.~~

### 16. Policy 6.3: Sand Removal:

Sand Removal: Sand removal/movement may be allowed on County beaches that abut existing development at Hollywood-by-the-Sea and Silver Strand Beaches if conducted for the sole purpose of preventing physical damage to existing, legally permitted beachfront residential/commercial development from wind-blown sand inundation. Such activities shall only be allowed pursuant to a valid Coastal Development Permit, be the minimum necessary to prevent physical damage, and shall be conducted in a manner that avoids adverse impacts to ESHA, including dune habitats and special status species shorebirds.

### 17. Policy 6.5: Shorebird Populations:

Shorebird Populations: Beach maintenance activities, such as the removal of beach wrack, shall not adversely impact nesting and foraging shorebird populations.



## 18. Policy 6.8: Shoreline Protective Devices:

Shoreline protection devices: ~~When shoreline protective devices~~ structures, such as revetments, seawalls, groins, or breakwaters ~~are permitted~~, are allowed when they are necessary to protect existing ~~developments~~, coastal dependent land uses, and public ~~beaches~~. Any structures built under these conditions will ~~they shall~~ incorporate mitigation measures that reduce *intertidal* or nearshore *habitat* losses and impacts on local shoreline and sand supply ~~to the maximum extent feasible~~ (see Policy 6.9 below).

## 19. Policy 6.10:

All development projects on land *adjacent* to or within a *wetland* or *wet environment*, either in a *stream* or creek corridor or within 100 ~~500~~ feet of such environments, shall be sited and designed to maintain water quality and prevent degradation of the ecosystem function. ~~Development shall be sited and designed to avoid the degradation of such habitats using the higher levels sea level rise projections over a minimum of 20 years.~~ The purposes of such development projects shall be limited to those set forth in Section 30233(a) and 30236 of the Coastal Act. Discretionary *development* that would adversely impact a *wetland* habitat shall be prohibited unless there is no feasible less environmentally damaging alternative and if feasible mitigation measures are provided to minimize adverse environmental effects adopted that would reduce the impact to a less than significant level. ~~Notwithstanding the foregoing, within the existing communities of Rincon Point, La Conchita, Mussel Shoals, Seacliff, Faria, Solimar, Hollywood by the Sea, Silver Strand, and Solomar, no adverse impacts to wetlands shall occur unless a statement of overriding considerations is adopted by the decision-making body.~~

## 20. Policy 6.15:

Breaching or water level modification of lagoons or estuaries is prohibited, except during a public health or safety emergency if there is no feasible, less environmentally damaging alternative and all feasible measures are implemented to minimize adverse environmental effects. To the maximum extent feasible, approved beach elevation management plans shall be utilized to avoid emergency breaching or water level modification of lagoons or estuaries.

## 21. Policy 7.3:

Natural features used as bat roost sites by for special status species shall be protected and preserved from disturbance and degradation. Adverse impacts to bat roosts shall be avoided during the siting and design of new development, During construction activities, and outdoor festivals/outdoor sporting events, adverse impacts to bat roosts shall be avoided, to the extent feasible, during critical life stages (such as breeding and raising of young) of a special status species.

## 22. Policy 8.3:

Except in cases where to the extent that more protective standards are required by other policies of this LCP require more protective measures, the use of second-generation anticoagulant rodenticides shall be prohibited as set forth in Food and Agricultural Code Section 12978.7.

## 23. Part a of Policy 9.1:

a. No new or reconfigured lot created by the land division will result in new adverse impacts to ESHA or buffer zones, including adverse impacts that could occur due to the allowance for an Economically Beneficial Use of the property pursuant to ESHA Policy 4.2;

## 24. Policy 9: Outdoor Lighting in the Santa Monica Mountains:

Development, outdoor festivals, and outdoor sporting events shall be sited and designed to avoid light encroachment outside the building site and to minimize outdoor lighting in the Santa Monica Mountains (M) Overlay Zone to reduce light trespass or spill, glare, skyglow and light pollution to preserve the night sky.

## 25. Policy 10.5

Expanded fuel modification zones that ~~retain~~ contain ESHA and/or buffer zones shall be protected and maintained for the life of the permitted land use through an ESHA Vegetation Management Plan. Coastal sage scrub and chaparral ESHA may qualify for a reduced compensatory mitigation fee using the Ventura County In-Lieu Fee Program. The County shall condition coastal development permits to notify current and future property owners of the requirements associated with the ESHA Vegetation Management Plan.

## 26. Program 5: ~~County-Sponsored~~ Administered In-Lieu Fee Program:

The In-Lieu Fee Program allows an applicant to pay a fee to the County's Coastal Habitat Impact Fund to meet compensatory mitigation requirements for impacts to coastal sage scrub and chaparral habitats (CSS/chaparral) classified as ESHA in the Santa Monica Mountains (see Coastal Zoning Ordinance, Sec. 8178-2.10.8(d) – County-Sponsored In-Lieu Fee Program). All accumulated fees in the Coastal Habitat Impact Fund will be transferred to a third-party provider to purchase and preserve CSS/chaparral habitats in the Santa Monica Mountains. During the first five years of the program, an interim fee<sup>1</sup> of \$29,170~~28,603~~ per acre (full ESHA compensation) and \$7,340~~7,197~~ (thinned ESHA) in an expanded fuel modification zone, will be used for each acre of conservation land purchased through the Coastal Impact Fund (fees shall be increased annually based on the regional Consumer Price Index). During that same period, the RMA/Planning Division will either independently conduct an in-lieu fee study, utilize the Habitat Fee Study completed by Los Angeles County, or utilize a fee as determined by the California Coastal Commission. The selected permanent fee for impacts to CSS/chaparral habitats shall be submitted as ~~included in~~ an LCP amendment to the Coastal Commission within six years from the date of [DATE OF ORDINANCE EFFECTIVE DATE]. Also, the Planning Division may evaluate the potential expansion of the In-Lieu Fee Program to include impacts to CSS/chaparral habitats throughout the coastal zone.

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<sup>1</sup> This interim in lieu-fee is based on the following factors: 1) Base Fee certified for the LA County In-Lieu Fee (2014, Local Implementation Plan, Sec. CO-86 (c)(1)); Regional Consumer Price Index Adjustment for inflation (2014-2022), In-Lieu Fee Program Mitigation Ratio Adjustment for Coastal Sage Scrub and Chaparral; and Administrative Costs.

The RMA/Planning Division will be responsible for the following administrative functions of the *in-lieu fee* program:

- 5.1 Administrative Functions: In accordance with the *in-lieu fee* program requirements in Sec. 8178-2.10.8(d) of the Coastal Zoning Ordinance, the Planning Division shall conduct the following activities necessary to establish and maintain the administrative functions for the County's *in-lieu fee* program:
- a. Coastal Habitat Impact Fund - Establish a dedicated fund, called a Coastal Habitat Impact Fund, that will be used solely for compensatory mitigation for impacts to CSS/*chaparral habitats*. A maximum of five percent (5%) of the funds in the Coastal Habitat Impact Fund will be used to cover administrative costs for the *in-lieu fee* program. (Administrative funds will be split between the Planning Division and the *third-party provider* to cover the program's administrative costs). Funds from the Coastal Habitat Impact Fund will be periodically transferred, at least every three years and more frequently if necessary to facilitate the purchase of property, to a County-approved *third-party provider* for the acquisition and *preservation* of land in the Santa Monica Mountains.
  - b. Agreements with Third-Party Providers - Select and develop formal agreements with one or more *third-party providers* that will be responsible for the acquisition, *preservation* and management of conservation land purchased through the Coastal Impact Fund. Agreements with *third-party providers* shall be subject to approval by the Resource Management Agency Director. *Third-party providers* must be a *natural resource agency* or County-approved *conservation organization* with the necessary track record, qualified personnel, and organizational/fiscal capacity to perform the responsibilities for the *in-lieu fee* program and to conduct long-term management of preserved properties (see Coastal Zoning Ordinance Section 8178-2.10.8).
  - c. Administrative Procedures/Records - Establish and maintain ongoing administrative procedures and records for the *in-lieu fee* program, which include the following:
    - Records that summarize *ESHA* impacts mitigated through the *in-lieu fee* program (e.g., acreage, habitat classifications); state the amount of *in-lieu fees* collected, fees forwarded to *third-party providers*, and cumulative fees held in the Coastal Habitat Impact Fund; and describe acquisitions made through *in-lieu fees* (locations, acreage, and habitat composition).
    - Coordinate the selection and management of *third-party providers*;
    - Document acquisitions made by the selected *third-party providers*;
    - On an annual basis, process inflation-based adjustments to the *in-lieu fee* using the regional Consumer Price Index that captures changes to land acquisition and *preservation* costs.

- Interim Fee: The County shall prepare an annual monitoring report that contains the following: (1) cumulative acreage of *CSS/chaparral habitats* impact that was mitigated using the interim fee; (2) amount of funds collected in the Coastal Habitat Impact Fund from the interim fee and the amount forwarded to *third-party providers*; and (3) acreage purchased by County-approved *conservation organizations* or *natural resource agencies* using funds from the Coastal Habitat Impact Fund.
- d. Timing - Administrative functions for the County's interim *in-lieu fee* program will be established within a year following [DATE OF ORDINANCE EFFECTIVE DATE] certification of the Phase 2C LCP amendments, and prior to approval of a *coastal development permit* that allows for use of the subject fee. ~~and~~ The interim *in-lieu fee* will be made available to project applicants once the County's administrative functions are in place. The County's permanent *in-lieu fee*, including any modified administrative functions, will be made available to applicants following Coastal Commission certification of an LCP amendment (see 5.3).

**5.2** In-Lieu Fee Study for Permanent Fee: The Planning Division will either independently conduct an *in-lieu fee* study or utilize the Habitat Fee Study completed by Los Angeles County, or utilize a fee as determined by the California Coastal Commission, to determine adjustments for the *in-lieu fees* based on an assessment of the costs associated with providing proportional, compensatory mitigation for impacts to *CSS/Chaparral habitats* in the Santa Monica Mountains. The Planning Division also will determine whether the fee study and *in-lieu fee* program should be extended to include impacts to *CSS/Chaparral habitats* throughout the Ventura County *coastal zone*. The *in-lieu fee* study will include an assessment of the following factors:

- Cost of acquiring land in fee or preserving land pursuant to a *conservation easement*;
- Funding for long-term stewardship and monitoring;
- The mitigation ratio adjustment for coastal sage scrub and chaparral habitat;
- Transaction costs (surveys, appraisals, title research, etc.);
- Preparation of baseline condition reports for the mitigation site;
- Escrow costs and title insurance; and
- Administrative costs (County, *third-party provider*);

The *in-lieu fee* shall be applied to the acreage required as mitigation for *development* in *ESHA*, in accordance with CZO Sec. 8178-2.10.6 – Compensatory Mitigation Ratios and the fee shall provide adequate funding to conduct the activities listed above.

**5.3** LCP Amendment for Permanent Fee: The ~~results of the *in-lieu fee* study,~~ permanent *in-lieu fee* and ~~any related~~ required amendments to the Ventura County LCP for administration of the permanent County-sponsored *in-lieu fee* program, shall be submitted to the Coastal Commission for certification no later than ~~five~~ six years after [DATE OF ORDINANCE EFFECTIVE DATE] certification of the *ESHA* (Phase 2C) LCP amendments. Use of the interim fee shall expire six years after [DATE OF ORDINANCE EFFECTIVE DATE], although the Executive Director of the Coastal Commission may extend this expiration date if additional time is needed for submittal

or for Commission consideration of a complete Ventura County LCP amendment application. After expiration of the interim fee, no coastal development permits may utilize the in-lieu fee program until the amount of the permanent in-lieu fee is incorporated into this LCP through an LCP amendment that is certified by the Coastal Commission. If additional time beyond the five years is necessary to complete the local adoption of the LCP Amendment prior to submission to the Coastal Commission, the County Planning Director shall prepare a status report on the progress made on the LCP Amendment including the anticipated completion schedule and transmit the status report to the Board of Supervisors and the Coastal Commission Executive Director.

See Coastal Zoning Ordinance, Sec. 8178-2.10.8(d) for a description of the County-sponsored *in-lieu fee* program.

**27. The following program shall be added:**

ESHA Program 6: County Beach Maintenance Master Permit and Beach Management Plan:

a. Based on the availability of funding and grants, the County in coordination with the California Coastal Commission will develop a comprehensive beach management plan for Hollywood and Silver Strand Beaches to address multiple uses and activities, such as, but not limited to dune restoration, public access, off-road vehicle use, sea level rise adaptation, and beach maintenance activities. The management plan will consider the protection and restoration of ESHA, community and infrastructure adaptations from sea level rise, and ensure public access is maintained and balanced with the preservation of coastal resources. Public education, outreach and coordination will be included with landowners, federal, state and local agencies that have jurisdiction on these beaches.

b. The County Harbor Department will apply for a multi-year “master permit” within three years of [DATE OF ORDINANCE EFFECTIVE DATE] to comprehensively address development, including beach maintenance activities conducted by the County at Hollywood and Silver Strand Beaches. If the geographic area covered by the permit includes land under the permit jurisdiction of the County and the California Coastal Commission, then a consolidated permit may be processed through the Coastal Commission, pursuant to Coastal Act Section 30601.3. Beach maintenance activities require a coastal development permit.

*28. Appendix 1: Statewide Interpretative Guidelines for Wetlands and Other Wet, Environmentally Sensitive Habitats (1981) shall be deleted, and subsequent appendices shall be renumbered.*

*29. Figure 4.1.3-3 – Environmentally Sensitive Habitat Areas (ESHA) on the South Coast shall be modified to accurately depict the extent of the M-overlay.*

**SUGGESTED MODIFICATIONS TO THE COASTAL ZONING ORDINANCE**  
**LCP Amendment No. LCP-4-VNT-21-0069-2**  
**(ESHA)**

Existing language of the certified Coastal Zoning Ordinance (LIP) is shown in straight type. The County's proposed amendment language to the certified Coastal Zoning Ordinance is shown in ~~strikeout~~ and underline. Language recommended by Commission staff to be deleted is shown in ~~double-strikeout~~. Language recommended by Commission staff to be inserted is shown in double underline.

**1. Section 8172-1 – Definitions:**

Buffer Zone Area - An area that provides distance between two incompatible uses to protect ~~natural coastal~~ resources. A *buffer zone* that protects *ESHA* is a transitional *habitat* between human activity or *development* and either an *environmentally sensitive habitat area (ESHA)* or a protected parkland/open space area acquired by *natural resource agencies* or *conservation organizations* for *habitat* protection. *Buffer zones* are sized and designed to protect the sensitive *habitat/species*, or protected parkland/open space area, from significant disruption or degradation. The area within 100 feet of the boundary of any *environmentally sensitive habitat area (ESHA)*.

Conservation Instrument – A legal mechanism used to ensure the protection of *coastal resources* from *development* in the form of a deed restriction ~~or other similar mechanism~~ executed by, or on behalf of, the owner of the land that is binding upon successive owners of the land. Such instruments shall contain a written description of the legal arrangements – including site ownership, management, and enforcement of any use restrictions – and be legally sufficient, enforceable, properly recorded in the chain of title, and able to ensure the protection of the coastal resource in perpetuity.

Development Envelope – The full extent of allowable *development* on a *legal lot*. In addition to *structures* or other *development* within a *building site*, the *development envelope* may include, but is not limited to, driveway or road, fire department turnarounds, ~~fire~~fuel modification zone(s), water tanks (firefighting), entry gate/fences, utility trenches and other site grading, septic systems, wells, and drainage improvements. (See definition for *Building Site*.)

Dune, Habitat – A fragile *habitat* that contains accumulations of sand in ridges, hummocks, or mounds that may be supported and stabilized by native and/or non-native species of vegetation that is associated with the immediate coastal environment located landward of the beach. Also called “coastal dune habitat”. Sand accumulations on privately owned inland properties within an existing community (i.e., *lots* that do not abut a beach in Rincon Point, Mussel Shoals, Seacliff, Faria, Solimar, Hollywood-by-the-Sea, Silver Strand, and Solromar) are not defined as a coastal *dune habitat*. See Appendix E1, Section AE-1.2.3 for additional information on the definition of a coastal *dune habitat*.

Fuel Modification Plan – A site plan depicting and stating a permittee's requirements to minimize and mitigate fire hazards associated with permitted *development*.

Fuel Modification Zone – The area around a legally established structure where the existing vegetation is altered (e.g. brush or vegetation removal, including thinning) to reduce fuel load for fire protection purposes.

Fuel Modification Zone, Mandatory - The minimum area of vegetation removal around legally established structures located in the building site that is required by the Ventura County Fire Protection District Ordinance. The standard width of the mandatory fuel modification zone is 100 feet, as measured from each side and from the front and rear of the legally established structure. Under unique site-specific conditions, the Ventura County Fire Protection District may determine that it is necessary to expand the mandatory fuel modification zone for new development up to 200 feet if needed to protect life and property from wildland fires.

Fuel Modification Zone, Expanded – The area of expanded vegetation thinning for fire protection around legally established structures located in the building site that is beyond the standard mandatory fuel modification zone. The maximum width of the expanded fuel modification zone is 300 feet from a legally established structure or to the property line, whichever distance is shorter, if it is determined by the Ventura County Fire Protection District that the expanded fuel modification zone is necessary to protect life, property, and natural resources from unreasonable risks associated with wild land fires.

Lagoon - A shallow body of salt water close to the ocean but separated from it by other shoreline features such as a sand bar, rocks, or a narrow strip of land. Coastal lagoons are partly or entirely enclosed, and many show variations of salinity throughout the year. Lagoons can be a shallow pond or lake close to a larger lake or river but separated from it by a barrier, such as a levee.

Legally Established Structure - Structure or development established before the effective date of the Coastal Act (January 1, 1977) in conformity with all applicable local laws in effect at the time, or development established after the effective date of the Coastal Act and authorized by an effective coastal development permit or other required Local Coastal Program approval.

Low-Intensity Vegetation Removal Techniques - Techniques to remove vegetation (e.g., hand-pulling, mowing, mulching) that do not disturb the surrounding habitat or ecosystem when compared to alternative techniques, such as grazing or the use of heavy equipment that can compact or disturb soils or ESHA.

Passive Restoration – Passive restoration allows natural succession to occur in an ecosystem after removing a source of disturbance.

Planned Development Permit – A coastal development permit based upon a discretionary decision that is required prior to initiation of specified uses and development which are subject to site plan review and which may be conditioned in order to assure compliance with the requirements of the Local Coastal Program.

Shoreline Protective Devices - ~~As~~ Seawalls, revetments, breakwaters, bluff retaining wall, or and other such construction permanent or semi permanent structure intended to reduce or prevent coastal erosion due to wave action and other natural forces that alter

natural shoreline processes~~construction that alter shoreline processes.~~ (AM.ORD.4451-12/11/12)

## **2. Section 8175-5.2.4(c) – Animals and Fowl:**

Notwithstanding the *nonconforming use* regulations in Section 8182-5, the farm animal regulations for the Santa Monica Mountains (M) overlay zone pursuant to Section 8175-5.2.4 shall only apply to *animal keeping* uses and *structures* that are established after [DATE OF ORDINANCE EFFECTIVE DATE]. Legally-established farm *animal keeping* uses in existence as of [DATE OF ORDINANCE EFFECTIVE DATE] that do not conform to the standards in the table above (subsection (b)) may continue until the use is discontinued or the project site is redeveloped.

## **3. Section 8175-5.9(a) – Public Works Facilities:**

New or expanded *public works facilities* (including roads, flood control measures, water and sanitation) shall be designed to serve only the potential population of the unincorporated and incorporated areas within LCP boundaries, and to avoid eliminate impacts on *agriculture*, and open space lands to the maximum extent feasible, and ensure that environmentally sensitive *habitats* (ESHA) are protected against any significant disruption of habitat values. to the maximum extent feasible. See Section 8178-2.5.2(c) if such facilities are proposed within *ESHA* or *buffer zone*.

## **4. Section 8177-4.1.2:**

All new *upland development* shall be sited and designed to avoid adverse impacts on *environmentally sensitive habitat areas* (ESHA). Refer to Section 8178-2 for contains development standards that apply to areas of the Santa Monica Mountains (M) Overlay Zone that contain *ESHA* or *buffer zones* (see Coastal Area Plan, Figure 4.1.3-3). Properties located within the Santa Monica Mountains (M) Overlay Zone are also subject to specific ESHA development policies and standards of the LCP, including those set forth in the following sections:

## **5. Section 8177-4.1.9:**

During the permitting process, the applicant shall provide the County with any documentation in ~~the~~ their possession, or any information they are aware of, regarding the potential or contemplated acquisition of the subject property or portion thereof by a public *natural resource agency* or non-profit *conservation organization*.

## **6. Part C of Section 8177-4.1.11.2 – Outdoor Lighting:**

c. Outdoor *light fixtures* downward facing and fully shielded with a maximum output of 60 lumens or less, including solar lights. The maximum output of a *light fixture* (e.g., string lights) shall be calculated based upon the total output of the entire lighting component installed, not by each individual bulb. However, if such a *light fixture* is located in *ESHA* or *buffer zone* it is regulated by Section 8178-2.6.15.



## 7. Section 8178-2.2 – Applicability:

Section 8178-2 applies to all new/modified *development*, including repair/maintenance activities, which meets both of the following criteria:

- a. The *development* or repair/maintenance activities require a *Coastal Development Permit* or discretionary *Coastal Development Permit* modification (i.e., *development* and repair/maintenance activities which are exempt or excluded from *Coastal Development Permit* requirements pursuant to Section 8174-6 are not subject to this Section 8178-2); and
- b. The proposed *development envelope* or repair/maintenance activities are located ~~within 500 feet of a wet environment or are located~~ in one or more of the following areas:
  1. *Habitats* classified as an *ESHA* (see Section 8178-2.4.1), which include but are not limited to areas with mapped *ESHA* on certified *ESHA* maps (see Coastal Area Plan, Figures 4.1.3-1 through Figure 4.1.3-3); or
  2. *Habitats* or areas classified as a *buffer zone*<sup>1</sup> (see Section 8178-2.4.4) or areas located within ~~4~~300 feet of either: land protected by a *conservation easement* or land acquired by a *conservation organization*; or
  3. *Habitats* or areas within 300 feet of land owned by a federal/state *natural resource agency* and used for *habitat* protection (e.g., Point Mugu State Park).
  4. Within 500 feet of a *wet environment*.

In all cases, informational sources used to make *ESHA* or *buffer zone* determinations ~~or to develop an *ESHA* Vegetation Management Plan~~ shall include certified *ESHA* maps, site-specific environmental assessments/maps, aerial photographs, and *habitat*/wildlife information available from federal/state/local *natural resource agencies* (e.g., National Park Service or other vegetation maps, wildlife tracking GIS data, *monarch butterfly overwintering sites*, *California Natural Diversity Database*). See Appendix AE-1.3.2(f) for a complete list of informational sources. If inadequate information is available in existing, available informational sources to determine whether the proposed *development* is in *ESHA* or *buffer zone*, the site-specific environmental assessment prepared for the proposed project shall be used to determine the applicability of Section 8178-2.

The Planning Director or designee may determine based on available biological evidence that this section applies to new/modified *development*, including repair/maintenance activities, that does not meet the above criteria, but that has the potential to result in adverse impacts to *ESHA* or *buffer zone*.

## 8. Section 8178-2.3 – Environmental Reviews:

- a. Site-specific environmental assessment: Except as provided by subsection (3) below, a site-specific environmental assessment (Coastal Initial Study Biological Assessment, or CISBA) shall be prepared pursuant to the requirements of Section AE-1.3, including ~~that includes~~ the following:

1. Site-Specific ESHA Map - To accurately identify and assess the impacts of proposed *development on ESHA and buffer zones*, ~~or to apply for a reduced compensatory mitigation fee (See Section 8178-2.10.1 (e))~~, a site-specific *ESHA* map is required that delineates all *ESHA* and *buffer zones* on all portions of the subject lot and shall include the following ~~as follows~~:

- i. The ~~geographic area covered by a~~ site-specific map shall be adequate to determine all potentially adverse direct, indirect and *cumulative* impacts to *ESHA* resources and confirm that the proposed project is the least environmentally damaging alternative. The minimum geographic extent of field surveys for a site-specific *ESHA* map shall be the area within a 500-foot radius of the proposed *development envelope*, ~~unless~~ When an *expanded fuel modification zone* is proposed for existing structures, ~~development in which case~~ the geographic extent of the field surveys ~~site-specific *ESHA* map~~ shall include a 100 foot radius beyond the proposed *expanded fuel modification zone* (see in Appendix E1, Section AE-1.3.2.(g)(1)(iv). All portions of the subject *lot* that lie outside the required 500-foot field survey area shall be mapped using certified *ESHA* maps, aerial photographs and/or *habitat/wildlife* information available from federal/state/local *natural resource agencies* (e.g., National Park Service or other vegetation maps, wildlife tracking *GIS* data, *monarch butterfly overwintering sites*, *California Natural Diversity Database*. (See Appendix E1, Section AE-1.3.1(a) and AE-1.3.2(g)(2)); and
- ii. The geographic extent of field surveys/maps for a monarch *butterfly overwintering site* is a 1000-foot radius of the proposed *development envelope*.

See Section 8178-2.4.3 and Appendix E1, Section AE-1.3.1(b) for information on the geographic extent for specific types of surveys.

2. Environmental Analysis - An analysis of all potentially adverse direct, indirect, and cumulative *impacts* on *ESHA* resources. All areas that meet the definition of *ESHA* or *buffer zone* shall be mapped as *ESHA* or *buffer zone* on a site-specific *ESHA* map and shall be accorded all protections for *ESHA* required by the policies or standards of the LCP.
3. Minor Development – A new CISBA is not required for *minor development* (e.g., a *fence* or small *accessory structure*) in an approved *building site* if the project includes no grading, would not result in an increased *building site* or *fuel modification zone*, and is located at least 100 feet from a *wet environment*.
4. The Planning Staff Biologist, County’s designated biological consultant, or Coastal Commission on appeal shall determine if the content and conclusions of the CISBA and the graphic depiction of habitats on the site-specific *ESHA* map were completed pursuant to the policies and standards of the LCP.

See Appendix E1 for a description of the required contents and procedures for a site-specific environmental assessment (i.e., Coastal Initial Study Biological Assessment (CISBA)). See Section 8178-2.4 for information on the determination and delineation of ESHA and buffer zones.

b. Least Environmentally Damaging Alternatives Analysis: If the proposed project would potentially result in adverse impacts to ~~is in~~ ESHA, or encroach within the buffer zone, an alternatives analysis shall be provided to determine whether the project constitutes the least environmentally damaging alternative. This requirement is not applicable to a project that is limited to an expanded fuel modification zone for existing, legally established structures ~~development~~. The least damaging alternatives analysis shall include the following:

~~1. If the geographic extent of the site-specific ESHA map does not include the entire lot, ESHA located on the remainder of the lot shall be delineated using certified ESHA maps, aerial photographs and/or habitat/wildlife information available from federal/state/local natural resource agencies (e.g., National Park Service or other vegetation maps, wildlife tracking GIS data, monarch butterfly overwintering sites, California Natural Diversity Database. (See Appendix E1, Section AE-1.3.1(a) and AE-1.3.2(g)(2));~~

12. Written description and graphic depiction of two or more project design alternatives on a site plan that provide a reasonable range of options that minimize direct and indirect, adverse impacts on ESHA and encroachment within buffer zones. Project design alternatives shall depict all proposed development and shall include different locations, shapes and sizes that include, but are not limited to the following project components: building site, structures (e.g., house, garage, barn), site features (e.g., pool, patio, fences, landscaping), fuel modification zones (including the mandatory fuel modification zone required by the fire department and the maximum allowable expanded fuel modification zone), water tanks and other proposed development sited outside the building site, animal containment areas, driveway/access road(s), and water/wastewater systems. ~~The width of the mandatory or expanded fuel modification zone proposed for each location and design alternative shall be the width recommended and authorized by the Ventura County Fire Protection District for that location.~~

2. Tabular summary that includes comparative data for the project design alternatives. The data provided shall include cubic yards of cut/fill for grading and acres of impacts on ESHA or buffer zone, sorted by habitat type; and

3. Written summary and findings that explain how the proposed project meets the requirements of Section 8178-2.6.1. If the proposed development is only allowed to provide an economically beneficial use (see Section 8178-2.45.3), include a list of LCP policies and standards that are not met by the project design alternatives; and

4. If the Planning Director or designee ~~County staff cannot~~ determines that there is inadequate evidence to indicate that the proposed project constitutes the least damaging alternative, the applicant shall be required to submit one or more additional project design alternatives.

#### **9. Section 8178-2.4.2 – ESHA Determinations:**

ESHA shall be mapped and protected through the County's certified ESHA map and an applicant's Coastal Initial Study Biological Assessment (CISBA) site-specific ESHA map in accordance with the ESHA policies and standards of the LCP, and as follows:

- a. If the applicant's CISBA contains substantial evidence that an area mapped as ESHA on the County's certified ESHA map does not contain *habitat* that meets the definition of ESHA (Appendix E1) or that an area not mapped as ESHA on the County's certified map does contain *habitat* that meets the definition of ESHA (Appendix E1), then the County shall determine the physical extent of ESHA on the project site ~~revise the documented extent of ESHA~~ based on information in the CISBA and the standards in this section. If the County determines that an area is not ESHA, the LCP policies and standards for the protection of ESHA shall not apply. The County shall maintain a record of ESHA determinations (see Appendix E1, Section ~~AE-1.3~~AE-1.2.1(e)), and such records shall be used to support periodic updates of the certified ESHA map.
- b. An area that previously met the definition of ESHA but was damaged or destroyed by illegal removal or degradation of the *habitat* shall continue to qualify as ESHA.
- c. An area that previously met the definition of ESHA but was damaged or destroyed by *natural disaster* shall continue to qualify as ESHA. Notwithstanding the foregoing, the County's decision-making authority may find that such an area is no longer ESHA based on a finding, supported by substantial evidence in the site-specific environmental assessment (Appendix E1, Section AE-1.2.2(c)), establishing that, 20 ~~15~~ or more years after the *natural disaster*, the destroyed ESHA has been permanently replaced by alternative *habitat* not defined as ESHA.
- d. For purposes of this Section 8178-2.4.2, the term "existing, legally established development" means ~~development established before the effective date of the Coastal Act (January 1, 1977) in conformity with all applicable local laws in effect at the time, or development established after the effective date of the Coastal Act and authorized by an effective coastal development permit.~~ Areas occupied by existing, legally established *development* shall not constitute ESHA. Notwithstanding the foregoing, ~~any ESHA and/or buffer zone that has been~~ retained within an expanded fuel modification zone in accordance with an approved ESHA Vegetation Management Plan (See Appendix E2, AE-2.4– ESHA Vegetation Management Plan) shall be protected as ESHA or *buffer zone*.

e. With the exceptions described within subsection (d) above, a legally established *fuel modification zone* is not classified as *ESHA* under the following circumstances:

1. The *fuel modification zone* width is specified in an approved *coastal development permit*, or
2. If the width of the *fuel modification zone* is not specified in an approved *coastal development permit*, the *fuel modification zone* shall be considered the width of the *fuel modification zone* shown around the legally established *development* in aerial photographs taken on October 18, 2018 and October 31, 2018 on file with the Planning Division, or up to 200 feet measured from the edge of legally established habitable *structures*, whichever area is smaller. Continued vegetation clearance outside the *fuel modification zone* that occurred after the October 2018 aerial photographs dates (referenced above) shall be considered unauthorized development.
3. If the *fuel modification zone* was established prior to the effective date of the Coastal Act in conformity with all applicable laws in effect at the time, and is not otherwise reflected in a permit, the size of the *fuel modification zone* consistently maintained as of January 1, 1977 shall be considered legally established *development*. However, if the historically maintained *fuel modification zone* was 100 feet or less on January 1, 1977, then the property owner shall be allowed to maintain the existing *fuel modification zone* width as described in subsection (e)(2) above.

#### **10. Section 8178-2.4.4 – Buffer Zone Delineations:**

*Buffer zones* shall be established to provide distance and physical barriers between protected resources and human disturbance. All *development* shall be *sited and designed* to protect the *adjacent* resources and be compatible with the continuance of the *habitat*. See Sections 8178-2.6.3 and 8178-2.6.4 for additional requirements when siting *development adjacent* to *ESHA*, *buffer zones*, and parklands/open space areas.

#### **11. Section 8178-2.5.1.1 – Allowable Uses in Streams and Rivers:**

In addition to *resource-dependent uses*, the following uses may be permitted within *streams* and rivers:

- a. *Necessary* water supply projects. ~~necessary to agricultural operations or to serve developments permitted by the LCP Land Use Plan designations~~
- b. Flood control projects, where no other method for protecting existing *structures* in the floodplain is feasible and where such protection is necessary for public safety or to protect existing *development*.
- c. ~~*Restoration* projects or *developments*~~ where the primary function is the improvement of fish and wildlife *habitat*.

Channelization or other substantial alterations to river or stream, or creek corridors shall be conducted in a manner that minimizes impacts to coastal resources and shall incorporate the best mitigation measures feasible to that mitigates unavoidable impacts to the maximum extent feasible, including the depletion of groundwater.

## **12. Section 8178-2.5.1.2 – Allowable Uses in Wetlands and Open Coastal Waters:**

~~In addition to resource-dependent uses, the~~ diking, dredging, or filling of development in wetlands, open coastal waters, lakes, lagoons, and estuaries may be permitted for the following uses: mitigation measures shall, at a minimum, include those listed in Section 30607.1 of the Coastal Act. Other reasonable measures shall also be required as determined by the County to carry out the provisions of Sections 30233(b and c) of the Coastal Act.

- a. New or expanded port, energy, and coastal-dependent industrial facilities.
- b. Mineral extractions, including sand for beach restoration, except in ESHA.
- c. New or expanded boating facilities, and the placement of structural pilings for public recreational piers (this use excludes wetlands).
- d. Nature study, aquaculture, or similar resource-dependent activities.
- e. Habitat restoration or enhancement.
- ~~f. Water extractions from lakes/ponds by the Ventura County Fire Protection District (or authorized emergency response personnel) when necessary to protect public health/safety during a wildfire event.~~
- f. Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- g. Maintenance of existing, or restoration of previously dredged depths, in existing navigational channels, turning basins, vessel berthing/mooring areas, and boat launching ramps.

The uses listed above may only be permitted if otherwise consistent with the LCP and where there is no feasible, less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects.

## **13. Part B of Section 8178-2.5.2 – Allowable Non-Resource Dependent Uses in ESHA or Buffer Zones:**

~~b. Public Works projects required to repair, maintain, or replace an existing public works facility, provided that the use, capacity, size, and location is consistent with the General Exclusions provisions of Section 8174-6.3.6(a)(9). Existing public works facilities may be maintained and repaired in accordance with Coastal Zoning Ordinance provisions in Sec. 8174-6.3.2 – Repair or Maintenance Activities.~~

- c. Public Works Facilities in accordance with this Article and Section 8175-5.9, and all other applicable provisions of this Chapter and the LCP Land Use Plan, provided that such facilities are necessary to protect public health/safety or essential public services for legally permitted development or accommodate development allowed by the LCP.
- d. Shoreline protective devices (see Section 8178-2.7.1.2(a)).

#### **14. Section 8178-2.6.1 – Least Damaging Alternative:**

##### Sec. 8178-2.6.1 – Least Environmentally Damaging Alternative

Any development allowed in ESHA or buffer zones, pursuant to Section 8178-2.5 – Allowable Uses in ESHA or buffer zone, shall constitute the least environmentally damaging environmental alternative. The following findings shall be made regarding the development:

- a. The development consists of a feasible project design alternative that results in the least damage (i.e., direct/indirect/cumulative impacts) to ESHA, when compared to other feasible alternatives, and protects avoids adverse impacts to ESHA (both on and off-site) against significant disruption of habitat values to the maximum extent feasible; and
- b. If the development is authorized to provide an economically beneficial use, the project shall, in addition to complying with Policies 4.2 and 4.3 of the Coastal Area Plan: (1) consist of a design alternative that avoids adverse impacts to ESHA (both on and off-site) to the maximum extent feasible; (2) include a building site that is consistent with the standards in Section 8178-2.6.2; and (23) minimize development outside the building site for access roads, fuel modification zone, and site grading.

Mitigation shall not be used as a substitute for selection of the least environmentally damaging project design alternative.

#### **15. Section 8178-2.6.2 – Maximum Allowable Building Site in ESHA or Buffer Zone:**

If development is allowed in ESHA or buffer zone pursuant to Section 8178-2.5.3, then the following standards shall be used to determine the maximum allowable building site based upon the County analysis of documentation and information provided by the applicant for development (See Appendix E2, Section AE-2.4:

- a. Santa Monica Mountains: Within the Santa Monica Mountains (M) overlay zone, the maximum allowable building site shall be 10,000 square feet, or 25 percent of the legal lot size, whichever is less. The allowable building site may be increased above the maximum allowed by this Section when authorized pursuant to the incentive program in Section 8178-2.9.4.1, and it may be decreased pursuant to Section 8178-2.6.2.2(b). If the development is authorized to provide an economically beneficial use the permit shall be conditioned to require the

remaining area of the lot located outside of the building site and mandatory fuel modification zone is preserved in perpetuity through a conservation easement or conservation instrument, except as otherwise set forth in the project's associated Coastal Development Permit and any allowable future development that is consistent with Section AE-2.2.2.

- b. Existing Communities:<sup>1</sup> On legal lots zoned Residential Beach (RB), Residential Beach Harbor (RBH), Coastal Residential Planned Development (CRPD), Coastal One-Family Residential (CR1), Coastal Two-Family Residential (CR2), Coastal Rural Exclusive (CRE-20,000 sf only), and Coastal Commercial (CC), the allowable building site shall be determined as follows:
1. Development shall not be subject to a maximum allowable building site solely because the lot contains the required buffer zone for off-site ESHA. This standard is not applicable to a lot that contains the buffer zone for an off-site wet environment and, in such cases, additional encroachment into the buffer zone may will not only be authorized if no new adverse impacts would occur to the wet environment.
  2. Most lots in existing communities are currently developed. If a lot does contain on-site ESHA, the maximum allowable building site shall be the maximum lot coverage allowed by zoning, up to a maximum of 10,000 square feet or 25 percent of the legal lot size (whichever is greater), but shall not exceed the maximum lot coverage allowed by zoning.

For lots that contain a wet environment or its buffer zone, see Section 8178-2.6.2.2(b).

- c. Other Coastal Areas: Except as provided by subsections (a) and (b) above, the maximum allowable building site shall be determined on a case-by-case basis for the allowed principally-permitted use. The maximum allowable building site shall be limited to the area needed for the property owner to make an economically beneficial use of the applicant's property as a whole (Refer to Section 8178-2.5.3 and AE-2.3).
- d. In all cases, the maximum allowable building site shall be subject to the general requirements in Section 8178-2.6.2.1 and the adjustments in Section 8178-2.6.2.2.

## **16. Numbers 3 and 6 in Part B, Part E, and Part F of Section 8178-2.6.3 – General Siting and Design Standards:**

3. To take advantage of overlapping fuel modification zones, structures within the building site and building sites on nearby lots shall be clustered, including as part of land divisions including and lot line adjustments, and building sites shall be located near existing structures on the subject property or on nearby lots.

6. A proposed expanded fuel modification zone shall not encroach onto an adjacent property without written consent from the adjacent property owner. This requirement



~~shall not apply to areas where the proposed fuel modification zone overlaps with an existing permitted mandatory fuel modification zone on the adjacent property.~~

e. ~~On-Site Open Space Requirements Development Restrictions~~ – *Development* shall not be permitted in areas with greater than or equal to 30 percent slope. All on-site ESHA, buffer zones, and/or slopes over 30 percent shall be permanently maintained in their natural state through a conservation easement or conservation instrument when such areas are: (1) identified on an applicant prepared site-specific ESHA map, and/or (2) located in the Coastal Open Space (COS) zone, Santa Monica Mountains (M) overlay zone, or Coastal Industrial (CM) zone, ~~an easement or deed restriction that shall be recorded on the final map, or on a grant deed as a deed restriction submitted with the final map.~~ *Development* shall not be permitted in areas over 30 percent slope.

f. Buildable Lot Standards – A buildable lot for residential use is a *legal lot* that can feasibly accommodate the following *structures* and improvements in a manner that is consistent with the policies and provisions of the LCP and that meets established public health and safety standards: (1) a *principal structure*; (2) legally accessible, all-weather access road; (3) *development* is located outside known geological hazard areas; and (4) the lot is served by public water/sewer or can accommodate an on-site site well and/or wastewater treatment system that is adequate to serve the proposed *development*.

#### **17. Part A of Section 8178-2.6.8 – Access Roads and Driveways in ESHA:**

a. Except where access improvements are necessary to meet Ventura County Fire Protection District standards or to provide one access road/driveway to permitted development on a lot, the construction and/or improvement of access roads and driveways that would increase access to any property shall be permitted only when it has been determined that environmental resources in the area will not be adversely impacted by the increased access;

#### **18. Section 8178-2.6.9 – Fuel Modification Zone Requirements in ESHA or Buffer Zone:**

- a. A new or expanded fuel modification zone shall only be authorized through a new or modified Coastal Development Permit. Vegetation removed for fuel modification purposes shall be conducted in accordance with a Planning Division and Ventura County Fire Protection District-approved Fuel Modification Plan and/or ESHA Vegetation Management Plan, as applicable (See Appendix E2, Section AE-2.4). Low-intensity vegetation removal techniques shall be used when removing vegetation in ESHA or buffer zone.
- b. An existing fuel modification zone which is expanded or modified within ESHA or a buffer zone requires a CISBA. (See Appendix E1, Section AE-1.3.2 (g)(1)(iv)).
- c. ~~If ESHA or buffer zone is retained within a proposed expanded fuel modification zone,~~ Where an expanded fuel modification zone is proposed within ESHA or buffer zone, an approved ESHA Vegetation Management Plan (see Appendix

E2, Section AE-2.4) is required to retain the ESHA or buffer zone within that area.

- d. To protect from unintentional removal of ESHA or buffer zone that overlaps with a fuel modification zone, the outer boundary of each vegetation removal or thinning zone (e.g., 100 ft, 150 ft, 200 ft) shall be delineated with permanent zone markers so that the extent of vegetation thinning or removal zones are easily recognizable during maintenance activities.
- e. For landscaping requirements within a fuel modification zone, see Sections 8178-8.4.2.3 and 8178-8.4.2.4.

**19. Part A and Part B of Section 8178-2.6.9.1- Allowable Uses in Fuel Modification Zones:**

a. Outside the building site and within the first 100 feet of a fuel modification zone (the mandatory fuel modification zone), only the following development and uses may shall be allowed:

...

b. Allowable uses within an expanded fuel modification zone shall be limited to approved vegetation management activities for fire protection purposes in accordance with Appendix AE-2.5 (when applicable), and resource-dependent uses described in Section 8178-2.5.1 that do not require the further expansion of any fuel modification zone.

**20. Section 8178-2.6.9.2 – Width of Fuel Modification Zones:**

When all or a portion of a fuel modification zone overlaps with ESHA or buffer zone, those areas shall meet the following standards:

- a. The width of a fuel modification zone shall be measured from the edge of the legally established buildings or structures located within the building site, not from the boundary of the building site.
- b. The standard width of the mandatory fuel modification zone for legally established structures is 100 feet, except for the U.S. Naval Base Ventura County tactical critical assets at Laguna Peak which is 300 feet as measured from the existing perimeter of the facility<sup>1</sup>.
- c. If the Ventura county Fire Protection District determines that there are unique site-specific conditions for new development, the mandatory fuel modification zone may be expanded to 200 feet if needed to protect life and property from wildland fires.
- d. An expanded fuel modification zone thinned pursuant to AE-2.5 may be authorized up to 300 feet from a legally established structure located within the building site or to the property line, whichever distance is shorter, if it is determined by the Ventura County Fire Protection District that it is necessary

to protect life, property, and natural resources from unreasonable risks associated with wildland fires. In making this determination, the Ventura County Fire Protection District may consider whether there are any other feasible mitigation measures possible.

## **21. Section 8178-2.6.10 – Standards for Recreational Development:**

The applicant of a proposed new or expanded, resource-dependent recreational use/facility (see Section 8178-2.5.1) in environmentally sensitive habitat areas ESHA or buffer zones shall develop a management program site and design the facility/area to control the kinds, intensities, and locations of uses to protect ESHA against significant disruption of habitat values, preserve habitat resources to the maximum extent feasible. The following site design/development techniques shall be used to protect minimize adverse impacts on ESHA:

## **22. Part A of Section 8178-2.6.13 – Construction Standards:**

a. Construction Equipment and Materials - Construction equipment storage and staging areas shall be graphically depicted on approved site, grading and building plans. The extent of construction equipment storage and staging areas shall be limited to existing, legally disturbed areas and the approved development envelope. To the maximum extent feasible, locate such areas outside the buffer zone and away from adjoining ESHA unless approved to allow for an economically beneficial use.

## **23. Parts A and B of Section 8178-2.6.14.1- General Requirements:**

- a. ESHA and Buffer Zone – Fences, gates, and walls are prohibited in an ESHA or buffer zone outside the development envelope, except when used for habitat protection or restoration and when specified by a County-approved ESHA Mitigation Plan (see Section 8178-2.10.9). Within these plans, permanent fencing is allowed in buffer zones that are located in publicly accessible areas to protect ESHA that are particularly sensitive to human impacts. Non-wildlife permeable fencing or walls may be permitted along road corridors if the sole purpose of such fencing or walls is to funnel wildlife to safe road crossings (i.e., underpass, overpass).
- b. Development Envelope: Wildlife-permeable fencing is allowed throughout an approved development envelope except within an expanded fuel modification zone, if any (see Section 8178-2.6.14.4 for standards), and gates are allowed at entry points to a property when located in the development envelope. Perimeter fencing of a parcel is prohibited.

## **24. Part B and Numbers 3 and 4 in Part B of Section 8178-2.6.15.2 – Regulations and Standards:**

b. Buffer Zones — To the maximum extent feasible, outdoor *light fixtures* shall be installed outside a *buffer zone* and in locations where *light glare* and *light trespass* into the *buffer zone* is minimized to avoid or minimize impacts to biological resources. When *outdoor lighting* is placed ~~is placed~~ allowed in a *buffer zone*, it shall comply with the following:

~~3. Outdoor lighting for a pool, tennis court, or other recreational facility that is accessory to a dwelling shall be shielded or screened from nearby ESHA. If such lighting causes light trespass in excess of 0.1 foot candles at the vertical plane and the horizontal plane at the edge of a buffer zone or ESHA, then the facility shall not be illuminated between 10 p.m. and sunrise. Outdoor lighting for tennis courts or other recreational facilities that are accessory to a dwelling is prohibited to avoid or minimize impacts to biological resources.~~

4. *Outdoor lighting* shall utilize the minimum output necessary for the intended purpose and the *correlated color temperature* shall be 2700 Kelvin or less ~~necessary for the intended purpose~~. All *essential and security lighting* shall be controlled by a motion detector or timer programmed to turn off no more than five minutes after activation.

## 25. Parts B and C of Section 8178-2.7.1.1 – Coastal Dunes:

b. Design Standards - When *development* is permitted in a *dune habitat*, it shall be sited and designed utilizing subject matter experts, ~~and the best available science that includes, but is not limited to, the higher levels of current sea level rise projections over a minimum of 20 years~~ and coastal *dune habitat* morphology as follows:

...

c. *Dune Restoration* - If *dune habitat* vegetation is being *restored* as part of the project, then the vegetation shall be *restored* in a manner that accommodates the ecological needs of sensitive native *dune habitat* species (e.g., native vegetation communities). If *dune habitat restoration* includes the removal of existing vegetation, then the lowest-intensity, effective vegetation removal techniques shall be utilized to minimize impacts on the *dune habitat*. The design and implementation of all coastal *dune habitat restoration* projects shall be conducted by a *dune restoration specialist* and based off of the best available science ~~that includes the higher levels of sea level rise projections for the area (minimum of 20 years)~~, coastal *dune morphology*, and other appropriate scientific research associated with coastal beach ecology.

## 26. Part B of Section 8178-2.7.1.2 – Beaches:

b. Except for emergency access, no vehicle shall be allowed below the monthly highest tide line from March 1 to August 31, which is when grunion eggs are present, or within 500 feet of a *shorebird colony* during the March 1 to September 30 nesting season, unless otherwise authorized by a *Coastal Development Permit*. To the maximum extent feasible, to avoid disturbing a nesting bird or a nesting *shorebird colony*, trash cans shall be placed outside the *buffer zone* for nesting shorebirds (i.e., 300 feet for a nesting bird, 500 feet for a nesting bird colony). If placement outside the *buffer zone* is

infeasible, trash cans shall be placed at locations where public walkways or roads provide points of public access to the beach.

**27. Section 8178-2.7.1.3 – Beach Grooming:**

Beach grooming, which includes the removal of driftwood, debris and seaweed (beach wrack) from beaches, which and may include leveling sand, may be allowed on Hollywood Beach and Silver Strand Beach when conducted pursuant a valid coastal development permit. Beach grooming is subject to the following standards:

**28. Part A(2) of Section 8178-2.7.1.4 – Sand Removal/Redistribution on a Beach:**

2. Sand redistribution shall be limited to an area that extends 150 feet seaward from the edge of the 50-foot sand removal area. Sand redistribution, which may include the leveling of sand, shall only occur outside ESHA and buffer zones and above the highest monthly high tide line.

**29. Part A of Section 8178-2.7.1.5 – Beach Replenishment:**

a. Beach replenishment may be allowed pursuant to a valid Coastal Development Permit. Sediment may only be used for beach sand replenishment when it is free of contaminants, of a suitable grain size, color, and type that is compatible with the sand at the placement site, and when demonstrated through testing to be in accordance with federal and state standards.<sup>1</sup> for its intended use, Dredge spoils should

**30. Section 8178-2.7.2 – Coastal Bluff Habitats:**

~~Non resource dependent development~~ Development allowed within coastal bluff habitats shall be set back a sufficient distance from the bluff habitat to ensure the protection of bluff ESHA. Development shall be designed to incorporate best management practices that minimize pollution, runoff, and siltation from developed areas to the coastal bluff habitat.

**31. Section 8178-2.7.3 – Wet Environments:**

e.1. All developments on land either in a stream or creek corridor or adjacent to or within 400-500 feet of such corridor (buffer area), a wet environment shall be sited and designed using the higher levels of sea level rise projections over a minimum of 20 years to prevent impacts that would significantly degrade riparian those habitats and to ensure that development is shall be compatible with the continuance and viability of such habitats. (AM.ORD.4451-12/11/12)

**32. Part E of Section 8178-2.9.1 – General Requirements:**

e. A Coastal Development Permit authorizing a land division shall include conditions of approval that restrict development to an approved development envelope. Outside the development envelope, future development shall be prohibited within any onsite environmentally sensitive habitat areas ESHA(s), buffer zone(s), and/or areas with

slopes over 30 % percent gradient. Notwithstanding the foregoing Areas subject to such development restrictions shall be permanently maintained in their natural state except as otherwise provided in Section AE-2.2.1 through recordation of a through an easement or conservation easement or conservation instrument. deed restriction or other conservation instrument that shall be recorded on the final map or non a grant deed as a deed restriction submitted with the final map.

### **33. Part C of Section 8178-2.9.2 – Requirements for Land Divisions in ESHA or Buffer Zone:**

c. When the subject lot is in the Santa Monica Mountains (M) overlay zone, and it abuts a public park or a lot permanently protected by a conservation easement, then all lots proposed to be created that abut such areas shall include a 3200-foot setback along the boundary of the abutting public park or the land that is permanently protected from development. See Section 8177-4.1.6 for development setback requirements to park lands.

### **34. Part A of Section 8178-2.9.4.1 – Expansion of Building Site:**

a. Merges the lot upon which the proposed building site is located with an abutting legal lot or lots containing at least three acres of undeveloped land and meeting the standards for an off-site preservation lot stated in Section 8178-2.10.5(b). All areas of the resulting lot outside of the building site and mandatory fuel modification zone development envelope must be preserved in perpetuity through a conservation easement or conservation instrument, except as otherwise set forth in the project's associated Coastal Development Permit and any allowable future development that is consistent with Section AE-2.2.1; or

### **35. Part A of Section 8178-2.10.1 – General Requirements:**

a. Removal/Degradation of ESHA – Mitigation that is proportional to the impact is required for all adverse direct and indirect impacts to ESHA. The level of compensatory mitigation is specified by the ratios in Section 8178-2.10.6. Compensatory mitigation shall be subject to the following standards:

1. Permitted Impacts: Compensatory mitigation is required when there is no feasible project siting or design alternative that can avoid all adverse direct or indirect impacts to ESHA (see Section 8178-2.6.1) and the project is determined to be the least environmentally damaging alternative. The applicant shall be responsible for providing compensatory mitigation.
2. Unpermitted Impacts: Compensatory mitigation is required for unauthorized development that causes direct or indirect impacts to ESHA. In such cases, compensatory mitigation shall be provided through the following:
  - i. The impacted area shall be restored on-site unless all, or a portion of, the impacted ESHA area is within the approved development envelope

of the least environmentally damaging alternative. In such cases, compensatory mitigation for the area included in the *development envelope* may be accomplished through on-site or off-site mitigation. The remaining amount of required compensatory mitigation shall occur on-site unless: (1) an insufficient supply of suitable land is available for the on-site *restoration, enhancement, or establishment* of *ESHA*. An “insufficient supply of suitable land” occurs when: (a) no on-site *ESHA* is in need of *restoration or enhancement*; (b) no on-site areas contain the environmental conditions to support an *in-kind habitat*; or (c) the area is isolated from protected *core habitats*. In such cases, an equivalent area of *ecologically functional ESHA* shall be *restored or established* off-site; or (2) all, or a portion of, the impacted *ESHA* area is within the approved *development envelope* of the least environmentally damaging alternative. In such cases, compensatory mitigation for the area included in the *development envelope* may be accomplished through on-site or off-site mitigation.

### **36. Part C of Section 8178-2.10.3 – Types of Compensatory Mitigation:**

c. *Enhancement* – Existing, intact or degraded *ESHA* that has the capacity to improve specific *ecological functions or services* (e.g., water quality improvement, flood water retention, wildlife *habitat* improvement, *habitat connectivity corridor* improvement). *ESHA* may be enhanced either on- or off-site. ~~*Passive restoration* is classified as enhancement. *Passive restoration* may be utilized as one component of an *ESHA Mitigation Plan* if it the mitigation habitat contains the physical and biological conditions necessary for the suitability of the *ESHA* and the *passive restoration* meets the criteria in Section 8178-2.10.5(a).~~

### **37. Part B of Section 8178-2.10.4 – Location of Compensatory Mitigation Sites:**

#### b. Off-Site Mitigation:

1. Permittee - At least 50 percent of the off-site compensatory mitigation area must be located within the Ventura County *coastal zone*. If a property is bisected by the *coastal zone* boundary, up to 50 percent of the area may be located outside of the *coastal zone*. Off-site mitigation sites shall be selected based on proximity to the impacted *ESHA ecosystem*, in the following order of priority:

Priority 1 - The site is in the same sub-watershed (defined as U.S. Geological Survey’s 12-digit hydrological unit code (HUC or higher, when available) as the impacted area.

Priority 2 – The site is in the same *biogeographic region* as the impacted area.

Priority 3 - The site is in the same watershed as the impacted area.

If no suitable site is ~~feasibly~~ available within the *coastal zone*, then a site ~~e~~ in Ventura County that is located outside the *coastal zone* may be selected if the area is located in a regional habitat connectivity and wildlife corridor in Ventura County (i.e., Santa Monica - Sierra Madre Linkage, Ventura River Linkage, Santa Clara River Linkage) and is located in the same *biogeographic region* as the impacted site. Preference also may be given to an off-site area that adjoins public parkland or protected native *habitat* (i.e., land protected by a *conservation easement* or owned/managed by a *natural resource agency*).

2. Federal or State Program - Off-site mitigation areas conserved with funding from an available federal or state *mitigation bank* or *in-lieu fee* program shall be in the *coastal zone* of Ventura County, Los Angeles County or Santa Barbara County.
3. County-Sponsored Administered In-Lieu Fee Program - Off-site mitigation areas conserved with funding from the County's *in-lieu fee* program shall be located in the Santa Monica Mountains and selected in the following order of priority:

Priority 1 – Ventura County *coastal zone* (up to 50% of the area may be outside the *coastal zone* if a property is bisected by the *coastal zone* boundary).

Priority 2 – Santa Monica/Sierra Madre Linkage habitat connectivity and wildlife corridor in the Santa Monica Mountains' biogeographic region in Ventura County.

Priority 3 – *Coastal zone* of Los Angeles County. Priority 3 areas shall not be used unless no Priority 1 or Priority 2 site are available and, if a Priority 3 areas is used to mitigate, it shall be the closest available areas to Ventura County.

### **38. Part A of Section 8178-2.10.5 – Environmental Standards for Mitigation Sites:**

a. Land Used for *Restoration, Enhancement, or Establishment* – On-site or off-site mitigation sites used for *ESHA restoration, establishment or enhancement* must contain suitable environmental conditions (e.g., hydrology, soil type, compatible *adjacent* land uses, *functional connectivity*) to support the proposed type of mitigation. Such sites must be connected to other *habitat* areas required for species survival. (See Section 8178-2.10.7 for specific requirements for *wet environments, dunes, oak woodland/savannah, native woodland habitats, and monarch butterfly overwintering sites*.) If *passive restoration* is proposed as a component of *ESHA enhancement*, then it must be supplemented with other enhancement activities that address the level of *ESHA* degradation at the mitigation site (e.g., soil conditions, amount of *invasive or invasive watch list plant species*, lack of native seed bank) and the resilience of the *ESHA ecosystem*. Enhancement methods may include non-native and invasive species removal, temporary irrigation and supplementary native planting and seeding. ~~the level of *ESHA* degradation at the mitigation site (e.g., soil conditions, amount of *invasive or*~~



~~invasive watch list plant species, native seed bank) and the resilience of the ESHA ecosystem shall be consistent with the use of passive restoration as a form of ESHA enhancement.~~

### 39. Numbers 8 and 10 of Part D of Section 8178-2.10.8 – Implementation Options for Compensatory Mitigation:

d. Ventura County In-Lieu Fee Program: The County's in-lieu fee program allows a permittee to substitute payment of a fee to the County's Coastal Habitat Impact Fund to meet compensatory mitigation requirements for impacts to ESHA through the off-site preservation of in-kind ESHA. This program will be established as follows:

8. Timing of Compensatory Mitigation – Whenever feasible<sup>1</sup>, land acquisition shall be conducted within three years of the receipt of fees in the Coastal Habitat Impact Fund. Fees will be paid prior to a zoning clearance development project's impacts.

10. Amount of In-Lieu Fee – The fee shall be calculated on a per-acre basis for each acre, or portion thereof, required as compensatory mitigation for impacts to CSS/chaparral (see mitigation ratios, Section 8178-2.10.6). The in-lieu fee shall be determined as follows:

- i. Interim In-Lieu Fee: For a ~~six~~ five-year period following certification of the LCP amendments for ESHA, an in-lieu fee of \$29,170 ~~28,603~~ per acre (which shall be adjusted annually for inflation) shall be used for each acre of land, or a portion thereof, required as compensatory mitigation. An interim ~~temporary~~ in-lieu fee of \$7,340 ~~7,197~~ per acre (which shall be adjusted annually for inflation) shall be used for each of acre of land, or a portion thereof, required as compensatory mitigation when ESHA is thinned within an expanded fuel modification zone that exceeds 100 feet pursuant to Section 8178-2.10.1(e). After the ~~six~~ five-year period, the County-sponsored administered interim in-lieu fee program will ~~expire~~ be discontinued unless a permanent in-lieu fee program is certified by the California Coastal Commission although the Executive Director of the Coastal Commission may extend this expiration date if additional time is needed for submittal or Commission consideration of a complete Ventura County LCP amendment application. After expiration of the interim fee, no coastal development permits may utilize the in-lieu fee program until the amount of the permanent in-lieu fee and corresponding administrative procedures are incorporated into this LCP through an LCP amendment that is certified by the Coastal Commission. See Coastal Area Plan, ESHA Program 5, for administrative details associated with the interim in-lieu fee.
- ii. Permanent In-Lieu Fee: The interim in-lieu fee will be replaced after ~~six~~ five years by a permanent in-lieu fee once it is certified by the Coastal Commission (see Coastal Area Plan, ESHA Program 5). The proposed

permanent fee and all associated LCP amendments shall be submitted to the Coastal Commission for certification. Once a permanent *in-lieu fee* is certified, it will be adjusted annually for inflation.

See Coastal Area Plan, Section 4.1.3, ESHA Program 5 – County Sponsored In-Lieu Fee Program.

#### **40. Section 8181-3.5.3 – Additional finding for Development in ESHA or Buffer Zone:**

A Coastal Development Permit authorizing development in ESHA or a buffer zone may be granted or conditionally granted only if the decision-making authority makes all of the findings, to the extent applicable to the project, required by the LCP as follows:

a. Development Within or Adjacent to ESHA – All ESHA policies and standards of the LCP have been met and the project design has been found to constitute result in the least environmentally damaging alternative to ESHA pursuant to Section 8178-2.6. In addition, any direct or indirect impacts to ESHA will be mitigated pursuant to Section 8178-2.10.

b. Increase of a Mandatory Fuel Modification Zone – New development with a mandatory fuel modification zone greater than the standard 100-foot width requires a finding supported by a determination made by the Ventura County Fire Protection District, that the increased fuel modification zone of up to 200-feet is needed to protect life and property from wildland fires based on site-specific environmental conditions and that there are no other feasible mitigation measures possible.

cb. Expanded Fuel Modification Zone – If the width of a fuel modification zone exceeds 100 feet, the Ventura County Fire Protection District has authorized the expanded fuel modification zone, and determined that it is necessary to protect life, property, and natural resources from unreasonable risks associated with wild land fires and there are no other mitigation measures possible.

de. Economically beneficial use – If a Coastal Development Permit allows a deviation from a policy or standard of the LCP pursuant to Coastal Area Plan Policy 4.2, permit findings shall meet the requirements in Coastal Area Plan Policy 4.3.

e. Site Specific ESHA Determinations and Maps – The physical extent of habitat meeting the definition of ESHA and buffer zone on the entirety of the lot containing the project site is accurately mapped within the CISBA, is consistent with the LCP policies and standards (e.g., definition of ESHA, buffer zone determinations) and available independent evidence, and has been review by the Planning Staff Biologist or a County’s Biological Consultant.

f. Compensatory Mitigation – All direct and indirect adverse impacts to ESHA resulting from the development and any unpermitted development are fully mitigated consistent with the LCP policies and standards, and required financial assurances are provided. All on-site and off-site areas subject to compensatory mitigation will be preserved in perpetuity consistent with Section 8178-2.10.1(c).

g. Open Space Restriction – All ESHA, buffer zones, and slopes over 30 percent gradient located on the lot outside of the *building site and mandatory fuel modification zone* are preserved in perpetuity through a *conservation easement or conservation instrument* except as otherwise set forth in the project's associated *Coastal Development Permit* and any allowable future *development* that is consistent with Section AE-2.2.2.

h. Land Divisions – For a lot(s) that contain ESHA or buffer zone and is proposed for land division, substantial evidence was provided that demonstrates that the land division will not result in new, adverse impacts to ESHA or buffer zone including those that could occur due to an economically beneficial use of the property.

i. ESHA Preservation Incentives – If a *Coastal Development Permit* is being granted pursuant to an ESHA *preservation* incentive, then the proposed *land division* will result in the *preservation* of large areas of unfragmented ESHA. Also, the proposed *land division* will not result in greater impacts to ESHA or *buffer zones*, and will not increase the loss of ESHA, when compared to the *development* that could occur without use of the incentive.

#### **41. Sec. AE-1.2.2 – Additional Factors for ESHA Determinations:**

*Habitat* removed/degraded by *natural disaster* that met the definition of *ESHA* before the *natural disaster* shall be afforded the protections of *ESHA* (see CZO Section 8178-2.4.2). Also, areas subject to the minimal *fuel modification* measures that are required in *riparian* or woodland *habitats* meet the definition of *ESHA* (see CZO Section 8178-8.4.2.3). An exception to this provision may be provided for an *ESHA* that was permanently destroyed by a *natural disaster*, in accordance with CZO Section 8178-2.4.2(b), provided that such determinations meet all the following standards:

1. The Planning Staff Biologist or County's designated biological consultant finds that the *habitat* no longer meets the definition of *ESHA*. Such determinations shall be supported by substantial evidence prepared by a *qualified biologist* in accordance with Section AE-1.2.1. If the destruction of one *ESHA* type led to its replacement by another *ESHA* type, the area shall remain classified as *ESHA*. For example, if an *ESHA coastal sage scrub habitat* was replaced by an *ESHA grassland habitat*, the area shall remain classified as *ESHA*; and
2. The Planning Staff Biologist finds that ~~20~~ 45 or more years passed since the most recent *natural disaster* (with no intervening *natural disaster* events). For all areas cleared of native vegetation that contain ruderal vegetation (or bare ground), historical aerial imagery shall be reviewed, and a determination shall be made that the *ESHA* was destroyed by *natural disaster* unaided by human intervention. A description of the *natural disaster(s)* shall be provided in conformance with Section AE-1.3.2(h) and Section AE-1.3.3(c); and
3. All modifications to the *ESHA* map must be approved by the decision-making body for the *Coastal Development Permit* and shall be conducted in accordance with standards in Sections AE-1.3.2, AE-1.2.3, and AE-1.2.1.

**42. Parts B, C, and H(4) of Section AE-1.2.3 – Habitat Categories Classified as ESHA:**

b. Coastal Dune Habitats - Coastal sand dune systems occur in areas with actively or formerly shifting sand that is associated with the immediate coastal environment. Moving landward from the shore, dunes may become stabilized by vegetation communities characterized by distinct species. In Article 2, a *dune habitat* is defined as follows:

c. Coastal Sage Scrub and chaparral (Santa Monica Mountains) - *Coastal sage scrub and chaparral* (CSS/chaparral) may be defined as *ESHA* because some members of the plant community ~~qualifies~~ are identified as a *special status species* (e.g. the rarity ranking is S1-S3 or G1-G3, see CZO Section 8178-2.4.1). In 2003, the California Coastal Commission found that “large contiguous areas of relatively pristine native *habitat* in the Santa Monica Mountains meet the definition of *ESHA* under the Coastal Act”. The result of the Commission’s action is that most areas that contain *coastal sage scrub* (CSS) and *chaparral* are now classified as *ESHA* within the Santa Monica Mountains. This *habitat* is described in a March 25, 2003 memorandum from the Commission<sup>1</sup> as follows:

...

Within Ventura County’s portion of the Santa Monica Mountains, *coastal sage scrub* or *chaparral* communities that ~~are not classified as~~ do not support a *special status species* are defined as *ESHA* if the *habitat* meets all the following criteria:

h(4). A topographic feature that periodically (*intermittent* or *ephemeral*) or continuously (*perennial*) conveys water through a bed or channel. This term also applies to watercourses having a surface or subsurface flow that support or have supported *riparian* or *alluvial vegetation*. See Section AE-1.3.2 (g)(8~~7~~) for additional information on *stream delineation*.

**43. Parts E, F(2)(iv), G(3)(viii) and G(8)(i) of Section A.E-1.3.2 – Required Content of CISBA Components:**

e. Summarize and map all *ESHA* that was removed, degraded or altered on the lot project. This includes ~~site since January 1, 1977~~. Include all *ESHA* altered without legal documentation, as well as, *ESHA* altered from legally established *development* (See Section 8178-2.4.2 and Subsection (d) above). Within the discussion, include a tabular/quantitative summary of *ESHA* impacted. The tabular information shall identify the *habitat* type/category, acres impacted, year of impact, and if area has grown back to the pre-disturbance vegetative community (only areas with no soil disturbance/grading/*invasives* or *invasive watch list plant species*). To determine the extent and type of *ESHA* present before disturbance, the applicant shall provide a legible depiction of historic aerial images of the site (~~January 1, 1977 to current~~), database searches, the results of site-specific surveys on and *adjacent* to the subject parcel, and other available evidence.

F(2)(iv). Mapped Habitat Connectivity and Wildlife Corridors;

- Ventura County Habitat Connectivity and Wildlife Corridor
- Data Basin Climate Resilient Connectivity Prioritized Linkage Network

G(3)(viii). When an expanded fuel modification zone reduced County In-Lieu Fee for ESHA thinning pursuant to Section 8178-2.6.9.3 is proposed, pre-disturbance vegetation surveys for the expanded fuel modification zone shall be conducted when vegetation growth is at its greatest density (e.g., March-June). This survey may be combined with the general floristic mapping required for the site-specific ESHA map.

G(8)(i). Wetland features shall be identified through a delineation that is prepared in conformance with the California Coastal Commission, October 5, 2011 Briefing, Definition and Delineation of Wetlands in the coastal zone (Coastal Area Plan Appendix 1), where the presence of any hydrophytic vegetation, hydric soils, or hydrology will classify it as a wetland. The technical guidelines and methods of the 1987 Army Corps of Engineers Wetland Delineation Manual and the 2008 Arid West Supplement shall be used to delineate wetlands. U.S. wetland delineations must be conducted per the definitions of wetland boundaries contained in Section 13577(b) of Title 14 of the California Code of Regulations where the presence of hydrophytic vegetation, hydric soils, or hydrology may classify it as a wetland. The delineation maps shall be prepared using the standards for wet environments listed below. When delineating vernal pools, seeps, springs, estuaries, and lagoons, use the same guidance documents as those cited for wetland delineations, supplemented with technical guidance provided by the USFWS Cowardin Classification System.

**44. Part H and Part I(3)(ii) of Section A.E-1.3.2 - Site-Specific ESHA and Buffer Zone Map and ESHA Impact Analysis:**

H. 1. Extent of ESHA based on the evaluation of legally removed or degraded~~ation~~ of vegetation since January 1, 1977 (see subsection (e) above); and

2. Revisions to the mapped extent of ESHA on an adopted ESHA map in the Coastal Area Plan; and

I(3)(ii) If the proposed activities affect (or could affect) ESHA, the cumulative analysis shall take into account activities that occurred before the proposed action is initiated and after the proposed action is completed. ~~the cumulative analysis shall take into account activities that occurred before the proposed action is initiated as well as after the proposed action is completed.~~ It should describe the incremental contribution of the proposed development to cumulative effects.

**45. Parts (a)(2) and (b)(4)(ii) of Section A.E- 1.3.3 – Summary of CISBA Maps and Data:**

(a)(2). If an ESHA or buffer zone overlaps with any ~~extended~~ fuel modification zone that has been widened for the proposed project beyond the 100-foot mandatory fuel modification standard, then a written determination documentation shall be obtained from the Ventura County Fire Protection District confirming the authorization of that states the ~~expanded~~ widened fuel modification zone (see CZO Section 8178-2.6.9.2 (e) is necessary to protect life and property from wildland fires. This determination shall be used for the permit findings for the project site and for alternate sites identified in during the least damaging alternatives analysis (see CZO Section 8178-2.3 (b)).

...

(b)(4)(ii). If any major vegetation has been removed or disturbed on site, provide historic aerial images of the site that pinpoint the timeframe and area(s) that removal and/or disturbance took place (i.e. photo(s) before and after removal and/or disturbance) since January 1, 1977; and

**46. Part (a)(1) of Section AE-2.1.1 – Habitat Mitigation Plan:**

A table and associated description of all on-site or off-site ESHA or ESHA buffer zones that will be impacted and require compensatory mitigation (see CZO Section 8178-2.10). The mitigation shall be directly proportionate to the amount of ESHA degraded or removed. Where the applicant can demonstrate that the fuel modification zone results in less acreage of ESHA removal due to the method of measurement, or sloped topography and the like, the required mitigation may ~~shall~~ be adjusted downward accordingly;

**47. Section AE-2.2 – Legal Instruments for Conservation:**

A conservation instrument shall be used to conserve on-site ESHA, buffer zones, and slopes over 30 percent located outside of the building site and mandatory fuel modification zone ~~development envelope~~ that are not used as compensatory mitigation; provided that such areas are identified on a site-specific ESHA map. The conservation instrument area shall be preserved in perpetuity, except as otherwise set forth in the project's associated Coastal Development Permit and any allowable future development that is consistent with Section AE-2.2.2.

**48. Part A of Section AE-2.2.1 – Conservation Easements and Deed Restrictions:**

The conservation easement, which shall be subject to County Planning Division review and approval prior to recordation, shall be prepared by a licensed surveyor, include a formal legal description of the entire lot, and include a metes-and-bounds legal description and graphic depiction of the conservation easement area. A preliminary title report less than six months old shall be obtained, issued by a licensed title insurance company that demonstrates the lot is free of prior liens, including tax liens, and

encumbrances that could interfere with the instrument's purpose of conserving the subject *habitat* in perpetuity. The *conservation easement* shall be permanent and state that no *development* shall occur within the open space *conservation easement* area except as otherwise set forth in the project's applicable *Coastal Development Permit* condition(s), consistent with the allowable uses identified in Section AE-2.2.1 below. The *conservation easement* shall state that the resources being protected are of significance to the people of the State of California. Following recordation, the applicant shall provide the County Planning Division with a copy of a preliminary title report establishing that the *conservation easement* appears on the property's title, as recorded with the Ventura County Recorder. The applicant shall provide the County Planning Division with documentation establishing that the County-approved *natural resource agency* or *conservation organization*, or County *agency*, has formally accepted the *conservation easement* in favor of the People of the State of California.

**49. The introduction and Parts D and E of Part C of Section AE-2.2.1 – Allowable Uses and Development: Conservation Easements and Deed Restrictions Used for Compensatory Mitigation:**

When a *conservation easement* or deed restriction is used to conserve areas as compensatory mitigation, the *conservation easement* or deed restriction shall include terms and conditions such that the instrument meets the following: (1) definition for a *conservation easement* in CZO Article 2; and (2) the requirements for compensatory mitigation in CZO Section. 8178-2.10.1~~(e)~~. New uses and *development* in the conservation area shall only be allowed pursuant to a valid *coastal development permit* and shall be limited to the following:

...

d. Minor grading and ~~vegetation /brush~~ removal necessary to ~~protect~~ repair or maintain an existing legally established roadway; and

e. Fire safety activities carried out by the Ventura County Fire Protection District, such as the preparation of fire breaks to protect existing, permitted *development* during a declared fire *emergency*. *Fuel modification* required by the Ventura County Fire District, if undertaken in accordance with a *Fuel Modification Plan* ~~or ESHA Vegetation Management Plan~~ approved by the County pursuant to a *Coastal Development Permit*. Replacement compensatory mitigation shall be provided for any *fuel modification* on land used as compensatory mitigation.

**50. Part A of Section AE-2.2.2 – Allowable Uses and Development: Conservation Instruments Used for On-Site Development Restrictions:**

When a conservation instrument is used for on-site development restrictions, ~~pursuant to CZO Section 8178-2.6.3(e)~~, the conservation instrument shall include terms and conditions such that the instrument meets the definition in Article 2 and the requirements in CZO Section 8181-3.5.3~~(i)(2)~~. New (or modified) uses and development in the restricted area shall only be allowed pursuant to a valid coastal development permit (or discretionary permit modification) and shall be limited to the following:

- a. General Requirements - When a deed restriction or similar mechanism is used as a conservation instrument to avoid potential impacts associated with development, it shall include terms and conditions such that the instrument meets the definition of a conservation instrument in Article 2.
- b. Allowable Uses and Development - New uses and development in the area subject to the deed restriction/permit condition shall be limited to the following:
  1. All allowable uses provided by Section AE-2.2.1(c) and 8178-2.5.1; and
  2. Replacement of a failed water well and associated water tank or septic system that meets the following standards: (i) a replacement system was not identified by the existing permit, and (ii) substantial evidence is provided that no feasible, alternate location is available within the approved development envelope; and
  3. Fuel modification authorized by the Ventura County Fire District, if undertaken in accordance with a ESHA Vegetation Management Plan approved by the County pursuant to a Coastal Development Permit.
  4. The siting of safety infrastructure required by state law (e.g., fire department turn arounds, roads, water tank) that is based upon substantial evidence that no feasible alternate location is available within the previously entitled building site or mandatory fuel modification zone.

**51. Part A and B(2)(i) of Section AE-2.4 – ESHA Vegetation Management Plan:**

A. This ESHA Vegetation Management Plan (Plan) has been prepared for the (insert planning permit case number, APN, and common name of the project here) to maintain defensible space that will reduce the intensity of a wildfire within or adjacent to ESHA or buffer zone. The Plan identifies areas where ESHA or buffer zone were retained within the expanded fuel modification zone associated with the permitted development. The installation and long-term maintenance of the fuel modification zone is subject to ESHA fuel modification zone landscaping requirements when in ESHA and the it overlaps with buffer zone (See CZO, Section 8178-8.4.2.3, 8178-8.4.2.4 and Appendix E1, Section AE-2.4-2.5).

B(2)(i). Using the Site Plan Maps, identify and quantify the amount of ESHA or buffer zone within the expanded fuel modification zone that will be removed or altered and all ESHA or buffer zone areas retained. Applicants applying for the reduced County in-lieu mitigation fee for coastal sage scrub and chaparral habitat removal shall provide a detailed explanation of the methods and calculations used to determine the total percent of the coastal sage scrub and chaparral habitat or buffer zone proposed for removal vegetation thinned pursuant to AE-2.5. If priority vegetation removal could not be met, describe why.



**52. Parts B, C and E of AE-2.5 – Expanded Fuel Modification Zone Thinning Standards:**

- b. Consistent with the fuel management objectives ((a) above), steps shall be taken to minimize erosion, soil disturbance, and the spread of flammable nonnative grasses and weeds.
- c. No biological (e.g., grazing) or, chemical vegetation removal methods are allowed. ~~¶~~ In addition, no mechanical vegetation removal methods that will compact soils (e.g., use of heavy equipment) or significantly disturb or remove the root systems of existing vegetation (e.g. grubbing) are permitted in the *expanded fuel modification zone*. *Low-intensity vegetation removal techniques* shall be used when in ESHA or *buffer zone*.
- d. Vegetation removal shall be concentrated in areas with non-native species and dead/dying plant material. The retained vegetation should consist of existing native plants. In all cases, non-native *invasive* or *invasive watch list plant species*, as inventoried by the California Invasive Plant Council, shall be removed. This does not include standing dead trees that may provide *habitat* for wildlife (see ~~(e)~~(4i) below);
- e. When feasible, maximize the retention of native vegetation within islands of undisturbed vegetation to minimize disruption of *habitat value*;
- f. When it is not possible to reduce cover through the removal of non-native vegetation or dead/dying plant material (~~see (i) below for requirements associated with dead trees~~), a *qualified biologist* shall retain the existing vegetation in the following order of priority: