

CALIFORNIA COASTAL COMMISSION

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September 7, 2012

David Ott
City Manager
City of Solana Beach
635 South Highway 101
Solana Beach, CA 92075

Re: Certification of City of Solana Beach LCP Land Use Plan

Dear Mr. Ott:

On March 7, 2012, the California Coastal Commission approved the above referenced Land Use Plan (LUP) with suggested modifications. The City's LUP is a stand-alone document, separate from the existing Solana Beach General Plan, and includes policy language addressing beaches, coastal bluffs, inland slopes, floodplains, environmentally sensitive habitat, visitor-serving uses, overnight accommodations, visual quality, public works, and parking and circulation.

In its action, the Commission adopted the LUP with suggested modifications addressing all of the policy groups. The modifications cover a broad range of topics, and include such things as additional definitions, clarifications in language to ensure protection for visitor-serving commercial uses, overnight accommodations, environmentally sensitive habitat, visual resources, water quality, and shoreline sand supply. Changes made at the Commission hearing consists of deleting staff recommended Suggested Modifications #129 and #130, which would have revised the proposed length of short-term rentals from a minimum of 7 days to 1 day, and revising Suggested Modifications #66 and #100 to require that the City finalize its Public Recreation/Land Lease fee within 18 months of effective certification of the LUP. A copy of the all of the suggested modifications as adopted by the Commission is attached.

Before the LUP can become effectively certified, the Executive Director must determine that implementation of the LUP will be consistent with the Commission's certification order. This is necessary because the LUP was certified with suggested modifications. In order for the Executive Director to make this determination, the local government must formally acknowledge receipt of the Commission's resolution of certification, including any terms or suggested modifications, and take any formal action which is required to satisfy them, such as incorporating the modifications. This must also include production of new LUP text, maps, and/or other graphics demonstrating that the amendment, as approved by the Commission and accepted by the City, will become the City's Land Use Plan immediately upon concurrence by the Commission of the Executive Director's determination.

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As soon as the necessary documentation is received in this office and accepted, the Executive Director will report his/her determination to the Commission at its next regularly scheduled public hearing. The Commission's certification with suggested modifications expires six months from the date of Commission action. However, on August 9, 2012, pursuant to the Commission's regulations, the Commission approved a time extension not to exceed one year for the City of Solana Beach to adopt the suggested modifications. Thus, the City has an additional year in which to consider and adopt the suggested modifications.

If you have any questions about the Commission's action or this final certification procedure, please contact our office. Thank you and the other staff members who worked on this planning effort. We realize this has been a challenging task; and, as offered at the hearing, we remain available to discuss both the substance and implementation measures for brush management and the public recreation payment program, and development of the LCP Implementation Plan.

Sincerely,



Diana Lilly
Coastal Planner

**Solana Beach LCP Land Use Plan
Coastal Commission Suggested Modifications
Adopted March 7, 2012**

The suggested modifications are shown with underlined sections representing language that Commission recommends be added to the certified LUP, and ~~struck-out~~ sections representing language which the Commission suggests be deleted from the language as originally submitted.

Chapter 1 Introduction

1. The last paragraph on the bottom of page 4 shall be revised as follows:

The City's LCP consists of (1) a LUP and (2) a Local Implementation Plan (LIP) (i.e., zoning ordinances and maps which together meet the Coastal Act requirements and implement its provisions and policies within the City. ~~Section 30600.5 of the California Coastal Act authorizes local governments to start issuing Coastal Development Permit (CDP) after they have a certified LUP, but before they have a certified LIP, under certain circumstances, with all such permits appealable to the CCC. It is the City's intent to issue CDPs before a full LCP is certified.~~

2. On page 5, the following bullet on the list of LCP/LUP Benefits shall be revised as follows:

- Recognition of private property rights including the right to protect, and maintain and improve existing blufftop homes, ~~and the right to at least a minimum home of 2,000 square feet on each lot, (not including an existing enclosed garage area).~~

3. On page 8, the second paragraph under D. General Goals and Objectives shall be revised as follows:

If there is a provision of the LCP that ~~is more restrictive than conflicts with~~ a provision of the General Plan, or any other City-adopted plan, resolution, or ordinance not included in the LCP, and it is not possible for the development to comply with both the LCP and such other plan, resolution or ordinance, the LCP shall take precedence and the development shall not be approved unless it complies with the LCP provision.

Chapter 2 Public Access and Recreation

4. The paragraph beginning at the bottom of Page 2 and continuing to the top of page 3 shall be revised as follows:

In the City of Solana Beach there are eight vertical access points (Exhibit 2-1) that provide access to the beach below. No additional access points are planned. Four of these vertical access points are public and four are private. Public access points exist at Tide Park, Fletcher Cove, Seascape Sur, and adjacent to Del Mar Shores Terrace. These public

access points are located from 1,000 to 2,000 feet of one another and other public access points, such as Cardiff State Beach in Encinitas. Private access points exist at Solana Palisades, Seascape Shores, Seascape I, and at the Del Mar Beach Club. In addition, there is a public view overlook at the border of the Cities of Solana Beach and Del Mar.

This Suggested Modification is also a requirement to add this view point to Exhibit 6.1, Citywide View Corridors.

5. The first paragraph on Page 4 shall be revised as follows:

The City's San Elijo Lagoon access points provide public coastal access and recreation opportunities in the City, and are as important to coastal access as shoreline accessways. San Elijo Lagoon trailhead access points are shown on Exhibit 2-1. There are ~~five~~seven public San Elijo Lagoon trailheads in the City. The ~~two~~four west of I-5 are located at the terminus of Rios Avenue, ~~the terminus of and~~North Solana Hills Drive, on Holmwood Lane, and at the terminus of Canyon Drive, where it meets Ridgeline Place. East of I-5, there are public access points to the Lagoon at Sana Inez, Santa Carina, and Santa Helena and North Solana Hills Drive (Exhibit 2-1).

This Suggested Modification is also a requirement to add the Canyon Drive view point to Exhibit 2.1, Public and Private Coastal and Lagoon Access Points.

6. The last paragraph on Page 9 shall be revised as follows:

Under these circumstances, maintaining safe lateral sea level beach access along the City shoreline is important. Bluff retention devices ~~enhance safety along the beach by preventing~~ sudden episodic deposits of sandstone and sand on the beach (some of which have resulted in injury or death in San Diego County), ~~and thereby increase lateral access opportunities.~~ However, some bluff retention devices may encroach onto public beach areas that would have been otherwise available for lateral access and recreation.

7. On Page 10, the following new paragraph shall be added after the third complete paragraph in italics:

However, conditions do change over time, and future projects must be evaluated individually to determine the appropriate and feasible mitigation for shoreline protection projects.

8. The last paragraph starting on Page 10 and continuing to Page 11 shall be revised as follows:

Historically, the City shoreline consisted of a sandy beach, bounded by the ocean and coastal bluffs that was wider than it is today. Maintenance and expansion of the existing

beach width will help to establish a safe distance for the public from unstable bluffs.

Bluff retention devices may limit sudden episodic deposits of bluff sand from falling on the beach and they close seacaves, which is one method for preventing the public from entering into seacaves and other hazardous areas along the bluff face.

9. Policy 2.4 shall be revised as follows:

Policy 2.4: New development shall minimize-avoid impacts to public access along the shoreline and inland trails. The City shall assure that the recreational needs resulting from any proposed development will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition at three acres per 1000 population, and/or development plans with the provision of onsite recreational facilities to serve new development.

10. Policy 2.5 shall be revised as follows:

Policy 2.5: Public prescriptive rights may exist in certain areas along the shoreline and trails within the City. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights will be protected through public acquisition measures or through permit conditions for new development, which incorporate measures to provide or protect access where prescriptive rights legally exist.

11. Policy 2.7 shall be revised as follows:

Policy 2.7: New development shall be sited and designed to minimize-avoid impacts to public access and recreation along the shoreline and trails. If there is no feasible alternative that can eliminate or avoid all access impacts, then the alternative that would result in the least significant adverse impact shall be required. Some impacts may be mitigated through the dedication of an access or trail easement where the project site encompasses an LCP mapped access or trail alignment, where the City, County, State, or other public agency has identified a trail used by the public, or where prescriptive rights exist. Mitigation measures required for impacts to public access and recreational opportunities shall be implemented prior to, or concurrent with construction of the approved development.

12. Policy 2.14 shall be revised as follows:

Policy 2.14: Open space easements and dedications should be utilized, where required warranted, to facilitate the objectives of the City's recreational and/or public access program.

13. Policy 2.22 shall be revised as follows:

Policy 2.22: Advertising signs and banners shall be prohibited in public beaches and beach parks. ~~Replacement of signs on lifeguard towers authorized by the City may be allowed.~~

14. Policy 2.23 shall be deleted:

~~**Policy 2.23:** No new structures may be permitted on a bluff face, except for permitted bluff retention devices, routine repair and maintenance, public stairways, access ways and lifeguard stations, or observation platforms to the beach for up to two lifeguards of the minimum size required to monitor public safety. The replacement of any structure on a bluff face that was destroyed by a disaster shall conform to applicable existing planning and zoning requirements, and shall be comparable in size, and function to the destroyed structure.~~

15. Policy 2.27 shall be revised as follows:

Policy 2.27: The implementation of restrictions on public parking, which would impede or restrict public access to beaches, trails or parklands, (including, but not limited to, the posting of “no parking” signs, red curbing, physical barriers, imposition of maximum parking time periods, and preferential parking programs) shall be prohibited except where such restrictions are needed to protect a documented threat to public safety and where no other feasible alternative exists to provide public safety ~~and except where the restrictions have the effect of improving access to parking for coastal visitors.~~ Where feasible, an equivalent number of public parking spaces should be provided nearby as mitigation for impacts to coastal access and recreation.

16. Policy 2.28 shall be revised as follows:

Policy 2.28: Gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted within private street easements where they have the potential to limit, deter, or prevent public access to the shoreline, inland trails, or parklands ~~except~~ where there is substantial evidence that prescriptive rights exist.

17. Policy 2.30 shall be revised as follows:

Policy 2.30: A program to utilize existing parking facilities for office and commercial development located near beaches for public access parking during periods of normal beach use when such development is not open for business ~~should~~ shall be developed. As

feasible, new non-visitor serving office or commercial development may be required to provide public parking for beach access during weekends and holidays.

18. Policy 2.32 shall be revised as follows:

Policy 2.32: Priority shall be given to the development of visitor serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation. On land planned for visitor serving commercial and/or recreational facilities, priority shall be given to such uses over private residential or general commercial development, ~~except for the provision of affordable housing~~. New visitor serving uses may not displace existing low-cost visitor serving uses unless an equivalent replacement is provided.

19. Policy 2.33 shall be revised as follows:

Policy 2.33: Retention of existing, lower cost visitor serving and recreation facilities, including overnight accommodations, ~~may shall~~ be encouraged ~~to the maximum feasible extent and lower cost overnight accommodations shall be protected. If removal or conversion of existing lower or moderate cost overnight accommodations is proposed in the City, the inventory shall be replaced with units that are of comparable cost with the existing units to be removed or converted. The City shall proactively work with existing hotel/motel operators and offer incentives to maintain and renovate existing properties.~~

~~If replacement of the lower or moderate cost units is not proposed (either on-site or elsewhere in the City), then the new development shall be required to pay, as a condition of approval for a coastal development permit, a mitigation payment to provide significant funding for the establishment of lower cost overnight visitor accommodations within Solana Beach, preferably, or within North San Diego County consistent with Policy 5.8 of the Land Use Plan, for each of the low or moderate units removed/converted on a 1:1 basis. However, the mitigation payment may be adjusted, reduced, or waived if, after one year of non-operation of an existing hotel, it has been determined by the City that development of lower or moderate cost overnight accommodations at the site is financially infeasible, and provided that the City applies and receives approval for a site-specific LCP Amendment for the project in addition to any other required permits.~~

~~The City shall maintain an accounting of the number of existing motel and hotel rooms and room rates. When referring to overnight accommodations, lower cost shall be defined by a certain percentage of the Statewide average room rate as calculated by the Smith Travel Research website (www.visitcalifornia.com) or other comparable or similar website or study such as www.Calif.AAA.com. A suitable methodology would base the percentage on market conditions in San Diego County for the months of July and August and include the average cost of motels/hotels within five (5) miles of the coast that charge less than the Statewide average. High cost would be room rates that are 20% higher than the Statewide average, and moderate cost room rates would be between high and low~~

cost. The range of affordability of new and/or replacement hotel/motel development shall be determined as part of the coastal development permit process and monitored as part of the City's inventory of overnight accommodations.

New lower cost visitor and recreation facilities, including overnight accommodations, ~~may shall~~ be encouraged. New hotel/motel development within the City should, where feasible, provide a range of rooms and room prices in order to serve all income ranges. Priority shall be given to developments that include public recreational opportunities. New or expanded facilities shall be sited and designed to ~~minimize avoid~~ impacts to ESHA and visual resources.

20. Policy 2.34 shall be revised as follows:

Policy 2.34: Coastal recreational and visitor serving uses and opportunities, especially lower and moderate cost opportunities, ~~should shall~~ be protected, encouraged, and where feasible, provided by both public and private means. Removal or conversion of existing lower cost opportunities ~~should shall~~ be discouraged unless the use will be replaced with another use offering comparable visitor serving or recreational opportunities.

21. On Page 20, the parking standards for Residential care facilities shall be revised as follows:

Residential care facilities As prescribed in SBMC 17.60.100. 1 parking space per employee and one parking space for every 7 beds, unless the director of community development determines that additional parking spaces are required.

22. On Page 20, the parking standards for Religious and civic assembly facilities shall be revised as follows:

Religious and civic assembly facilities. ** This requirement may be modified pursuant to Policy 2.36.5 SBMC 17.52.050, Shared parking 1 space for each 4 fixed seats, or 1 space for each 35 s.f. of non-fixed seating area in the principal sanctuary or auditorium, whichever is greater. 18 inches of bench shall be considered a fixed seat.

23. On Page 23, the following parking note and Policy 2.36.5 shall be added at the end of the parking standards:

NOTE: A calculated parking requirement resulting in a fractional space shall be rounded up to the nearest whole space.

POLICY 2.36.5 SHARED PARKING. In all zones, parking facilities may be shared by multiple uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces for shared parking arrangements. Shared parking may be permitted pursuant to a conditional use permit issued by the director of community development or concurrently with another application reviewed by the city council subject to the following minimum conditions:

A. A sufficient number of spaces (both shared and separate) are provided to meet the greater parking demand of the participating uses.

B. Satisfactory evidence, as deemed by the hearing authority, has been submitted by the parties operating the shared parking facility, demonstrating that substantial conflict will not exist in the principal hours or periods of peak demand for the uses for which the shared parking is proposed.

C. Shared parking facilities shall not be located further than 600 feet from any structure or use served, unless it can be shown that increased distances are feasible through use alternative transportation modes such as shuttle services.

D. A written agreement, covenant, deed restriction or other document as determined necessary by the hearing authority shall be executed by all parties to assure the continued availability of the shared parking spaces for the life of the proposed development or use.

24. Policy 2.37 shall be revised as follows:

Policy 2.37: The City shall not close, abandon, or render unusable by the public any existing access-ways which the City owns, operates, maintains, or is otherwise responsible for without first obtaining a CDP unless it is determined to be necessary on a temporary basis for ~~a~~ public safety. Any access-ways which the City or any other managing agency or organization determines cannot be maintained or operated in a condition suitable for public use ~~should~~ shall be offered to another public agency or qualified private association that agrees to open and maintain the access-way for public use.

25. On Page 24, continuing to Page 25, Policy 2.39, subsection 5b. shall be revised as follows:

5. Manufacturing:

- a. Manufacturing and incidental office use areas: One off-street parking space per 400 square feet of gross floor area.
- b. Warehouse use areas: One off-street parking space per 1,000 square feet of gross floor area.
 - No parking shall be permitted in a required front yard.
 - ~~Parking and loading requirements for use not listed above shall be as prescribed in Chapter 17.52 SBMC.~~

26. Policy 2.58 shall be revised as follows:

Policy 2.58: Erosion of the bluffs should be minimized by constructing and maintaining additional barriers to discourage any access to bluff faces and on private developments including condominium projects (with enforcement on private lands to be self-policing) by the use of barriers such as low fences or railings which should be sensitively designed to discourage foot traffic onto the bluff face without obscuring views and vistas. In addition, no new ~~public or~~ private walking paths shall be permitted on the coastal bluff face.

27. Policy 2.60 shall be revised as follows:

Policy 2.60: No new private beach stairways shall be constructed. Existing permitted or private beach stairways constructed prior to the Coastal Act may be maintained in good condition with a CDP, but shall not be expanded in size or function. Routine repair and maintenance shall not include the replacement of the stairway or any significant portion of the stairway. As feasible, private beach accessways shall be phased out or converted to public accessways.

28. Policy 2.61 shall be deleted:

~~**Policy 2.61:** The shared use of private stairways with the public as a means of providing improved public access and as a potential means of mitigating impacts from bluff retention devices shall be encouraged.~~

29. Policy 2.68 shall be revised as follows:

Policy 2.68: Consistent with the policies below, maximum public access from the nearest public roadway to the shoreline and along the shoreline ~~may shall~~ be provided in new development. Exceptions may occur only where (1) it is inconsistent with public safety or the protection of fragile coastal resources; or where (2) adequate access exists nearby. Lateral access is defined as an access-way that provides for public access and use along the shoreline. Vertical access is defined as an access-way which extends to the shoreline, or perpendicular to the shoreline in order to provide access from the first public road to the shoreline.

30. Policy 2.75 shall be revised as follows:

Policy 2.75: Offers to dedicate public access may be accepted for the express purpose of opening, operating, and maintaining the access-ways for public use. Unless there are unusual circumstances, the access-ways shall be opened within five years of acceptance. If the access-way is not opened within this period, and if another public agency or

qualified private association expressly requests ownership of the easement in order to open it to the public, the easement holder ~~should~~ shall transfer the easement to that entity within six months of the written request. A CDP that includes an offer to dedicate public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder may transfer the easement to another public agency or private association that requests such transfer, if the easement holder has not opened the access-ways to the public within five years of accepting the offer.

Chapter 3 – Marine and Land Resources

31. On the bottom of Page 13, the first paragraph under 2. Land Use Plan Provisions shall be revised as follows:

The LUP contains policies that protect the ESHA of the City. The LUP ESHA Maps (Exhibits 3-6 through 3-10) show the areas that are designated ESHA. The ESHA Maps will be reviewed and updated periodically to reflect up to date information and necessary revisions shall be made as an amendment to the LUP. As explained in more detail below, even if an area is not designated on the ESHA Map as ESHA, it will be treated as ESHA if a site-specific study at the time of proposed development shows that it is ESHA.

32. On Page 22, the second paragraph shall be revised as follows:

The LUP establishes policies calling for the protection of areas adjacent to ESHA through the provision of buffers. Native vegetation buffer areas must be provided around ESHA that are adequate to prevent impacts that would significantly degrade these areas. Development, excluding required fuel modification activities in accordance with the County Fire and Fuel Hazard Management Plan, shall not be permitted within required buffer areas. The LUP policies require that new development be sited and constructed to avoid impacts, including fuel modification, which could significantly degrade ESHA. Graded and other disturbed areas in or adjacent to ESHA must be landscaped or revegetated with native, tolerant, salt-tolerant, non-invasive drought and fire resistant plants at the completion of grading. If new development removes or adversely impacts native vegetation, measures to restore disturbed or degraded habitat on the project site shall be included as mitigation. Fencing should be limited, in or adjacent to ESHA, and should be sited and designed to allow wildlife to pass through except where needed to mitigate fire risk. The LUP requires exterior lighting to be of low intensity and shielded to minimize impacts on wildlife.

33. On Page 26, the first complete paragraph shall be revised as follows:

Beach grooming or other activities on the dry beach can also have negative impacts to grunion. The grunion is a fish that comes ashore in the spring and summer during particularly high night-time tides to reproduce and lay their eggs. The eggs develop while

buried in the sand and hatch two weeks later when high tides again wash the high-shore and enable the baby grunion to reach the sea.

Beach maintenance must strike a balance between protection of this habitat and maintaining the recreational value of sandy beach. In the absence of focused surveys, grunion eggs must be presumed present from March 1 through August 31. Sand disturbing activities are prohibited when grunion eggs are present. During those periods, beach grooming and other disruptive activities shall only take place above the semi-lunar high tide mark.

34. Policy 3.1 shall be revised as follows:

Policy 3.1: Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are ESHAs and are generally shown on the LUP ESHA Maps. The ESHAs in the City of Solana Beach are shown in Exhibits 3-6 through 3-10, ~~unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem.~~ Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply.

35. Policy 3.7 shall be revised as follows:

Policy 3.7: If a site-specific biological study contains substantial evidence that an area previously mapped as ESHA does not contain habitat that meets the definition of ESHA ~~for a reason other than those set forth in Policy 3.1,~~ the City Community Development Director shall review all available site-specific information to determine if the area in question should no longer be considered ESHA and not subject to the ESHA protection policies of the LUP. If the area is determined to be adjacent to ESHA, LUP ESHA buffer policies shall apply. The Community Development Director shall provide recommendations to the City Council as to the ESHA status of the area in question. If the City Council finds that an area previously mapped as ESHA does not meet the definition of ESHA, a modification shall be made to the LUP ESHA Maps, as part of an LCP map update and LCP Amendment. If an area is not ESHA or ESHA buffer, LCP policies and standards for protection of ESHA and ESHA buffer shall not apply and development may be allowed (consistent with other LCP requirements) ~~even after~~ if the ESHA map and LCP has ~~not~~ been amended.

36. Policy 3.10 shall be revised as follows:

Policy 3.10: If the application of the policies and standards contained in this LCP regarding use of property designated as ESHA or ESHA buffer, including the restriction of ESHA to only resource-dependent use, would ~~deprive the property owner reasonable~~

~~use of the property constitute a taking of private property for public use without just compensation~~, then a use that is not consistent with the ESHA provisions of the LCP shall be allowed on the property, provided such use is consistent with all other applicable policies ~~of the LCP, the approved project is the alternative that would result in the fewest or least significant impacts~~, and ~~it~~ is the minimum amount of development necessary to avoid ~~the deprivation of reasonable use of the property~~ ~~a taking of private property for public use without just compensation~~. In such a case, the development shall ~~demonstrate the extent of ESHA on the property and~~ include mitigation, or, ~~if on-site mitigation is not feasible~~, payment of an in-lieu fee, for unavoidable impacts to ESHA ~~or ESHA buffers~~ from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance ~~per Policy 3.12~~. ~~Mitigation shall not substitute for implementation of a feasible project alternative that would avoid adverse impacts to ESHA.~~

37. Policy 3.11 shall be deleted:

~~**Policy 3.11:**—Applications for development of a non-resource dependent use within ESHA or for development that is not consistent with all ESHA policies and standards of the LCP shall demonstrate the extent of ESHA on the property.~~

38. Policy 3.12 shall be revised as follows:

Policy 3.12: New development shall be sited and designed to avoid impacts to ESHA. ~~For development permitted pursuant to Policy 3.10, if~~ there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA. ~~Mitigation for impacts to ESHA shall be provided at a 3:1 ratio.~~

39. Policy 3.16 shall be revised as follows:

Policy 3.16: The use of insecticides, herbicides, ~~rodenticides~~ or any toxic chemical substance which has the potential to significantly degrade ESHA, shall be prohibited within and adjacent to ESHAs, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration or as required for fuel modification. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.

40. Policy 3.17 shall be revised as follows:

Policy 3.17: The use of insecticides, herbicides, rodenticides or other toxic substances by City employees and contractors in construction and maintenance of City facilities and other development shall be minimized in and adjacent to ESHA.

41. Policy 3.22 shall be revised as follows:

Policy 3.22: Walls, fences, and gates situated along coastal bluffs and adjacent to the San Elijo Lagoon Reserve should be constructed with materials designed to minimize bird-strikes with the wall, fence, or gate. As feasible, material selection and structural design shall be made in consultation with a qualified biologist, CDFG, or USFWS. Such materials may consist, all or in part, of wood, wrought iron, frosted or partially-frosted glass, plexiglass or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or plexiglass should not be installed unless appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Use of opaque or partially opaque materials is preferred to clear glass or plexiglass and appliqués. All materials shall be maintained throughout the life of the development to ensure continued effectiveness.

42. Policy 3.23 shall be revised as follows:

Policy 3.23: Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect.

All buffers around (non-wetland) ESHA shall be a minimum of 100 feet in width, or a lesser width may be approved by the Planning Department and Fire Marshal ~~except~~ as addressed in Policy 3.67. However, in no case can the buffer size be reduced to less than 50 feet.

43. Policy 3.25 shall be revised as follows:

Policy 3.25: New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required ESHA or park buffer areas, ~~except for that case addressed in Policy 3.67.~~ Habitat restoration and invasive plant eradication may be permitted within required buffer areas if designed to protect and enhance habitat values.

44. Policy 3.27 shall be deleted:

~~**Policy 3.27:** Variances or modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development.~~

45. Policy 3.30 shall be revised as follows:

Policy 3.30: Permitted development located within or adjacent to ESHA and/or parklands that can adversely impact those areas ~~may shall~~ include open space or conservation restrictions or easements over ESHA, ESHA buffer, or parkland buffer in order to protect resources.

46. Policy 3.33 shall be revised as follows:

Policy 3.33: If located in, or adjacent to, ESHA new development shall include an inventory conducted by a qualified biologist of the plant and animal species present on the project site. If the initial inventory indicates the presence or potential for sensitive species or habitat on the project site, a detailed biological study shall be required.

Sensitive species are those listed in any of three categories: federally listed, state listed, and California Native Plant Society (CNPS) categories 1B and 2.

47. The following bullet point in Policy 3.33 shall be revised as follows:

- Slopes of 25 percent and over shall be preserved in their natural state unless the application of this policy would ~~preclude any reasonable use of the property~~ result in a taking of private property for public use without just compensation, in which case an encroachment (including grading) not to exceed ten percent of the steep slope area over 25 percent slope may be permitted.

48. Policy 3.40 shall be revised as follows:

Policy 3.40: New development shall be sited and designed to minimize impacts to ~~ESHA-coastal resources~~ by: [...]

- Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Council or Commission on appeal, if the determination can be made that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions. [...]

49. Policy 3.41 shall be revised as follows:

Policy 3.41: New septic systems shall be sited and designed to ensure that impacts to ~~ESHA coastal resources~~ are minimized, including those impacts from grading and site disturbance as well as the introduction of increased amounts of water. Adequate setbacks and/or buffers shall be required to protect ESHA and to prevent lateral seepage from the leach field(s) or seepage pit(s) into stream waters or the ocean.

50. Policy 3.42 shall be revised as follows:

Policy 3.42: Land divisions, including certificates of compliance, ~~except for mergers and lot line adjustments for property which includes area within or adjacent to an ESHA or parklands~~ shall only be permitted if each new parcel being created could be developed (including construction of any necessary access road), without building in ESHA or ESHA buffer.

51. Policy 3.43 shall be revised as follows:

Policy 3.43: Grading or earthmoving exceeding 50 cubic yards shall require a Development Review Permit from the City. Grading plans shall meet the requirements of the LIP with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety purposes, and maximum heights of cut or fill. ~~Grading proposed in or adjacent to an ESHA shall be minimized to the maximum extent feasible.~~

52. Policy 3.64 shall be revised as follows:

Policy 3.64: Identification of wetland acreage and resource value shall precede any consideration of use or development on sites where wetlands are present or suspected. With the exception of development for the primary purpose of the improvement of wetland resource value, all public and private use and development proposals which would intrude into, reduce the area of, or reduce the resource value of wetlands shall be subject to alternatives and mitigation analyses, and shall be limited to those uses listed in Policy 3.63. Practicable project and site development alternatives which involve no wetland intrusion or impact shall be preferred over alternatives which involve intrusion or impact. Wetland mitigation, replacement or compensation shall not be used to offset impacts or intrusion avoidable through other practicable project or site development alternatives.

53. Policy 3.65 shall be revised as follows:

Policy 3.65: Where wetland fill or development impacts are permitted in wetlands in accordance with the Coastal Act and any applicable LCP policies, mitigation measures shall include, at a minimum, creation or substantial restoration of wetlands of the same

type lost. Adverse impacts will be mitigated at a ratio of 4:1 for all types of wetland, and 3:1 for non-wetland riparian areas, seasonal wetlands, freshwater marsh and riparian areas, and at a ratio of 4:1 for vernal pools and salt marsh. The mitigation ratio may be 1:1, if, prior to the development impacts occurring, the mitigation is completed and is empirically demonstrated to meet performance criteria that establish that the created or restored wetlands are functionally equivalent to relatively pristine natural wetlands of the same type as the impacted wetlands. Replacement of wetlands on-site or adjacent to the project site, within the same wetland system, shall be given preference over replacement off-site or within a different system. Areas subjected to temporary wetland impacts shall be restored to the pre-project condition at a 1:1 ratio. Temporary impacts are disturbances that last less than 12 months and do not result in the physical disruption of the ground surface, death of significant vegetation within the development footprint, or negative alterations to wetland hydrology.

54. Policy 3.66 shall be revised as follows:

Policy 3.66: Provide a buffer of at least 100 feet in width from the upland edge of wetlands and at least 50-feet in width from the upland edge of riparian wetlandshabitat. Buffers should take into account and adapt for rises in sea level. Under this policy, the CDFG, USFWS, and USACE must be consulted in such buffer determinations and in some cases the required buffer, especially for salt marsh wetlands, could be greater than 100 feet. Uses and development within buffer areas shall be limited to minor passive recreational uses, with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area; however, water quality features required for to support new development shall not be constructed in wetland buffers. All wetlands and buffers identified and resulting from development and use approval shall be permanently conserved or protected through the application of an open space easement or other suitable device. All development activities, such as grading, buildings and other improvements in, adjacent to, or draining directly to a wetland must be located and built so they do not contribute to increased sediment loading of the wetland, disturbance of its habitat values, or impairment of its functional capacity.

55. Policy 3.67 shall be revised as follows:

Policy 3.67: In some cases, smaller buffers may be appropriate, when conditions of the site as demonstrated in a site specific biological survey, the nature of the proposed development, etc. show that a smaller buffer would provide adequate protection. In such cases, the CDFG must be consulted and agree that a reduced buffer is appropriate and the City, or Commission on appeal, must find that the development could not be feasibly constructed without a reduced buffer. However, in no case shall the buffer be less than 50 feet.

56. Policy 3.103 shall be revised as follows:

Policy 3.103: Permits for new development shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required ~~BMPS~~BMPs. Verification of maintenance shall include the permittees signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility, at which time the new permittee will be obligated to comply with all permit conditions, including on-going maintenance.

57. Policy 3.113 shall be revised as follows:

Policy 3.113: The City's water quality protection measures are primarily based on ensuring that all development is conditioned to meet, at a minimum, the requirements of the Stormwater Permit 2007-0001 approved by the RWQCB. The City will make amendments to its Ordinances, Policies and Regulations so that they comply with the Stormwater Permit 2007-0001 and other applicable water quality regulations as required by law. Changes to those ordinances, policies and regulations that apply to development in the Coastal Zone, will require amendments to the Solana Beach Land Use Plan or LCP Implementation Plan. All permits issued by the City, or the Commission on appeal, must meet all requirements of the LCP, even if those requirements are more protective than those required by Stormwater Permit 2007-0001 or its successor permits.

58. Policy 3.114 shall be revised as follows:

Policy 3.114: Development involving onsite wastewater discharges shall be consistent with the LCP as well as the rules and regulations of the San Diego RWQCB, including Waste Discharge Requirements, revised waivers and other regulations that apply.

Chapter 4 – Hazards & Shoreline/Bluff Development

59. On Page 10, continuing on to Page 11, the bullet items under Section 2. Land Use Plan Provisions shall be revised as follows:

The LUP policies, goals, and requirements regarding natural hazards and shoreline and bluff development can be summarized as follows:

- Maintaining public ownership of the bluffs and beaches;
- Regulating-Prohibiting new development that could require shoreline protection, and ~~prohibit, where possible,~~ new land divisions which create new lots within high hazard areas;
- Requiring that new development on oceanfront bluffs be set back in accordance with all provisions of the LCP;

- Providing that applicants assume the risk of building in hazardous areas without ~~assurance~~ the expectation that future bluff protection devices will be allowed;
- Acknowledging that the shoreline is inherently a changing, unstable area, and development along the shoreline should never be considered permanent.
- Regulating development to avoid the need for mid and upper bluff shoreline protection;
- Developing emergency permit procedures, follow-up actions and monitoring to ensure that the emergency response, whether temporary or permanent, is the least environmentally damaging alternative to the extent feasible;
- Providing for the development of long-term shoreline management policies; Including measures to establish periodic nourishment of the City's beaches which are vulnerable to direct wave attack and erosion to assure long-term maintenance of beach area for public recreational use;
- Monitoring the issue of potential future sea level rise, both in the short term via permitting actions and a long-term response to address future development impacts along the shoreline;
- Siting and designing development to avoid or minimize risk from geologic, flood and fire hazards;
- Implementing a HOZ program for siting and designing development and to minimize grading and vegetation clearance on steep slopes;
- Providing that development utilize adequate drainage and erosion control measures both during construction and as a long-term feature; and,
- Requiring that new development be sited and designed to ~~minimize~~ avoid the impacts of fuel modification and brush clearance on native habitat and neighboring property, particularly parkland

60. On Page 11, the second complete paragraph shall be revised as follows:

It is essential that the implementation of the programs recommended herein, and achievement of the goals set forth herein, be balanced between public and private interests. The City is committed to implementing the goals and strategies of the LCP including, without limitation, replenishment and retention of beach sand. Sand Mitigation Fees may be expended for sand replenishment and retention projects, and ~~Public/Recreation Fees may be expended for sand replenishment and~~ public access and public recreation improvements.

61. On Page 12, the second complete paragraph shall be revised as follows:

In compliance with the Coastal Act, the goal of the LCP is to limit bluff retention devices on the public bluffs and beach area while protecting public and private property rights to the extent required by law and the health, safety, and welfare of residents and the public. The City's shoreline has largely been built out, and many of the existing structures located along the City's bluffs were built in a location that is now considered at risk

from shoreline erosion. Thus, some amount of lower bluff protection has been and will continue to be unavoidable to protect existing structures in danger from erosion pursuant to Section 30235 of the Coastal Act. However, the LCP policies acknowledge that modifications to the building footprint and its foundation further inland on private property will be considered feasible alternatives to avoid additional mid and upper bluff stabilization and alteration of the natural landform on public property to protect private development. Such stabilization measures can have particularly extensive adverse impacts on the natural bluff landform and the scenic quality of the shoreline even beyond those associated with lower bluff protection. In all cases, impacts from these devices on public access, recreation, scenic resources and sand supply must be mitigated.

For all new development, the LCP requires that the development be designed so that it will neither be subject to nor contribute to bluff instability, and is sited to not require construction of protective devices that would alter the natural landforms of the bluffs.

62. Starting at the middle of Page 12, and continuing onto Page 13, the following revisions shall be made to the description of the four types of preferred bluff retention systems:

The following describes ~~each of the four~~ types of preferred bluff retention systems to protect the lower bluff only:

- **Infill/Bluff Stabilization – Lower Seawall (See Appendix B Figure 1)** – This first solution is designed to address sea caves and undercut portions of the lower dense sandstone bluff where the clean sand lens is not yet exposed. If left uncorrected the sea cave/undercut will eventually lead to block failures of the lower sandstone, exposure of the clean sand lens and landward bluff retreat. This failure exposes the clean sand lens of the upper bluff terrace deposits triggering rapid erosion and landward retreat of the upper bluff, which eventually endangers the structures at the top of the bluff. If treated at this stage, the bluff retention system will minimize the need for a future higher seawall and future upper bluff repair. This stabilization method is designed as a structural wall and will be reinforced, have structural tiebacks into the sandstone bedrock and will be required to have a textured face mimicking the existing material.
- **Higher Seawall/Clean Sands Encapsulation (See Appendix B Figure 2)** – If the clean sand lens has been exposed, it may be necessary to build a seawall high enough to cover this segment of the bluff face. This method consists of a structurally engineered seawall (with tiebacks into the sandstone) approximately 35' high to protect and encapsulate the clean sand lens at the base of the terrace deposits. The wall is required to have a textured face mimicking the existing material. If treated at this stage, the bluff retention system will minimize or prevent the need for future mid or upper bluff stabilization.

The following describes types of the City's preferred upper bluff retention systems that may be utilized with a lower seawall when collapse of the mid and upper bluff threatens an existing principal structure:

- **Seawall and Upper Bluff Repair (See Appendix B Figure 3)** – This retention system is an all-encompassing bluff ~~repair~~ stabilization measure and shall only be used when bluff failures have caused exposure of the clean sand lens and significant erosion of the mid and upper bluff. Encapsulation of the clean sand lens is needed to protect the bluff top principal structure from potential damage. This repair consists of a structurally engineered seawall (with tiebacks into the sandstone) approximately 35' high to protect and encapsulate the clean sand lens at the base of the terrace deposits. The upper bluff is reconstructed at a stable angle by bringing in additional soil which is then reinforced with a geogrid fabric. The lower seawall is textured to simulate the existing bluff material and the upper soil is similar to the existing soil and is hydro-seeded with native, drought tolerant, non-invasive, and salt tolerant vegetation.
- **Upper Bluff Repair (See Appendix B Figure 4)**– This repair is used where there is a pre-existing lower bluff seawall, and/or infill/bluff repair ~~or a natural bluff~~ and shall only be used when there is a need to ~~repair~~ stabilize the upper bluff terrace deposits to provide structural protection due to upper bluff failures or extreme erosion. Whenre ever feasible, the building footprint and foundation should be moved inland and the bluffs should be left in a natural state. The repair is much like the upper bluff ~~repair~~ stabilization described in (Preferred Solution #23) and including taking into account lateral migration of erosion from adjacent properties would involve benching and placing erodible concrete between the clean sand lens and the bluff face to assure that the clean sand erosion does not undermine the stability of the upper bluff and bluff top principal structure. The slope is then rebuilt and reinforced to create an adequate safety factor to protect the upper bluff structure.
- **Caisson and Tieback Alternative (See Appendix B Figure 5)** – This bluff retention system, ~~although not a primary preferred bluff retention system, may be necessary where the upper bluff structure is in imminent danger of failure and it is not possible to perform the other preferred bluff retention measures due to property boundary/ownership issues or the property owner is constrained from performing the preferred repair for some reason.~~ This ~~repair~~ consists of drilled reinforced concrete caissons (24 inches or greater in diameter). These structurally designed caissons are drilled down to or into the lower sandstone bedrock, shall be below grade, and located as far landward as possible to avoid exposure of the drilled caisson in the future. In many cases, to avoid future exposure, the structure requiring stabilization can also be moved further inland to a location that, in connection with the lower seawall, will assure stability of the structure and avoid alteration of the natural landform of the bluffs. ~~These caissons are also tied back with steel cables drilled at an angle landward. Because there is not lower bluff seawall or upper bluff repair it is understood that further failure and landward~~

~~erosion will take place. This erosion will eventually expose the drilled caisson.~~
In any event, ~~it~~ is required, as a condition of approval that the homeowner post a bond for a future reinforced concrete face to be constructed ~~if/when~~ the caissons are exposed. Additional tiebacks may be required at that time.

Prior to approval of any upper bluff retention system, a detailed alternative analysis must be performed, consistent with Policy 4.56. In addition, per Policy 4.56, on sites where there is existing lower bluff protection, no upper bluff retention system shall be approved unless it has been determined that removing and relocating/rebuilding the principal bluff top structure with a caisson foundation system in a location that will avoid future exposure and alteration of the natural landform is infeasible, resulting in a taking of private property for public use without just compensation.

In addition to the suggested text modifications, this Suggested Modification requires addition of a new Figure 2 to Appendix B, showing the Higher Seawall/Clean Sands Encapsulation option as described.

63. On Page 13, the first paragraph after the bulleted list shall be revised as follows:

Once the LCP is certified, the City will have jurisdiction to issue CDPs for projects landward of the MHTL, with the CCC retaining appeal jurisdiction only in the ~~ese~~ areas described in Section 30603 of the Coastal Act. Both before and after the certification of the LCP, the CCC retains original jurisdiction ~~with respect to projects seaward of the MHTL (i.e., over development located~~ on tidelands, submerged lands, filled and unfilled public trust lands). Accordingly, applications for all bluff retention devices to be sited seaward of the MHTL, ~~as shown on the City's October 2010 MHTL Line Survey, within the Commission's original jurisdiction~~ shall be submitted to the City for a major use permit and then to the Coastal Commission for a CDP.

64. On Page 13, the second paragraph shall be revised as follows:

All permits issued for developments within an area appealable to the CCC must be approved through a public hearing process. Appeal jurisdiction for the CCC is defined in Section 30603 of the Coastal Act and includes such geographic areas as those between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or the MHTL where ~~there is~~ no beach, whichever is the greater distance; and any areas located within 300 feet of the top of the seaward face of any coastal bluff, or within 100 feet of any wetland, estuary, or stream; and any major public works project or major energy facility ~~costing more than \$100,000~~.

65. On Page 14, the second paragraph shall be revised as followed:

The LCP contains provisions for imposing Sand Mitigation Fees and compliance with the City's ~~CCC's~~ Public Recreation Fees. Bluff property owners who construct ~~coastal structures~~ bluff retention devices shall pay the City a Sand Mitigation Fee. The Sand Mitigation Fee formula is based on the CCC formula and is detailed in Appendix A.

66. On Page 14, the fourth paragraph shall be revised as follows:

Based on the October 2010 MHTL survey, the land on which bluff retention devices are proposed to be located may include public lands owned by either the State of California, the City of Solana Beach or both. In addition, the location of the MHTL is constantly changing. The City is collecting a \$1,000 per linear foot fee deposit to be applied towards a future Public Recreation/Land Lease Fee. Therefore, until such time as a final Public Recreation / Land Lease Fee is adopted by the City following Coastal Commission approval of such a payment and certification of an the-LUP amendment adding the fee program to the City's LCP, the City will continue to impose an interim fee deposit in the amount of \$1,000 per linear foot to be applied as a credit toward the Public Recreation / Land Lease Fee. The City shall complete its Public Recreation/Land Lease fee study within 18 months of effective certification of the LUP. In association with approval of any bluff retention device on public land, the City will also require an encroachment removal agreement to be renewed at least every 20 years. Additional mitigation for impacts to public access and recreation may also be required through site-specific review and approval of the coastal development permit.

67. Starting on fifth complete paragraph on Page 15 and continuing onto Page 16, the following deletions shall be made:

Slope stability is a significant concern in Solana Beach along the entire coastal bluff area. These steep coastal bluffs have experienced loss of soil and rock resulting from a combination of natural forces and human activities. Ocean wave action weakens the base of the bluffs, particularly when high tides combine with high waves associated with Pacific Ocean storms. ~~Five people have been killed by bluff collapses along northern San Diego County beaches since 1995; some of whom were 30 feet seaward of the bluff toe at the time of the collapse.~~

- ~~•In 1995, a bluff collapse south of Del Mar killed two people and injured a third.~~
- ~~•In 2002, a man was killed in a small seacave collapsed at Carlsbad State Beach.~~
- ~~•In 2002, a bluff collapse killed a woman near Moonlight Beach in Encinitas.~~
- ~~•In 2008, a man was killed by falling rocks at Torrey Pines State Beach.~~

~~Conversely, facilitating habitation and development within close proximity of a bluff edge, armored or not, may also result in people falling from the bluff as noted below.~~

- ~~•In 1989, three construction workers were injured after falling 50 feet down an~~

- ~~Encinitas bluff they were trying to stabilize (without a permit);~~
- ~~• In 2001, a construction worker fell in a bluff collapse while sinking concrete pillars into a Solana Beach bluff;~~
- ~~• In August 2005, a woman died and a man was injured in two separate falls from the bluff edge in Encinitas.~~
- ~~• In 2009, a woman fell from the bluff edge in Solana Beach and was seriously injured.~~

68. On Page 17, the fourth paragraph shall be revised as follows:

The LUP contains policies which require that any new development is sited and designed to ~~minimize required~~avoid the need for fuel modification within ~~and adjacent to~~ ESHA. One potential method of reducing fire risk to properties adjacent to the WUI is to install a non-combustible wall thereby reducing the vegetation management zone. ESHA protection policies are contained in Chapter 3. Additionally, the LUP contains policies that require mitigation for impacts resulting from the removal, conversion, or modification of natural vegetation that cannot be avoided through the implementation of project alternatives. The mitigation to be provided includes one of three measures: habitat restoration, habitat conservation, or in-lieu fee for habitat conservation.

69. On Page 18, the following Coastal Act policy shall be inserted after Section 20235:

Section 30236:

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

70. Policy 4.1 shall be revised as follows:

Policy 4.1: The City of Solana Beach contains areas subject to natural hazards that present risks to life and property. These areas require additional development controls to minimize risks. Potential hazards in the City include, but ~~shall are~~ not be limited to, the following:

- Coastal Bluffs
- Slopes with low stability & and high landslide potential: Hillside areas that have the potential to slide, fail, or collapse.
- Seismic ground shaking: Shaking induced by seismic waves traveling through an area as a result of an earthquake on a regional geologic fault.

- Liquefaction: Areas where water-saturated ~~materials (including soil, artificial fill or sediment, and certain types of volcanic deposits)~~ can potentially lose strength and fail during strong ground shaking.
- Flood prone areas most likely to flood during major storms.
- Wave action: The entire shoreline is subject to direct wave attack and damage from wave activity due to a lack of protective beach.
- Tsunami: Low lying shoreline areas subject to inundation by a sea wave generated by local or distant earthquake, submarine landslide, subsidence, or volcanic eruption.
- Fire hazard: Areas subject to major wildfires located in the City's WUI.

71. Policy 4.2 shall be deleted:

~~**Policy 4.2:** All development that requires a CDP is subject to written findings by the City's decision-making body that it is consistent with all LUP policies and LIP provisions of the City's certified LCP. If there is a conflict between a provision of the LCP and a provision of the City's General Plan, or any other City-adopted plan, resolution, or ordinance not included in the LCP, and it is not possible for the development to comply with both the LCP and such other plan, resolution or ordinance, the LCP shall take precedence and the development shall not be approved unless it complies with the LCP.~~

72. Policy 4.3 shall be revised as follows:

Policy 4.3: Minimize the exposure of new development to geologic, flood and fire hazards. The Hillside/Coastal Bluff Overlay (HOZ) policies ~~(SBMC Section 17.48.020)~~ shall apply to all areas designated as within the HOZ on the City of Solana Beach ~~zoning LUP map (Exhibit 5-2) and-or~~ where site-specific analysis indicates that the parcel contains slopes exceeding 25 percent grade.

This Suggested Modification is also a requirement to revise Exhibit 5-2 Special Zoning Overlays to change the "Hillside Overlay" reference on the exhibit to "Hillside/Coastal Bluff Overlay."

73. Policy 4.6 shall be revised as follows:

Policy 4.6: ~~Buildings-Development~~ within flood prone areas subject to inundation or erosion shall be prohibited unless no alternative building site exists on the property legal lot and proper mitigation measures are provided to minimize or eliminate risks to life and property from flood hazard. The City shall ensure that permitted development and fill in the 100-year floodplain will not result in an obstruction to flood control and that such development will not adversely affect coastal wetlands, riparian areas, or other sensitive habitat areas within the floodplain. (The Floodplain Overlay applies to areas within the 100-year floodplain as shown in Exhibit 4-6)

74. Policy 4.7 shall be revised as follows:

Policy 4.7: ~~Require p~~Permitted infill development in the 100-year floodplain ~~to shall~~ be limited to structures capable of withstanding periodic flooding without requiring the construction of on or off-site flood protective works or channelization, which adversely affect environmentally sensitive habitat or reduce existing riparian habitat within the floodplain. Proposed development shall be required to incorporate the best mitigation measures feasible pursuant to Public Resources Code Section 30236, ~~as amended.~~

75. Policy 4.8 shall be deleted:

~~**Policy 4.8:** Buildings within flood prone areas subject to inundation or erosion shall be prohibited unless no alternative building site exists on the property and proper mitigation measures are provided to minimize or eliminate risks to life and property from flood hazard.~~

76. Policy 4.10 shall be revised as follows:

Policy 4.10: Land divisions, including lot line adjustments, shall be prohibited unless all proposed parcels can be demonstrated ~~or mitigated~~ to be safe from flooding, erosion, fire and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.

77. Policy 4.14 shall be revised as follows:

Policy 4.14: ~~In the event~~The that remediation or stabilization of landslides that affect existing structures or that threaten public health or safety ~~is required, shall be encouraged.~~ A multiple alternative remediation or stabilization techniques shall be analyzed to determine the least environmentally damaging alternative. Maximum feasible mitigation shall be incorporated into the project in order to minimize adverse impacts to resources and to preclude the need for future mitigation.

78. The following new heading shall be inserted after Policy 4.15, and the following revisions made to Policy 4.16:

Non-Conforming Structures

Policy 4.16: Existing, lawfully established structures that are located between the sea and the first public road paralleling the sea (or lagoon) built prior to the adopted date of the LUP that do not conform to the provisions of the LCP shall be considered legal non-conforming structures. Such structures may be maintained and repaired, as long as the

improvements do not increase the size or degree of non-conformity. Minor Aadditions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the current policies and standards of the LCP. Demolition and reconstruction or bluff top redevelopment that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP.

79. Policy 4.17 shall be revised as follows:

Policy 4.17: Implement a City-wide, long-term comprehensive shoreline management strategy which includes, but is not limited to, the following:

- An examination of local and regional long-term erosion rates and trends in order to reflect and plan for shoreline changes.
- An examination of mean sea level elevation trends and future sea level rise projections in order to include these conditions in future erosion rates and to plan for potential shoreline changes.
- Standard plans defining the preferred bluff retention solutions that would be acceptable or preferable, and where appropriate, identification of the types of armoring that should be avoided for certain areas or beaches in order to minimize risks and impacts from armoring to public access and scenic resources along the shoreline and beach recreation areas.
- Standard feasibility analysis of alternatives as a required element of bluff retention device projects to ensure that mid and upper bluff retention devices are avoided to the extent feasible only used as a last resort. The analysis should require, but not be limited to, the use of technical evaluations of the site (geotechnical reports, engineering geology reports, and wave run up reports etc.), an examination of all other options (partial relocation, removal of seaward portions of the structure, revised building footprint and foundation, sand replenishment, sand retention devices, or no action, etc.), and a conclusion that a bluff retention device would be the only feasible means for protecting the existing principal structure in danger from erosion. The analysis will take into consideration the age and size of the structure, the size of the lot, whether the existing principal structure existed prior to the Coastal Act, and previous permit actions on the site that require consideration of alternatives to shoreline and bluff protective devices.
- Standard conditions and monitoring requirements that should include mechanisms to ensure shoreline protection effectiveness and public safety with provisions for the modification or removal of ineffective, obsolete or hazardous bluff retention devices.

- Conditions requiring removal of shoreline and bluff protective devices if no longer required to protect a principal residential structure.
- Procedures to address emergency conditions, such as: coordination with property owners; field inspections before and after storm seasons; guidance for types of preferred temporary emergency devices and a provision for their removal if a permit for a bluff retention device is not obtained.

80. Policy 4.19 shall be revised as follows:

Policy 4.19: ~~Ensure that n~~New building improvements are development shall be set back a safe distance from the bluff edge, with a reasonable margin of safety, to ~~reduce~~ eliminate the need for bluff retention devices to protect the new improvements, ~~except when no feasible alternative exists.~~ Foundation footings for a~~All new development,~~ including additions to existing structures, on bluff property, shall be landward of the Geologic Setback Line (GSL) as set forth in Policy 4.27. This requirement shall apply to the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems, etc. Accessory structures such as decks, patios, and walkways, which are at-grade and do not require structural foundations may extend into the setback area ~~to a minimum distance of no closer than~~ five feet from the bluff edge. On lots with a legally established bluff retention device, the required geologic analysis shall describe the condition of the existing seawall; identify any impacts it may be having on public access and recreation, scenic views, sand supply and other coastal resources; and evaluate opportunities to modify or replace the existing protective device in a manner that would eliminate or reduce those impacts. ~~No newly constructed improvements on bluff property shall be allowed to be protected by a bluff retention device where one does not already exist. Notwithstanding the foregoing, the bluff property owner retains the right to protect principal structures that existed prior to the remodel. This policy shall apply to maintenance, repairs, additions, improvements and structures destroyed by disasters.~~

81. Policy 4.20 shall be deleted:

Policy 4.20: ~~The City shall ensure that new construction does not increase the degree of non-conformity of existing bluff homes consistent with all provisions of SBMC Chapter 17.16. Existing legal non-conforming structures on the bluff shall be brought into conformance with new regulations as soon as possible, consistent with laws protecting the rights of private property owners. Notwithstanding the above, bluff property owners shall have the right to repair and maintain a legal non-conforming bluff home, provided it is not determined to be an extensive remodel. This policy as defined in Chapter 8 shall apply to maintenance, repairs, additions, improvements and to structures destroyed by disasters.~~

82. The following new Policy 4.20 shall replace the deleted 4.20:

Policy 4.20 A legally permitted bluff retention device shall not be factored into setback calculations. Expansion and/or alteration of a legally permitted bluff retention device shall include a reassessment of the need for the shoreline protective device and any modifications warranted to the protective device to eliminate or reduce any adverse impacts it has on coastal resources or public access, including but not limited to, a condition for a reassessment and reauthorization of the modified device in 20 years.

83. The following new Policy 4.20.5 shall be inserted:

Policy 4.20.5 New shoreline or bluff protective devices that alter natural landforms along the bluffs or shoreline processes shall not be permitted to protect new development. A condition of the permit for all new development and blufftop redevelopment on bluff property shall require the property owner record a deed restriction against the property that expressly waives any future right that may exist pursuant to Section 30235 of the Coastal Act to new or additional bluff retention devices.

84. Policy 4.21 shall be revised as follows:

Policy 4.21: Existing, legal non-conforming publicly-owned facilities that are coastal-dependent uses such as public access improvements and lifeguard facilities, including principal and accessory structures, utilities, and other developments located within 40 feet of the edge of the bluff edge, ~~shall~~ may be maintained, repaired and/or replaced as determined necessary by the City. Any such repair or replacement of existing public facilities shall be designed and sited to avoid the need for shoreline protection to the extent feasible. No new public improvements shall be constructed within five feet of the bluff edge. This policy shall apply to maintenance, repairs, additions, improvements, and to structures destroyed by disasters.

85. Policy 4.22 shall be revised as follows:

Policy 4.22: ~~Require that any n~~ New accessory structures on bluff properties ~~to~~ shall be constructed in a manner that allows easy relocation landward or removal should they become threatened by coastal erosion or bluff failure. The City shall also condition CDPs authorizing accessory structures with a requirement that the permittee (and all successors in interest) shall apply for a CDP to remove the accessory structure(s) if it is determined by a licensed Geotechnical Engineer that the accessory structure is in danger from erosion ~~or if the bluff edge retreats to within ten feet of the accessory structure as a result of erosion,~~ landslide or other form of bluff collapse.

86. Policy 4.22 shall be deleted:

~~**Policy 4.24:** The GSL shall be the required bluff setback, established on a case by case basis, to ensure bluff stability for new development. The bluff property owner shall select and pay for the licensed Geotechnical Engineer needed to determine the GSL.~~

87. Policy 4.25 shall be revised as follows:

Policy 4.25: Where setbacks and other development standards could preclude construction of a ~~minimum home (2000 sq.ft.)~~, the City may consider options including but not limited to reduction of the two car onsite parking space requirement to a one car onsite parking requirement, or construction within five feet of the public right of way front yard setback for all stories as long as adequate architectural relief (e.g., recessed windows or doorways or building articulation) is maintained as determined by the City. The City may also consider options including a caisson foundation with a minimum 40 foot blufftop setback to meet the stability requirement and avoid alteration of the natural landform along the bluffs. ~~No such newly constructed minimum home shall require protection by a bluff retention device.~~ A condition of the permit for any such minimum home shall expressly require waiver of any such rights to new or additional bluff retention devices which may exist and recording of said waiver on the title of the bluff property.

88. Policy 4.26 shall be revised as follows:

~~**Policy 4.26:** Encourage new bluff homes to be set back as far as reasonably possible from the bluff edge, subject to applicable LUP requirements, and subject to the provisions herein for bluff homes destroyed by disasters. New bluff homes, or additions to existing bluff homes, may be constructed within five feet of the public right of way front yard setback for all stories as long as adequate architectural relief (e.g., recessed windows or doorways) is maintained as determined by the City. Where adherence to the LCP policies on geologic setbacks and other development standards would preclude construction of a new primary residence, even with reductions in the front yard setback and parking standards, the development shall be reviewed as a site-specific LCP Amendment to allow the minimum development necessary to avoid a taking of private property for public use without just compensation.~~

89. Policy 4.27 shall be revised as follows:

Policy 4.27: All new bluff property development shall be set back from the bluff edge a sufficient distance to ensure that it will not be in danger from erosion and that it will ensure stability for its projected 75-year economic life. To determine the GSL, applications for bluff property development must include a geotechnical report, from a licensed Geotechnical Engineer and/or a certified Engineering Geologist, that establishes the Geologic Setback Line (GSL) for the proposed development. This setback line shall

establish the location on the bluff top stability where can be reasonably assured for the economic life of the development. Such assurance will take the form of a quantitative slope analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, k=0.15 or determined through analysis by the geotechnical engineer), using shear strength parameters derived from relatively undeformed samples collected at the site. In no case shall the setback be less than 40 feet from the bluff edge, and only if it can be demonstrated that the structure will remain stable, as defined above, at such a location for its 75-year economic life and has been sited safely without reliance on existing or future bluff retention devices, other than a caisson foundation.

Furthermore, all new development including, but not limited to principal structures, additions, and ancillary structures, shall be specifically designed and constructed such that it could be removed in the event of endangerment.

~~The geotechnical report shall examine the entire site with special attention to the area where stability of a bluff home could be compromised within the economic life of the home. The geotechnical report must include a projected long-term average erosion rate calculated using The predicted bluff retreat shall be evaluated considering not only historical bluff retreat data, but also acceleration of bluff retreat made possible by continued and accelerated and taking into account all relevant factors including: without limitation, predicted sea level rise, future increase in storm or the potential effects of past and projected El Niño events on bluff stability, the presence of clean sands and their potential effect on the pattern of erosion at the site, an analysis of the ongoing process of retreat of the subject segment of the shoreline, and any known site-specific conditions. This data shall be used to establish the GSL as the estimated location on the bluff property that would demonstrate a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, k=0.15 or determined through analysis by the geotechnical engineer) for the economic life of the home as of the date of the development application as determined by a quantitative slope stability analysis using shear strength parameters derived from relatively undeformed samples collected at the site.~~ To the extent the MEIR or geology reports previously accepted by the City address the issues referenced above and remain current, technical information in the MEIR and previously accepted geology reports may be utilized by an applicant. Any such report must also consider the long-term effects of any sand replenishment and/or retention projects to the extent not addressed in the MEIR or the EIR for the specific application.

90. Policy 4.28 shall be revised as follows:

Policy 4.28: With respect to bluff properties only, the City will require the removal or capping of any permanent irrigation system within 100 feet of the bluff edge in connection with issuance of discretionary permits for new development, redevelopment, or shoreline protection, or bluff erosion, unless the bluff property owner demonstrates to the satisfaction of the Public Works Director, or the CCC if the project is appealed, that such irrigation has no material impact on bluff erosion (e.g., watering hanging plants over hardscape which drains to the street).

91. Policy 4.31 shall be revised as follows:

Policy 4.31: A bluff home may continue its legal non-conforming status; however, ~~an extensive remodel~~ bluff top redevelopment shall constitute new development and cause the pre-existing non-conforming bluff home to be brought into conformity with the LCP. Entirely new bluff homes shall also conform to the LCP.

92. Policy 4.34 shall be revised as follows:

Policy 4.34: When bluff retention devices are unavoidable, Encourage applicants to pursue preferred bluff retention designs as depicted in Appendix 2 of the LUP when required to protect an existing principal structure in danger from erosion. All future bluff retention device applications should utilize these designs as the basis of site-specific engineering drawings to ensure consistency with the LUP.

93. Policy 4.39 shall be revised as follows:

Policy 4.39: Establish a Shoreline District Account which will serve as the primary account where all funds generated pursuant to the Hazards & Shoreline/Bluff Development Chapter of the LUP will be held. The City should invest the Shoreline District Account funds prudently and expend them for purposes outlined in the LCP including, without limitation:

- Sand replenishment and retention studies and projects;
- Updating the October 2010 MHTL Survey;
- Preparation of other shoreline surveys and monitoring programs;
- Opportunistic beach nourishment programs and development of stockpile locations;
- Repair and maintenance of bluff retention devices subject to reimbursement by the affected non-compliant bluff property owners;
- Public recreation improvements;
- Repair and replacement of beach access infrastructure;
- Insurance premiums; and
- Shoreline related litigation.

Sand Mitigation Fees must be expended for sand replenishment and potentially retention. Recreation Fees must be expended for ~~sand replenishment, retention,~~ public access, and public recreation improvements.

94. Policy 4.40 shall be revised as follows:

Policy 4.40: ~~As part of the LCP Local Implementation Plan (LIP), the City of Solana Beach will establish a two-tiered permit application process to distinguish between projects that may be processed administratively by the City and those requiring discretionary actions(s) by the City. Projects that cannot be considered minor and projects located within the “appealable zone” will require a public hearing and will be treated as discretionary actions. Implement a two-tiered system for processing and acting on CDP applications for bluff retention device projects within the City's jurisdiction. The CCC retains permit jurisdiction on tidelands, submerged lands, filled and unfilled public trust lands and any areas of deferred certification. Both tiers will require documentation of need for the project and analysis of alternatives, appropriate for the level of the project and adequate to determine the least environmentally damaging feasible alternative.~~

~~—————**Tier 1— Administrative Coastal Development Permits.**~~

- ~~• This tier would include minor projects that are considered routine and non-controversial. These projects would be decided by the City Manager or his/her designee, at a public hearing, subject to appeal to the City Council, whose decision shall be final, unless located in an area appealable to the CCC. Tier 1 projects would include, but are not limited to, such things as drainage modifications, removal, relocation, or code compliant minor interior remodeling or landward additions to bluff homes and accessory structures at grade with the bluff home; repair and maintenance of bluff retention devices including installation of a return wall; changes to retail structures that do not trigger the need for additional parking, new infill development involving single family homes or accessory structures not on the coastal bluff, or other minor development that has no adverse effect on coastal resources as determined by the Community Development Director and similar minor projects in conformance with the LCP.~~

~~—————**Tier 2— Regular Coastal Development Permits.**~~

- ~~• This tier would include applications to install new or enlarged bluff retention devices, other than Seacave/Notch Infills/Engineered Dripline Infills. Tier 2 projects would be heard and decided by the City Council. With respect to bluff retention devices landward of the MHTL, the CCC shall have appeal jurisdiction only. Absent an appeal to the CCC, the decision of the City Council shall be final. With respect to bluff retention devices seaward of the MHTL, because the CCC retains original jurisdiction, as required by law, such projects shall be first heard as a Conditional Use Permit and decided by the City Council and, if approved, then by the CCC.~~

95. Policy 4.41 shall be revised as follows:

Policy 4.41: Maximize the natural, aesthetic appeal and scenic beauty of the beaches and bluffs by ~~attempting to avoid~~ing or ~~and~~ minimizeing the size of bluff retention devices.

~~preserving the maximum amount of unaltered or natural bluff face, and minimizing encroachment of the bluff retention device on the beach, to the extent feasible, while ensuring that any such bluff retention device accomplishes its intended purpose of protecting existing bluff homes/principal structures in danger from erosion. The following attributes of a bluff retention device may also be considered: protecting public beaches or public beach access in danger from erosion; enhancing public safety; and preserving public infrastructure while attempting to preserve the maximum amount of unaltered or natural bluff face and minimizing encroachment of the bluff retention device on the beach to the extent feasible.~~

96. Policy 4.47 shall be revised as follows:

Policy 4.47: Allow reasonable use of City property by a bluff property owner during the construction of a bluff retention device. For example, the City could allow use of City parking lots (with the exception of the Fletcher Cove parking lot) or other appropriate properties for staging areas and reasonable access to City ramps and the beach if reasonable impacts to public access and recreation can be avoided or minimized so as to have little material impact. However, except in emergency situations, no work on the beach shall occur on weekends, holidays or between Memorial Day weekend and Labor Day. In no case shall equipment be stored on the sandy beach overnight. The Fletcher Cove Park access ramp and all public parking spaces within Fletcher Cove shall remain open and available to public use during construction. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.

97. Policy 4.49 shall be revised as follows:

Policy 4.49: The City has adopted preferred bluff retention solutions (see Appendix B) to streamline and expedite the City permit process for bluff retention devices. The preferred bluff retention solutions are designed to meet the following goals and objectives:

1. Locate bluff retention devices as far landward as feasible;
2. Minimize alteration of the bluff face;
3. Minimize visual impacts from public viewing areas; ~~and,~~
4. Minimize impacts to adjacent properties including public bluffs and beach area; ~~and;~~
5. Conduct annual visual inspection and maintenance as needed;.

The bluff property owner's licensed Civil or Geotechnical Engineer must examine the device for use in the specific location and take responsibility for the design as the Engineer of Record.

Applicants who seek permits to install a preferred bluff retention solution can do so on a streamlined basis, relying on previously approved standards and designs, and shall receive expedited processing from the City. As technology develops, the City will

consider other preferred bluff retention solutions that meet the goals and policies of the LCP, as an amendment to the LUP or within the LIP.

Applications for coastal development permits for all bluff retention devices where any portion of which will be sited seaward of the MHTL, ~~as shown on the MHTL Survey,~~ shall be submitted first to the City for approval of a major use permit and then to the CCC for the coastal development permit. The CCC, which has original jurisdiction for the portion of the bluff retention device that will be sited seaward of the MHTL. Such developments shall be subject to this LCP for the portions within the City's jurisdiction. Chapter 3 of the Coastal Act will be the standard of review for the portion within the CCC's jurisdiction. For beachfront development that will be subject to wave action periodically, unless the State Lands Commission determines that there is no evidence that the proposed development will encroach on tidelands or other public trust interests, ~~the~~ City shall reject the application on the grounds that it is within the original permit jurisdiction of the CCC and shall direct the applicant to file his or her application with the CCC.

98. Policy 4.52, Subsection A, shall be revised as follows:

Policy 4.52: A Seacave/Notch Infill shall be approved only if all the findings set forth below can be made and the stated criteria satisfied. The permit shall be valid for a period of 20 years commencing with the ~~completion of construction date of CDP approval and~~ subject to an encroachment removal agreement approved by the City.

A. Based upon the advice and recommendation of a licensed Geotechnical or Civil Engineer, the City makes the findings set forth below:

1. ~~A slope stability analysis demonstrates a factor of safety of less than 1.5 (static) and, that a bluff failure is imminent that would threaten a bluff home, city facility, city infrastructure, or other principal structure.~~
2. ~~The Seacave/Notch Infill is more likely than not to delay the need for a larger coastal structure~~ or upper bluff retention structure, that would, in the foreseeable future, be necessary to protect an existing principal structure, city facility and/or city infrastructure, from danger from erosion. Taking into consideration any applicable conditions of previous permit approval for development at the subject site, a determination must be made based on a detailed alternatives analysis that none of the following alternatives to the coastal structure are currently feasible, including:
 - Controls of surface water and site drainage;
 - A smaller coastal structure;
 - Other non-beach and bluff face stabilizing measures, taking into account impacts on the near and long term integrity and appearance of the natural bluff face, and contiguous bluff properties and;

32. The bluff property owner did not create the necessity for the Seacave/Notch Infill by unreasonably failing to implement generally accepted erosion and drainage control measures, such as reasonable management of surface drainage, plantings and irrigation, or by otherwise unreasonably acting or failing to act with respect to the bluff property. In determining whether or not the bluff property owner's actions were "reasonable," the City shall take into account whether or not the bluff property owner acted intentionally, with or without knowledge, and shall consider all other relevant credible scientific evidence as well as relevant facts and circumstances.
43. The location, size, design and operational characteristics of the proposed seacave/notch infill will not create a significant adverse effect on adjacent public or private property, natural resources, or public use of, or access to, the beach, beyond the environmental impact typically associated with a similar bluff retention device ~~as identified in the MEIR, or any appropriate CEQA/NEPA document, and the seacave/notch infill is the minimum size necessary to protect the principal structure, has been designed to minimize all environmental impacts, and provides mitigation for all coastal and environmental impacts as provided for in this LCP, for which appropriate and reasonable mitigation fees are assessed.~~

99. Policy 4.53 shall be revised as follows:

Policy 4.53: Coastal structures shall be approved by the City only if all the following applicable findings can be made and the stated criteria satisfied. The permit shall be valid for a period of 20 years commencing with the ~~completion of construction date of CDP approval and subject to an encroachment removal agreement approved by the City.~~

- A. Based upon the advice and recommendation of a licensed Geotechnical ~~or Civil Engineer, and licensed certified Engineering Geologist selected by the applicant,~~ the City makes the findings set forth below.
 1. A ~~slope stability analysis accepted by the City demonstrates a factor of safety less than 1.5 (static) and that a~~ bluff failure is imminent that would threaten a bluff home, city facility, city infrastructure, and/or other principal structure.
 2. The coastal structure is more likely than not to preclude the need for a larger coastal structure ~~or upper bluff retention structure. Taking into consideration any applicable conditions of previous permit approval for development at the subject site, Subject to the bluff property owner being entitled to reasonable use of the bluff property and having the right to protect the bluff home, city facility and/or city infrastructure, respectively,~~ a determination must be made based on a detailed alternatives analysis that none of the following alternatives to the coastal structure are then currently feasible, including:

- A Seacave/Notch Infill;
 - A smaller coastal structure;
 - Other remedial measures capable of protecting the bluff home, city facility, non-city-owned utilities, and/or city infrastructure, which might include ~~tie-backs, underpinning (which shall not be exposed in the future), or~~ other non-beach and bluff face stabilizing measures, taking into account impacts on the near and long term integrity and appearance of the natural bluff face, and contiguous bluff properties;
 - ~~Removal and relocation of all, or portions, of the affected bluff home, city facilities or city infrastructure.~~
3. The bluff property owner did not create the necessity for the coastal structure by unreasonably failing to implement generally accepted erosion and drainage control measures, such as reasonable management of surface drainage, plantings and irrigation, or by otherwise unreasonably acting or failing to act with respect to the bluff property. In determining whether or not the bluff property owner's actions were reasonable, the City shall take into account whether or not the bluff property owner acted intentionally, with or without knowledge, and shall consider all other relevant credible scientific evidence, as well as, relevant facts and circumstances.
4. The location, size, design and operational characteristics of the proposed coastal structure will not create a significant adverse effect on adjacent public or private property, natural resources, or public use of, or access to, the beach, beyond the environmental impact typically associated with a similar coastal structure and the coastal structure is the minimum size necessary to protect the principal structure, has been designed to minimize all environmental impacts, and provides mitigation for all coastal and environmental impacts, as provided for in this LCP.
- B. The coastal structure shall meet City Design Standards, which shall include the following criteria to ensure the coastal structure will be:
1. Constructed to resemble as closely as possible the natural color, texture and form of the adjacent bluffs;
 2. Landscaped, contoured, maintained and repaired to blend in with the existing environment;
 3. Designed so that it will serve its primary purpose of protecting the bluff home or other principal structure, provided all other requirements under the implementing ordinances are satisfied, with minimal adverse impacts to the bluff face;
 4. Reduced in size and scope, to the extent feasible, without adversely impacting the applicant's bluff property and other properties; and

5. Placed at the most feasible landward location considering the importance of preserving the maximum amount of natural bluff and ensuring adequate bluff stability to protect the bluff home, City facility, or City infrastructure, ~~or non-City owned utilities.~~

~~C. Any pre-existing deed and/or permit restrictions applicable to the bluff property or bluff home shall be reviewed and, where legally enforceable and logistically appropriate, enforced by the City to bring any such pre-existing conditions into conformance with the LCP, subject to any requirements of the CCC, and to the vested rights of the bluff property owner.~~

100. Policy 4.54 shall be revised as follows:

Policy 4.54: The bluff property owner shall pay for the cost of the coastal structure or Infill and pay a Sand Mitigation Fee and a Public Recreation Fee per Policy 4.42. These mitigation fees are not intended to be duplicative with fees assessed by other agencies ~~and are intended to provide mitigation for all potential impacts to coastal resources from shoreline protective devices.~~ It is anticipated the fees assessed as required by this LCP will be in conjunction with, and not duplicative with, the mitigation fees typically assessed by the CCC and the CSLC for impacts to coastal resources from shoreline protective devices.

Sand Mitigation Fee - to mitigate for actual loss of beach quality sand which would otherwise have been deposited on the beach. For all development involving the construction of a ~~shoreline protective~~ bluff retention device, a Sand Mitigation Fee shall be collected by the City which shall be used for beach sand replenishment and/or retention purposes. The mitigation fee shall be deposited in an interest-bearing account designated by the City Manager of Solana Beach in lieu of providing sand to replace the sand that would be lost due to the impacts of any proposed protective structure. The methodology used to determine the appropriate mitigation fee has been approved by the CCC and is contained in LUP Appendix A. The funds shall solely be used to implement projects which provide sand to the City's beaches, not to fund other public operations, maintenance, or planning studies ~~except as needed to facilitate implementation of an actual mitigation project that would put sand on the beach.~~

Public Recreation Fee – Similar to the methodology established by the CCC for the sand mitigation fee, the City and CCC ~~is~~ are jointly developing a methodology for calculating a statewide public recreation fee. To assist in the ~~CCC's~~ efforts, the City has shared the results of their draft study with the CCC to support the ~~ir~~ development of a uniform statewide Public Recreation / Land Lease Fee. Until such time as ~~the CCC has~~ an approved methodology for determining this fee has been established, and the methodology and payment program has been incorporated into the LCP through an LCP amendment, the City will collect a

\$1,000 per linear foot interim fee deposit. In the interim period, the CCC will evaluate each project on a site-specific basis to determine impacts to public access and recreation, and additional mitigation may be required. The City shall complete its Public Recreation/Land Lease fee study within 18 months of effective certification of the LUP.

101. Policy 4.55 shall be revised as follows:

Policy 4.55: The erosion rate, being critical to the fair and accurate calculation of the Sand Mitigation Fee shall be reviewed, after notice and public hearing, at least every ten years, and more often if warranted by physical circumstances, such as major weather events, or large-scale sand replenishment projects and possible changes in coastal dynamics due to, among others, climate change, and future changes in sea level. If warranted, the erosion rate should be adjusted by the City with input from a licensed Civil or Geotechnical Engineer based upon data that accurately reflects a change in the rate of erosion of the bluff. Any such change shall be subject to the public hearing and a vote of the City Council.

102. Policy 4.55 shall be revised as follows:

Policy 4.56: An upper bluff system shall be approved only if all the following applicable findings can be made and the stated criteria will be satisfied. The permit shall be valid for a period of 20 years commencing with the date of CDP approval and subject to an encroachment removal agreement approved by the City.

A. Based on the advice and recommendation of a licensed Geotechnical or Civil Engineer ~~and certified Engineering Geologist selected by the applicant~~, the City makes the findings set forth below.

1. A bluff failure is imminent that would threaten a bluff home, city facility, city infrastructure, and/or other principal structure in danger from erosion slope stability analysis accepted by the City demonstrates a factor of safety of less than 1.5 (static)and, that:
2. The bluff home, city facility, city infrastructure, and/or principal structure is more likely than not to be in danger within one year after the date an application is made to the City.

Subject to the bluff property owner and City being entitled to reasonable use of their or its bluff property and having the right to protect his, her or its bluff home, city facility, city infrastructure, respectively, Taking into consideration any applicable conditions of previous permit approval for development at the subject site, a determination must be made based on a detailed alternatives

analysis that none of the following alternatives to the upper bluff system are then currently feasible, including:

- No upper bluff system;
 - Vegetation;
 - Controls of surface water and site drainage;
 - A revised building footprint and foundation system (e.g., caissons) with a setback that avoids future exposure and alteration of the natural landform;
 - A smaller upper bluff system;
 - Other remedial measures capable of protecting the bluff home, city facility, non-city-owned utilities, and/or city infrastructure which might include tie-backs, ~~underpinning (which shall be treated to minimize visual impacts if exposed in the future)~~ or other feasible non-beach and bluff face stabilizing measures, taking into account impacts on the near and long term integrity and appearance of the natural bluff face, the public beach, and, contiguous bluff properties and;
 - Removal and relocation of all, or portions, of the affected bluff home, city facilities or city infrastructure.
4. The bluff property owner did not create the necessity for the upper bluff system by unreasonably failing to implement generally accepted erosion and drainage control measures, such as reasonable management of surface drainage, plantings and irrigation, or by otherwise unreasonably acting or failing to act with respect to the bluff property. In determining whether or not the bluff property owner's actions were reasonable, the City shall take into account whether or not the bluff property owner acted intentionally, with or without knowledge, and shall consider all other relevant credible scientific evidence as well as relevant facts and circumstances.
5. The location, size, design and operational characteristics of the proposed upper bluff system will not create a significant adverse effect on adjacent public or private property, natural resources, or public use of, or access to, the beach, beyond the environmental impact typically associated with a similar upper bluff system ~~as identified in the environmental review as maybe required, or any applicable CEQA/NEPA document~~ and the upper bluff system is the minimize size necessary to protect the ~~bluff home, City facility, City infrastructure~~ existing principal structure, has been designed to minimize all environmental impacts, and provides mitigation for all coastal and environmental impacts, as provided for in this LCP. [...]

103. The following new possible 4.56.5 shall be inserted after Policy 4.56:

Policy 4.56.5 All permits for bluff retention devices shall expire 20 years after approval of the CDP, and a new CDP must be obtained. The CDP application shall include a re-assessment of need for the device, and the potential for removal. The CDP shall evaluate

changed geologic site conditions relative to sea level rise and the age, condition, and economic life of principal structure including whether it was an existing structure on January 1, 1977 (prior to implementation of the Coastal Act). Prior to expiration of the permit, the bluff top property owner shall apply for a coastal development permit to either remove or retain the protective device. No permit shall be issued for retention of a bluff retention device unless the City finds that the bluff retention device is still required to protect an existing principal structure, will avoid further alteration of the natural landform of the bluff, and adequate mitigation for impacts to the public beach has been provided.

104. Policy 4.58 shall be revised as follows:

Policy 4.58: To achieve a well maintained, aesthetically pleasing, and safer shoreline, coordination among property owners regarding maintenance, and repair of all bluff retention devices is strongly encouraged. This may also result in cost savings through the realization of economies of scale to achieve these goals by coordination through an assessing entity. All bluff retention devices existing as of the date of certification of the LCP, to the extent they do not conform to the requirements of the LCP, shall be deemed non-conforming. ~~Although a A~~ bluff property owner may elect to conform his/her/its bluff property or bluff retention device to the LCP at any time. ~~All bluff properties with non-conforming bluff retention devices shall only be required to comply with the provisions hereunder governing acquisition rights and the repair, maintenance, and removal of bluff retention devices as a condition of the issuance of a future discretionary Coastal Development Permit. Additionally, no existing bluff retention device shall require structural modification for the sole purpose of facilitating removal at a later date; however, if~~ If the City finds that an existing bluff retention device, that is required to protect existing principal structures in danger from erosion, is structurally unsound, is unsafe, or is materially jeopardizing contiguous private or public ~~property~~ principal structures for which there is no other adequate and feasible solution, then the City may require reconstruction of the bluff retention device.

105. Policy 4.60 shall be revised as follows:

Policy 4.60: Siting and design of new shoreline development and bluff retention devices shall take into account predicted future changes in sea level. In particular, an acceleration of the historic rate of sea level rise shall be considered and based upon up-to-date scientific papers and studies, agency guidance (such as the 2010 Sea Level Guidance from the California Ocean Protection Council), and reports by national and international groups such as the National Research Council and the Intergovernmental Panel on Climate Change. Consistent with all provisions of the LCP, new structures shall be set back a sufficient distance landward to eliminate or minimize, to the maximum extent feasible, hazards associated with anticipated sea level rise over the expected economic life of the structure.

106. Policy 4.61 shall be revised as follows:

Policy 4.61: Development on the bluffs, including the construction of a bluff retention device, shall include measures to ensure that:

- No stockpiling of dirt or construction materials shall occur on the beach;
- All grading shall be properly covered and sandbags and/or ditches shall be used to prevent runoff and siltation;
- Measures to control erosion shall be implemented at the end of each day's work;
- No machinery shall be allowed in the intertidal zone at any time to the extent feasible;
- All construction debris shall be properly collected and removed from the beach.
- Shotcrete/concrete shall be contained through the use of tarps or similar barriers that completely enclose the application area and that prevents shotcrete/concrete contact with beach sands and/or coastal waters.

107. Policy 4.62 shall be deleted:

~~**Policy 4.62:** All new bluff property development shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion for the projected economic life and has a minimum geologic stability factor of 1.5. For purposes of this Policy, stable is defined as a demonstrated minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k=0.15$) as determined by a quantitative slope stability analysis using shear strength parameters derived from relatively undeformed samples collected at the site. In no case shall the setback be less than 40 feet, and only if it can be demonstrated that the structure will remain stable, as defined above, at such a location for its economic life.~~

~~Existing principal bluff top structures may be maintained, repaired or remodeled within 25 feet of the top edge of a coastal bluff, based upon an engineering geology report prepared by a duly licensed engineering professional showing that: (1) the site is stable enough to support the development with the proposed bluff edge setback; and (2) that the development can be designed so that it will neither be subject to nor contribute to significant bluff instability for its economic life. This requirement shall apply to the principal structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios, and walkways that do not require structural foundations may extend into the setback area to a minimum distance of five feet from the bluff edge. All new development including, but not limited to principal structures, additions, and ancillary structures, shall be specifically designed and constructed such that it could be removed in the event of endangerment. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Geotechnical Engineer or certified Engineering Geologist.~~

108. Policy 4.63 shall be revised as follows:

Policy 4.63: All new swimming pools and in-ground spas on bluff property shall contain double wall construction with drains and leak detection systems. All new swimming pools and in-ground spas shall be located landward of the geologic setback line.

109. Policy 4.67 shall be revised as follows:

Policy 4.67: ~~Subject to coastal development permit requirements,~~ the beneficial reuse and placement of sediments removed from erosion control or flood control facilities at appropriate points along the shoreline may be permitted for the purpose of beach nourishment. Any beach nourishment program for sediment deposition shall be designed to minimize adverse impacts to beach, intertidal and offshore resources, shall incorporate appropriate mitigation measures, and shall consider the method, location, and timing of placement. Sediment removed from catchment basins may be disposed of in the littoral system if it is tested and found to be of suitable grain size and type and a coastal development permit for such disposal has been obtained. The program shall identify and designate appropriate beaches or offshore feeder sites in the littoral system for placement of suitable materials from catchment basins.

110. Policy 4.69 shall be revised as follows:

Policy 4.69: Pursue a demonstration/temporary pilot project for a sand retention device such as a submerged, or emergent reef, groin field, or short T-head groin or other structure if approved through the coastal development permit and/or Federal consistency review by the CCC. ~~If constructed, such a project will be monitored closely for effects. The structure shall be removed if determined unsuccessful, or allowed to remain if deemed a success.~~ The environmental, recreational, and aesthetic effects of any sand retention structure will be considered in its planning and design in compliance with CEQA and NEPA. The City will also consider any implementation of sand replenishment and retention structures in a regional context and in cooperation with other cities' beach sand retention efforts.

111. Policy 4.74 shall be revised as follows:

Policy 4.74: Use the funds in the Shoreline District Account to pay for projects such as beach sand replenishment and retention structures, including feasibility and impact studies, operating expenses, insurance, litigation; and to pay to conduct surveys and monitoring programs. Sand Mitigation Fees may only be expended for sand replenishment and potentially retention projects, and Land Lease/Recreation Fees may be expended for sand replenishment and public access and public recreation improvements.

112. Policy 4.75 shall be revised as follows:

Policy 4.75: Inform applicants, for new development in the City and in surrounding areas that do not have permitted SCOUP programs, of the City's SCOUP program and encouraged them to participate. Development on upland sites that will result in ~~10,000~~ 5,000 cubic yards, or more, of export should be required to test the material for suitability for beach deposition. If suitable, the material should be placed on the beach via the SCOUP program.

113. Policy 4.76 shall be revised as follows:

Policy 4.76: All new development in the WUI or adjacent to ESHA shall be sited and designed to minimize required fuel modification to the maximum extent feasible in order to ~~minimize~~ avoid environmentally sensitive habitat disturbance or destruction, removal or modification of natural vegetation, while providing for fire safety.

114. Policy 4.77 shall be revised as follows:

Policy 4.77: All discretionary permit applications for projects ~~in the WUI~~ shall be ~~subject to review~~ ed by the City's Fire Marshal to determine if any thinning or clearing of native vegetation is required, on a case by case basis, to ensure wildfire risk is minimized. The Fire Marshal may reduce the 100' fuel management requirement for existing development, ~~additions to existing structures and new development~~ when equivalent methods of wildfire risk abatement are included in project design.

115. Policy 4.82 shall be revised as follows:

Policy 4.82: Fuel Modification Requirements for Existing Development - The City shall encourage property owners to implement fire risk reduction alternatives, including those listed in Policy 4.78, as a priority over fuel modification in ESHA. However, the City Fire Marshal may require fuel modification to occur adjacent to existing development as outlined in the established zones. If fuel modification is required by the Fire Marshal for existing development that would ~~impact~~ encroach into ESHA, the alternative that has the least impact on ESHA shall be implemented where feasible.

116. Policy 4.83 shall be revised as follows:

Policy 4.83: Fuel Modification Requirements for Additions to Existing Structures – Where a new addition would encroach closer than 100 feet to an ESHA, the City Fire Marshall shall review the project for fuel modification requirements. If a 100 ft. fuel modification zone would encroach into ESHA, the addition shall not be permitted unless

~~the addition would not encroach any closer to the ESHA than existing principal structures on either side of the development. The City Fire Marshal may require that fuel modification for additions to existing structures be analyzed. If fuel modification is required by the Fire Marshal that would impact ESHA, the alternative that has the least impact on ESHA shall be implemented where feasible.~~

117. Policy 4.84 shall be revised as follows:

Policy 4.84: Fuel Modification Requirements for New Development —~~The City Fire Marshal may require that new~~ New development, including but not limited to subdivisions and lot line adjustments shall be sited and designed so that no brush management or the 100 ft. fuel modification impacts encroaches into ESHA occur. ~~Brush management zones involving removal of vegetation that would impact ESHA must be located on the development site unless otherwise required by the State Fire Code. If fuel modification is required by the Fire Marshal for new development that would impact ESHA, the alternative that has the least impact on ESHA shall be implemented where feasible.~~

118. The following new Policy 4.84.5 shall be added after Policy 4.54:

Policy 4.84.5 For purposes of this section, "encroachment" shall constitute any activity which involves grading, construction, placement of structures or materials, paving, removal of native vegetation including clear-cutting for brush management purposes, or other operations which would render the area incapable of supporting native vegetation or being used as wildlife habitat, including thinning as required in Zone 2. Modification from Policy 4.84 may be made upon the finding that strict application of this policy would result in a taking of private property for public purposes without just compensation.

119. Policy 4.88 shall be revised as follows:

Policy 4.88: The City Manager or his/her designee may grant an ~~temporary~~ emergency permit, which shall include an expiration date of no more than one year and the necessity for a subsequent regular CDP application, if the City Manager or his/her designee finds that:

1. An emergency exists that requires action more quickly than permitted by the procedures for a CDP and the work can and will be completed within thirty (30) days unless otherwise specified by the terms of the permit.
2. Public comment on the proposed emergency action has been reviewed, if time allows.
3. The work proposed would be consistent with the requirements of the certified LCP.

4. The emergency action is the minimum needed to address the emergency and shall, to the maximum extent feasible, be the least environmentally damaging temporary alternative.

120. Policy 4.89 shall be revised as follows:

Policy 4.89: An emergency permit shall be valid for 60 days from the date of issuance unless otherwise specified by the City Manager or his/her designee, but in no case more than one year. Prior to expiration of the ~~temporary~~ emergency permit, if required, the permittee must submit a regular, CDP application for the development even if only to remove the development undertaken pursuant to the emergency permit and restore the site to its previous condition.

121. Policy 4.90 shall be revised as follows:

Policy 4.90: All emergency permits ~~should~~shall be conditioned and monitored to insure that all authorized development is approved under a regular coastal development permit in a timely manner, unless no follow up permit is required.

Chapter 5 – New Development

122. On the top of Page 9, the following revisions shall be made to the Special Commercial land use category:

Special Commercial (SC): This land use category is intended to implement the special commercial land use designation and to preserve and perpetuate those areas of the community affording unique pedestrian-oriented commercial centers utilized by residents and visitors and characterized by a wide variety of uses including small specialty retail shop, light industrial uses, offices, and residential loft apartments. Please note that the Highway 101 Specific Plan establishes ~~overriding~~ standards that have been incorporated into the LUP. The (SC) classification is intended to preserve and promote mixed uses within the zone and, where appropriate, within individual developments. This special commercial use area consists of three districts. Cedros Avenue north of Lomas Santa Fe Drive shall be the North Cedros Avenue Business District. The special commercial use area south of Lomas Santa Fe Drive shall be the South Cedros Avenue Business District. The Stevens Avenue special commercial area shall be known as the Stevens Avenue Business District. In the North and South Cedros Districts, existing non-visitor serving uses such as light industrial uses, offices, and residential loft apartments may remain, but redevelopment of these sites should be for tourist and visitor-serving uses consistent with the Visitor Serving Commercial Overlay where feasible.

123. On Page 9, the following revisions shall be made to the Visitor Serving Commercial Overlay:

Visitor Serving Commercial Overlays I and II (VSCO): The purpose of the VSCO is to identify areas that are prime locations for tourist and visitor serving commercial uses, which must be redeveloped exclusively with visitor serving commercial uses, (VSCO I) and primarily visitor-serving commercial uses (VSCO II) .

VSCO I: This land use overlay is intended to reserve sufficient land in appropriate locations exclusively for high-priority commercial recreation and visitor serving uses. The designation provides land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who visit and recreate at the coast. Allowable uses include hotels, motels, restaurants, music venues, entertainment attractions, retail, and specialty/artisan retail commercial uses. Mixed use development with office or residential above the ground level is also permitted. Existing uses may remain and any future redevelopment shall be consistent with the VSCO I overlay requirements.

The VSCO I designation applies to the following areas: the lots fronting Plaza Street from Highway 101 to Acacia Avenue; 717 South Highway 101; 621 South Highway 101; and at the triangle-shaped lot on the northern border of the City, located north of Ocean Street, on the east side of Highway 101. This triangle-shaped lot is adjacent to the San Elijo Lagoon Ecological Reserve. In addition to the above-listed uses, this site may also be developed with open space or public park uses compatible with the adjacent resources.

VSCO II: This land use overlay identifies areas that are currently developed with visitor-serving commercial uses that should be encouraged and promoted, but are not specifically restricted to these uses, as in the VSCO I land use designation. The uses include provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. Visitor serving commercial and/or recreational land uses or facilities designed to enhance public opportunities for coastal recreation and includes beach areas, parks, hotels, motels, restaurants, music venues, entertainment attractions, and specialty/artisan retail commercial uses. This category applies in order to reserve sufficient land in appropriate locations expressly for commercial recreation and visitor serving uses. Mixed use development with residential above the ground level is also permitted. Existing non-visitor serving uses such as light industrial uses, offices, and residential loft apartments may remain, but redevelopment of these sites should be for tourist and visitor-serving uses. The VSCO II designation applies to the following areas: The North and South Cedros Avenue Business Districts, the lots fronting Plaza Streets from Highway 101 to Acacia Avenue; 717 South Highway 101; 621 South Highway 101; at the triangle-shaped lot on the northern border of the City, located north of Ocean Street, on the east side of Highway 101, the timeshare developments located at 535 South Highway 101 and north of Via de la Valle, west of Interstate 5; and the two commercially-zoned shopping plazas located east and west of Interstate 5 and south of Lomas Santa Fe Drive.

124. The following revisions shall be made to Policy 5.5:

Policy 5.5: Encourage visitor serving retail uses in all commercial zones in the City. Existing visitor serving uses shall be protected and new visitors serving facilities are encouraged. Priority shall be given to the development of visitor serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation over private residential, general industrial, or general commercial development. On land designated for visitor serving commercial and/or recreational facilities ~~priority shall be given to such use over private residential or general commercial development, only these uses shall be permitted.~~

125. The following revisions shall be made to Policy 5.8:

Policy 5.8: Encourage new hotel/motel development within the City, where feasible, to provide a range of room types, sizes, and room prices in order to serve a variety of income ranges. Where a new hotel or motel development would consist of entirely high cost overnight accommodations, the development shall be required to provide mitigation as a condition of approval for a coastal development permit, which shall include a mitigation payment to provide funding for the establishment of lower cost overnight visitor accommodations within the City of Solana Beach or North San Diego County coastal area. Priority shall be given to the establishment of lower cost overnight visitor accommodations located within the City of Solana Beach. Such payment shall consist of \$30,000 per unit for 25% of the total number of proposed high cost units. Suites or family-sized accommodations may be exempt from this policy.

The payment (i.e. \$30,000 in 2011) shall be adjusted to account for inflation according to increases in the Consumer Price Index – U.S. City Average. The required monies shall be deposited into an interest-bearing account, to be established and managed by the City of Solana Beach. The purpose of the account shall be to establish lower cost overnight visitor accommodations within the City of Solana Beach as the first priority or elsewhere in North San Diego County coastal area as a second priority. The monies and accrued interest shall be used for the above-stated purpose, in consultation with the CCC Executive Director. Any development funded by this account will require review and approval by the Executive Director of the Coastal Commission and a coastal development permit.

126. The following revisions shall be made to Policy 5.16:

Policy 5.16: Off-street parking shall be provided for all new development in accordance with the ~~ordinances contained in the LCP policies of the LUP~~ to assure there is adequate public access to coastal resources. A modification in the required parking standards through the variance process shall not be approved unless the City makes

findings that the provision of fewer parking spaces will not result in adverse impacts to public access.

127. The following revisions shall be made to Policy 5.24:

Policy 5.24: ~~Where feasible, p~~Public use of private parking facilities currently underutilized on weekends and holidays (i.e., serving office buildings) shall be permitted in all commercial zones located ~~west of Highway 101/Pacific Coast Highway~~within ¼ mile of the beach. ~~New non-visitor serving office or commercial development shall provide public parking for beach access during weekends and holidays where feasible.~~

128. The following revisions shall be made to Policy 5.29:

Policy 5.29: A minimum of one on-site or on-street parking space shall be required for the exclusive use of any second residential unit, unless approved by City Council pursuant to the City's Affordable Housing policies. However, in the area west of Highway 101, and North of Plaza Street, a minimum of one on-site parking space shall be required without exception for such uses.

129. [Removed by Commission action.]

130. [Removed by Commission action.]

131. The following revisions shall be made to Policy 5.39:

Policy 5.39: For issuance of an unconditional certificate of compliance pursuant to Government Code Section 66499.35 for a land division that occurred prior to the effective date of the Coastal Act (or Proposition 20 for parcels within the coastal zone as defined in that proposition), where the parcel(s) was created in compliance with the law in effect at the time of its creation and the parcel(s) has not subsequently been merged, subdivided, subject to a lot line adjustment, lot split or any other division of land or otherwise altered, the City shall not require a CDP. For issuance of a conditional certificate of compliance pursuant to Government Code Section 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was not created in compliance with the law in effect at the time of its creation, the conditional certificate of compliance shall not be issued unless a CDP that authorizes the land division is approved. In such a situation, the City shall only approve a CDP if the land division, as proposed or as conditioned, complies with all policies of the LCP.

132. The following revisions shall be made to Policy 5.40:

Policy 5.40: For issuance of ~~either a conditional or an unconditional~~ certificate of compliance pursuant to Government Code Section 66499.35 for a land division that occurred after the effective date of the Coastal Act, the certificate of compliance shall not be issued unless a CDP that authorizes the land division is approved. In such a situation, the City shall only approve a CDP if the land division, as proposed or as conditioned, complies with all policies of the LCP.

133. Policy 5.45 shall be deleted:

~~**Policy 5.45:** The City shall allow additions to non-conforming structures to be approved provided any such addition does not increase the size or degree of the existing non-conformity.~~

134. The following new Policy 5.45 shall be inserted:

Policy 5.465: Existing, lawfully established ~~bluff homes~~ structures that are not located on ~~bluff~~ property located between the sea and its inland extent and the first public road paralleling the sea (or lagoon) that were and built prior to the adopted date of the LUP that do not conform to the provisions of the LCP shall be considered non-conforming structures. Such structures may be maintained, and repaired. Additions and improvements to such structures may be permitted provided that such additions or improvements ~~themselves comply with the current policies and standards of the LCP~~ do not increase the size or degree of the non-conformity. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a non-conforming structure is not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses or structures may not be increased or expanded into additional locations or structures. (See Policy 4.16 for structures that are located between the sea and its inland extent and the first public road paralleling the sea (or lagoon).

135. The following new Section 8.5 shall be inserted before Policy 5.46 as revised here:

8.5. Repair and Maintenance

Policy 5.46: Consistent with the Coastal Act (Public Resources Code §30610(d)), repair and maintenance activities ~~of bluff homes that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities~~ do not require a CDP, although the City may require a permit if the City determines such repairs and maintenance involve a substantial adverse environmental impact that cannot be mitigated.

However, for purposes of compliance with the Public Resources Code Section 30610(d), the following extraordinary methods of repair and maintenance ~~located on or adjacent to bluff property~~ shall require a CDP because they involve a potential risk of substantial adverse environmental impact: [...]

136. Policy 5.47 shall be deleted:

~~**Policy 5.47:** Existing, lawfully established bluff home structures that do not conform to the provisions of the LCP may be maintained, and repaired. Except as provided below, additions and improvements to such structures may be permitted provided that such additions or improvements themselves comply with the current policies and standards of the LCP. Extensive remodels to non-conforming bluff homes are not permitted unless the entire structure is brought into conformance with the policies and standards of the LCP. Non-conforming uses or structures may not be increased or expanded into additional locations or structures.~~

137. The following new Section 8.6 shall be inserted after Policy 5.46, and the following new Policy 5.47 shall be inserted:

8.6. Replacement of Structures Destroyed by Disaster

Policy 5.47: No coastal development permit is required for the replacement of any structure, other than a public works facility, destroyed by a disaster, if the new structure meets the following criteria:

- Conforms to all current zoning requirements
- Is for the same use as the destroyed structure
- Does not exceed the floor area, height, or bulk of the previously existing structure by more than 10 percent
- Is sited in the same location on the affected property as the destroyed structure

Chapter 6 – Scenic and Visual Resources

138. The following revisions shall be made to Policy 6.3:

Policy 6.3: Public views to the beach, lagoons, and along the shoreline as well as to other scenic resources from major public viewpoints, as identified in Exhibit 6-1 shall be protected. Development that may affect an existing or potential public view shall be designed and sited in a manner so as to preserve, or enhance, ~~restore, or mitigate~~ designated view opportunities. Street trees and vegetation shall be chosen and sited so as not to block views upon maturity.

139. The following revisions shall be made to Policy 6.4:

Policy 6.4: Locations along public roads, railways, trails, parklands, and beaches that offer views of scenic resources are considered public viewing areas. Existing public roads where there are major views of the ocean and other scenic resources are considered Scenic Roads and include:

- Highway 101/Pacific Coast Highway and Railway Corridor
- I-5
- Lomas Santa Fe Drive

Public views to scenic resources from Scenic Roads shall also be protected.

140. The following revisions shall be made to Policy 6.6:

Policy 6.6: New development on properties visible from public trails in and around San Elijo Lagoon and the San Dieguito River Valley shall be sited and designed to protect public views of the ridgelines and natural features of the area through measures including, but not limited to, providing setbacks from the slope edge, restricting the building maximum size, reducing maximum height limits, incorporating landscape elements and screening, incorporating earthly earthen colors and exterior materials that are compatible with the surrounding natural landscape (avoiding bright whites and other colors except as minor accents). The use of highly reflective materials shall be prohibited.

141. The following revisions shall be made to Policy 6.9:

Policy 6.9: The impacts of proposed development on existing public views of scenic resources shall be assessed by the City prior to approval of proposed development or redevelopment to preserve the existing character of established neighborhoods. ~~Where feasible, Existing public and private residential views of the ocean and scenic resources shall should be protected, as well as, aesthetics and other property values in a manner that is compatible with reasonable development of property.~~

142. The following revisions shall be made to Policy 6.18:

Policy 6.18: New buildings and structures should not be placed along inland and coastal bluff-top silhouette lines or on the adjacent slopes within view from a lagoon area, but should be clustered along the bases of the inland bluffs and on the bluff tops set back from the bluff edge. Buildings and structures should be sited to provide unobstructed view corridors from the nearest scenic highway or view corridor road. These criteria may be modified when necessary to mitigate other overriding environmental considerations such as protection of habitat or wildlife corridors.

143. The following revisions shall be made to Policy 6.29:

Policy 6.29: Placement of signs other than traffic or public safety signs, ~~public-way finding signs, City entrance or gateway signs, utilities, or other accessory equipment that~~ which obstruct views to the ocean, or beaches, ~~parks, or other scenic areas~~ from public viewing areas, and scenic roads shall be prohibited.

Chapter 8 –Definitions

144. The following new definition of Bluff Top Redevelopment shall added to the Definitions section:

Bluff Top Redevelopment shall apply to structures located between the sea and the inland extent of the sea and the first public road paralleling the sea (or lagoon) that consist of (1) additions; (2) exterior and/or interior renovations; or (3) demolition of an existing bluff top home or other principal structure which result in:

1. Alteration of 50% or more of an existing structure, including but not limited to, alteration of 50% or more of exterior walls, interior load-bearing walls, or a combination of both types of walls, or a 50% increase floor area; or
2. Demolition, renovation or replacement of less than 50% of an existing structure where the proposed remodel would result in cumulative alterations exceeding 50% or more of the existing structure from the date of certification of the LUP.

145. The following revisions shall be made to the definition of Coastal Bluff Edge:

Coastal Bluff Edge The coastal bluff edge is ~~a line across the coastal bluff at the seaward edge of the top of bluff. The line of the coastal bluff edge is formed by measuring the uppermost point of change in gradient at any location on the subject premises~~ the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the bluff is rounded away from the face of the bluff the bluff edge shall be defined as that point nearest the bluff face beyond which a downward gradient is maintained continuously to the base of the bluff. In a case where there is a step like feature at the top of the bluff ~~face~~, the landward ~~or inward~~ edge of the topmost riser shall be considered the bluff edge. The bluff edge may change over time as the result of erosional processes, landslide, or artificial cut. Artificial fill placed near the bluff edge, or extending over the bluff edge does not alter the position of the bluff edge. In those cases where irregularities, ~~erosion intrusions~~, structures or bluff stabilizing devices exist in a subject property so that a reliable determination of the bluff edge cannot be made by visual or topographic evidence, the Community Development Director, or Commission, on appeal, shall determine the location of the bluff edge after evaluation of a geologic or soils report and physical inspection of the site.

146. The following revisions shall be made to the definition of Coastal Development Permit:

Coastal Development Permit (CDP) means a Coastal Development Permit issued pursuant to the Coastal Act by the Coastal Commission or by the City under its certified LCP pursuant to Public Resources Code sections 30519 ~~and 30600.5~~.

147. The following revisions shall be made to the definition of Coastal Structure:

Coastal Structure means a structure located at the base of the bluff, such as a seawall, revetment, or rip rap that is located at, or is seaward, of, the bluff dripline. A coastal structure is intended to protect, support and/or stabilize the bluff toe and/or mid or upper bluff area that has experienced, or is likely to experience material erosion or instability and protect a bluff home or other principal structure, or coastal dependent use from the effects of wave action erosion and other natural forces.

148. The definition of Existing shall be deleted

~~Existing means in existence at the time of adoption of the LCP by the City.~~

149. The definition of Extensive Remodel shall be deleted:

~~Extensive Remodel shall consist of an existing bluff home which results in:~~

- ~~1. an addition or series of additions over time, which increases the floor area in the geologic setback area by more than 50% of the floor area of the existing bluff home; or~~
- ~~2. Demolition of more than 50% of the perimeter wall of the existing bluff home which is located in the geologic setback area.~~

~~For purposes of the above limitations, an extensive remodel shall not include any addition of floor area or demolition of any portion of the existing perimeter wall which is located landward of the geologic setback area.~~

150. The following revisions shall be made to the definition of Mean High Tide Line:

Mean High Tide Line means the ambulatory line on the beach (contour lines) represented by the intersection of the beach face and the elevation represented by the average of all high tides (higher high tides and lower high tides) occurring over a 19-year

period. The mean high tide elevation should be represented by the most recent 19-year tidal epoch as established by the National Ocean Service.

151. The definition of Minimum Home shall be deleted:

~~**Minimum Home** means a bluff home of 2,000 square feet of floor area plus a 400 square foot garage, provided it can feasibly be sited with no new foundation footings within the geologic setback area.~~

152. The following revisions shall be made to the definition of Vertical Access:

Vertical Access means access to the shoreline from the bluffs behind the beach, by staircase from bluff top to the beach or access to the lagoon from upland streets or properties.

153. A list of minor typographical errors, misspellings, and other grammatical errors located throughout the LUP will be provided to the City for correction when the LUP is adopted and reprinted. A list of these corrections will be retained in the LUP file in the San Diego district office.