

# CPOA

Coast  
Property  
Owners  
Association

9/2/03

Dear Refinement Group Member,

As various RG members have indicated, limiting discussion to 3 issues from each organization only begins to scratch the surface of what some see as problems with the GPU. This paper proposes specific language changes to some 200 policies and definitions, and suggests a handful of new ones.

These proposed changes will make more sense if several things are kept in mind.

- It is assumed the GPU is a ground up document. For example, rather than a 40 acre minimum parcel size county-wide, we propose that each Planning Area decide its own minimum parcel size or size-formula with LUAC and public hearing input.
- It is assumed that the GPU's recognition of existing lots of record is substantive. That is, that use of existing parcels is not intended to be limited by contrivances to the bare minimum needed for the County to avoid a taking.
- It is assumed that policies provided to protect resources have resource protection as their purpose.
- Because of CPOA's focus on Big Sur, policies in the Plan that don't affect Big Sur are generally not addressed. Issues such as routine and ongoing agricultural activities are not addressed. Affordable housing overlays are not addressed. The Inland Areas policies are not addressed. Changes to such policies are left for those most affected to propose.
- It is expected that the changes proposed in this paper are a starting point. The idea is to get controversial policies in GPU2 out in a more substantive way than as ethereal issues.

CPOA recognizes that much of the disagreement over how the GPU should read is based on the different problems faced in the different parts of our county. In Big Sur, buyout of our community is an issue, but buildout generally is not. This is reflected in the changes we propose that allow for reasonable use of existing parcels.

We realize that for the rest of the County buyout is not an issue but buildout often is. Our hope is that together we can work out changes to the plan that work for all areas of the county.

We suggest that if the Board of Supervisors chooses to not give the Refinement Group additional time, that the Group consider continuing meeting on our own. Progress has been slow, but progress is being made.

Sincerely,

Michael Caplin  
Board Member, RG rep.  
(831) 624-5418

**Some technical points.** Page numbers for the county-wide policies refer to the print version of the April 2003 draft of the GPU (page numbers on the CD / pdf version vary from the print version). Page numbers for the coastal portion (chapter XII, section A) refer to the page numbers in the pdf file version from the County's website. We notice other differences between the print and pdf version of the GPU (e.g., missing text from Policy AD-1.3 on the pdf version).

In this document, all proposed changes should be highlighted and marked. Deleted language is indicated with strikethrough, and added language with underline. When language is highlighted, but not crossed out or underlined, that means the language is questioned, or will change to an unknown result (e.g., a cross-referenced policy number will change, but it is unknowable what the new number will be).

If the yellow highlighting is too dark when printed in black and white, try changing your printer's graphics setting to brighter with less contrast.

This is a Word 2000 document. Contact Mike Caplin at 624-5418 or mcaplin@mbay.net if you need help converting to another format or have other questions.

Page	Policy	Suggested Revision
<b>COUNTY-WIDE POLICIES</b>		
68	LU-6.3	<p><b>Permitted Land Uses</b> - The County shall <u>reasonably</u> limit development and land clearing within Rural Lands to balance the use of the land with protection of the natural resource value of these areas. Primary uses in Rural Lands are very low density rural residential uses with a <u>typical density range of 1 unit per 40-160 acres principal residence per the amount of land indicated as the minimum parcel size on the Land Use Map for the locality</u>, farming and grazing, low intensity recreational uses such as hunting and fishing, camping, riding and hiking, and resource conservation. <u>Policy LU-9.8 shall control over this policy.</u></p> <p>COMMENT: The County should always act reasonably. Clarifies that the residential density standard applies to a principal residence ("unit" is undefined).</p> <p>The change to the density range language gives both more specificity and more flexibility to the policy. It appears that the best solution for resolving the minimum parcel size controversy will be to allow different areas of the County to decide on different minimum parcel sizes appropriate for their area.</p> <p>Each planning area should decide its own minimum parcel size based upon input from local public hearings and the applicable LUAC(s). This language would accommodate that flexibility.</p> <p>If the BOS direction to allow only one principal residence per parcel remains unchanged, the density language change should be different, e.g., "Primary uses in Rural Lands are very low density rural residential uses with a <u>typical density range of 1 unit principal residence per 40-160 acres parcel (with minimum parcel size as indicated for the minimum parcel size on the Land Use Map for the locality)</u>, farming and ...".</p> <p>Clarifies that policy LU-9.8 will control (existing parcels of substandard size shall be considered conforming parcels for all purposes unless a factor other than size renders them non-conforming).</p>
68-69	LU-6.4	<p><b>Residential Density</b> – The County shall limit the density of residential development within Rural Lands to a maximum of one <u>unit principal residence per 40 acres the amount of land indicated as the minimum parcel size on the Land</u></p>

		<p><u>Use Map for the locality</u>, subject to the slope restrictions in Policy LU-9.17. <u>Where the Land Use Plan (see Maps LU-2A-H) indicates a minimum parcel size larger than 40 acres, the larger minimum parcel size (and corresponding maximum density) shall apply. See Maps LU-2A through LU-2H. Policies in the Coastal and Inland Areas Element that pertain to timberlands are an exception to this policy.</u> The minimum parcel sizes indicated on the Land Use Plan map for Rural Lands are also modified by Policy LU-9.9, which pertains to clustered subdivisions.</p>
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COMMENT: Clarifies the density limit applies to a principal residence ("unit" is undefined). If the BOS direction for only one principal residence per parcel remains unchanged, then this language would be different, e.g., "The County shall limit the density of residential development within Rural Lands to a maximum of one unit principal residence per 40 acres parcel, subject to the slope restrictions in Policy LU-9.17. Where the Land Use Plan (see Maps LU-2A-H) indicates a minimum parcel size larger than 40 acres, the larger minimum parcel size (and corresponding maximum density) shall apply. The minimum parcel size for the zoning designation in each locality shall be that designated on the maps included with this element (see Maps LU-2A through LU-2H)." See, page 1, Chapt. III number 4, BOS Direction For Changes May-June 2003.

69	LU-6.6	<p><b>Residential Siting</b> - New residential lots and new residences shall be sited with sufficient distance from adjacent agricultural activities to minimize the impacts of incompatible development on agriculture and to prevent farming activities from becoming hazardous or attractive nuisances to the new residents, <u>provided, where buffers are desired to implement this policy, they shall be created by voluntary action on the part of an applicant and shall not be a condition of permit approval. Any buffers created shall provide for their termination when they are no longer needed to prevent conflicts between land in agricultural production and other uses.</u></p>
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COMMENT: Ensures ag buffers are voluntary, consistent with direction from BOS (pg 3, BOS Direction). Provides for termination of buffers when no longer needed to fulfill their purpose.

69	LU-6.7	<p><b>Commercial Development</b> – The County shall discourage general retail and service businesses within Rural Lands, except on small commercial-designated sites located at key crossroads, <u>or where placement would potentially reduce the need for vehicle travel to obtain necessities, or where placement would potentially reduce motor vehicle traffic in areas experiencing reduced levels of service.</u></p>
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COMMENT: It is imprudent to preclude placement of convenience stores or similar establishments where they could be used to reduce vehicle miles traveled or traffic congestion. Unchanged policy is inconsistent with County's stated intent to reduce vehicle miles traveled (e.g., C-1.6 a).

69	LU-6.10	<p><b>Rural Level of Service Standard</b> – <del>The</del> <u>Where feasible, the</u> County shall maintain rural level of service standards for water, wastewater, emergency services and other public services and infrastructure within Rural Lands, pursuant to Public Services Element policies and Table PS-1. Roads shall be constructed and maintained in accordance with rural design standards. <u>The construction of new roads shall not have the effect of increasing the permissible intensity of development within Rural Lands.</u></p>
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COMMENT: Adding "where feasible" avoids problems that might be created by requiring that which is not feasible. For example, footnote a of Table PS-1 references the water storage requirement of HS-3.5, which requires compliance with the National Fire Protection Association's Standard 1142. That standard was used to justify a permit condition for 150,000 gallons of water storage for a small residence (about 1,100 square feet) with a 4 stall goat barn. NFPA Standard 1142 is a poorly written ambiguous standard

that can yield absurd results that are not feasible, and this policy should not require compliance.

Deleted sentence eliminates the one-way-ratchet effect. If the County denies permits to parcels served by a road based upon an exceeded roadway LOS (e.g., establishes a building moratorium), then the last sentence would never allow improvement of a road serving such parcels, because parcels would then become usable due to the improved LOS. Striking the language avoids a potentially absurd result. Moreover, the language would create an incentive for some to oppose road improvements, in conflict with public policy that should favor providing safe roads.

69	LU-6.11	<p><b>New Development Subdivision Infrastructure</b> – The County shall ensure that new <del>development subdivisions</del> neither <del>increases</del> <del>increase</del> the infrastructure and public service cost for existing residents and businesses nor <del>reduces</del> <del>reduce</del> their level of service below acceptable levels (see Table PS-1). The County shall ensure that infrastructure and public services, as specified for Rural Lands, are available, fully funded and constructed concurrent with <del>development of new development subdivisions</del>.</p>
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COMMENT: Required to make consistent with Table PS-1 which applies only to creation of new lots, not existing parcels of record ("Criteria for Creation of Residential Lots"). Too great a burden to place on the owner of an existing parcel of record. Moreover, owners of existing parcels of record have been paying taxes to help pay for infrastructure, along with owners of developed parcels. Subdividers are better able to capitalize and pay for infrastructure, and it is more equitable to place added costs on them as past taxes were paid based upon use of one parcel only.

74	LU-8.3	<p><b>Compatibility With Surrounding Uses</b> - Ensure compatibility between surrounding land uses and Public Lands. Ensure proper coordination among public agencies and adjacent private landowners in the management and planning of Public Lands. <u>Any buffer zone to minimize conflicts between use of Public Lands and private lands shall be established within the boundaries of the public lands.</u></p>
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COMMENT: Policy sounds like a buffer zone around land in public use. Unfair to place the burden of avoiding conflicting uses on an individual landowner, when the public landowner can better afford the burden, and it is more equitable to distribute the burden among the public enjoying the benefit of the reduced conflicts. Moreover, if buffer zones are provided on private lands surrounding public lands, there is a question as to whether surrounding landowners will have had an interest in their property taken without due process. This because imposition of such buffer zones would presumably be automatic, yet acquisition of land by public agencies is often not subject to sufficient processes to provide the affected individuals a meaningful opportunity to be heard on the loss of their property interest before an impartial tribunal.

74	???	<p><i>Generally, more restrictions on use of public lands are required to ensure they are appropriately used.</i></p> <p><i>E.g., policy to require that prior to public money being expended to acquire land for public use, county ensure that the acquisition is needed, is consistent with purpose for which the funds were budgeted, and that the land will be used consistent with reason for acquisition. Public hearings should be held on acquisitions, because more likely to avoid misapplication of money (which has been a problem in the past).</i></p>
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COMMENT: More controls needed on acquisition and use of public lands.

75	LU-9.5	<p><b>Cottage Industries</b> – The County shall limit cottage industries within residential areas to businesses conducted primarily by the residents on-site and involving the</p>
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		manufacturing of artistic, handicraft and other craft or functional items. Winery cottage industries shall be limited to wine production for personal or family use and not for sale, consistent with the Alcohol, Tobacco and Firearms (ATF) definition of "personal use" (per ATF Title 21, Subchapter A, Section 24.75).
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COMMENT: Traditional cottage industry in rural areas like Big Sur is not limited to only arts and craft items, but functional items as well.

75	LU-9.6	<p><b>Lot Line Adjustments and Resubdivisions</b> - Lot line adjustments shall comply with this General Plan as well as all zoning and building regulations, including excluding minimum parcel size standards. Lot line adjustments between or among lots that do not conform to minimum parcel size standards may be allowed if the resultant lots are consistent with all other General Plan policies, Local Coastal Program policies, as applicable, and zoning and building ordinances, and may be allowed if the lot line adjustment would not result in increased development potential on the affected lots than existed before the lot line adjustment, and the lot line adjustment is necessary because:</p> <ol style="list-style-type: none"> <li>The adjustment would accommodate legally constructed improvements which extend over a property line; or</li> <li>The adjustment would facilitate the relocation of existing utilities, infrastructure, or easements; or</li> <li>The adjustment would resolve a boundary dispute between or among affected owners; or</li> <li>The Planning Commission finds that each lot proposed to be reconfigured is deemed "buildable" under the County's regulations, and that the adjustment would produce an environmentally superior parcel configuration.</li> </ol> <p><u>Lot line adjustments shall also comply with additional requirements added to lot line adjustments in area sections of this Plan, for application within the applicable planning area.</u></p> <p><u>Notwithstanding any other provision of this Plan, the County shall support lot line adjustments and resubdivisions that avoid the need for public acquisition or other compensation for taking of critical viewshed parcels, by enabling reconfiguration of an existing legal lot that does not have a building site outside the critical viewshed so the lot has a usable building site outside the critical viewshed. For purposes of this provision, the term "building site" shall also include land outside the critical viewshed needed for an access road to the location where the development will be located. Upon a finding by the Planning Commission or Board of Supervisors that such lot line adjustment or resubdivision will result in allowing use of an existing lot of record while preserving the critical viewshed and avoiding the need to compensate a critical viewshed landowner for lost use of their land due to the critical viewshed policy, such lot line adjustment or resubdivision need not conform with any other policy of this Plan. This provision shall not be construed as stating that use of parcels resulting from such lot line adjustment or resubdivision is exempt from any policy of this Plan.</u></p>
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COMMENT: Conforms to policy LU-9.8 which provides that substandard size of existing parcels will not render them a legal nonconforming use. Simplifies considerations by emphasizing that lot line adjustments not increase development potential rather than require conformance with myriad policies. Reconfiguration of critical viewshed parcels to avoid the need to compensate landowners for a taking is a win win situation that deserves County support. Such reconfiguration would allow use of land while protecting the critical viewshed, at little or no cost to the County.

	LU-9.8	<p><b>Minimum Parcel Size</b> – If minimum parcel size standards in this General Plan render an existing legal lot of record substandard in size, the substandard size of the parcel will not by itself render the parcel a legal nonconforming use. Any proposed expansion, enlargement, extension, or intensification of uses on such a lot, <b>including but not limited to lot line adjustment</b>, shall not be prohibited solely on the basis of its substandard size. Setback standards applicable to such a lot immediately prior to the effective date of the 2003 update of this General Plan shall continue to apply. In all respects other than parcel size and setback standards, proposed uses shall be consistent with applicable zoning regulations, permit requirements, and development standards. <b>This policy shall control over any conflicting policy in this Plan, provided however this policy shall not control over minimum parcel size requirements for septic systems.</b></p>
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COMMENT: Clarifies that size will not preclude lot line adjustment, and that the policy will control if there is a conflict with another policy in the Plan.

79	LU-9.17	<p><b>Slope Restrictions</b>— Except as provided in Public Services Policy PS-4.13, no development nor conversion of uncultivated land to cultivation shall be allowed on slopes of greater than 30 percent, and no development density shall be calculated from those portions of a site that are over 30 percent in slope. If this slope restriction renders a maximum density for the parcel that differs from the maximum density otherwise allowed by this General Plan, the lower density shall apply. Lot line adjustments shall comply with this slope restriction. If this slope restriction renders an existing lot of record unbuildable, project approval shall be considered on a case-by-case basis. Additionally, conversion of historically uncultivated lands to cultivation on parcels having an average cross slope of between 15 and 30 percent shall require approval of a use permit and agricultural management plan (see Map LU-4 at the end of this Element).</p>
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COMMENT: This policy should be broken into several different policies as it confusingly combines several different uses for slope. Assuming any of the policy is retained, it should be divided into one or more of the following:

- 1) A policy stating limitations on development of land over 30 percent slope, for example,
 

**Development on Slopes – Generally, lands in excess of 30 percent cross slope shall not be developed, provided however development on lands over 30 percent slope may be approved if:**

  - a. **There is no reasonable alternative that would allow development to occur on slopes less than 30 percent slope.**
  - b. **Allowing development on slopes over 30 percent would better achieve other policies of this Plan, or,**
  - c. **There is not substantial evidence that the project would result in significant harm to persons, property, or resources.**
  - d. **The provisions of Policy PS-4.13 apply.**

[Without this flexibility, parcels that are entirely over 30 percent slope would effectively be condemned or forced to apply for a variance. The policy also avoids forcing development onto land less than 30 percent slope if allowing use of land over 30 percent slope would better meet other Plan policies.]

- 2) A policy stating how land over 30 percent slope will be used when calculating density of principal residences on a parcel, and when calculating quantity of land needed for subdivision. However, if the BOS direction that there be only one principal residence per parcel is left unchanged, this policy would apply only to subdivision /creation of new parcels.

- 3) A policy on conversion of land over 30 percent slope from uncultivated to cultivated land (probably more appropriate in the AG section of the Plan). As above, the policy should not preclude conversion of land over 30 percent slope to cultivation if there is not substantial evidence that it would cause significant harm to persons, property, or resources, or if it would better meet other policies of the Plan.
- 4) The relation of slope to lot line adjustments should be included in the lot line policy. The lot line adjustment should not be required to comply with minimum parcel size / slope density requirements if it would not cause any increase in *development potential* for the parcels involved. For example, if A's driveway crosses over neighbor B's land, the County should allow a trade / lot line adjustment between their parcels to conform the parcels with reality if no increase in development potential will result. Lot line adjustments should also be allowed if they can be used to avoid the need for the County to acquire a parcel / compensate a landowner for lost use of their land due to Plan policies.

84	W&SC	<b>Watershed and Scenic Conservation:</b> The primary objective within this designation is protection of watersheds, streams, plant communities and scenic values. Principal uses include <b>low density residential</b> , agriculture and grazing, supporting ranch houses and related ranch buildings.
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COMMENT: Conforms with Policy LU-6.3 which provides low density residential is a primary use of the Rural Lands major land group (which includes W&SC).

88	Table LU-2	[Rural Lands row, Typical Density Range (gross acres) column] <del>1 dwelling unit principal residence per 40 acres — 1 dwelling unit per 160 acres acreage required on Land Use Plan Map</del>
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COMMENT: Conforms to concept that each planning area will set its own minimum parcel sizes. This change should also be made to Agricultural Lands row.

88	Table LU-2	[Rural Lands row, Infrastructure/Services Standards column] Rural service standards, onsite utilities ( <b>power generation voluntary</b> )
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COMMENT: In rural areas such as parts of Big Sur people have lived without electricity for hundreds of years and continue to do so. The Table should not indicate requirement for power generation on site (no policy requires this and none should). This change should also be made to the Agricultural row of Table LU-2.

88	Table LU-2	[Rural Lands row, Development Policy – Existing Lots column] <del>Reasonable economic use allowed Rural residential resource</del>
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		<u>uses, open space</u>
COMMENT: Conforms to full recognition of existing lots of record.		
??	C-??	<p><i>Continue to leave policies related to a trails plan out of the GPU, consistent with Planning Commission and BOS direction in 2002.</i></p> <p><i>In 2003, the Board of Supervisors directed on page 2, Chapter IV, Circulation Element, 1., "New proposed trails – Reinsert new proposed trails from Map #12 of December 2001 Draft General Plan, except those proposed trails located in the Salinas Valley and South County areas."</i></p>
COMMENT: The BOS gave new direction to reinclude trails plans in the GPU only after they were misinformed by the County Administrator that there was no objection to trails from areas other than the Salinas Valley and South County Areas. On file with the GPU team was testimony from the Big Sur and South Coast LUACs that they objected to new public trails across private land in the Big Sur planning area, and that they supported the BOS removal of all trail policies from GPU1.		
104	C-1.5	<p><b>Performance Standards –</b></p> <p>a. Average Daily Traffic (ADT) volumes shall be assigned for each roadway segment based on the functional classification of the road, as well as capacity analyses consistent with principles in the Highway Capacity Manual.</p> <p>b. Level of Service (LOS) standards shall be used as the determinant of peak hour travel for all County roadway system segments. The following Level of Service standards must be demonstrated for new <u>development subdivisions at the time of the construction of the first residential unit or commercial/industrial building</u>, using peak hour and daily traffic volumes:</p> <ol style="list-style-type: none"> <li>(1) Level of Service (LOS) shall not fall below LOS D on County roadway segments in the Rural Centers, Rural Lands, Agriculture Lands, and Public Lands Major Land Groups.</li> <li>(2) Level of Service (LOS) standards in Community Areas shall be developed through the Community Plan process. LOS standards shall not hinder the development of infill and affordable housing, and other new development within these Community Areas consistent with the Land Use Element and Community Plan.</li> <li>(3) In acknowledgement of estimated available and prospective County fiscal resources, and in recognition that the County will not be able to finance all capacity improvements needed to meet Level of Service (LOS) standards, the County shall exempt the following roadways from Level of Service standards:</li> </ol> <p><b>[Upon completion of the traffic model analysis, a table listing roadways, with their expected LOS, will be included here.]</b></p>
COMMENT: Precluding nominal use of an existing parcel of record based upon roadway LOS is too burdensome on small landowners, especially in light of Policy LU-6.10 that prevents improvement to roads if it would increase density of land use in the area. Unchanged, the policy would effectively halt all use of land served by a road that does not meet the LOS. Moreover, LOS C is typically about 25% of the maximum number of cars that a road can actually accommodate, which is at LOS E.		

105	C-1.8	<p><b>Speed Reduction</b> – The county shall work to reduce <del>speeds</del> <u>accident rates</u> on roads <del>where excessive rates occur</del> <u>with accident rates that exceed rates expected for the type of roadway, level of use, and speed limit.</u> This is to be accomplished through increased enforcement, improved signage, <del>or elimination of unsafe roadway conditions, as appropriate, based upon the cause of accidents to the extent that may be determined</del> <u>or traffic calming measures.</u> Within Community Areas, traffic calming devices such as narrower streets, speed tables, raised crosswalks, raised intersections, textured pavements, traffic circles, roundabouts, chicanes, realigned intersections, center island narrowing, and chokers, shall be considered first over more conventional methods. <u>In locations where there is evidence that abnormally high accident rates are caused by unsafe conditions, the County shall give preference to eliminating the unsafe condition over using other methods to address the problem.</u></p>
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COMMENT: Does not conform with California law related to prima facie speed limits. Who would decide what rate is excessive? California recognizes that prima facie speed limits should not be set by an arbitrary decision of any entity. Rather, limits are presumed speed traps unless set by measuring unrestricted speeds driven by actual drivers using the road, and then ignoring the speeds traveled by the fastest 15%. The maximum speed left after ignoring the speed of the fastest 15% is termed the 85<sup>th</sup> percentile speed, and generally becomes the posted speed limit. By definition, it should be expected that 15% of drivers on roads with a prima facie speed limit will exceed the limit. If a higher percentage are "speeding", then the speed limit is probably set low. The proper gauge for when measures should be taken, is when abnormally high accident rates occur. This is a factor that can be used to adjust the prima facie speed limit down by 5 mph. Warning signs and/or increased enforcement at the lower limit should bring accident rates within the expected range. Slowing traffic with the various "calming devices" listed based on an arbitrary decision of what speeds are excessive will cause a senseless drop in LOS.

Preference for eliminating a hazardous condition over enforcing an artificially low speed limit is consistent with studies that show that speed limits set too low cause increased accident rates due to differential in speed between drivers who follow the speed limit and those who drive at what appears the safe speed.

For example, see Federal Highway Administration Report No. FHWA/RD-85/096, *Synthesis of Speed Zoning Practice*, which concludes:

"Based on the best available evidence, the speed limit should be set at the speed driven by 85 to 90 percent of the free-moving vehicles rounded up to the next 5 mph increment. This method results in speed limits that are not only acceptable to a large majority of the motorists, but also fall within the speed range where accident risk is lowest."

105	C-1.10	<p><b>Road Abandonment</b> – In order to lessen maintenance and deficits in operations funding, the County, pursuant to the California Streets and Highways Code Section 8300 et seq., shall pursue the abandonment and conversion of County roads to private entities <u>where the ability to maintain the County road exceeds the benefit obtained from it.</u> Abandonment and privatization proposals shall be presented as a part of the annual report to the Board of Supervisors. Proposals shall be reviewed by all applicable County departments and agencies to identify and mitigate impacts from the abandonment or privatization of a roadway. The potential for alternate public uses of the rights-of-way, such as bikeways, or horseback riding and hiking trails shall be addressed. <u>The County shall hold public hearings on each proposed abandonment, with public notice, at a minimum consistent with California Streets and Highways Code sections 8322 and 8323 or their successor statutes. The County shall not use summary abandonment proceedings for any abandonment.</u></p>
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COMMENT: Who determines when the ability to maintain a road exceeds the benefit? What objective standard will be used? Noticed public hearings should be held on each abandonment.

106	C-2.5	<p><b>Uncontrolled Access</b> - New development shall be prohibited from having direct vehicular access (driveways and private roads) to State and County designated freeways. Access may also be prohibited to State and County designated highways, and new local expressways unless there is no feasible alternative for ingress and egress, or if frontage improvements would detract from the character of the surrounding land uses, or if the nature of the access and its use is such that it would not significantly impact the carrying capacity of the roadway. Any Where feasible, development proposals adjacent to a highway or expressway should be designed so that direct access from the private property to the roadway will not be needed.</p>
<p>COMMENT: Clarifies that direct access is only <i>prohibited</i> on freeways, and will not be prohibited on other roads where it will not decrease capacity, or where there is no feasible alternative. For example, in some areas, Highway 1 serves both as a highway and the functional equivalent of a collector road, there are no frontage roads, nor would they be practical or desirable.</p>		
106	C-2.6	<p><b>Preventing Strip Development</b> – Where alternatives are feasible, Development development of urban uses such as housing or commerce in narrow bands or strips, generally one lot deep, along the frontage of major County roads and highways shall be discouraged. Access onto major public roads shall be reduced whenever possible by limiting the number of curb cuts. Parking facilities shall be located behind buildings rather than in front whenever possible.</p>
<p>COMMENT: The policy should not preclude strip development where there are no significant alternatives. For example, in areas like Big Sur, strip development is the primary form of commercial development possible. Such areas generally have no frontage roads paralleling Highway 1, and few if any off-highway locations where businesses could be located. In such places, other Plan policies should be used to restrict where such development can occur rather than a blanket preclusion of development everywhere along roads.</p>		
107	C-3.2	<p><b>Transportation System Management, Developer Obligations</b> – Proposed development projects may be required, as a condition of approval, to contribute to the implementation of TSM measures in the design of roadways and right-of-ways that the project will impact, as determined by a traffic impact study. This policy shall not apply to development of a principal residence and secondary structures on an existing legal lot of record.</p>
<p>COMMENT: Large development projects can capitalize the cost of such requirements, but individual landowners cannot. Moreover, owners of existing parcels have been paying taxes for such improvements. It is more equitable to leave such payments on subdividers because they create demand beyond that from existing parcels. The change protects small landowners from burdensome costs.</p>		
108	C-3.11	<p><b>Accommodating Truck Traffic</b> - New commercial and industrial development shall be required to accommodate truck delivery and access in its design by considering off-street commercial loading standards, as well as impacts to adjacent land uses. Projects within Community Areas that will not result in significant commercial truck traffic on site will be exempt from this policy.</p>
<p>COMMENT: If the point of the policy is to provide facilities where needed to accommodate commercial truck deliveries, the need for such facilities is even greater within Community Areas than rural areas (due to greater development and traffic densities) <i>if needed on the site</i>. If not needed, mom and pop stores should not have to build loading docks if they want to make a nominal addition to their commercial building (nor should anyone else who will not have significant demand for accommodating truck traffic /</p>		

deliveries on site).		
108	C-3.14	<p><b>Orienting Visitor Traffic</b> – In conjunction with development of new highway improvements, visitor orientation centers shall be supported at key gateway sites that serve as focal points to inform visitors of area attractions, special events, transportation and public transit options, park-and-ride facilities, and other tourism opportunities. Features of these facilities should include restrooms, picnic areas, outdoor information kiosks, tour bus and transit accommodations and information, park-and-ride facilities and information, and Intelligent Transportation System (ITS) technology. Information should be provided to assist in directing visitors away from congested areas, and offer information on public transit options. <b>No such facilities shall be provided for the Big Sur area.</b></p>
<p>COMMENT: In 1990, CalTrans conducted a survey of visitors to Big Sur asking if they want amenities such as those listed in this policy (<i>The Big Sur Transportation Management Study</i>, November, 1990). The survey was biased in favor of providing amenities because there was no box to check for no action. However, in the write-in section of the survey, the highest single response was various forms of "don't do anything / leave as is" (more than twice as many as the next highest write-in comment). Visitor's to Big Sur have said they don't want the kind of tourist facilities listed; they should be listened to.</p>		
109	C-4.1	<p><b>Concurrent Development of Bicycle/Pedestrian Facilities</b> – The County shall support an accessible, safe, and convenient bicycle and pedestrian route network that provides for the fundamental travel needs of bicyclists and pedestrians, consistent with the Monterey County Bikeways Plan. Bicycle or pedestrian accommodations shall be established as part of all new road construction and reconstruction projects consistent with Caltrans Project Development Procedures Manual (PDPM) Chapter 8, Section 7, unless one or more of <b>three four</b> conditions are met:</p> <ul style="list-style-type: none"> <li>a. Bicyclists and pedestrians are prohibited along the roadway;</li> <li>b. The cost of establishing bikeways or walkways would be excessively disproportionate to the need or probable use (where excessively disproportionate is defined as exceeding 20% of the cost of the larger transportation project);</li> <li>c. Where sparsity of population or other factors indicate an absence of need.</li> <li><b>d. Where development or use of a bicycle / pedestrian facility would reduce the motor-vehicle carrying capacity of the road, and; level of service on the road is at or below level of service C, or it is foreseeable that level of service will drop to or below level of service C on the roadway.</b></li> </ul>
<p>COMMENT: Highway 1 through Big Sur is probably between LOS C and E depending upon the particular location. Highway 1 is limited by law and terrain to a two lane road. Potential for motor-vehicle capacity improvements are therefore severely limited. Should a bikeway / pedestrian pathway be constructed along Highway 1, it must be designed so that its development or use does not reduce motor-vehicle carrying capacity of the road. About 4 million people drive the highway each year. Their use of the highway should not be jeopardized by improvements for a nominal number of bicyclists.</p>		
110	C-4.4	<p><b>Rural Roads</b> – The County shall ensure that characteristics of rural roads are distinct from those within urbanized areas. Transportation facilities in Rural Centers, Rural Lands, Agriculture Lands, and Public Lands shall be primarily limited to safety and operational improvements in order to protect the rural character of the roadway system in these Major Land Groups. <b>Where roadway safety requires capacity improvements, the County shall consider such improvements. The County shall not financially support capacity projects in these</b></p>

		areas other than those projects listed in Road Improvement Tables within the Capital Improvement Program.
<p>COMMENT: Road improvements are paid for primarily by road taxes. Those in rural areas also pay road taxes. Moreover, some rural roads receive heavy use by urban residents passing through. Present Plan policies would preclude improving rural roads even if they are congested from use by urban residents. There is no reason for the County to limit its options on where to expend revenues, it is capable of making that decision for any given project.</p>		
110	C-4.6	<b>Emergency Access</b> - The County shall encourage adequate access for emergency evacuation in Rural Centers, Rural Lands, and Agriculture Lands in the event of an earthquake, wildland fire, flood, or other disaster by requiring <del>the most efficient use of roadways for emergency vehicles and emergency access</del> <b>turnouts, pullouts, or other similar measures to allow use of roads by emergency vehicles in an emergency.</b>
<p>COMMENT: Without change, it was unclear what the last part of the policy was attempting to say.</p>		
110	C-4.7	<b>Connectivity - Emergency</b> Where feasible, <b>emergency</b> roadway connections shall be developed where distance to through streets is excessive, or <b>a</b> where a second means of emergency ingress or egress is critical.
<p>COMMENT: The Plan should not require that which is unreasonable. There are locations where such "connections" are not possible, or not feasible.</p>		
110	C-5.1	<b>Concurrent Development of Transit Facilities</b> - All major roadway expansion and construction projects shall consider an expanded role for transit and alternative modes of transportation consistent with Caltrans Project Development Procedures Manual (PDPM) Chapter 8, Section 7. To the extent that it is cost-effective <b>and will increase overall transportation efficiency</b> , these projects should incorporate plans for future transit corridors, bus rapid transit (BRT) lanes, or high-occupancy vehicle (HOV) lanes.
<p>COMMENT: Such programs that do not increase overall transportation efficiency, or that lower it, should not be encouraged.</p>		
111	C-5.8	<b>Accommodating Transit in Project Design</b> - The County, in cooperation with MST, shall ensure that new commercial, industrial, residential, and visitor-serving development incorporates adequate land and/or transit facilities to accommodate planned transit system improvements consistent with the MST Short Range Transit Plan (SRTP) and Service Improvement Program (SIP), into project design prior to or during the process of reviewing development applications. The design of transit facilities shall be consistent with the MST Designing for Transit document. Transit facilities shall include bus turnouts, bus stops, or bus passenger shelters. <b>This policy shall not apply to development of a principal residence or secondary structures on an existing lot of record or to development of a commercial building designed to accommodate fewer than 25 employees.</b>
<p>COMMENT: Large residential and commercial developments can capitalize such costs. Small landowners cannot.</p>		
115	C-9.2	<b>Least-Cost Transportation Planning</b> - Strategies to reduce demand on County roadways shall be given equal consideration to capacity expansion projects in transportation planning and investment decisions. Least Cost Transportation

		Planning will allow Transportation Demand Management (TDM) and Transportation Systems Management (TSM) measures to be implemented when it is the most cost effective solution overall. <b>Any strategies developed pursuant to this policy shall not preclude development of a principal residence and secondary structures on an existing lot of record.</b>
COMMENT: Owners of existing lots of record pay taxes for road improvements and should not be precluded from use of their land by a strategy to reduce transportation expenditures.		
115	C-9.4	<del><b>Funding Related to Users and Those that Benefit</b></del> —The County shall seek to distribute costs for necessary transportation improvements equally among those who burden the system and those who will benefit from the improvements to the greatest extent feasible.
COMMENT: Those who burden the system and those who will benefit from the improvements are the same people. The policy makes no sense.		
115	C-9.7	<b>Developer Costs</b> - Developers shall pay the cost of road improvements necessary to provide safe and adequate access to new development projects. Expenditures for improvements on the roadway system shall be equitably distributed among developers of commercial, residential, and industrial projects based on the proportion of the project's traffic impact as determined by traffic impact analysis. <b>This policy shall not apply to developers of a principal residence or secondary structures on an existing lot of record.</b>
COMMENT: Large developments can capitalize such costs and recover them as part of the project. Those developing single family homes on existing parcels of record cannot capitalize such costs. Moreover, owners of existing parcels of record have been paying taxes along with owners of developed parcels, they have just not been using the services their taxes help pay for.		
115	C-9.8	<b>Real-Cost Pricing Strategies</b> – The County shall utilize pricing strategies to augment transportation funding that establish a direct relationship between consumers that use the transportation network, and the costs for development, maintenance, and operation of the transportation network. <b>To the extent that Real-Cost Pricing results in requirement of impact fees or other similar charges, such fees shall not apply to development of a single family residence on an existing lot of record.</b>
COMMENT: The definition for Real-Cost Pricing is, "In the context of transportation planning, it means that motorists pay directly for using a particular roadway or driving in a particular area."  Presumably, this means either toll roads or in-lieu fees. To the extent it means in-lieu fees, owners of existing lots of record should not have to pay, as they have been paying property and road taxes already, despite the fact that they have not been using the roads.		
127	ER org of element	<b>Open Space for Conservation of Social and Cultural Resources</b> Historic Resources <b>Archaeological Resources</b> <b>Paleontological Resources</b>
COMMENT: Open space is not required for protection of Archaeological or Paleontological resources. For example, paving an area is a desirable means of protecting archaeological resources for the long term (see CEQA Guidelines re preservation in place, Title 14 California Code of Regulations, section 15126.4(b)(3)(B)3.).		

129	ER-1.1	<p><b>Coordinated Resource Management</b> – In cooperation with State and federal wildlife agencies, local resource management agencies, interested groups and landowners, the County shall coordinate policies efforts to conserve and protect environmentally sensitive areas. Environmentally sensitive areas include are those areas designated as “critical habitat” areas for federally listed threatened or endangered species pursuant to federal law of federal and state listed endangered species, Environmentally Sensitive Habitat Areas (ESHA) identified by the State Coastal Commission, and “natural communities” listed in the State Natural Diversity Database, and “Areas of Special Biological Significance” identified by State Water Resources Control Board. In addition to the foregoing, additional areas expressly named as "environmentally sensitive areas" or "environmentally sensitive habitat areas" in area sections of this Plan shall be included for application within the applicable planning area. The County shall seek to protect each type of environmentally sensitive area by providing the specific form and degree of protection for each type as required by applicable state or federal law.</p>
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COMMENT: Given the ambiguous nature of the policy, "interested groups" should be deleted, as *direct* participation of such groups in decisions affecting use of land belonging to others would be inappropriate (participation by "interested groups" should be limited to control of land in the group's ownership, and participation in public hearing processes). Coordination of "policies" implies inappropriate incorporation of policies of other agencies into this Plan by reference. Unchanged, the listed habitats cover nearly every portion of Monterey County that is not paved or in active crop production. Using laws intended to protect the threatened and endangered to protect the commonplace and ordinary not only abuses the County's discretion, but is unlikely to yield the desired result. The natural plant communities database is a listing of common plants found growing near each other, and is not indicative of plants that require the kind of protections that are warranted for protection of threatened or endangered species. Additional areas added in area sections of the Plan are recognized for application within the applicable planning area.

The County would do well to consider the philosophy of the U.S. Fish and Wildlife Service (USFWS) with regard to protecting threatened and endangered species in a way that is likely to actually increase their numbers. The Service acknowledges that the best way to promote recovery of species is to cooperate with landowners rather than to needlessly threaten or coerce them. For this reason, USFWS has effectively stopped listing new "critical habitat". Consider the following statement from a USFWS Question and Answer bulletin (from [http://endangered.fws.gov/criticalhabitat/CH\\_qanda.pdf](http://endangered.fws.gov/criticalhabitat/CH_qanda.pdf)):

**Why does the Interior Department view critical habitat as a low priority?**

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The [Endangered Species Act] can compel agencies and landowners or managers not to harm listed species or not to adversely impact their designated critical habitat. It cannot compel them to take the positive steps needed to recover most species. Those must be done voluntarily. Inasmuch as most listed species are found in whole or part on State and private lands, and we have found both to be generally strongly opposed to having their property designated as critical habitat, **“critical habitat” has become a significant obstacle to obtaining landowner cooperation in species conservation. As such, it is an obstacle to recovery for many species.** This is a classic example of good intentions failing the test of reality. [Bold added.]

USFWS is working to develop ways of cooperating with landowners with the goal of achieving a "net benefit" for species that need protection, while at the same time giving landowners flexibility using their land. Programs such as USFWS's "Safe Harbor", "Habitat Conservation Plans", and "Landowner Incentive Programs" are attempts at achieving this goal.

The change to Policy ER-1.1 and other habitat policies below attempts to inject similar reasoning into Monterey County's habitat policies. Assuming every tree and plant is habitat for a threatened or endangered species is counterproductive to engendering a spirit of cooperation that will lead to real benefits for listed species. Coercing conservation easements, in lieu fees and the like similarly builds animosity rather than good will with those who can do the most to help species recover.

132	ER-1.3 [new policy, renumber following]	<p><b>Consistency With State and Federal Law</b> – The County shall not require any setback, deed restriction, easement, or other mitigation measure, including but not limited to in lieu fees and property exchanges, for reasons of environmental protection, that is not expressly mandated by state or federal law, nor shall any County employee request any such setback, easement, or mitigation measure of any applicant. Any setback, easement, or other mitigation measure required by the County pursuant to this plan shall either meet the constitutional requirements of nexus and proportionality required by the United States Constitution, or applicants shall receive just compensation in exchange for the requirement, which compensation shall take the form of monetary payment unless other form of payment is mutually agreed upon by the County and applicant. This policy shall control over every other policy of this Plan. This policy shall not be construed as precluding the County from informing applicants of conservation options which applicants may voluntarily pursue. For purposes of this policy, neither the policies of this Plan nor the ordinances implementing them shall be considered state or federal law, even if certified by a state or federal agency.</p>
<p>COMMENT: Environmental policies in GPU2 indicate that the County intends to go far beyond practices reasonably needed to protect threatened and endangered species. It appears the County intends to apply restrictive environmental protections even to commonplace and ordinary species.</p> <p>This policy is intended to ensure that the County is reasonable in the manner in which it applies environmental protections such as setbacks and mitigation measures. It should also end the present unethical practice of requiring from applicants that which the County has no lawful right to require, only to withdraw the requirement when an applicant challenges it after consulting legal counsel.</p> <p>California Government Code section 815 et seq provides that Conservation Easements are <i>voluntary</i> instruments. The Constitution requires nexus and proportionality for restrictions on use of private land by the County, or the County is obligated to pay for taking property. Nexus and proportionality are also required by Title 14 California Code of Regulations section 15126.4(a)(4)(A) and (B) (CEQA Guidelines). It is unfortunate that this policy is needed to direct County staff to act within the law, but past abuses indicate it is.</p> <p>The last sentence avoids a potential ambiguity created by certification of plan policies by state and federal agencies.</p>		
132	ER-2.3	<p><b>Development in Rural and Agriculture Lands Impacting Threatened or Endangered Species</b> - The County shall ensure that development on both new and existing lots of legal record <del>within Rural Lands and Agriculture Lands throughout the County</del> <del>avoid</del> avoids significant adverse impacts to natural and aquatic resources and wildlife habitats "critical habitat" or state or federally listed threatened or endangered species. Where avoidance is not possible, new development shall be located where possible <del>within an appropriately defined "building envelope" in an</del> area on the legal parcel <del>to</del> that will minimize impacts to environmental resources "critical habitat" and listed threatened or endangered species. New subdivisions, and other development projects shall incorporate setbacks <del>designed</del> <del>needed</del> to protect natural vegetation, riparian areas, and wetlands <del>against significant adverse impacts on</del> "critical habitat" and listed threatened or endangered species. Depending upon the nature and scale of a proposed new development project within "critical habitat" areas and "natural plant community" areas that have a substantial likelihood of containing "critical habitat" or of being inhabited by state or federally listed threatened or endangered species, biological surveys and an Administrative Permit may be required by the applicant to verify that any new development accomplishes this goal. If "natural plant community" vegetation or other "critical habitat" must be removed to</p>

		<p>accommodate new development, State and Federal requirements will prevail and the County shall require appropriate mitigation measures. Additional requirements for "environmentally sensitive habitat areas" (ESHA) may apply in the Coastal Zone. (see Coastal Area section policies)</p> <p>Prior existing resource protection and management plans that have been adopted by the County and responsible state and federal agencies as part of an approved development plan are exempt from this policy, as are lands participating in state or federal programs intended to provide a safe harbor or similar regulatory protection while encouraging net benefit to threatened or endangered species.</p>
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COMMENT: Legitimate protections for critical habitat and threatened or endangered species should not be limited to Rural Lands and Agricultural Lands, but should be applied to all areas in the County equally. Also, see the comment to ER-1.1 above.

132	ER-2.4	<p><b>Resource Conservation and Mitigation Program –</b> <u>The County shall consider establishing a Resource Conservation and Mitigation Program. If established, such Program shall at a minimum:</u></p> <ol style="list-style-type: none"> <li>a. <u>Include safeguards to ensure that Program funds are expended consistent with their intended use, and that any interests in land that may be acquired are used consistent with the purpose for which they were acquired.</u></li> <li>b. <u>Establish a maximum total amount for all commissions, fees, and similar charges that Program participants shall agree to accept for Program transactions involving the transfer of an interest in real property; total not to exceed 3 percent of the value of the property interest transferred.</u></li> <li>c. <u>Require that Program participants agree that if an interest in property acquired pursuant to the Program is later sold to a public entity, it will be sold at a price that does not exceed the price for which it was acquired.</u></li> <li>d. <u>Provide that before any entity may participate in the Program, they must submit to an audit of past projects to ensure their past financial activities, transactions, and use of property are consistent with applicable law and principles of ethical conduct. The County shall conduct public hearings to receive public comment on an entity's past activities as part of the audit. Past abuses shall be grounds to deny Program participation.</u></li> <li>e. <u>Provide that any transactions involving transfer of interests in real property conducted pursuant to the Program shall be subject to noticed public hearings prior to any agreement related to the transfer.</u></li> </ol> <p><u>The development of any such program shall be subject to close public scrutiny through noticed public hearings.</u></p> <p><u>A Resource Conservation and Mitigation Program and Ordinance shall be prepared to establish programs and procedures for the County to enact resource conservation practices. Preparation of the program shall consider procedures and means for cooperative agreements with non-profit trusts, acceptance of open space dedications and conservation easements, lease purchase agreements, purchase of development rights, use of open space land banking programs, open space infrastructure financing districts, special assessment districts, establishment of habitat mitigation fees to be used where other mitigation measures cannot be feasibly implemented, and issuance of voter approved bonds.</u></p>
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COMMENT: Unchanged, this policy could be named the "pot of gold" policy. A program like the one

proposed should be developed under careful public scrutiny, and participants should be carefully screened. Without change, the policy sets in motion a program that is ripe for abuse.

132-133	ER-2.5	<p><b>Mitigation Measures to Avoid Disturbance to Critical Habitats and Threatened or Endangered Species and Natural Plant Communities</b> – In rural areas, development projects shall mitigate potential impacts to "critical habitat" and listed threatened or endangered species through an approved "building envelope" approach, locating development on the least environmentally sensitive areas where there will be less than significant adverse impact on "critical habitat", or incorporating mitigation measures to offset impacts of the development and its appurtenant uses. Mitigation measures shall be determined through coordination and agreement with state and federal agencies having jurisdiction. Mitigation measures may include voluntary clustering of structures and voluntary dedication of open space or agricultural conservation easements, or in-lieu habitat mitigation fees, proportional to the harm to the threatened or endangered species. Mitigation measures should demonstrate that disturbance or damage to "critical habitat" or "natural plant communities" is mitigated or offset to a level that results in "no net loss" of "critical habitat" habitat or plant species. "No net loss" means that the loss of any "critical habitat" or listed threatened or endangered species must be mitigated with one or combination of: replacement; transfer of affected plant species to an adjacent site another location if feasible, restoration and maintenance of affected "critical habitat" or "natural plant communities"; or voluntary dedication or purchase of conservation easements of an equal or better ecological value either within the parcel or in near proximity, to a public agency or land trust. Nothing in this policy shall be construed as requiring any person to undertake any mitigation measure that is not within the power of Monterey County to lawfully require, and no County employee shall make any such request of any person.</p>
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COMMENT: Natural Plant Communities are primarily several common plants (e.g., poison oak) found growing near each other, and as such are not entitled to the protections afforded to threatened and endangered species and their critical habitat. Legitimate critical-habitat protections should apply throughout the County, not just rural areas. State law provides that conservation easements are voluntary instruments, and it is appropriate that other similar instruments be voluntary as well. Harming threatened or endangered species is prohibited by state and federal law. Easements go beyond preventing such harm, they prevent use of land in the future, even if the species they were intended to protect is de-listed after it has recovered, or after it is discovered the species was mistakenly listed and was abundant all along.

133	ER-2.6	<p><b>Prior-Programmatic Transportation Project Mitigation Plans</b> – The County shall support use of prior-project programmatic mitigation plans of countywide and regional transportation projects to achieve broader and more effective environmental protection rather than rely solely on limited specific project by project measures to mitigate environmental impacts to critical habitat "critical habitat", watersheds, and viable wetlands. Part of any such programmatic mitigation plan shall be the development of best practices for each type of activity to be conducted. Upon approval of a best practice as part of such plan, any entity may use the best practice to fulfill mitigation requirements for similar activity within the County. The County Planning Department shall publish a list summarizing each best practice approved, and shall make details available to the public upon request.</p>
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COMMENT: This policy is designed to allow public agencies to cut environmental red tape when working on transportation projects. The changed language would broaden the concept to projects other than transportation projects. It would also allow non-government entities using the same best practices to also

receive the benefit of a streamlined environmental review.

133	ER-2.7	<p><b>Biological Survey</b> – New development activities or land disturbance <del>that may adversely with potential for significant adverse impact on</del> “critical habitat” or special status “natural plant communities” listed on the state Dept of Fish and Game Natural Diversity Database or within State Coastal Commission’s “environmentally sensitive habitat areas” (ESHA) or State Water Resource Control Board “Area of Special Biological Significance” (ASBS), or located within 100 feet of the foregoing a state or federally listed threatened or endangered species, shall require preparation of a detailed biological survey where there is scientific basis for preparation of such a survey. Determination of whether a biological survey is required shall be based upon study and field review of the project site by Planning &amp; Building Inspection Department staff.</p> <p>If determination is that a biological survey is needed, the report shall be prepared by a qualified ecologist, multi-species biologist, or registered professional forester as appropriate from the County’s list of approved consultants. <del>Surveys shall be required only for the portion of the property impacted by the development.</del> The specific nature of the <del>critical threatened or endangered species habitat, natural plant community, ESHA, or ASBS</del> shall determine the appropriate type of consultant needed. The report shall include the results of <del>detail</del> <del>detailed</del> field reconnaissance surveys performed at the appropriate time of year to determine, identify, describe and delineate areas where there <del>may be</del> <del>is</del> occurrence <del>of,</del> and <del>where there is substantial evidence that the project would result in significant adverse impact to, listed threatened, or endangered, rare, or other special status species.</del> Properties that are participating in a program sponsored by the United States Fish and Wildlife Service (USFWS), such as the Safe Harbor or Habitat Conservation Plan programs, shall not require surveys for the species or habitats that are the subject of the program on the property, nor shall any mitigation measures be required apart from those required by the USFWS as part of participation in such program.</p> <p>The report shall include a description of specific <del>habitats and ecosystems</del> <del>“critical habitat”</del> or listed threatened or endangered species for which there is substantial evidence that the project will have significant adverse impacts <del>that may be affected by the project</del> and detailed recommendations for mitigation of project impacts, when applicable. (note: routine and ongoing agricultural activities and structures within a State Dept of Fish and Game adopted voluntary local program and/or within a Natural Resources Conservation Service watershed permit would be exempt from the need to prepare biological surveys).</p>
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COMMENT: Environmental protection laws are intended to protect threatened and endangered species, not those that are commonplace. Surveys should be required where needed to protect species that legitimately need protection to avoid extinction. CEQA requires mitigation where there is substantial evidence that the project would cause significant adverse impact. Land that is included within a USFWS safe harbor or similar program has already been surveyed as part of that participation, and the County should recognize such programs by not requiring needless duplication of survey or mitigation work.

133	ER-2.8	<p><b>Setbacks</b> – <del>Within Rural and Agricultural Lands, and Rural Centers containing “critical habitat” or “natural plant communities”,</del> <del>When expressly mandated by state or federal law, all</del> new development proposals <del>within areas inhabited by state or federally listed threatened species</del> shall be required to maintain a buffer or setback that is undeveloped <del>(except for exempted developments), which is maintained, and comply</del> <del>complies</del> with state and federal regulations, <del>for the purpose of protecting the threatened or endangered species from harm from the development.</del> <del>The specific distance of the setback needed to protect the</del></p>
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		<p>threatened or endangered species under the circumstances shall Specific setbacks are to be determined through biological survey report recommendations prepared by an independent qualified ecologist, multi species biologist or professional forester from the County's list of approved consultants and consultation with state and federal agencies having jurisdiction. Unless otherwise provided by state or federal law, the standard for determining whether the distance of a setback is adequate shall be whether the setback reduces the risk of significant harm to the threatened or endangered species from the proposed development to a less than significant level. In general, setbacks should have a minimum width of: Notwithstanding the foregoing, a setback shall be presumed adequate to prevent significant harm to pertinent resources from the development if it is:</p> <ol style="list-style-type: none"> <li>a. 50 feet from the vegetated edges or banks of intermittent streams inhabited by threatened or endangered species;</li> <li>b. 100 feet from designated critical habitat, or from the upland vegetation edge of any wetland or from the defined bank of perennial streams and rivers, and other water bodies, and the vegetated edge of vernal pools; inhabited by a threatened or endangered species;</li> <li>c. 200 feet from the top of the defined bank of perennial streams and rivers, and other water bodies, and vegetated edge of vernal pools or designated critical habitat; whichever is the greater distance, or as permitted or required by federal or state regulatory agencies. A further distance than in paragraphs a or b above, as required by state or federal law; or, a shorter distance than in a or b above, if permitted by state or federal law.</li> </ol> <p>The County shall bear the burden of rebutting the adequacy of a setback that conforms with the provisions of paragraphs a, b, or c above. Routine and Ongoing Agricultural activities that are incorporated within an approved NRCS watershed permit or approved Dept of Fish &amp; Game Voluntary Local Program will be exempt from these setback requirements. This policy shall not be construed as requiring any setback not expressly required by state or federal law, nor shall any County employee request any setback that is not so required.</p>
<p>COMMENT: Threatened and endangered species require protection not only in rural and agricultural areas, but in urban areas as well. The word "development" is so expansive that there is a need to provide for exceptions to setback requirements for developments that by their nature must take place within the areas listed. For example, without an exception, erosion control measures would not be allowed within the setback, and roads would require a bridge from one side of the setback to the other (potentially hundreds of feet long even for a small creek). Generally, the width of setbacks should be that needed to prevent harm to the threatened or endangered species as determined on site. However, it makes sense to provide setback distances in the Plan, reasonable from the both the perspective of protecting resources and avoiding needless restriction on use of land, that will obviate the need for extensive environmental studies if complied with.</p>		
134	ER-2.9	<p><b>Mitigation Requirements where Setbacks are Infeasible</b> - Where a planned development within a legal lot of record cannot feasibly meet and comply with setback requirement as set forth in Policy ER-2.8 through a redesign of the project, a mitigation plan satisfying all agencies with jurisdiction, shall be prepared and implemented. The standard for adequacy of the mitigation plan shall be whether it provides measures that promote the survival of the threatened or endangered species to at least the same degree that the development is a detriment to the survival of the species. Approved mitigation measures may include, but not be limited to voluntary procurement and dedication and maintenance of conservation easements on the remaining portion or in close</p>

		<p>proximity to the parcel and setback that are proportional in habitat value to the habitat value lost due to the project. Nothing in this policy shall be construed as requiring any person to undertake any mitigation measure that is not within the power of Monterey County to lawfully require, and no County employee shall make any such request.</p>
<p>COMMENT: Disturbance of a nominal amount of habitat does not justify disproportionate mitigation measures such as requiring that the "remaining portion" of a parcel be put in conservation easement. Conservation easements are voluntary instruments under state law. The County's practice of attempting to require easements and other donations of property that exceed the County's lawful authority should end.</p>		
<p>134-135</p>	<p>ER-2.10</p>	<p><b>Native vegetation and Natural Plant Communities</b> - The County is committed desires to protect, maintain, and restore the ecosystem of "natural plant communities" as listed in the State Dept of Fish &amp; Game Natural Diversity Database native vegetation.</p> <p>As part of the project permit review process, the County shall work with landowners to encourage them to voluntarily preserve existing native vegetation to the maximum extent possible with proposed new development projects. Any proposed developments shall should be designed to avoid areas containing endangered plants and "natural plant communities" identified by the State Dept. of Fish and Game within their Natural Diversity Database and "critical habitats" identified by US Fish &amp; Wildlife Service, ESHA identified by State Coastal Commission, and ASBS identified by State Water Resources Control Board native vegetation to the extent avoidance may be reasonably accommodated. Mitigation measures and other requirements of state and federal agencies shall be incorporated into the development proposals within "critical habitat" and listed "natural plant communities".</p> <p>New development must also conform to fire safety requirements and setback requirements for native vegetation. Therefore, coordination and avoidance of conflicting requirements for new development projects that may impact endangered plants and natural plant communities must native vegetation should be made to specify an appropriate setback between new structures and native vegetation with fire protection and habitat management agencies. This policy shall not apply to vegetation Vegetation that is an emergency a risk to life or property is not protected under this policy.</p> <p>Monterey Pines, and Monterey Cypress more than one mile inland of Monterey Pine Forest and Mixed Evergreen vegetation classes (see Map ER- 2) and individual native trees clearly planted for tree farms, ornamental or landscaping purposes are exempt from this policy, as are all other forms of planted native vegetation.</p> <p>Within Community Areas, their adopted Community Plan requirements and environmental mitigation measures take precedence.</p>
<p>COMMENT: This policy improperly mixed references to threatened and endangered plants and native plants. Threatened and endangered plants (including those that are natives) receive protection under policies ER-2.3, ER-2.5, ER-2.7, ER-2.9, and more. By definition, native plants cover vast areas of Monterey County and the state of California. The changed policy properly focuses on non-threatened native plants, which do not require the protection needed for threatened and endangered species. Due to the abundance of non-threatened natives, this policy is properly limited to encouraging voluntary action on the part of the landowner. Education and raising the awareness of applicants is appropriate.</p> <p>The Department of Fish and Game "natural plant communities" list, is a listing of common plants in groupings of several plants found growing near each other. The list is interesting, but the arbitrary listing</p>		

of several plants found growing in an area provides no indication of the rarity of any of the individual plants. For example, if instead of groups of several plants, the list contained groups of 20 plants observed growing in an area, almost every group listed would be exceedingly rare, probably occurring only in the location where it was observed, even though none of the individual plants might be threatened or endangered. Such "communities" do not deserve the protections extended to threatened and endangered species.

135	ER-2.11	<p><b>Natural Plant Communities - Removal and Replacement of Native Trees -</b> Where impact to "natural plant communities" is unavoidable, proponents of each new development shall either dedicate or procure conservation easements for preservation of the natural plant community on or off site, and/or prepare a replacement or salvage/transplant plan to provide for mitigation or replacement of endangered species and their associated habitat vegetation. Where a project cannot avoid removal of native trees, replacement of the trees removed shall conform with this policy, unless excepted by another policy of this Plan.</p> <p>Replacement of native oak trees greater than <del>six</del> <b>twelve</b> inches in diameter, measured <del>two</del> <b>as the smallest diameter between ground level and five</b> feet above ground level, shall require a replacement plan which shall provide for replacement at any location the property using any of the following methods: planting of native nursery stock of any size, or planting of local acorns at a ratio of 3:1 (ratio of replacement trees to number of trees removed), or transplanting of the trees that are removed at a ratio of 3:1 (ratio of replacement trees to number of trees removed) on site. Other native tree species within areas of listed Natural Plant Communities with diameter greater than <del>6</del> <b>twelve</b> inches are to be replaced at a ratio of 1:1 at any location on the property, using methods similar to that for oaks as provided above on site. The replacement plan shall include maintenance and monitoring by the project sponsor for a minimum of five <del>two</del> <b>years for planted trees, and for five years for trees planted from seed</b>, to be verified through the submittal of annual mitigation monitoring reports to the County.</p> <p><b>This policy shall not apply to trees removed to maintain woodlands in a healthy condition as provided in policy ER-2.?? [new policy below].</b></p>
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COMMENT: The policy confused protection of endangered species with protection of common native plants / trees. The policy provided an option of transplanting oaks at a ratio of 3 to 1, which would be impossible using trees from the property while complying with the policy. Two years is enough time to know that a planted tree has established itself.

135	ER-2.12	<p><b>Tree Removal Permits -</b> Removal permits shall be required for the removal of <b>healthy</b> living protected native trees <b>over 12 inches in diameter</b>. Protected native trees <b>to which this policy applies</b> include Sycamores, Oaks, Redwoods, Monterey Cypress, Gowen Cypress, Monterey Pine, Madrones, California Laurel, Cottonwoods, Willows, Santa Lucia Firs, Big Leaf Maple, Box Elder, and Toyon, among others, or any landmark trees. Specific type, size and measurement procedures are determined within their specific area plans. In general, all native oaks larger than <del>6</del> <b>12</b> inches <del>or more</del> in diameter <del>measured 2 feet above the ground</del> require permit for removal. Monterey Pine, Monterey Cypress, Gowen Cypress, and Bishop Pines within their indigenous range require removal permit regardless of size. Madrones larger than <del>6</del> <b>12</b> inches <del>or more</del> <del>measured at breast height (4.5 feet)</del> also require removal permit. <del>Removal permit for other protected native species greater than 12 inches in trunk diameter are measured at breast height.</del> <b>Unless provided differently in an area section of this Plan, for application within the applicable planning area, when measuring trees to determine their diameter pursuant to this policy, they shall be measured at the smallest diameter between the ground and 5 feet above the ground.</b> Removal permit shall be</p>
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		<p>required for removal of three or less <b>protected</b> native trees within a single parcel of land. Preparation of a forest management plan will be required for removal of more than 3 protected native trees within a one-year time frame within a parcel.</p> <p>Removal permits may be granted only if it is determined that the removal will not adversely affect environmental resources including soil erosion, water quality, ecological impacts or if the tree(s) are diseased, injured, or create hazardous conditions and require action for the safety of life or property. <b>Such determination shall be based upon field inspection by Planning &amp; Building Inspection Department staff, or by a County approved professional Forester or Arborist, and no further studies or investigation shall be required unless there is good cause to believe that substantial harm to persons or property may result from the removal.</b></p> <p>Where feasible and appropriate, protected native trees removed will be replaced either by replanting of acorns, seeds, or saplings or by nursery-grown trees of the same species of a size not less than five gallons. Appropriateness shall be based upon species to be removed and their growth characteristics such as rate of growth, availability, and site conditions. The replacement shall include maintenance and monitoring by the project sponsor for <b>a minimum of five two</b> years, <b>unless replacement is by seed, in which case monitoring shall be for five years,</b> to be verified through the submittal of annual mitigation monitoring reports to the County.</p> <p><b>This policy shall not apply to trees removed to maintain woodlands in a healthy condition as provided in policy ER-?? [new policy encouraging woodlands to be maintained in healthy condition, below].</b></p>
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COMMENT: The unchanged policy might make sense in an urban area, but not in rural areas where native trees of substantial size are common. Two years is adequate time to learn if a tree is established. Landowners should be encouraged to keep their woodlands in healthy condition. The beneficial policies of fire prevention and suppression require that woodlands be thinned of overgrowth. Requiring permits for removal of trees under 12 inches in diameter will discourage such good woodland practices. If a fixed height is set at which to measure the diameter of trees, the result can easily be anomalous measurements due to branching or other irregularities in a tree's trunk. The smallest diameter between the ground and 5 feet above the ground will give the most accurate picture of a tree's diameter.

New Policy	<b>ER-2.??</b>	<p><b>The County shall encourage woodlands to be maintained in a healthy condition. For purposes of this policy "healthy condition" means a condition approximating the natural condition the woodlands would be in if fire suppression practices had never been applied in the area.</b></p> <p><b>Policies ER-2.10 through ER-2.12 inclusive shall not be construed as precluding any vegetation or tree removal conducted to maintain woodlands in a healthy condition, nor shall such policies be construed as requiring any activity that would detract from maintaining woodlands in a healthy condition. Tree replacement provisions of this Plan shall not apply to trees removed for the purpose of maintaining woodlands in a healthy condition.</b></p> <p><b>There shall be a separate permit process for obtaining vegetation and tree removal permits issued for the purpose of maintaining woodlands in a healthy condition, which shall be designed to not discourage applicants from obtaining such permits. Such permits shall be issued at no cost and in a timely manner.</b></p> <p><b>The County supports the beneficial policies of fire prevention and suppression.</b></p>
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COMMENT: Without this policy, policies ER-2.10 through ER-2.12 effectively preclude maintaining woodlands in healthy condition by requiring tree replacement. Overgrowth causes catastrophic fires due to kindling effect of fuel buildup, resulting in destruction of large trees that would not ordinarily burn

<p>without the kindling effect of overgrowth. The County should encourage, not discourage, maintaining woodlands in healthy condition. Consider applying ER-2.10 through ER-2.12 only in urban areas.</p>		
135-136	ER-2.13	<p><b>Landmark Trees</b> – Unless defined differently within an area section of this Plan for application within the applicable planning area, landmark <del>Landmark</del> trees of all native species shall be protected as significant features of Monterey County's natural heritage. The County shall coordinate review with the California Department of Forestry, Heritage Resources Review Board, scientists from research institutions, and landowners in the protection and enhancement of these resources and their supporting habitat. Landmark trees shall be defined as those having a trunk diameter more than 24 inches measured by taking the smallest diameter between ground level and 5 feet above the ground at 2 feet, visually or historically significant to an area or, exemplary of its species, or more than 100 years old.</p>
<p>COMMENT: Species such as Eucalyptus should not be provided landmark tree status as it could hinder controlling them in locations where they are established as non-native invasive species. Measuring 2 feet from the ground is subject to root flares or burls that do not reflect the size of the tree. Any other fixed height is subject to branching or multiple trunk anomalies. Most accurate way for true indication of size is to take the smallest diameter between the ground and a reasonable height.</p>		
136	ER-2.17	<p><b>Integrated Weed and Pest Management</b> - The County shall encourage the use of long term integrated approach to eradicate, suppress or contain weed and pest infestation within the County where economically viable. The approach shall use all available control methods including chemical, physical or mechanical methods, cultural methods, biological controls and general land management practices to control and eradicate noxious weeds and harmful pests. The Monterey County Department of Public Works shall participate in this effort by acting to control invasive species within the right of way of County roads. In areas where domestic water is supplied by springs, surface water, or wells, Public Works shall use only those eradication methods with no significant potential to contaminate such water sources. On rights of way where Public Works conducts annual mowing operations, areas containing invasive species should be mowed at a time before invasive plant seeds become viable.</p>
<p>COMMENT: County road rights of way are seed banks for many noxious and invasive species. Public Works must participate in eradication efforts if there is to be any chance of controlling spread. Efforts should not contaminate domestic water supplies. Mowing should be conducted before seeds become viable rather than after.</p>		
137	ER-3.3	<p><b>Erosion Control</b> - Soil loss from erosion can cause a significant degradation to natural habitats and to agricultural productivity, as well as creating costs to the public for clean up and maintenance. To the maximum extent feasible, the County shall seek to control harmful erosion and siltation from current and new development activities and reduce and prevent damage to soil, watercourses, and biotic resources from sedimentation, erosion, and chemical pollution. The County shall require Erosion Management Plans (EMP) for all new development or alterations to existing developments that result in land disturbance of greater than 100 1,000 cubic yards of soil movement or greater than 1(one) acre of disturbance (whichever is the smaller) within a one year time period, and in accordance with federal Clean Water Act requirements. Notwithstanding the foregoing, when an EMP might otherwise be required, requirement of an EMP may not be required if the development is a single family dwelling on an existing parcel of record.</p>

		<p>Erosion Management Plans are also required within areas of high and moderate erosion hazard, as identified in the Soil Erosion Hazard Map in the County's GIS database. Erosion Management Plans shall be prepared by a Registered Geotechnical Engineer or Certified Erosion Control Specialist and include discussion of the project's existing and potential deposition of upslope material or downslope slippage, provisions for keeping sediment on site, provision for slow release of runoff, revegetation measures, and mapping of drainage coming onto and off site. All exposed areas within a development project subject to erosion shall be protected by mulching or other means during the rainy season (October 15 to April 15)</p> <p>For purposes of this policy, harmful erosion means erosion with potential to cause significant harm to resources. Nothing in this policy shall be construed as relieving a property owner of liability for significant harm to persons, property, or resources due to erosion caused by site disturbance, whether or not such harm results from activities conducted pursuant to an approved Erosion Management Plan, or more than one year after conducted.</p>
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COMMENT: The definition of erosion in GPU-2 is so broad as to include even a miniscule amount of earth being moved by rain or wind. The policy should clarify it is intended to prevent harmful erosion. 100 cubic yards is a small excavation and should be increased to an amount with potential to cause enough erosion damage to justify the expense of preparing an Erosion Management Plan. A time frame is appropriate as sites stabilize over time, after which erosion is typically no longer an issue. Most disturbed areas stabilize over winter, hence one year timeframe is sufficient. The deleted sentence requires an EMP for any quantity of soil disturbance almost anywhere in Monterey County (map indicates almost the entire County is high or moderate erosion hazard). Indeed, the language is ambiguous enough to require a plan even without soil disturbance. The statement added at the end informs the reader that property owners will always be responsible for erosion damage caused by their actions.

137	ER-3.4	<p><b>Site Preparation</b> - Development shall be designed to conform to site topography and minimize grading and other site preparation activities. The County shall require grading permits to have an approved site plan that minimizes grading and conforms to the recommendations of a engineering geology or geotechnical investigation where required. <del>Side castings from the grading of roads and building pads shall be removed from the site unless they can be distributed on the site so as not to change the natural landform. An exception to this policy will be made for those cases where changes in the natural landform are required as a condition of development approval. In locations where erosion or movement of side castings would present a significant risk to persons, property, or resources, they shall be removed from the site or placed in a manner which shall reduce such risk to an acceptable level, including but not limited to distribution on the site so as not to significantly change the natural landform. This policy shall not apply to site preparation activities that are required as a condition of development approval.</del></p>
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COMMENT: Use of side castings as fill reduces the overall amount of cut required to obtain a given width. Use of side castings should therefore be encouraged where it can be done without harm.

138	ER-3.6	<p><b>Grading Permits</b> - Grading permits shall be required for any new development project that result in land disturbance of greater than 100 cubic yards of soil movement or greater than 1 (one) acre of disturbance (whichever is the smaller) <del>within a one year time period , and conversion of historically uncultivated lands to new agricultural cultivation on lands shown to have high and moderate erosion hazards as identified in the Soil Erosion Hazard Map in the County's GIS database, and on slopes steeper than 15 percent.</del></p>
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COMMENT: A timeframe is needed and reasonable as disturbed soil typically stabilizes over winter. The erosion maps indicate that most of Monterey County has high to moderate erosion rate, and most of Monterey County is also over 15% slope. Without the change, a grading permit would be required to move any amount of dirt, even plant a plant or put in a garden, almost anywhere in Monterey County. If retained, the reference to conversion from uncultivated to cultivated land language should be in the Agriculture element of the Plan.

141	ER-7.3	<b>Incorporation of Alternative Transportation Facilities</b> - The County shall plan and encourage greater mobility options to reduce transportation energy expenditures through use of transit, pedestrian, bicycle and alternative neighborhood transportation vehicles facilities <b>where appropriate</b> throughout the County. <b>In urban areas, trails</b> Trails and roadway designs will be planned to accommodate both non-motorized and small neighborhood electrical transportation vehicles.
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COMMENT: Such alternative transportation facilities should only be developed where appropriate. Intermodal trails are out of character with rural areas. Clarifies that the policy was intended for urban areas (e.g., small neighborhood electric vehicles).

142	ER-8.3	<b>Energy Production and Distribution Systems</b> - The County shall encourage <b>energy production and distribution systems to match the land use and transportation systems they serve in order to encourage</b> clean alternative energy sources and energy conservation <b>and not widespread distribution of small gas or diesel generating plants that create air and noise pollution within rural areas.</b> Within Community Areas, more centralized community wide systems for power generation and distribution may be more efficient. In rural areas where buildings can be oriented to best solar exposure, <b>distributed on-site</b> passive and active solar systems may be more efficient. <b>The County recognizes that solar energy systems and wind generators must be sited to maximize their effectiveness. In order to encourage such alternative energy means, the County may waive Plan limitations that would otherwise preclude development of an alternative energy system in a given location (such as on a slope exceeding 30 percent) to allow siting of alternative energy systems. Such exceptions shall be determined on a site-specific case-by-case basis.</b>
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COMMENT: Distributed passive solar (e.g., heat from sun through windows) is an oxymoron / impossibility. Distributed active solar (e.g., photovoltaic power generation) is generally neither practical or desirable due to line loss and because cost of transformers and distribution lines would likely exceed cost of multiple systems on individual sites. Even photovoltaic systems require generator backup, and in some locations, generators are the only option.

California Government Code section 65850.5 prohibits counties from passing regulations that will increase the cost or reduce the efficiency of solar energy systems. In order to encourage alternative energy systems, the County should allow solar and wind energy systems where other forms of development might be precluded by Plan policies.

142-143	ER-9.1	<b>Development Review</b> – The County is committed to protecting the quality of the visual resources within the county. Development applications within the viewshed of designated scenic highways and roads and publicly accessible viewing areas (such as parks and trails), will be required to include a visual impact study and graphic representation to determine how the proposed development would impact the scenic quality.  <b>The visual impact study shall locate and identify publicly accessible viewpoints, accurately identify proposed development structure(s) as to dimensions, height,</b>
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		<p>and rooflines through use of poles and netting and through photographs and graphic simulations taken from the viewpoints. Access roads shall be delineated by stakes with flags. These shall remain in place during the duration of the project review and approval process. The location of new access roads and driveways in highly scenic areas shall be reviewed prior to any grading work to ensure safe location and minimum visual disturbance. The extent of the proposed development shall be recorded photographically with superimposed representation of the proposed project.</p>
<p>COMMENT: Big Sur currently has a critical viewshed policy which renders all land visible from Highway 1 unusable. The critical viewshed policy, and other highly burdensome land use policies, have resulted in the acquisition of about 1/3 of the private land in Big Sur by various government and quasi-government entities in the last 16 years. This policy would create yet another viewshed, the "public viewshed", flowing from every other place the public visits, including trails. When combined with other highly restrictive policies in this plan (including the existing critical viewshed policy) this policy would make it yet more burdensome for landowners to use their land, and more likely for Big Sur landowners to sell to public agencies. Given the history of legislation to federalize Big Sur, it is foreseeable that the result of continued acquisitions will be a National Park or similar federal designation for Big Sur. Impacts on the greater Monterey Peninsula would be significant. Should the County continue to pursue such policies, the EIR for this Plan must address the potential impacts from a National Park on Big Sur and on the greater Monterey Peninsula. Moreover, imposition of development limitations automatically imposed by the "public viewshed" concept raises questions about adequate due process for affected landowners.</p>		
143	ER-9.2	<p><b>Protection of views</b> - Development proposals must keep visual disturbance to a minimum. Development projects within the viewshed of designated scenic highways and roads, and from public viewing including, vista points, beaches, parks, coastal trails, streams, and waters used for recreational purposes shall be required to protect mountain, ocean, coastal views, or forests (views from mountain hiking trails are not included). The standard to be used in determining impacts to visual resource areas is whether any portion of the proposed development is visible from the scenic highway, or public viewing areas. Where development cannot feasibly be made to be outside the visibility of public viewing areas, mitigation measures can be utilized to minimize the visual impact. Mitigation measures can include but not be limited to siting of structures so that visually disruptive features are directed away from public viewpoints, siting of the most narrow structural facade toward the public viewpoint, landscape screening, or the acquisition of the development right by a public agency or non-profit land trust. Distant development, that may be technically visible from the designated scenic road or highway or public viewing area, will not be considered visible if sited and designed so as to be minimally disturbing to the views. Where artificial berming/mounding or landscaping is to be incorporated into the development, it shall not be permitted to obscure the view of the ocean, mountains, or forests.</p>
<p>COMMENT: Same as comment to ER-9.1 above.</p>		
143	ER-9.3	<p><b>Dedication of Scenic Easements</b> - Whenever land is proposed for new subdivision that would diminish existing scenic quality from a designated scenic highway or publicly accessible viewing area, the landowner shall be required to dedicate scenic easements of remaining undeveloped lands to protect the visual sensitivity of the scenic corridor.</p>
<p>COMMENT: Same as comment to ER-9.1 above, in addition to comments re requiring easements as a permit condition.</p>		

143	ER-9.4	<p><b>Scale and Character</b> – In order to maintain visual continuity, new development projects within the viewshed of designated scenic highways and roads and public viewing areas shall be designed to be in scale with or subordinate to the character of the scenic resource area. Elements within highly scenic areas that make up scenic qualities, such as large trees, rock formations, watercourses, bridges, and natural terrain, shall be protected. Landscape screening may be used wherever a moderate extension of native vegetation is possible and not out of character or scale. Large mass use of reflective surfaces (such as mirrored glass, polished reflecting metal surfaces and the like) shall be minimized.</p>
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COMMENT: Same as comment to ER-9.1 above.

143-144	ER-9.5	<p><b>Ridgeline Development</b> - New structures that would be visible and silhouetted against the sky on ridgelines within the viewshed of designated scenic highways and roads, and ridgelines visible from, scenic waterways, and places of public gatherings such as public parks and vista points, shall be prohibited if there is a feasible alternative site where they can be located on the parcel. Structures that must be sited within scenic resource areas view of a designated scenic highway shall be sited near the toe of a slope, below rather than on a ridgeline, or within or near the edge of wooded areas, where they will best minimize their impact on views while maintaining compliance with other Plan policies, and shall not project above the ridgeline and be silhouetted against the sky. Structures within designated scenic areas visible from a designated scenic highway shall be sited to protect open views, and designed to incorporate materials, colors, landscaping and fencing appropriate to the setting. Where it is infeasible to restrict new development on ridgelines, mitigation measures to minimize visual intrusion such as landscape screening may be incorporated into the project design or variances may be granted.</p>
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COMMENT: Designated scenic highways may have sufficient public use to justify limitations designed to protect ridgeline views, other viewing areas listed do not. Structures that are not visible do not detract from views. It is unnecessarily restrictive to preclude a structure on a ridge that is visible, even though the structure is not visible. The requirement of alternative sites (e.g., the "toe" of a slope), might result in forcing structures into dangerous and otherwise less desirable areas than on a ridge. Best concept is to try to place structures in a spot that best meets all Plan policies, including maintaining views from scenic highways, and where they must be in view, mitigate to the extent practical.

144	ER-9.6	<p><b>Topographic Alteration</b> - For any development project where topographic alteration may be necessary, structures shall be designed to fit within the natural hillside site to the extent feasible, rather than altering the landform to accommodate buildings designed for level sites. Grading plans shall mimic the existing topography and avoid geometric cuts or fills, or flat areas that extend more than 25 feet past the footprint of a proposed structure unless additional distance is needed to accommodate commercial vehicles or fire apparatus. Manufactured slope banks shall not be steeper than 2 to 1 average (2 feet of run to 1 feet of height) and be varied rather than a constant slope. The requirement that manufactured slope banks not be steeper than 2 to 1 average shall not apply if a steeper slope bank would result in less visual impact, less risk of erosion, less disturbance of native vegetation or soil, or if on balance it would better further other policies of this plan.</p>
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COMMENT: The unchanged policy precluded any excavation that would fit a structure into a hillside rather than on it. Assuming the goal is to make structures less obtrusive, the policy was self defeating. Instead, it is more productive to set a limit (subject to reasonable exception) on the amount of flat area extending beyond the structure. The 2 to 1 excavated slope requirement is not appropriate in all areas.

<p>Requirement should be that excavated slopes be at a slope that best minimizes: erosion, removal of native vegetation, soil disturbance, and visual impact. In areas like Big Sur, near-vertical slopes usually best meet these goals and are therefore the existing norm. Slope of fills should also not be mandated at 2 to 1 for similar reasons. Imagine what Highway 1 through Big Sur would look like if all cuts and fills were a 2 to 1 slope.</p>		
144	ER-9.7	<p><b>Off-site Signs and Outside Storage</b> - Off-site advertising and outside storage within the viewshed view of a designated scenic highway corridors and public viewing areas shall be prohibited. Direction, access, and business identification signs shall minimize disruption of scenic qualities through appropriate use of materials, scale and location, and shall not be internally illuminated. Routine and ongoing agricultural activities and facilities are exempt from this policy.</p>
<p>COMMENT: The prohibition against outside storage is not limited to structures, and is so inclusive as to prohibit mounds of earth or other harmless and unobtrusive material from being stored. The policy is unreasonably restrictive. Moreover, by nature things that are being "stored" are temporary.</p>		
144	ER-9.9	<p><b>Satellite Dishes, Cellular Towers, and the like</b> - Within the scenic viewshed areas of visible from a designated scenic highways highway, roads and public viewing areas, satellite-receiving dishes, cellular radio or phone towers and similar devices, shall be sited so they are not immediately visible. These facilities may be located within a scenic viewshed so long as their visual impact is minimized and/or they are viewed as distant objects. Federal laws regarding communication facilities and equipment shall apply and take precedence if there are conflicting requirements.</p>
<p>COMMENT: Limit to designated scenic highways.</p>		
144	ER-9.10	<p><b>Siting of Solar Collectors and Wind Power Generators</b> – Within the scenic viewshed areas of visible from state-designated scenic highways, roads, and public viewing areas, solar collectors and wind power generators and similar devices, shall be sited so they are not immediately visible. The facilities may be located within a scenic viewshed so long as their visual impact is mitigated and minimized and/or they are viewed as distant objects.</p>
<p>COMMENT: Conforms to limiting views to be considered to those from state-designated scenic highways.</p>		
145	ER-9.13	<p><b>Scenic Corridors</b> - The County shall promote special scenic treatment and design on scenic right of ways through Rural Centers, Rural Lands, Agriculture Lands, and Public Lands. Roadways recommended for scenic corridor designations are identified in the Planning Area specific policies. To facilitate this policy:</p> <ul style="list-style-type: none"> <li>a. Scenic Corridor Protection Plans shall be prepared for county roadways that meet the minimum standards for nomination and designation prescribed in the Caltrans Guidelines for the Official Designation of Scenic Highways.</li> <li>b. Scenic Corridor Protection Plans shall not negatively impact routine and ongoing agricultural operations.</li> <li>c. Scenic Corridor Protection Plans shall address the five minimum requirements consistent with Section 261 of the State Streets and Highways Code which include:</li> </ul>

		<p>(1) Regulation of land use and density of development (i.e., density classifications and types of allowable land uses),</p> <p>(2) Detailed land and site planning (i.e., permit or design review authority and regulations for the review of proposed developments),</p> <p>(3) Prohibition of off-site outdoor advertising and control of on-site outdoor advertising,</p> <p>(4) Careful attention to and control of earthmoving and landscaping (i.e., grading ordinances, grading permit requirements, design review authority, landscaping and vegetation requirements), and</p> <p>(5) The design and appearance of structures and equipment (i.e., placement of utility structures, microwave receptors, etc).</p>
<p>COMMENT: State scenic highway designation is available for roads that meet the requirements, and is the proper vehicle for creation of such scenic status. Upon designation as a state scenic highway, policies in the Plan designed to protect views from designated scenic highways will apply.</p>		
145	ER-9.14	<p><b>Public Participation in the Scenic Corridor Protection Plan Planning Process</b>  <del>Public participation shall be an imperative part of the preparation of a Scenic Corridor Protection Plan.</del></p> <p>a. <del>Affected property owners, local citizens' committees, environmental groups and all other interested parties who might be impacted or interested in the proposed designation shall be involved in the scoping phase of the scenic corridor planning process.</del></p> <p>b. <del>The county shall host a public meeting specific to a proposed scenic corridor to facilitate public participation and to define community expectations and perceptions of how the scenic corridor through their community will be managed and regulated.</del></p> <p>c. <del>Review and revision of a Draft Scenic Corridor Protection Plan shall be directed through the area Land Use Advisory Committee before submittal to Galtrans. County staff and the LUAC will jointly present a final draft of the Scenic Corridor Protection Plan to the Planning Commission for their recommendation to the Board of Supervisors.</del></p>
<p>COMMENT: No need for this policy given deletion of ER-9.15. Also, see comment to ER-9.15.</p>		
145	ER-9.15	<p><b>Vista Points</b> – <del>Where appropriate, Vista vista points shall may be incorporated within new public scenic highway and road access projects within scenic resource areas. Access to vista points shall be provided by walkways, trails, or other appropriate means, and connect to the nearest public thoroughfare where parking or public transportation is available. Unless expressly provided otherwise in an area section of this Plan for application within the applicable planning area, vista points shall be within the right of way of the scenic highway. The process for determining where vista points are appropriate shall include public hearings in the area where they are proposed to be located.</del></p>
<p>COMMENT: Vista points should not be required, but should be considered where desired as determined through public hearings, and should be located within the scenic highway right of way.</p>		
145	ER-9.16	<p><b>Conservation Easements along New Roads</b> - The County shall encourage <u>voluntary</u> dedication of conservation easements along <u>undeveloped portions of</u></p>

		<p><del>new expressway, highway, or freeway corridors along commercially viable agricultural lands or other areas having environmental resources addressed within this ERME designated scenic highways. Nothing in this policy shall be construed as requiring any person to dedicate any easement that it is not within the power of Monterey County to lawfully require, and no County employee shall make any such request of any person.</del></p>
<p>COMMENT: Conservation easements are voluntary instruments under California law. In the past, the word encouraged has been interpreted to mean require in exchange for a permit or other approval, even if the County had no lawful authority to so require. This clarifies that the intent is to only require that which is within the County's lawful authority.</p>		
148	ER-10.15	<p><b>Promote Heritage Tourism</b> – <del>Where appropriate, the</del> <b>The</b> County shall promote heritage tourism by highlighting Monterey County's historic resources through support for programs emphasizing the recognition and/or use of historic resources for the enjoyment, education and recreational use of visitors to Monterey County. <del>Areas accessed by roads that are at LOS C or lower are not appropriate for such promotion.</del></p>
<p>COMMENT: It is not appropriate to encourage use of roads with LOS C or lower, as overuse will degrade the visitor experience for those who already find their way to the area.</p>		
148	ER-11.3	<p><b>High Sensitivity Area Review</b> - <del>All proposed development, including land divisions,</del> <b>When significant development is proposed</b> within high sensitivity <b>archaeological</b> zones, <del>the County</del> shall require an archaeological field inspection prior to project approval. <del>For purposes of this policy, development proposals shall not be considered significant if the development is of such a character that it does not have a significant likelihood of disturbing archaeological resources if they are present. Applicants for land divisions within high sensitivity archaeological zones shall be notified that any significant physical development of the parcels involved will be subject to archaeological field inspection prior to project approval.</del></p>
<p>COMMENT: It is unreasonable to require an archaeological survey for a development that would not threaten archaeological resources if present. An example of insignificant development would be paving an existing driveway. Paving an area is a desirable means of protecting archaeological resources for the long term (see CEQA Guidelines re preservation in place, Title 14 California Code of Regulations, section 15126.4(b)(3)(B)3.). It is appropriate to notify applicants for land divisions that the policy may affect use of new parcels.</p>		
148	ER-11.4	<p><b>Major Project Review</b> - All major projects (i.e., 2.5 acres or more <b>of soil disturbance</b>) that are proposed within moderate sensitivity <b>archaeological</b> zones, <del>including land divisions,</del> shall require an archaeological field inspection prior to project approval. <del>Applicants for land divisions within moderate sensitivity archaeological zones, shall be notified that major developments on the parcels involved will be subject to archaeological field inspection prior to approval of soil disturbance.</del></p>
<p>COMMENT: It is irrational to require an archaeological inspection based on the size of a parcel, rather than on the amount of soil that will be disturbed. Land divisions disturb no soil and therefore do not damage archaeological resources. It is appropriate to notify applicants for land divisions that the policy may affect use of new parcels.</p>		
148	ER-11.5	<p><b>Low Sensitivity Area Review</b> - Projects proposed within low sensitivity zones shall not be required to have an archaeological survey taken unless specific</p>

		additional information has been obtained to suggest that archaeological resources are present <b>and the project is of a nature that it has a significant likelihood of disturbing archaeological resources if they are present.</b>
COMMENT: If the project is of a nature that it would not disturb archaeological resources if present, it is not reasonable to require an archaeological survey at the owners expense.		
149	ER-12.2	<b>Mitigation of Impacts on Paleontological Resources</b> - Where <b>significant</b> development <b>is proposed that</b> could adversely affect paleontological resources, a mitigation plan to reduce potential impacts shall be required prior to project approval. <b>For purposes of this policy, development proposals shall not be considered significant if the development is of such a character that it does not have a significant likelihood of disturbing paleontological resources if they are present.</b>
COMMENT: It is unreasonable to require a paleontological survey for a development that would not threaten paleontological resources if present. An example of insignificant development would be paving an existing driveway. Paving an area is a desirable means of protecting archaeological resources for the long term (see CEQA Guidelines re preservation in place, Title 14 California Code of Regulations, section 15126.4(b)(3)(B)3.).		
159	HS-1.6	<b>Emergency Access</b> – Residential subdivisions of five lots or more shall provide more than one access route for emergency response and evacuation. <b>New Applicants for new</b> development on existing lots of record, <b>and</b> lot line adjustments, <del>and minor subdivisions of four or fewer new lots shall be discouraged</del> in areas served by a single access road that could be closed during emergency or disaster events and where public safety services are not available or are limited <b>shall be informed of the limited access and public safety services at the time of application.</b> <del>Minor subdivisions of four or fewer new lots shall be discouraged in such areas, and if approved, shall inform subsequent parcel owners of the limitations on access and public safety services.</del> Road policies and standards for emergency access roads are defined in the Circulation Element.
COMMENT: The entire Big Sur coast is served by a single access road that could be closed during an emergency (Highway 1). The entire Monterey Peninsula was cut off when Highways 1 and 68 were flooded during the flood of 1996. Aside from Highway 1, almost every road in Big Sur is the sole road serving an area, and few are interconnected. This is true not only for private lands, but public lands. Mountainous terrain makes redundant access roads difficult or impossible to provide and needlessly doubles the environmental impact of providing access. The lot line adjustment preclusion would have prevented lot line adjustments that do not increase development potential. The word "discouraged" should generally not be used in connection with use of existing parcels of record. If there is not sufficient justification to prohibit a use, then the use is allowed.		
161	HS-2.3	<b>Creation of new lots in the 100-Year Floodplain Outside Community Areas</b> - No new lots shall be created <del>outside Community Areas</del> where the only developable sites for new structures are within the 100-year floodplain. Areas <b>of new parcels</b> within the 100-year floodplain shall be designated for open space, agricultural use or other land uses that lessen the potential for loss of life, injury, property damage, and economic and social dislocations to the maximum extent feasible. <b>This policy shall not apply to water works, road crossings, erosion control measures, or similar development within 100 year flood plains, that by their nature must be located in such areas, and present no significant threat to health or safety.</b>
COMMENT: If precluding land divisions that don't have building sites outside a floodplain is a danger to		

<p>life or property, that rationale applies more within Community Areas, not less, due to the higher population density on the newly created parcel. It is inappropriate to preclude water works, road crossings, erosion control measures, and similar development that by their nature must be included within 100 year floodplains and present no significant threat to health or safety.</p>		
162	HS-2.5	<p><b>New Development on Existing Lots of Record in the 100-Year Floodplain –</b>          On existing lots of record, unless no alternative building site is available, residential and non-residential structures along with all attendant utilities shall be located outside the 100-year floodplain. On legal lots with no alternative building site outside of the 100-year floodplain, all new construction shall comply with County floodplain regulations. New residential and non-residential structures and substantial improvements to existing structures shall require mitigation measures, including but not limited to raising lowest floor elevations to two-feet above the 100-year flood level, to reduce impacts to a less than significant level. Development shall be conditioned upon review by the Monterey County Water Resources Agency. <u>This policy shall not apply to water works, road crossings, erosion control measures, or similar development within 100 year flood plains, that by their nature must be located in such areas, and present no significant threat to health or safety.</u></p>
<p>COMMENT: Inappropriate to preclude water works, road crossings, erosion control measures, and similar development that by their nature must be included within 100 year floodplains and present no significant threat to health or safety.</p>		
163	HS-3.2	<p><b>Fire Protection Service Standards for Residential Subdivisions—</b>New residential subdivisions shall meet the Fire Protection Service Standards defined in the Public Services Element of this General Plan. All new subdivisions of five lots or more in Rural Centers and Rural Lands shall be required to obtain, prior to permit approval, a statement from the fire department that adequate structural fire protection is available within 15 minutes. New land divisions which create commitment to new or intensified development should be approved only where it can be demonstrated that development of each proposed parcel and construction of the proposed access roads will neither create nor significantly contribute to fire hazards. On existing legal lots of record, <u>when</u> new development <u>that does is proposed in an area that does</u> not meet the fire standards defined in the Public Services Element of this General Plan <u>shall be discouraged, and adequate</u> notice shall be given to the property owner of the available level of fire protection services.</p>
<p>COMMENT: The word "discouraged" is subject to being interpreted as meaning approval should be unreasonably hampered. Use of the word should be avoided in the context of use of existing lots of record. The Plan acknowledges that owners of existing parcels of record have a right to use them, and that policy should be consistently applied.</p>		
???	HS-?? [new policy]	<p><u>Encourage Volunteer Fire Departments - The County shall support the establishment, maintenance, and expansion of volunteer fire departments. Support shall take the form of waiver of construction permit fees; waiver of property taxes to the extent permissible under law; donation of surplus County property; waiver of policies of this Plan applicable to siting of structures if a structure is related to fire prevention or suppression so long as such waiver would not endanger public health and safety or result in substantial harm to resources; and such other means as the Board of Supervisors shall direct or the Planning Commission shall recommend.</u></p>
<p>COMMENT: Volunteer fire departments provide a valuable public service at little or no cost to the</p>		

<p>County. Volunteer fire departments typically struggle to raise sufficient funds to acquire, insure, operate, and maintain equipment and facilities. The County should do what it can to assist volunteer fire departments.</p>		
163	HS-3.4	<p><b>Project Review</b> - The County shall refer project proposals to the fire authority having jurisdiction to identify potential fire hazards and ensure that development in high and very high fire hazard severity zones is designed and constructed in a manner that minimizes the risk from fire hazards. Development <b>approval shall be discouraged</b> in areas identified with very high and high fire hazards on the Fire Hazard Severity Map (Map HS-2) <b>and</b> shall address the difficulty of terrain, fire protection service availability and emergency response time, road access, and water improvements for fire protection. Projects shall be reviewed for compliance with current fire safety codes and standards and Volume 1 of the current edition of the Uniform Fire Code and the Uniform Building Code. The fire authority having jurisdiction may recommend a variation of the fire protection requirements where overall safety within the project site as well as the safety of adjoining and nearby properties is not compromised. Development approvals shall be subject to a special condition requiring the owner to record a deed notice describing the nature of the fire hazards and long-term maintenance requirements, <b>if any</b>.</p>
<p>COMMENT: The word "discouraged" should generally not be used in the context of use of existing parcels of record. The Plan acknowledges that existing parcels of record have a vested right to be used, and the policy should be consistently applied. "Discouraged" is subject to being interpreted as meaning approval should be unreasonably hampered.</p>		
164	HS-3.5	<p><b>Water Supply Systems for Fire Suppression</b> – The County and the fire authority having jurisdiction shall ensure that on-site fire protection peak load water supply systems are installed. Water systems constructed, extended or modified to serve a new land use, or an intensification of land use, shall be designed to meet, in addition to the average daily demand, the National Fire Protection Association’s Standard 1142 and/or other adopted codes and standards. <b>If more than 10,000 gallons of on site water storage is required, the authority applying the standard shall supply the applicant a detailed analysis of how the water storage requirement was calculated and a copy of the standard upon which the calculations are based.</b> All new swimming pools should be plumbed to allow connection to fire fighting equipment, if required by the fire authority having jurisdiction.</p> <p>New development shall be required to have adequate water systems to facilitate fire suppression. Where minimum water supplies are not available, alternate fire protection measures, including but not limited to automatic fire sprinkler systems, should be incorporated into the development as required by the fire authority having jurisdiction.</p>
<p>COMMENT: National Fire Protection Association’s Standard 1142 is a poorly written and complicated standard that is subject to misapplication. Based upon this standard, one applicant was required to store 150,000 gallons of water for a small home and barn with room for 4 goats. The authority had misapplied standards for a commercial dairy barn. Properly applied, the standard would have required only a small fraction of this storage. When extraordinary water storage is required, authorities should be required to provide applicants their calculations so that applicants may readily check them for accuracy.</p>		
184	Goal PS-1	<p><b>Goal PS-1 - Adequate Public Facilities</b></p> <p><b>When required by this Plan, ensure</b> <del>Ensure</del> that infrastructure and public services are available at adopted levels of service, fully funded and constructed</p>

		concurrently with the impacts of new development.
COMMENT: The Plan does not always require that public services are available and developed concurrent with new development (e.g., use of existing parcels of record). This Goal should be consistent with policies in the Plan.		
184	PS-1.2	<p><b>Adequate Public Facility and Services for Subdivisions</b> - Adequate public facility requirements shall:</p> <ul style="list-style-type: none"> <li>a. Ensure that Public Facilities and Services needed to support new <b>subdivision</b> development meet or exceed the Level of Service standards established <b>for the applicable Major Land Group</b> by the County in this General Plan;</li> <li>b. Ensure that no applications for <b>subdivision</b> development are approved which would cause a <b>significant</b> reduction in levels of service for any Public Facilities and Services below the Adopted Level of Service established in this General Plan <b>for the applicable Major Land Group</b>;</li> <li>c. Ensure that Adequate Public Facilities and Services needed to support new <b>subdivision</b> development are available concurrently with the impacts of such development <b>when so required by this Plan</b>; and</li> <li>d. Encourage development in infill areas where Adequate Public Facilities and Services (APFS) are available, <b>while acknowledging usability of existing lots of record</b>.</li> </ul>
COMMENT: Clarifies which requirements are for subdivisions, and that requirements are not the same for all areas, that insignificant impacts are not at issue, and reminds reader of Plan's recognition of existing lots of record.		
184	PS-1.3	<p><b>Standards for Creation of New Residential Lots and Intensification</b> - The County shall utilize the adequate public facilities and services standards established in Table PS-1, "Rural and Urban Infrastructure and Services Standards" to determine APFS requirements appropriate for new development based on the Major Land Group category and consistent with the policies in the Land Use Element. This table shall be used to determine whether new lot creation for residential subdivision and <b>residential dwellings beyond the first single family home more than one principal residence</b> on an existing lot should be permitted. Table PS-1 <b>is not intended to shall not</b> apply to <b>secondary structures such as</b> agricultural outbuildings, on-site employee housing, <b>senior citizen units, farm employee dwellings, accessory dwelling units,</b> or caretaker units outside of <b>the</b> water constrained areas <b>delineated on Map PS-2B. (See Map PS-2B)</b></p>
COMMENT: Without change this policy would have precluded secondary units other than caretaker units in many rural areas, including most of Big Sur (because most of the area is more than 15 minutes from fire and/or ambulance). Use of Table PS-1 to determine whether more than one primary residence can be constructed on existing parcels of record will be a moot issue if BOS direction that there be only one principal residence per existing parcel of record remains unchanged. Clarifies that the water constrained areas are those on the map.		
185	PS-1.4	<p><b>Positive Determination</b> - No application for development approval shall be approved unless accompanied by a positive determination, or a positive determination subject to conditions, relating to adequacy of public facilities and services as <b>provided required</b> in Table PS-1.</p>
COMMENT: If Policy PS-1.2, PS-1.3, and Table PS-1 remain unchanged, this policy will preclude off-site		

<p>employee housing, granny housing, and other secondary units other than caretaker units and on-site employee housing in many rural areas, including most of Big Sur. This would mean that off-site employee housing and other forms of low income housing would be precluded from many rural areas.</p>		
185	PS-1.5	<p><b>Cost Sharing</b> - The County shall require that new development pay its fair share of the cost of developing new facilities and services, and for the upgrading of existing facilities and services. This shall include costs associated with mitigating new development impacts on existing facilities and services and, to the extent that additional capacity is provided, through existing infrastructure and service providers. <b>This policy shall not apply to a principal residence and secondary structures on an existing legal lot of record.</b></p>
<p>COMMENT: Subdivisions and commercial developments can capitalize the cost of such cost sharing, but these costs cannot be capitalized when using an existing parcel of record. Moreover, owners of existing parcels have been paying taxes like other landowners, though they have deferred use of their parcel.</p>		
185	PS-1.6	<p><b>Documentation of Service Availability – In areas where public utilities are available, as</b> As a part of <b>subdivision</b> project approval, the County shall require that applicants demonstrate that their <b>subdivision</b> projects have necessary commitments documentation to secure service by public utilities and/or public agencies. All <b>such</b> improvements shall be developed, operational, and available to serve new development <b>within subdivisions</b> concurrent with construction of new units and buildings.</p>
<p>COMMENT: In some parts of the County, for example some areas in Big Sur, people have lived without public utilities for hundreds of years. In such areas where utilities are simply not available, and in many cases not desired, it is unreasonable to require utilities for use of existing lots of record. The changes ensure the policy is applied to subdivisions and development within them.</p>		
185	PS-1.7	<p><b>Project Improvements – If applicable, the</b> <del>The</del> County shall require improvements to be installed concurrently with new development in accordance with an infrastructure phasing plan, as approved at the time of project approval.</p>
<p>COMMENT: Acknowledges that not all development will require an infrastructure phasing plan.</p>		
187	PS-3.4	<p><b>Verification of Water Supply for New Subdivision</b> - Prior to a subdivision application being deemed complete, the County shall require verification of the availability of a proven long-term water supply. For proposed subdivisions in areas served by a public water system, verification shall take the form of a written report submitted by the proposed water purveyor and including the contents required by California Government Code section 66473.7.</p> <p>For rural subdivisions outside areas served by existing public water systems, a detailed hydrogeologic report shall be required to verify proven long-term water supply, as determined by Monterey County Health Department per Title 19. The hydrogeologic report shall be accompanied by an evaluation of the legal rights to the water proposed to serve the <b>subdivision</b> development. In Community Areas and Rural Centers, hydrogeologic reports shall be prepared as part of Community Plans and Infrastructure and Financing Studies.</p>
<p>COMMENT: Clarifies that all provisions of the policy apply to subdivisions.</p>		
187	PS-3.6	<p><del><b>Proven Long-Term Water Supply: Reliance on Wells in Areas Served by Public Water Systems</b></del> — For properties located within areas served by an</p>

		existing public water system, including areas within the adopted Sphere of Influence of any public water system, a proven long-term water supply shall not include water from an on-site private domestic well.
<p>COMMENT: The policy would potentially place landowners in a catch 22. The policy would preclude use of a parcel near a public water system unless the parcel is actually provided water by the public water system, for which there is no guarantee. No well allowed, and no service from public system = no water for parcel and therefore no use.</p>		
188	PS-3.11	<p><b>Consolidation of Small Water Systems</b> – It shall be the policy of the County to encourage the consolidation of public water systems and water purveyors wherever possible. New development projects, both on existing lots of record and lots created through subdivision, shall be designed to consolidate individual wells on parcels under the same ownership into small water systems if feasible, or to consolidate small systems into a public water company whenever such opportunities exist in the area it is feasible to do so. The formation of new mutually incorporated water companies shall be prohibited where a public water system with adequate water supply and water quality is available and service is actually provided.</p>
<p>COMMENT: Forced consolidation of wells on parcels in different ownership is unreasonable. Wells should not be required to be consolidated, even if under the same ownership, if consolidation is not feasible. Nor should connection to a public water system be required where not feasible.</p>		
188-189	PS-3.13	<p><b>Private Domestic Well Construction: Permit Required</b> - Construction of a private well that will serve residential uses, including outdoor irrigation, shall require a permit from the Division of Environmental Health. In areas served by a public water system or where water may actually be obtained from an alternative water source, the issuance of such a permit shall be discretionary in accordance with the underlying zoning district and subject to appeal to the Planning Commission as discussed in the Administration Element of this Plan. This policy does not apply to replacement of existing wells that were not themselves subject to this permit requirement and that will operate at the same level of production, or to wells used solely for non-domestic, agricultural purposes. The Division shall adopt regulations setting forth criteria for the issuance of private domestic well construction permits, consistent with this policy, and other the policies set forth in this Plan.</p>
<p>COMMENT: Without water land is not usable. In areas without alternative sources of water, denial of a well permit leaves land without water and renders it unusable. In such areas, a well permit should not be discretionary.</p>		
190	PS-3.24	<p><b>Water Transfers</b> - In the development of new water supplies, transfers of water out of the area watershed shall be prohibited, unless specifically provided for in the CIWMP. The transfer of a water supply between properties within a watershed to serve new development shall be prohibited unless analyzed in the CIWMP. This policy shall not apply in planning areas where there is an express policy providing otherwise in an area section of this Plan, for application within the applicable planning area.</p>
<p>COMMENT: Transfer of water between parcels is common practice in many rural areas, and is a traditional means of obtaining water in rural areas. Transfer of water from one watershed to another is sometimes the best means of protecting stream flows in a watershed with little water if another watershed with sufficient water is nearby.</p>		

190	PS-4.3	<p><b>Small Wastewater Consolidation</b> - To promote the efficient operation of wastewater facilities and economies of scale, <b>where feasible</b>, the County shall encourage the consolidation of private on-site systems into regional treatment and collection systems operated by PUC-regulated public utilities or public agencies.</p>
<p>COMMENT: In many rural areas such wastewater consolidation is not feasible or simply not available. Such is the case in Big Sur. The Plan should not require that which is not reasonable.</p>		
192	PS-4.12	<p><b>Maintenance of Rural Systems</b> – The County shall develop a program to ensure that commercial and industrial facilities adequately monitor, maintain and operate <b>their</b> individual onsite septic systems with less than 2,500 gallons per day average flows to prevent environmental degradation.</p>
<p>COMMENT: Clarifies that the commercial and industrial facilities will monitor <i>their</i> septic systems rather than systems of others.</p>		
192	PS-4.14	<p><b>Alternative Sewage Disposal Systems</b> - Alternative individual sewage disposal systems may be considered for replacement of systems that have failed on <b>approved existing</b> lots of record, <b>or for use on existing lots of record where no viable site for a standard system exists that meets the requirements of this Plan and no other method for sewage disposal is feasible</b>. Such alternative systems and proven technologies may not be approved until ordinances are in place that meet the requirements of the Regional Water Quality Control Board and the Director of Environmental Health. Alternative sewage disposal systems shall have technical, managerial, and financial resources to assure their proper functioning.</p>
<p>COMMENT: Reliable alternative sewage disposal systems should be available for use on parcels where no site exists that meets requirements for a standard system.</p>		
192	PS-4.15	<p><b>Minimum Lot Size for On-Site Septic Systems</b> – The minimum lot size for onsite septic systems <b>within the Coastal Zone shall be 2.5 acres and within inland areas</b> shall be one acre. The minimum lot size shall be 2.5 acres for parcels with both an on-site well and septic system, <b>except the 2.5 acre minimum shall not apply if all setback requirements are met (e.g., setback between well and septic, and from well to property line, and septic to property line)</b>.</p>
<p>COMMENT: The primary factor affecting the viability of a septic system is the percolation capacity of the soil where it is located, not an artificial boundary line such as the Coastal Zone. There is no rational basis for different minimum parcel sizes for septic systems in the Coastal Zone. If all setbacks are met, there is no basis for requiring a minimum parcel size when a well and septic system are located on the same parcel.</p>		
192	Goal PS-5	<p><b>Goal PS-5 - Storm Drains</b></p> <p><b>Where feasible, maintain</b> <del>Maintain</del> efficient, cost-effective, and environmentally sound storm drainage and flood control facilities that protect both life and property, and which divert and retain storm water runoff for groundwater replenishment.</p>
<p>COMMENT: The Plan should not require that which is not feasible. In mountainous rural areas especially, storm drains are not feasible, or even desirable.</p>		

192	PS-5.1	<p><b>Drainage</b> – <del>Where necessary to prevent significant harm to persons, property, or resources, the</del> <del>The</del> County shall require new discretionary development projects to provide both on and off-site improvements to alleviate drainage problems <del>before considering on-site detention of storm water</del>. Where it is not feasible to alleviate drainage problems through on and off-site improvements, the County shall require on-site storm water detention sufficient to maintain post-development peak flows at predevelopment levels for the selected design for all development projects <del>with impermeable surfaces</del> greater than one acre in area. When on-site detention is used, the development project shall be conditioned to ensure ongoing operation and maintenance of the detention basins.</p>
<p>COMMENT: Provides that drainage requirements shall be where needed. Clarifies that the one acre figure is not merely the size of the parcel, as confused in other Policies. Clarifies that storm drains or detention will not be required where not feasible.</p>		
193	PS-5.3	<p><b>Protection of Water Quality</b> - The County shall utilize pollution prevention measures and Best Management Practices to protect groundwater and surface water quality in all land altering activities. All development shall be compatible with adopted regional water quality protection plans adopted by the Central Coast Regional Water Quality Control Board. New <del>commercial and industrial</del> development shall minimize the discharge of pollutants into surface water drainage by incorporating the following Best Management Practices or similar practices, which provide equal or greater runoff control including the following:</p> <ol style="list-style-type: none"> <li>a. <del>In urban areas, construct</del> <del>Construct</del> curbs and gutters on arterials, collectors and local roads consistent with adopted or planned urban street designs; and</li> <li>b. Construct oil, grease and silt traps for parking lots, <del>land divisions or</del> <del>and</del> commercial and industrial development. Condition <del>parking lot, commercial, or industrial</del> development project approvals to provide ongoing maintenance of oil, grease and silt traps.</li> </ol>
<p>COMMENT: Clarifies that traps only apply to parking lots and commercial / industrial development (not residences). Land divisions do not leak grease or oil, they occur on paper, and as such are not appropriate by themselves for construction of the various traps listed.</p>		
194	PS-6.8	<p><b>New Development</b> - New development projects <del>in Community Areas and Rural Centers</del> shall provide for handling of waste in a manner that conforms with Integrated Waste Management Plan objectives and State-mandated diversion and recycling goals. Site development plans for projects shall include a plot plan indicating the location of a proposed solid waste recycling area. <del>This policy shall not apply to development of a principal residence and secondary structures on an existing lot of record.</del></p>
<p>COMMENT: Clarifies that policy applies to developments in Community Areas and Rural Centers, and not principal residence on existing lot.</p>		
195	PS-7.4	<p><b>Lighting</b> - Street lighting shall be designed to promote traffic safety, and be unobtrusive and harmonious with the local character. Such lighting must be constructed and located to illuminate only the intended areas, and prevent off-site glare. <del>Street lighting shall not be required in scenic rural areas where none currently exists, and it would conflict with the rural character of the area.</del></p>
<p>COMMENT: Some rural areas have no streetlights, and none is desired.</p>		

196	PS-8.2	<p><b>School Siting</b> - The County shall encourage school facility siting in areas with safe pedestrian and bicycle access and which establishes schools as focal points within the neighborhood and community. The County shall work with school districts to encourage the location of new school sites so that they can be served by adequate infrastructure (e.g. water, electricity, sewer, roads and traffic patterns, walkways). <u>Need for schools in a particular locality, and avoiding the need for students to travel long distances, shall also be considerations for siting schools.</u></p>
<p>COMMENT: Limiting location of schools based upon availability of facilities makes little sense if it results in schools not being located where they are needed.</p>		
196	PS-8.8	<p><b>Plans and Studies</b> - As a part of the development of Community Plans and Infrastructure and Financing Studies, the County shall plan areas for schools, libraries and childcare facilities. The highest priority for the development and enhancement of such facilities shall be <u>where there is the greatest need, which is expected to be</u> within Community Areas. The County shall locate schools, libraries and childcare facilities within community centers, adjacent to major commercial centers, parks, or in other areas convenient for public use.</p>
<p>COMMENT: The reality is that people will continue to live in rural Monterey County. Rural schools and other rural public facilities should not be encouraged to fall into disrepair.</p>		
197	PS-10.1	<p><b>County Parks Department Role</b> – <u>In planning areas where there is a shortage of parklands or open space, the</u> <del>The</del> County Parks Department shall take an active leadership role in acquiring and managing open space areas in unincorporated areas for future park units and/or scenic easements. The County shall coordinate with federal, State and local agencies, special districts and other recreation providers to avoid duplication of services and to ensure the development of parks in areas where there will be the highest need.</p>
<p>COMMENT: Clarifies that parkland and open space will be acquired in areas where there is a need.</p>		
198	PS-10.3	<p><b>Park Inventory</b> - In cooperation with other park agencies and with cities, the County shall assess the distribution of parks and recreation services in terms of population, geographic location, and recreation needs. <u>The County shall hold public hearings on the results of such assessment, and shall modify the assessment accordingly.</u></p>
<p>COMMENT: Public agencies alone may not provide the most accurate picture of where needs exist. Public hearings would provide a check on the self assessment of park agencies.</p>		
198	PS-10.4	<p><b>Sharing Parks and Recreation Facilities</b> – <u>Where appropriate, the</u> <del>The</del> County shall encourage full utilization of existing recreational facilities owned and/or operated by other agencies including cities, recreation districts and the school districts. The County shall cooperate in funding and sharing of recreation facilities where feasible. Joint powers agreements shall be used to define development, maintenance and operating arrangements for recreation facilities. <u>Nothing in this Plan shall be construed as requiring the County to encourage additional use of existing recreational facilities in areas where roadway Level of Service is at or below LOS C, where additional use would adversely impact resources, or where otherwise inappropriate.</u></p>
<p>COMMENT: Unqualified statement would mandate encouraging use even where inappropriate due to</p>		

existing overcrowding, adverse impact on resources, etc.		
198	PS-10.5	<b>New Park Development</b> - In cooperation with other park agencies, the County shall seek to establish equitable geographic distribution of neighborhood, community, and regional park facilities that will be commensurate with the needs of the surrounding residents. <b>Where appropriate, the County</b> shall encourage park development that includes interpretative and recreational services, including youth camping.
COMMENT: Unqualified statement would mandate encouraging interpretive services even where not appropriate, e.g., where not desired by the public, or out of character with an area.		
198	PS-10.8	<b>Park Acquisition and Dedication</b> - Parklands shall be acquired by the County through a variety of means, including but not limited, to purchase, grants, <b>voluntary</b> conservation easements, development impact fees and conditions of approval. Pursuant to the authority granted by the State of California Subdivision Map Act the County, as may be recommended by the Parks Department, shall condition subdivision projects, where feasible, for the purpose of providing additional park and recreation lands and facilities, and open space. New residential development <b>of 10 homes or more</b> , shall be required to dedicate parkland, or pay in-lieu development impact fees to acquire, develop, and maintain parklands, in proportion to the extent of the need created by development. <b>Nothing in this policy shall be construed as requiring any person to make any grant as a condition of permit approval that is not within the power of Monterey County to lawfully require, and no County employee shall make any such request of any person. This policy shall not apply to development of a principal residence or secondary structures on an existing lot of record.</b>
COMMENT: Large residential developments can capitalize the cost of providing parkland or paying in lieu fees. The County should not condition any approval on a grant of land or easement that is beyond the County's power to require, nor should any County employee make such a request. The policy should not apply to development of a principal residence or secondary structure on an existing parcel of record.		
200	Table PS-1	<p style="text-align: center;"><b>Table PS-1</b>  <b>Rural and Urban Infrastructure and Service Standards</b>  <b>Criteria for Creation of Residential Lots</b></p> <p style="text-align: center;"><b>(This table shall not apply to existing legal lots of record is not intended to limit the construction of a single family home, on-site employee housing and caretaker units, on an existing legal lot of record)</b></p>
COMMENT: Restores rural existing legal lots of record to full status as usable lots rather than subject to limited use only. Also makes it realistically possible to provide low income and employee housing (including off-site employee housing) in rural areas on existing parcels of record, near where the housing is actually needed.		
Policies elsewhere in the Plan provide standards for existing parcels (i.e., proof of water, water sources, minimum parcel size for septic).		
200	Table PS-1	[Rural Lands <i>row</i> , Sanitation <i>column</i> ] Septic on Lots > 1 <b>acre or 2.5 acres</b> <sup>4</sup>
COMMENT: Conform to change in text of Policy PS-4.15 above. There is no rationale basis for a different minimum parcel size for septic systems due to a political boundary like the Coastal Zone.		

201	Table PS-1 Notes	<p>Table PS-1 Notes:</p> <p>a. If response time exceeds 15 minutes for fire and ambulance service, <b>minor subdivision</b> development (<b>including secondary structures</b>) is permissible according to the underlying land use designation and zoning district, and the applicant shall be notified of the emergency service limitations. It is recognized that sheriff responses will vary since sheriff services are delivered by both community based offices as well patrol officers that travel throughout a beat area. <b>In addition to emergency access within the specified response time, emergency</b> <b>Emergency</b> water supply is required for all new development, per Policy HS-3.5.</p> <p>b. In the Monterey Peninsula Water Management District areas governed by State Order 95-10, Toro B-8 areas, and in the North County Hydrogeologic Study, development on existing lots of record and creation of new lots through subdivision are limited as defined in Public Services Element and Coastal and Inland Areas Element policies.</p> <p>c. All new <b>subdivision</b> development, <b>including construction of homes on existing lots of record</b>, shall be required to connect with any existing small private water system in the area, <b>if feasible</b>. <b>New well construction is prohibited for domestic use in areas (including Spheres of Influence) served by existing public water systems.</b></p> <p>d. Construction of new on-site septic systems is not permitted in areas served by regional or subregional wastewater collection and treatment systems, <b>if the regional or subregional wastewater collection and treatment system agrees to serve the proposed subdivision, and connection to the system is feasible.</b> Minimum lot size for septic systems <b>within the Coastal Zone is 2.5 acres, and within inland areas</b> is one acre. Minimum lot size is 2.5 acres for parcels with both an on-site well and septic system, <b>except that the 2.5 acre minimum shall not apply if all setback requirements are met (e.g., setback between well and septic, and from well to property line, and septic to property line).</b></p> <p>e. Level of service standards should be flexible within Community Areas so as not to hinder infill development and transit friendly and walkable community design.</p>
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COMMENT: Emergency response time is not required except for major subdivisions (e.g., see Policy HS-3.2), instead, a notice of deficiency is provided.

Most small private water systems are not allowed to provide water to more parcels than they are authorized for. Even if they can, there is no assurance they will agree to do so, or that connection would be feasible given terrain and distance. It is therefore unreasonable to require water connection to a nearby system.

Requiring connection to a wastewater system is only reasonable if a connection is actually provided. Also, conform footnote d to the text of Policy PS-4.15 as modified above (one acre minimum parcel size for septic county-wide).

227	H-1.5	<p><b>Energy Efficiency</b> – The County shall promote energy efficiency through the use of energy conservation measures in all new and existing housing units. <b>Energy conservation requirements may be relaxed in proportion to voluntary use of renewable sources of energy that meet all or part of a project's energy needs.</b></p>
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COMMENT: Use of renewable resources such as solar and wood should be encouraged as a means of meeting energy efficiency requirements. For example, parcels with more than 5 acres of woodlands have

been able to heat with wood and been credited with an energy calculation exemption or offsets for use of that heating method.

228	H-2.1	<p><b>Major Employment Center Job-Based Housing Demand</b> – The County will work to achieve balanced housing production proportional to the job-based housing demand in each region of the County. Residential areas will be designated in Community Areas to accommodate the housing units that are needed for unincorporated jobs located within the Greater Monterey, Greater Salinas, and Central Salinas Valley areas. <u>The County shall also encourage adequate employee housing in areas of the County where there is a need and commuting from urban areas is not practical or desirable.</u></p>
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COMMENT: In some areas (like Big Sur) employee housing shortages exist, no Community Area or Rural Center is provided for, and commute from urban areas is not practical or desirable. Such areas should also be encouraged to meet employee housing needs.

258	AD-2.8	<p><b>Exceptions to the Biennial Amendment Cycle</b> – General Plan amendments identified through the five-year General Plan review process, amendments requested by <u>public Monterey County agencies including Land Use Advisory Committees, amendments identified by the permit survey and feedback program established pursuant to Policies AD-?.? and AD-?.? [see new policies immediately below],</u> or amendments necessary to respond to a public health or safety emergency, shall not be limited to the biennial review process and may be considered on an as-needed basis. In addition, General Plan amendment requests as identified in California Government Code Sections 65358 (c) and (d) shall be exempted from the biennial amendment cycle. <u>Amendments excepted from the biennial amendment cycle by this policy shall not be excepted from any other amendment requirements, including public hearings.</u></p>
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COMMENT: County agencies such as Land Use Advisory Committees have the best feel for when it is important that changes be made to the Plan. Includes amendments identified by the annual review of the permit process proposed immediately below. Clarifies that all amendment procedures apply.

???	<p><u>AD-7.?</u> [New Policy]</p>	<p><b>Survey to Determine Cost of Permit Process</b> - <u>Concurrent with the issuance of each permit, the County shall provide each permittee a survey form to learn the total amount of money the permittee expended obtaining project permits, the estimated cost of complying with permit conditions, and the amount of time from first application submittal to permit issuance. The form shall break costs down into groups such as fees, cost of surveys required (e.g., biological, geological, etc.), and cost of other professional services (not including cost of preparing construction drawings). Participation in the survey shall be voluntary, and the form shall allow the permittee to specify that their identity be kept confidential. The Planning and Building Inspection department shall prepare an annual report to the Planning Commission and the Board of Supervisors, broken out by Planning Area, reporting the various amounts expended, estimated cost of condition compliance, and length of time taken for the permit process. The annual report shall be available to the public.</u></p>
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COMMENT: Since the Big Sur Coast Land Use Plan was adopted in 1986, the total cost of obtaining a coastal and building permit in Big Sur has risen dramatically (over 40 fold). Permits to construct a single family residence in the Big Sur area now typically cost well over \$40,000. In exceptional cases, permit applicants have spent over \$200,000 obtaining a permit to build a house. Permit costs can reach the cost of the land. Permit costs have also increased elsewhere in the County.

Such costs must be born up front, and cannot usually be financed (landowners must generally be able to

pay these expenses in cash). The County's permit costs have set up a filter through which moderate and low income individuals cannot pass. These costs further assure that proposed residences are of a size and style commensurate with the income of those who can afford the up-front permit costs, and with the expense invested in the permit process.

Permits can take years to go through the County's permit process. The time taken by the process often disrupts plans, adding to costs and creating additional hardship.

The cost of the existing County permit process is in conflict with various Plan policies intended to encourage moderate and low income housing, to reduce home size, and to increase energy efficiency of new construction. Cost of complying with permit *conditions* is often similarly problematic. Excessive time required to go through the permit process magnifies these adverse impacts, especially for those who cannot afford to hire a professional to handle the process for them.

Unjustified permit costs and conditions must be eliminated, as must unjustified time required for the permit process.

???	AD-7.? [New Policy]	<b>Hearing on Ways to Reduce Permit Costs and Time</b> - Each year, the Planning Commission shall hold public hearings on the report on permit and compliance costs and time for permit issuance provided for in Policy AD-7.? [the preceding new AD policy], for the purpose of determining which costs provide insufficient benefit to justify requiring the expenditure, how such costs may be eliminated or reduced to a justifiable amount, and how the time from first submittal to permit issuance may be reduced to the minimum time needed to protect the public interests that the County is mandated to protect. Planning and Building Inspection Department permit procedures and permit condition requirements shall be changed to conform to the findings and recommendations of the Planning Commission unless the Board of Supervisors directs otherwise after holding public hearings. If needed to allow such changes to be implemented, this Plan shall be amended in a timely manner to provide for such change of permit procedures and requirements.
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COMMENT: See comment to the preceding new Administrative policy.

### COASTAL AREAS

Coastal Area-wide Policies Only. Specific Area Sections Presumed Handled by LUACs.

19	CZ-1.3	<b>Priority to Protect Coastal Resources</b> – Unless expressly provided otherwise in an area section of this Plan, where <del>Where</del> policies of the Coastal Element conflict with other policies of this General Plan, the policies of this Element shall take precedence to ensure that the policies most protective of significant coastal resources apply.
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COMMENT: The Big Sur area section of the Plan will contain a provision that the policies of that section shall control over all other Plan policies in conflict. This change is needed to avoid potential conflict with the Big Sur area section policy.

19	CZ-1.5	<b>Development Permit Review</b> – A coastal development permit will be required from the County for development proposed on private or public lands in the Coastal Zone, except 1) minor remodels of existing structures and new accessory structures of a minor nature that have minimal to no impact on coastal resource protection, and 2) proposed development on excluded federal lands. This policy shall not be construed as relieving federal agencies from obtaining consistency determinations pursuant to applicable law for activities that may impact areas
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		<b>within the California Coastal Zone.</b>
COMMENT: Through the federal Coastal Zone Management Act of 1972 as amended, the United States government has voluntarily subjected itself to act consistent with the California Coastal Plan. The Plan should be clear that federal agencies must comply with consistency requirements.		
19	CZ-2.1	<b>Location of New Development</b> – Pursuant to the Land Use Plan map (Map LU-2) of this Plan, new residential, commercial and industrial development shall <b>generally</b> be located within or contiguous to existing developed areas able to accommodate it and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. <b>Except as may be provided in a specific Area Section of this Plan, visitor-serving</b> <del>Visitor-serving</del> facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors. <b>This policy shall not apply to low density rural residential development.</b>
COMMENT: Flexibility must be provided to allow low density use of existing parcels of record in areas of low development density. Also, clarify that specific Area Sections of the Plan may designate where visitor-serving / commercial development may take place.		
20	CZ-2.4	<b>Coastal-Dependent Use Exceptions</b> - Coastal-dependent uses, natural resource management needs, and certain necessary <b>public</b> facilities, as specified below, are permitted as exceptions to Policy CZ-2.3 provided that in each case there is a finding that no reasonable alternative exists and that no significant adverse visual impacts will result. The use exceptions are limited to: <ol style="list-style-type: none"> <li>Removal of non-native trees;</li> <li><b>County Public and private</b> road improvements; <b>and</b></li> <li><b>Minimal public access improvements on the beach along shoreline lateral accessways, such as litter collection facilities and rustic stairways; and</b></li> <li>On-shore navigational aids (lights, radio beacons, weather stations) needed by the commercial fishing industry.</li> </ol>
COMMENT: Changes are needed to ensure policy is consistent with Policy CZ-2.2 which provides "All development and use of the land, whether public or private, shall conform to all applicable policies of this Plan and shall meet the same resource protection standards." E.g., both public and private landowners should be able to improve roads, etc.  The Coastal Act's lateral access provision relates to preventing development (e.g., a seawall) from blocking the ability to walk along a beach. The Coastal Act does not require trash cans on beaches, or stairways, or any other development on beaches. If stairways and such are to be allowed, they should be allowed for both public and private landowners (consistent with CZ-2.2).		
20	CZ-2.6	<b>Visitor-Serving Facilities</b> - Where significant expansion of existing high-cost visitor-serving facilities or development of new high-cost facilities is proposed, low to moderate-cost facilities or land suitable for such use should be <b>encouraged and where feasible</b> , provided, <del>where feasible</del> , as part of the development project. The development of low to moderate-cost facilities could include: hostels, overnight camping, motel units, picnic facilities, or recreational trails where appropriate. Conversion of existing low cost overnight accommodations to other uses, unless replaced with comparable facilities, will not be permitted.
COMMENT: Conforms more closely to the Coastal Act.		

20	CZ-2.7	<p><b>Existing Road Access</b> - Residential, recreational, visitor-serving, and agricultural access shall be provided by existing roads and trails, where <b>possible feasible</b>, to minimize further scarring of the landscape, particularly of slopes within <b>scenic public viewsheds view of designated scenic highways</b>.</p>
<p>COMMENT: Almost everything is possible (people have walked on the moon). However, only that which is <i>feasible</i> should be required by the Plan.</p>		
20	CZ-2.8	<p><b>New Road Access</b> - New roads will be considered only where it has been demonstrated that the use of existing roads or driveways is not <b>possible feasible</b> or that rights-of-way for use of a common road are demonstrated to be unobtainable.</p> <p>New private roads shall accommodate emergency vehicles, incorporate appropriate erosion control, minimize removal of native trees, and not involve massive grading or construction of protective devices that would substantially alter natural landforms, nor harm any environmentally sensitive habitats. New <b>public or</b> private roads across slopes of 30 percent or greater shall not be allowed unless:</p> <ol style="list-style-type: none"> <li>No feasible alternative exists, or</li> <li>The proposed design of the road on balance better achieves the resource protection objectives of this Plan (see Policy CZ-5.4).</li> </ol>
<p>COMMENT: Almost everything is possible (people have walked on the moon). However, only that which is <i>feasible</i> should be required by the Plan. Consistency with CZ-2.2 requires that public and private roads meet the same 30% slope restrictions.</p>		
21	Goal CZ-3	<p><b>Goal CZ-3 - Coastal Public Access</b></p> <p><b>Provide a system of accessways and trails to the shoreline and other coastal destinations, consistent with the California Coastal Act.</b></p>
<p>COMMENT: The Goal confuses shoreline accessways with trails. Shoreline access is required by the Coastal Act, and means providing access from the nearest public roadway to the shoreline of the sea. Trails are not required by the Coastal Act, and can go anywhere. Trail plans were eliminated from the GPU by direction of the BOS in 2002. Though the BOS added trails back into the GPU in 2003, they did so based upon misinformation from the County Administrator that trails were not objected to in areas other than south county and the Salinas Valley. Both LUACs for the Big Sur area objected to trails in the Big Sur planning area, as did individuals testifying at the trails workshop.</p>		
21	CZ-3.2	<p><b>Dedication of Shoreline Access Easements</b> - Existing major public <b>shoreline</b> access areas shall be permanently protected for long-term public use. Other coastal areas suitable for <b>public shoreline</b> access <b>by the public</b> shall also be protected for such use. Dedication of public <b>shoreline</b> access easements may be made by the property owner to the County or <b>a other</b> responsible state or federal agency or a non-profit public interest group <b>that</b> . <b>No access easement shall be required unless the responsible agency or non-profit</b> agrees to be responsible for improving, <b>policing</b>, managing, and maintaining the access, <b>and to indemnify, save, and hold harmless the landowner for claims connected with use of the access by the public.</b> Access easements shall provide that they are revocable by the landowner upon failure of the responsible entity to meet its obligation to <b>improve, police, manage, or maintain the access, or to shield the landowner from liability.</b></p>

		<p>Where proposed <b>trail shoreline</b> access corridors encompass adjacent properties or where alternative <b>trail</b> locations are possible, access easements or offers thereof may be terminated on properties other than those that contain the access, once the <b>trail shoreline</b> access is developed and opened to the public.</p> <p><b>No new access easements shall be required of any property owner until all existing and historic accessways on public land within the pertinent planning area are open for public use, with funded management and maintenance plans in place. Nothing in this Plan shall be construed as relieving the County from the Constitutional requirements of nexus and proportionality for any accessway dedication required as a condition of permit approval, and no County employee shall require any accessway that does not meet such requirements unless the applicant is concurrently assured that the applicant will be paid just compensation in exchange. This policy shall not be construed as precluding any person from voluntarily dedicating shoreline public access.</b></p>
<p>COMMENT: Clarifies that the policy refers to shoreline access, not trails (see comment to Goal CZ-3 above). The Coastal Act provides for management and liability associated with use of shoreline access to be assumed by the agency or organization that accepts the access easement. The assumption of management and liability is meaningless unless the landowner can revoke the easement should the responsible entity fail to fulfill its obligations. It is unreasonable to require dedication of access easements across private land where access across public land has been closed or is not managed and maintained. Any public access required as a permit condition must be paid for (unless a voluntary donation).</p>		
21	CZ-3.3	<p><b>Protection of Private Property in Public Access Areas-</b> In providing for <b>both shoreline</b> accessways <b>and trails</b>, the County seeks to ensure that the peace, privacy, safety, health and property of residents and property owners are not jeopardized by unmanaged, inappropriate, or irresponsible public use. The County and other public agencies shall cooperate with landowners to develop effective methods for directing public access to the appropriate locations designated in this plan. <b>The County shall either provide a fully funded accessway management plan that provides for liability protection to the landowner, and management, maintenance, and policing of accessway dedications, or shall arrange for such an accessway plan by another responsible entity, at no cost to the applicant. No accessway shall be open to the public without such a fully funded accessway management plan in place.</b></p>
<p>COMMENT: Consistent with removing trail Policies and distinguishing between trails and shoreline access. Consistent with Coastal Act provisions for management of accessways (e.g., California Public Resources Code sections 30212(3) and 30531(c)).</p>		
21	CZ-3.5	<p><b>Public Access in Residential Areas –</b> Shoreline access shall be provided through or adjacent to existing or new residential areas upon completion <b>by the responsible public agency or non-profit organization</b> of a management plan that <b>is fully funded and</b> adequately resolves problems of noise, visual buffering, trespass, general maintenance, minimization of fire hazards, protection of private water supplies, parking and liability. Measures to reduce access/residential conflicts include: a) provide a minimum distance of <b>40 100</b> feet between an accessway and an existing or proposed residential structure, <b>unless a shorter distance is voluntarily requested by the applicant;</b> b) allow the use of fences or berms between accessways and residences or agricultural uses; c) limit public access to daylight hours; and d) limit activity to pedestrian or passive recreational uses. <b>Permit issuance shall not be delayed due to failure of the responsible entity to develop and fund the management plan.</b></p>

COMMENT: Assumption of responsibility for the accessway should begin with preparation and funding of the management plan. Ten feet is not a sufficient separation to avoid conflicts. The landowner should not bear be burdened due to failure of the responsible entity to prepare the management plan in a timely manner.

22	CZ-3.8	<p><b>Public Access in Environmentally Sensitive Habitat Areas</b> – Public access in areas of environmentally sensitive habitats shall be limited to low-intensity recreational, scientific, or educational uses. Access shall be controlled and confined to the designated trails and paths. No access shall be approved which results in significant disruption of the habitat. In locations where highly sensitive plant or wildlife habitats are found and conflicts between habitat protection and public access cannot be adequately resolved, public access will not be permitted. Plans to improve existing <b>trails shoreline access</b> or create new <b>trails shoreline access</b> shall ensure as a condition of approval that environmentally sensitive habitats are protected from over-use. <b>Where the access is via a public easement over private land, the entity that received the grant of easement shall be responsible for ensuring the environmentally sensitive habitats are protected, in addition to other accessway responsibilities.</b> Recreational access to environmentally sensitive marine habitats, including rookeries, roosting and haul-out sites, <b>and</b> intertidal areas <b>and kelp beds</b>, may be restricted, consistent with the site-specific access recommendations for these areas.</p>
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COMMENT: Clarifies the distinction between trails and shoreline accessways. Assumption of management, maintaining, policing, and liability should also include assumption of protecting sensitive habitat.

22	CZ-3.9	<p><b>Scenic Beaches, Dunes, Estuaries And Wetlands</b> - In <b>scenic beaches, dunes, estuaries and wetlands areas</b>, only structures associated with the <b>recreational, educational and aquacultural use of the areas dunes, estuaries, and wetlands</b> shall be allowed, <b>and then only if the structures would be in conformance with all other Policies of this Plan.</b> Where major access routes are available or desirable through the dunes to the coast, boardwalks or other appropriate pathways constructed of permeable materials should be provided to protect the vegetation stabilizing the dunes. Other access routes through the dunes should be controlled and only allowed in limited circumstances.</p>
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COMMENT: The term "scenic beaches" is not defined and could be every beach. Assuming the reason for precluding use of dunes, estuaries, and wetlands is their fragile habitat, it seems inappropriate to preclude development only to open them up for recreational use. Clarifies that the policy is not an exception to other plan policies for use of the listed areas.

22	CZ-3.10	<p><b>Public Safety and Access</b> – Public safety shall be considered wherever shoreline access is provided. Improvements shall improve safety when possible, <b>while conforming to all other Policies of this Plan.</b> In extremely hazardous areas, <b>and in other areas</b> where safe physical access to the shoreline is not feasible <b>while conforming to the Policies of this Plan</b>, visual access <b>from the nearest public road to the sea should be emphasized shall be emphasized as an appropriate response to the access needs of the public.</b></p>
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COMMENT: Clarifies that when physical access cannot safely be accommodated under the Policies of the Plan, that visual access from the nearest road to the sea shall be considered the appropriate means of providing for access.

21	CZ-3.11	<p><b>Access Management Plans and Programs</b> - The provision of new accessways <b>or trails</b>, or formalization of existing accessways <b>or trails</b>, shall be guided by detailed management plans prepared by the agency or entity agreeing to be responsible for improving, managing and maintaining the access. These should incorporate community ideas and desires to guarantee preservation of the coast's natural resources and agriculture. The County shall work closely with the local Land Use Advisory Committee and other agencies in planning for the provision and management of access. Funding and initial implementation of the management plans <b>should shall</b> precede the opening of new <b>shoreline</b> accessways <b>or trails</b> or intensified use of existing <b>shoreline</b> accessways <b>or trails</b>.</p>
<p>COMMENT: Consistent with public and LUAC testimony against trails, and lack of trail requirement in Coastal Act. Distinguishes shoreline access from trails.</p>		
22-23	CZ-3.12	<p><b>Shoreline Access Management Plan Components</b> – Access management plans or programs shall be prepared by the agency or entity to be responsible for the <b>shoreline</b> accessway, and approved by the County prior to improvement of existing accessways <b>or trails</b> or intensification of their use, or provision of new accessways. These plans and proposals shall be coordinated, where applicable, with the improvement and management of shoreline destination areas or recreation areas. Management plans and programs shall address the following points as well as the site-specific shoreline access recommendations identified in Parts 3 through 6, consistent with the resource protection policies of this Plan:</p> <ol style="list-style-type: none"> <li>a. Types of uses to be encouraged, allowed, discouraged, and prohibited, consistent with the protection of coastal resources, agriculture and other considerations;</li> <li>b. Need for restrictions on the number of visitors, restricted hours and seasonal restrictions, if any;</li> <li>c. The improvements needed for <b>trails the shoreline accessway</b>, including boardwalks, signs, and gates and sanitary facilities, <b>with an acknowledgement that any improvements must be consistent with all applicable Policies of this Plan; and</b></li> <li>d. Proposed location, construction and capacity of parking facilities, <b>if any; ;</b></li> <li>e. <b>Assumption of liability by the agency or entity for claims connected with use of the accessway by the public; and</b></li> <li>f. <b>Acknowledgement of the right of the landowner to revoke the accessway easement upon failure of the agency or entity to meet its obligations as provided in the accessway management plan.</b></li> </ol>
<p>COMMENT: Clarifies applies to shoreline accessways not trails. Clarifies that accessway improvements must comply with all Plan policies. Ensures assumption of liability, and provides for right to revoke easement if the responsible entity fails to perform its obligations.</p>		
23	CZ-3.14	<p><b>Public Parking Guidelines</b> - Access management plans shall consider the following guidelines for <b>public</b> parking and access roads:</p> <ol style="list-style-type: none"> <li>a. The provision of parking, including the access road to the parking site <b>if any</b>, shall not encroach upon the shoreline destination. Consistent with other policies of this Plan, shoreline parking should be located <b>either on a highway shoulder, or</b> on the inland side of the <b>access first public</b> road <b>paralleling the sea</b>, where feasible.</li> </ol>

		<p>b. Improvements for parking shall entail minimum land disturbance and shall not impact upon environmentally sensitive habitat areas and other resources.</p> <p>c. Parking improvements shall not degrade or obstruct <b>the public viewshed views from a scenic highway, and shall not be located within the critical viewshed.</b></p> <p>d. Adequate, safe, and controlled pedestrian access shall be possible from the parking area to the destination point, <b>consistent with all other Policies of this Plan.</b></p> <p>e. Safe ingress to and egress from <b>the any</b> access roadway shall be provided.</p> <p>f. Parking areas shall be designed to minimize conflicts with surrounding land uses.</p> <p>g. The number of parking spaces provided shall correspond to the capacity of the shoreline destination point as determined by its size, sensitivity of its resources, <b>level of risk to public health and safety,</b> and the intensity of uses appropriate for the area as indicated in the site specific access recommendations.</p> <p>h. Parking sites and turnouts shall be located in geologically stable areas, where they would not cause or contribute to slope failure or excessive erosion. Potential degradation of water quality shall be reduced through the use of <b>impervious pervious</b> materials such as block pavement and gravel, and through onsite control of storm runoff.</p>
<p>COMMENT: Clarifies that parking may be informal on a highway shoulder, or, must be away from the shore and conform to the critical viewshed policy, and recognizes elimination of the public viewshed policy. Clarifies that d. will not be construed as an exemption from Plan policies. Includes risk to public health and safety as a consideration for access plans. Fixed pervious mistake.</p>		
24	CZ-3.15	<p><b>Shoreline Access Improvements</b> – Improvements to <b>shoreline</b> accessways shall be compatible with the character of the natural scenic environment and shall be limited to those necessary to ensure public safety, protect natural resources, and minimize land use conflicts. <b>Shoreline access improvements shall conform to all other Policies of this Plan. Where shoreline access cannot be provided in conformance with all Plan policies, including the critical viewshed policy where applicable, then physical access to the shoreline shall not be provided, and visual access (i.e., viewing the sea from an existing public road) shall be considered an appropriate response to the access needs of the public.</b></p>
<p>COMMENT: Clarifies that policy applies to shoreline accessways. Clarifies that the policy does not intend to be an exemption from other Plan Policies. Provides for visual access rather than physical access in locations where physical access cannot be provided consistent with Plan policies.</p>		
24	CZ-3.17	<p><b>Shoreline Access for People with Disabilities</b> – In all areas where the topography and character of the natural environment permits, shoreline access management plans shall provide for the disabled by building paths and ramps for wheelchairs if this can be done without significant alterations to major landforms, <b>or damage to sensitive habitats, and while maintaining compliance with all other Policies of the Plan.</b></p>
<p>COMMENT: Clarifies that the policy is not intended as an exemption from other Plan Policies.</p>		
24	Trails Heading	<p><b>Public Trails</b></p>

COMMENT: Clarifies that trails policies apply to public trails.		
24	CZ-3.19	<p><b>Trails Plan</b> – New coastal trails <b>on public lands</b> shall be planned in accordance with the trail maps in the Circulation Element and the area-specific maps in Parts 3 through 6 of this Element. <del>The State Department of Parks and Recreation, the U. S. Forest Service and other public agencies are encouraged to acquire full legal rights-of-way across private lands in accordance with the trail maps in this Plan where such rights do not presently exist.</del> The County shall discourage acquisition of new rights-of-way for trails by public agencies across private lands until after all existing and historic trails on public lands in the applicable planning area are maintained and open to the public with fully funded management plans in place, and demand for their use exceeds capacity. Trail management plans shall adequately resolve issues of trail maintenance and litter removal, minimization of fire hazards, protection of private water supplies, parking, and long term funding sufficient to ensure the plan will be successfully implemented over time. Where trails pass near private lands, or through private lands on existing rights of way, the management plan shall in addition to the above resolve the following issues with regard to impacts on private landowners; noise, visual buffering, trespass, privacy, and liability.</p>
COMMENT: There are literally hundreds of miles of unmaintained and little used trails on public lands. For example, of the 450 miles of trails in the Monterey District of the Los Padres National Forest, only about 50 miles are maintained and open for use. It makes no sense to acquire more trail rights-of-way across private land until all existing public trails are open for use with plans in place to ensure they will continue to be properly maintained and managed, and there is a demonstrable need for additional trails to accommodate demand. Impacts on nearby private landowners must be addressed.		
24	CZ-3.20	<p><b>Public Trail Siting</b> - Trails shall be sited out of <del>the public viewshed</del> <b>view of designated scenic highways</b> and shall blend with the surrounding environment and natural terrain features, wherever possible. The location of the trailheads, however, shall be apparent to the public and situated to facilitate supervision. Trails shall also be located in areas able to sustain public use without damage to natural resources or other conflicts. Therefore, <del>new and existing</del> trails shall be sited or rerouted to avoid safety hazards, sensitive habitats, and incompatible land uses.</p>
COMMENT: Clarifies that the policy applies to public trails.		
24	CZ-3.21	<p><b>Agency Review of New Existing Public Trails</b> - Resource agencies should review the trails <del>plan for new trails or increased use of existing</del> <b>map of existing public</b> trails to provide guidance concerning environmentally sensitive area protection, fire hazards, water supply protection and other considerations.</p>
COMMENT: Applies the policy to existing public trails.		
24	CZ-3.22	<p><b>Public Trails in Intertidal Areas</b> - Access trails to intertidal areas should be sited to spread the zone of public use rather than concentrate it in a small area. Concentration of recreational development or recreational activities near accessible Tidepool communities shall not be permitted unless adequate management measures are provided to prevent degradation of the sensitive environment.</p>
COMMENT: Clarifies that the policy applies to public trails.		

24	CZ-3.23	<p><b>Public Trail Width</b> – <del>Where existing public trail rights-of-way cross private land, the width of the trail corridor shall not exceed the width of the trail easement as stated in the grant of easement, or 25 feet, whichever is less. Where trails are located on public lands, the</del> The-width of trail corridors is variable based on localized conditions of topography, vegetation, wildlife habitats, scenic concerns, proximity to water supplies or developed land uses. <del>Public-land trail corridors</del> <del>Corridors</del> shall generally be in the range of 50 to 100 feet in width, but shall not be narrower than is reasonable to protect both public and private resources and uses adjacent to the trail as well as protect local residents' privacy and the public's interest in a quiet and scenic hiking experience. <del>Trails located on public land shall be routed to avoid conflicts with neighboring private lands, and any buffer zone needed to ensure trail values shall be provided within existing boundaries of public land. This policy shall not be construed as relieving the requirement of Policy CZ-3.19 that all trails on public lands be open to the public with funded management plans in place before trail easements over private lands are acquired.</del></p>
<p>COMMENT: Conforms to the new language of Policy CZ-3.19 that no new trail rights-of-way will be acquired until all existing trails are open, maintained, and managed. Buffer zones should always be maintained on public land, as the burden of providing the buffer should be born by the public which receives the benefit.</p>		
26	CZ-5.1	<p><b>ESHA Protection</b> – Environmentally Sensitive Habitat Areas (ESHA) shall be protected against any significant disruption of habitat values <del>that would endanger the continued existence of any species listed as threatened or endangered under state or federal law, , and only uses dependent on those resources shall be allowed within those areas.</del></p>
<p>COMMENT: Environmental laws related to protection of habitats and species are not intended to afford commonplace and ordinary habitats and species extraordinary protection. The Coastal Act definition of a "sensitive habitat area" is so vague as to be everywhere or nowhere (see, section 30107.5, below). The various habitats listed as ESHAs by the County in CZ-5.2 comprise virtually all land cover in Monterey County aside from cropland. It is unreasonable for the Plan to provide that there will not be "any significant disruption of habitat values" when the "habitat" definition is so vague it is unknowable where it is, and so inclusive as to be anywhere.</p> <p>"Environmentally sensitive area" means <b>any area</b> in which <b>plant or animal life or their habitats</b> are either rare or especially <b>valuable because of their special nature or role</b> in an ecosystem and which <b>could be easily disturbed</b> or degraded by human activities and developments. [California Public Resources Code section 30107.5, bold added.]</p> <p>Were CZ-5.1 and CZ-5.2 to remain unchanged, the policy's requirement that only land uses dependent on ESHAs will be permitted in ESHA areas, would preclude virtually all land use in any ESHA except for activities such as cutting trees for firewood in woodlands, and other activities that produce a similarly absurd result. The Plan should remain consistent with its premise that use of existing parcels of record for residential use is consistent with most major land use groupings. Beyond that, it should protect species that are truly in need of protection due to legitimate threat of extinction.</p>		
26	CZ-5.2	<p><b>Monterey County ESHAs</b> – In Monterey County, <del>the following habitat types are defined as</del> Environmentally Sensitive Habitat Areas (ESHA): <del>are wetlands, designated "critical habitat", and areas of special biological significance designated by the State Water Resources Control Board. Also included in ESHAs are those areas expressly stated as being within ESHAs within an area section of this plan, for application only within the applicable planning area.</del></p> <p><del>All habitats important to species listed pursuant to either the state or federal</del></p>

		<p><del>Endangered Species Acts as rare, threatened, endangered, or candidate species.</del></p> <p><del>??Any plant communities identified by the California Department of Fish and Game Natural Diversity Database</del></p> <p><del>??ESHAs of local significance: Endemic Jack's Peak manzanita— significant occurrences only (Arctostaphylos tomentosa ssp. bracteosa); Bear grass (Xerophyllum tenax); Coast rhododendron (Rhododendron macrophyllum); California dichondra (Dichondra donnelliana)</del></p> <p><del>??All coastal wetlands, salt marshes, lagoons, sloughs and estuaries</del></p> <p><del>??All freshwater wetlands including vernal pools, sag ponds, seeps, marshes, wet meadows, and any wetlands associated with stream corridors</del></p> <p><del>??All riparian habitat types</del></p> <p><del>??Elkhorn Highlands in North County Coastal area (Map NCC-2B)</del></p> <p><del>??Coastal Terrace Prairie/Valley Needlegrass Grassland</del></p> <p><del>??Oak Woodland</del></p> <p><del>??Chamise-Monterey manzanita dwarf coastal chaparral</del></p> <p><del>??Coastal strand</del></p> <p><del>??Coastal sand dunes</del></p> <p><del>??Coast Redwood forest</del></p> <p><del>??All nesting areas including rookeries</del></p> <p><del>??Important roosting sites</del></p> <p><del>??Monarch butterfly mass overwintering sites</del></p> <p><del>??Wilderness and primitive areas identified by US Forest Service</del></p>
<p>COMMENT: Same as the first part of the comment on CZ-5.1 above. It is interesting to note that habitats on the list are preceded by question marks, an indication that the author was not certain whether they should be included. This is understandable given the exceptionally vague definition for "environmentally sensitive area" the County references in the Coastal Act (section 30107.5). The changed policy clarifies that environmentally sensitive habitat areas are those areas inhabited by state and federally listed species including wetlands such as those delineated in the Coastal Act (at section 30121).</p>		
27	CZ-5.4	<p><b>Essential Roads in Environmentally Sensitive Habitat Areas</b> – Essential roads are permitted in environmentally sensitive habitat areas provided that in each case there is a finding that no reasonable alternative exists, that no significant adverse impacts will result, and that such uses are in conformance with all other Plan policies. Essential roads are those that are unavoidably necessary to provide a minimum level of access to an existing parcel, where no access road presently exists and no reasonable economic use of the property is possible without such road. <u>Roads needed to provide secondary emergency access where existing access is not sufficient for health and safety purposes are also essential roads.</u> Reasonable alternatives are those that would have less impact on sensitive habitats and the critical viewshed, or would provide a more usable route for agricultural, <del>or</del> visitor-serving, <del>or</del> other coastal priority uses.</p>
<p>COMMENT: The Coastal Act lists various priority uses for land in the Coastal Zone that are not listed in this policy. The policy should provide for their inclusion.</p>		
27	CZ-5.5	<p><b>Natural Grassland</b> - Land uses in areas where natural grassland is found <u>in quantities substantial enough to allow for commercial use such as grazing,</u> shall</p>

		be compatible with the maintenance of the habitat. <b>Development in such areas development</b> shall be sited and designed to avoid <b>substantial</b> disturbance or destruction of grasslands. Compatible uses include managed grazing and low-intensity recreational and residential uses.
COMMENT: As implied by use of the word "grasslands", and the mention of grazing, the change clarifies that the policy is intended to apply only to large areas with enough grass to support sustained grazing.		
27	CZ-5.7	<b>Replacement Ratios to Mitigate Impacts</b> - Require a minimum <b>four one</b> -to-one acreage in-kind replacement ratio for the limited amount of cases where development is allowed in vernal pools or salt marshes and <b>a minimum three to one in-kind acreage replacement ratio</b> for other environmentally sensitive habitat areas, where <b>policies state or federal law</b> do not otherwise mandate a specific ratio. The actual mitigation requirement could be greater based on biologic report determinations of significance of the resource to be lost, resulting status of the remaining resource and project impacts to it (e.g., will the remaining resource be fragmented? will its ecological productivity decrease? will it be <b>significantly</b> adversely impacted by the adjacent approved project?), replacement success rate experience for the resource to be lost, and recommendations from resource agencies. <b>The standard for determining the mitigation requirement shall be to obtain a habitat value over time that is not less than equal to the habitat value that was lost. For purposes of this policy, "habitat value" means the value the habitat contributed to the overall survival rate of a listed threatened or endangered species that inhabited the habitat. If monitoring is required, a period of five years shall generally be considered to suffice for establishment of alternative habitat established as mitigation.</b>
COMMENT: As rewritten, this policy would assure no net loss in habitat for threatened or endangered species, without requiring individuals to contribute an inequitable share to conservation of habitat.		
27	CZ-5.8	<b>Forest Conservation and Management Program</b> – A forest conservation and management program should be developed and implemented by the County and the State Department of Parks and Recreation, pending availability of funding, to maintain those Monterey pine and Coast redwood forest areas <b>that are in state and local government ownership and</b> retained as open space. The management program should include the following elements: <ul style="list-style-type: none"> <li>a. The retention of snags for wildlife use</li> <li>b. Control of disease and pests</li> <li>c. Where applicable, measures to minimize alteration of drainage patterns as a result of new development</li> <li>d. Provision and regulation of public access and recreational use.</li> </ul>
COMMENT: Clarifies that the program applies to public lands.		
27	CZ-5.9	<b>Snag Removal</b> – Except where necessary to alleviate a hazardous situation, snag removal should be avoided in areas of Monterey pine, coast live oak, or coast redwood which are retained in open space use. <b>This policy shall not be construed as precluding removal of snags as needed to maintain woodlands in a healthy condition. For purposes of this policy, "healthy condition" shall mean a condition approximating the condition the woodlands would be in had fire prevention and suppression practices never been applied in the area. This policy shall not be construed as intended to discourage the beneficial practices of fire</b>

		<b>prevention and suppression.</b>
COMMENT: Clarifies the policy applies to woodlands in government ownership. Clarifies the policy is not intended to preclude maintaining woodlands in healthy condition.		
29	CZ-5.16	<b>Timber Harvest Limits</b> – Any timber harvest in a watershed which provides domestic water downstream of the proposed harvest area shall be limited to removal of no more than 15 percent of the total merchantable timber in any 10-year period. <b>The County shall require, or lacking such authority, the County shall request that the California Department of Forestry require, a bond sufficient to cover all foreseeable liability for damage to water systems downstream from the proposed timber harvest, for a time sufficient to allow the area in which the timber harvest was conducted to stabilize with respect to erosion, runoff, or other conditions with potential to impact downstream water users.</b>
COMMENT: The Plan should protect downstream water systems from adverse affects of timber harvests.		
29	CZ-5.17	<b>Land Divisions of Coastal Commercial Timberlands</b> - Division of coastal commercial timberlands into units of less than commercial size or their conversion to uses which would preclude the primary uses listed in the underlying land use designation shall not be allowed. Contiguous coastal commercial timberlands of 20 acres or more on any one legal parcel shall not be divided into units of less than 20 acres, unless a binding agreement for the joint management of the timberland resource as a single unit is effected prior to or conditionally upon such land division. This policy does not apply to small-scale milling operations or to lands that are permanently precluded from timber harvest for any reason, including the terms of a scenic easement in favor of a public agency or private non-profit conservation organization. <b>This policy shall not be construed as allowing division of commercial timberlands into smaller parcels than allowed under the Watershed and Scenic Conservation Zoning Designation in the applicable planning area.</b>
COMMENT: Clarifies that the policy is not intended to allow smaller parcel divisions than would otherwise be permitted for land zoned W&SC in the planning area.		
29	CZ-5.18	<b>Road Construction to Accommodate Logging</b> - Road construction to accommodate salvage or selective logging shall be kept to an absolute minimum. Applicants shall be required to evaluate the expected sediment yield or runoff associated with each project and the secondary impacts on aquatic and marine resources. Logging roads shall not impact the scenic view. Sidecasting of earth material <b>during the construction of roads shall be encouraged if placed in a manner which reduces the likelihood of damage to resources from sliding or erosion to a less than a significant level. Otherwise, sidecasting of earth material shall not be permitted during the construction of roads.</b> <del>All</del> <b>and all</b> excess material shall be removed from the site.  No road to accommodate logging shall be built unless a qualified biologist certifies that any environmentally sensitive habitat areas present will not be harmed. Roads across slopes greater than 50 percent shall not be permitted, and all roads proposed on slopes greater than 30 percent shall be reviewed by a geologist in order to avoid geologically unstable areas and control erosion. Logging road construction and timber harvesting should avoid all adverse impacts to the public viewshed.
COMMENT: Precluding proper sidecasting is counterproductive. Sidecasting reduces by approximately		

one half the amount of cut that must be made to produce a given road width. Moreover, needlessly trucking away sidecast wastes finite petroleum resources and finite landfill sites. Sidecasting conducted to minimize risk of harm to resources should be encouraged, not prohibited.

29	CZ-6.1	<p><b>Watershed Planning</b> - The County will require adherence to the best watershed planning principles, including stream setbacks, stream flow maintenance, performance controls for development site features, maintenance of safe and good water quality, protection of natural vegetation along streams, and careful control of grading to avoid erosion and sedimentation. <b>This policy shall not be construed as precluding development that by its nature must be located within riparian areas, such as waterworks, erosion prevention measures, road crossings, and similar development.</b></p>
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COMMENT: This policy, and others in the Plan, failed to recognize that some developments by their very nature must be located near streams and drainages.

29	CZ-6.2	<p><b>Alteration of Natural Shoreline Processes</b> –Alteration of natural shoreline processes, including drainage, erosion, water circulation and sand transport, shall be limited to the most minor alteration necessary for the protection of <b>public</b> beaches or existing significant structures in danger from erosion, to serve coastal-dependent development, or to restore and enhance environmentally sensitive habitat. <b>This policy shall not be construed as precluding de minimis alterations needed to protect structures that are not significant structures.</b></p> <ul style="list-style-type: none"> <li>a. In order to prevent further reduction in the size and quality of remaining wetlands habitat, no diking, dredging, or filling shall be allowed except when an equivalent area of new or degraded wetlands (identified pursuant to Section 30411 of the Coastal Act), within the same estuarine system is created or restored in a manner which maintains or enhances overall biological productivity. Such mitigation shall <b>be conducted concurrent with or prior to</b> <del>precede</del> diking, dredging, or filling activities.</li> <li>b. For the purposes of application of this policy, existing significant structures shall mean substantial development, such as a <b>primary</b> residence, road, or other facility <b>usable by the public.</b></li> </ul>
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COMMENT: The policy should apply to all beaches. De minimis alterations must be allowed to avoid unreasonable results like the homeowner who was not permitted to replace a pier block under a support post for a deck attached to a house. Replacing the deck pier block which had been loosened by wave action was deemed alteration of a natural shoreline process for protection of something other than a primary residence. County advised the deck should be cut loose from the house and allowed to be destroyed by the sea, rather than approve replacement of one supporting pier block about 18" square.

30	CZ-6.3	<p><b>Revetments, Groins, Seawalls, or Retaining Walls</b> - Revetments, groins, seawalls or retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or <b>public</b> beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. These structures shall not impede lateral beach access and shall respect, to the greatest degree possible, natural landform and visual appearance. These structures shall be designed and certified by a coastal engineer or engineering geologist with expertise in coastal processes.</p>
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COMMENT: Protection of both public and private beaches should be allowed.

30	CZ-6.5	<p><b>Stream Restoration</b> - The County encourages the <b>voluntary</b> restoration of streams and their immediate natural environment both on public and private lands. Restoration projects may include: improvements to water supply and quality, enhancement of water flows or water retained for in-stream uses, improvement of fish habitat, installation of fish ladders, stream restocking, re-establishment or irrigation of riparian vegetation, etc. <b>Encouragement shall take the form of incentives designed to promote voluntary action by willing participants.</b></p>
<p>COMMENT: The word encouragement is mistaken at times for conditions on permits or other exactions, rather than incentives or education to induce voluntary action. This change avoids such misunderstanding.</p>		
30	CZ-6.6	<p><b>Dumping of Spoils</b> - All dumping of spoils (dirt, garbage, refuse, etc.) into riparian corridors and other drainage courses is prohibited. <b>This policy shall not apply to placement of clean fill in riparian corridors for the purpose of developments which by their nature require the placement of earth in riparian corridors, such as waterworks, erosion control developments, and road crossings, provided that placement is done in such a manner that risk of harm to resources is reduced to a less than significant level.</b></p>
<p>COMMENT: The policy would have precluded all placement of clean earth in riparian corridors, even where necessary, and even where placed in a manner that presents no significant risk of harm to resources.</p>		
30	CZ-6.7	<p><b>Stream Alteration</b> - Alteration of natural streams shall be minimized by minimizing adverse effects of waste water discharges and entrainment, controlling runoff <b>that presents a threat of significant harm to resources</b>, preventing significant depletion of <b>surface-water-connected</b> groundwater supplies and substantial interference with surface water flows, encouraging waste water reclamation <b>for commercial systems</b>, and maintaining natural vegetation buffer areas that protect riparian habitats.</p>
<p>COMMENT: "Runoff" happens everywhere when it rains; only harmful runoff need be controlled. Surface water and groundwater are often two separate, unrelated systems. Where not connected, groundwater use is unrelated to surface water flows. Reclamation of waste water requires a substantial initial investment and entails significant ongoing costs. Reclamation should only be required of commercial establishments that can recover the costs.</p>		
30	CZ-6.8	<p><b>Stream Setbacks</b> – Stream setbacks shall be applied as follows:</p> <ol style="list-style-type: none"> <li>a. All streams shall be protected by establishing setback requirements of <b>150 50</b> feet on each side of the bank of perennial streams, and <b>100 25</b> feet on each side of the bank of intermittent streams, or <b>to</b> the extent of riparian vegetation, whichever is greater. In all cases, the setback must be sufficient to prevent significant degradation of the <b>riparian</b> habitat area.</li> <li>b. The setback requirement may be modified if it can be <b>conclusively</b> demonstrated by a qualified biologist that a narrower corridor is sufficient or a wider corridor is necessary to protect existing riparian vegetation from the impacts of adjacent use.</li> <li>c. Improvements to existing dikes and levees shall be allowed if riparian vegetation damage can be minimized and at least an equivalent amount and quality of replacement vegetation is planted. In addition, <b>if no domestic water systems are located downstream</b>, exceptions may be</li> </ol>

		<p>made for carefully sited recreation trails.</p> <p>d. <b>Septic drainfields or other on-site sewage disposal means shall be set back 150 feet from both perennial and intermittent streams that are used as a source of domestic water downstream, unless the Department of Environmental Health approves a narrower setback, or requires a wider one.</b></p> <p>e. <b>Stream setbacks shall not apply to the developments in Policy CZ-6.10 (Developments in Stream Corridors), or to other minimal developments with no potential to cause greater than significant harm to riparian habitat or other resources or to contaminate water (for example, fences, utilities, etc., designed and installed to avoid harm to riparian habitat or other resources).</b></p>
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COMMENT: Boiler plate setbacks should be for a reasonable distance. Few things can be proven conclusively in the real world. Trails can be a significant source of bacterial contamination due to hikers who fail to properly dispose of human waste. Trails should not be located near streams used for domestic water downstream. Due to the consequences to public health and safety from contamination of water in streams by sewage (especially in areas where surface water supplies domestic water) a wider setback for septic purposes is appropriate subject to modification by the Department of Environmental Health. Clarifies that developments permitted within stream corridors, and those without potential to harm resources, are not subject to stream setbacks.

30-31	CZ-6.9	<p><b>Winter Stream Discharges</b> - In general, the high rate stream discharges during the winter should not be interrupted because of their beneficial effects on the stream and its living community and on beach replenishment. Therefore, <b>generally</b>, any water diversions beyond the ordinary year-round entitlements must be consistent with the Public Services Element and carefully conditioned to avoid impairment of beach sand supply and anadromous fish runs, and shall be limited to agricultural irrigation, and developments where the primary function is the improvement of fish and wildlife habitat. <b>In watersheds where water use is a small portion of annual runoff, storage of winter runoff may be a desirable means of supplementing domestic water supplies. In such watersheds, storage of winter runoff that will not significantly interfere with natural stream processes should not be discouraged. For purposes of this policy, water use in such a watershed may be calculated based upon reasonable estimates of typical use per household.</b></p>
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COMMENT: An annual rainfall of 35 inches of rain falling on forty acres of land is about 45 million gallons of water. Much of this water runs off through streams and drainages in winter. A typical household uses from 150 to 1,000 gallons per day. Assuming the higher figure, annual usage is 365,000 gallons per year. This means that if collected and stored in winter, 100% of a household's annual water supply could be supplied by less than 1% of the water falling on 40 acres of land. Given that water storage capacity is typically only a small fraction of 365,000 gallons (usually less than 10,000 gallons), it is pointless and counterproductive for the County to preclude collection of winter runoff when done in a manner that does not significantly interfere with natural stream processes.

31	CZ-6.10	<p><b>Development in Stream Corridors</b> - All development within stream corridors, including dredging, filling, and grading, shall be limited to activities necessary for flood control purposes, <b>erosion control purposes</b>, water supply projects, improvement of fish and wildlife habitat, <b>road crossings</b>, laying of pipelines <b>when no alternative route is feasible</b>, or continued and future use of utility lines and appurtenant facilities. <b>The County may consider, on a case by case basis, other developments which by their nature must be located within stream corridors, or which are of such a nature that they present no significant potential for harm to riparian habitat or other resources.</b> These activities shall be carried out in such a</p>
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		manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution. When such activities require removal of riparian plant species, re-vegetation with native plants shall be required.
<p>COMMENT: Without the added exceptions, erosion control measures would be impossible to implement, and no road could cross a creek by any means other than a clear-span bridge, potentially hundreds of feet long. Flexibility is needed to accommodate other developments that, by their nature, must be located near streams. Otherwise the inflexible policy may preclude developments which though appropriate, were simply left off the list. Development that presents no potential for significant risk of harm need not be excluded.</p>		
31	CZ-6.12	<p><b>Coastal Wetland Setbacks</b> – <b>Coastal</b> Wetland setbacks shall be applied as follows:</p> <ol style="list-style-type: none"> <li>A minimum setback of 100 feet from the landward edge of vegetation of all coastal wetlands and 100 feet from the mean high water line of the ocean shall be provided and maintained in open space use. <b>For purposes of this policy, "vegetation of coastal wetlands" means vegetation whose survival depends upon wetlands that contain salt or brackish water.</b></li> <li>No permanent structures, except for those necessary for resource-dependent use that cannot be located elsewhere, shall be constructed in the setback area, <b>provided however, existing structures located within such areas shall be considered to be in conformance with this policy for purposes of replacement, remodel, or repair.</b></li> <li>Prior to approval of all proposed structures in the setback area, it must be demonstrated that the development does not significantly disrupt an environmentally sensitive habitat <b>resource area.</b></li> <li>No landscape alterations will be allowed in the setback area unless accomplished in conjunction with restoration and enhancement of the habitat, and unless it is demonstrated that no significant disruption of environmentally sensitive habitat will result.</li> <li>The edge of <b>coastal</b> wetlands <del>is to be determined using the criteria in the California Department of Fish and Game Recommended Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Methodology, 1987,</del> <b>shall be as defined in Appendix C of this Plan under the definition of "wetlands".</b></li> <li>An exception to the 100 foot setback is provided to approximately 12 existing permanent structures located within the 100 foot setback on the west side of Moro Cojo Slough west of Highway 1. Replacement of these structures may be considered subject to field surveys by qualified individuals or agencies with recommended mitigation measures to ensure protection of sensitive habitats.</li> </ol>
<p>COMMENT: Clarifies that the policy applies to <i>coastal</i> wetlands (ambiguity could have been interpreted as a setback from the ocean to the inland extreme of all creeks and streams, plus 100 feet).</p>		
30	CZ-6.13	<p><b>Desilting Mitigation Measures - Onsite</b> <b>Where needed to fulfill the purpose of this policy, onsite</b> desilting mitigation measures satisfactory to the Director of Public Works (e.g., debris basins, desilting basins, and silt traps) shall be installed in conjunction with initial construction grading operations. They shall be maintained through the development process to remove sediment <b>and from</b> run-</p>

		off waters. All sediment should be <del>retained onsite</del> <b>managed in a manner consistent with the purpose of this policy.</b> The purpose of this policy is to protect rivers and streams from siltation that poses a significant risk of harm to wildlife, and to avoid conditions that present a significant risk of harm to persons or property.
COMMENT: Without qualification, the policy required desilting measures on every project, even where there was no significant potential for silt, or harm from it.		
31	CZ-6.14	<b>Marine Habitats</b> - Development on parcels adjacent to intertidal habitat areas shall be sited and designed to prevent <b>significant harm to the habitat from septic percolation</b> <del>of septic or</del> runoff <del>and, or</del> deposition of sediment.
COMMENT: The policy was not clear. All Policies intended to protect resources should contain language linking them to protection of the resource they are intended to protect.		
32	CZ-7.1	<b>Scenic and Visual Qualities</b> – The <b>policies of this Plan are intended to protect</b> scenic and visual qualities of coastal areas <b>shall be protected</b> as a resource of public importance. <del>Generally, permitted</del> <b>Permitted</b> development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas <b>by providing positive incentives to induce landowners to voluntarily participate in such efforts.</b>
COMMENT: Without change the first sentence was so broad as to justify any action to protect views. Actions should be confined to those consistent with Policies of the Plan. Clarifies that incentives will be used to encourage restoration efforts, rather than coercion.		
32	CZ-7.2	<b>Public/Private Cooperation to Restore Scenic Beauty</b> - The County encourages creative public and private efforts to restore the scenic beauty of visually/impacted areas of the coast <b>in public and private ownership,</b> and will assist such efforts where possible. <b>Encouragement shall take the form of positive incentives that promote voluntary action by willing participants to restore scenic beauty.</b> The County shall discourage demolition of private homes for scenic restoration purposes, <b>except for on a voluntary basis for the purpose of rebuilding them in a manner that improves scenic quality.</b>
COMMENT: There are publicly owned lands on the coast greatly in need of scenic restoration (for example, the formal Naval Facility at Point Sur). The word restore, especially in the context of restoring scenic views, could be taken to mean demolishing structures (as in acquiring land with a home on it and tearing it down). The policy should be clear that this is not the intent. Coastal communities need what little housing is presently available.		
32	CZ-7.3	<b>Siting to Avoid Visibility and Other Problems</b> – <b>Where feasible, sites</b> <del>Sites</del> for new structures shall be selected to avoid the construction of access roads visible <b>within public and critical viewsheds from designated scenic highways</b> and to reduce the extent of environmental and engineering problems resulting from construction. <b>Except as provided in Policy CZ-7.5, access</b> <del>Access</del> roads shall not be allowed to intrude upon <b>public views of open frontal slopes or ridgelines visible from scenic routes or viewpoints</b> <del>areas visible from designated scenic highways.</del>
COMMENT: This policy confused two separate viewshed policies. The <i>public viewshed</i> is a county-wide viewshed concept. The <i>critical viewshed</i> policy applies only in Big Sur. All critical viewshed policies should appear only in the Big Sur area section of the Plan, because that is the only area where they		

<p>apply.</p> <p>The Plan should not require that which is not feasible. The policy should recognize the exception of Policy CZ-7.5 that roads will be permitted when no alternative means of access is feasible. Without this exception, the inflexible policy would effectively condemn land that has no alternate means of access.</p>		
32	CZ-7.4	<p><b>Subdivision of Land Encompassing Scenic Slopes, Hills, And Ridgelines</b> – If property containing land on scenic slopes, hills, and ridgelines, is allowed to be subdivided, the lots should be situated to allow the highest potential for screening development and access roads from <del>public viewsheds</del> <b>designated scenic highways</b>. Lots and access roads should also be sited to minimize tree removal and visually intrusive grading during development. During the subdivision process, scenic <del>or conservation</del> easements should be required to the fullest extent <del>possible</del> <b>permissible under law</b> for <del>wooded ridge</del> <b>areas on ridges where development would be visible silhouetted against the sky from designated scenic highways, hills hill, and areas of 30% slope or more.</b> <b>This policy shall not be construed as encouraging County employees to request any easement or other mitigation measure that the County is not lawfully empowered to require, considering Constitutional requirements of nexus and proportionality and other limitations.</b></p>
<p>COMMENT: Clarifies that the policy applies to subdivision. Recognizes that conservation easements are voluntary instruments. The policy should recognize that the County's power to require easements is limited by law. County employees should not request that which the County has no lawful power to require.</p>		
32	CZ-7.5	<p><b>New Roads in the Critical Viewshed and Public Viewsheds</b> - New roads in critical <del>or public</del> viewshed areas providing residential, recreational, or agricultural access should be considered only where it has been demonstrated that common use of neighboring roads is not feasible.</p>
<p>COMMENT: The concept of public viewshed has been deleted from the Plan. This policy should probably be moved to the Big Sur area section because the critical viewshed policy applies only in the Big Sur area.</p>		
33	CZ-7.8	<p><b>Scenic Easements and Similar Instruments</b> – <del>Private landowners</del> <b>Landowners</b> will be encouraged to <b>voluntarily</b> donate scenic easements to an appropriate <b>public</b> agency <del>or nonprofit organization</del> over portions of their land <del>in public viewsheds</del> <b>visible from designated scenic highways</b>, or, where easements already exist, to continue this protection. Lands protected by scenic easements required by a permit approval shall be permanently free of structural development unless specifically allowed in the permit conditions, <b>provided however, visually unobtrusive development, such as underground utilities or pipelines or wire fencing such as stock fencing, should not be precluded.</b> <b>The County shall not require as a permit condition any easement or similar instrument that the County does not have the lawful authority to require, and no County employee shall request that which the County is not empowered to require. "Encouraged to voluntarily donate" shall not mean required as a condition of permit approval.</b></p> <p><b>All lands acquired by public agencies, or with public funds, for viewshed protection, shall be protected concurrent with acquisition with permanent deed restrictions or similar instruments which shall provide that except for natural evolution, the land shall remain in its existing state in perpetuity, and shall not be developed in any manner by any person or entity public or private. Such instruments shall be executed in a manner that precludes application of the doctrine of merger.</b></p>

COMMENT: Assuming the same tax benefits are available from donation to public agencies as for donation to nonprofits, there is no need to include nonprofits. Limits application to areas visible from scenic highways. Clarifies that donations are voluntary. Recognizes that there are limits on what the County may lawfully require in exchange for permit approval. Provides that development on private land that does not intrude on views will not be precluded by scenic or conservation easements. Land of such scenic sensitivity as to require the extraordinary measure of acquisition with public funds, should not then be subject to development, but should be protected from all forms of development, by any entity. The doctrine of merger can extinguish a protective easement, defeating protection in perpetuity, and should be guarded against.

33	CZ-7.10	<p><b>Landscape Screening</b> - Landscape screening and restoration shall consist of native plant and tree species consistent with the surrounding vegetation. Screening on open grassy slopes and ridges should be avoided <b>if it would block views of the ocean or mountains. Screening that will not block views of the ocean or mountains shall be encouraged.</b></p>
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COMMENT: There is little or no reason to discourage screening that will not block views. Instead, such screening should be encouraged.

33	CZ-8.1	<p><b>Environmental Review in Cultural Resource Areas</b> – No <b>significant</b> development proposals in archaeologically sensitive areas (Map ER-10), paleontological resource areas (Map ER-11) and on parcels containing historic resources listed on the national, state or local registers shall be categorically exempt from environmental review, except within a Community Area that has an adopted Community Plan and Master Environmental Impact Report pursuant to Environmental Resource Management Element Policy ER-11.1.</p> <p><b>For purposes of this policy, Policy CZ-8.2, and Policy CZ-8.3, a development proposal shall not be considered significant if the development is of such a character that it does not have a significant likelihood of disturbing archaeological, paleontological, or historic resources if they are present.</b></p>
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COMMENT: For example, paving an existing driveway is not a significant development in this context. Archaeologists and paleontologists consider paving an area a desirable means of protecting archaeological and paleontological resources for the long term (see CEQA Guidelines re preservation in place, Title 14 California Code of Regulations, section 15126.4(b)(3)(B)3.).

33	CZ-8.2	<p><b>Archaeological Survey</b> – An Archaeological Survey shall be required for <b>significant</b> development proposed within areas of high and moderate archaeological sensitivity (Map ER-10). Within areas of low archaeological sensitivity, the provisions of Environmental Resource Management Element Policy ER-11.5 shall apply. The Archaeological Survey shall describe the sensitivity of the site and recommend appropriate levels of development and mitigation consistent with the site’s need for protection prior to development approval.</p>
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COMMENT: Same comment as for CZ-8.1

33	CZ-8.3	<p><b>Paleontological Survey</b> – A Paleontological Survey shall be required for <b>significant</b> development proposals, in accordance with the provisions of Policies ER-12.1 through ER- 12.5 of the Environmental Resource Management Element.</p>
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COMMENT: Same comment as for CZ-8.1

34	CZ-9.1	<p><b>Minimization of Hazard Risks</b> - New development shall be sited and designed to minimize risk from geologic, flood, tsunami and fire hazards to a level generally acceptable to the community. Areas of a parcel that are subject to <b>high hazard(s) that are unacceptable to the community in which the parcel is located</b> shall generally be considered unsuitable for development <b>of structures that would present a substantial threat to public health or safety</b>. Any proposed development in hazardous areas shall comply with all policies under Goals HS-2, HS-3 and HS-4 of the Health and Safety Element.</p>
<p>COMMENT: Few places are without hazards. The entire Midwest is subject to hurricanes and tornadoes. Vast areas of urban California are subject to severe earthquakes. Most of rural California is subject to wildfire. It is unreasonable for the County to arbitrarily decide that land in vast portions of the County is too hazardous to be usable. The gauge for whether land is unusable due to a known hazard properly belongs to the community that is familiar with the terrain and the hazard. In areas with an unacceptable level of hazard, developments that present no danger need not be excluded (e.g., fences, uninhabited structures, etc.).</p>		
35	CZ-9.4	<p><b>Development on Coastal Cliffs or Bluffs</b>- Any proposed development within 50 feet of the face of a <b>coastal</b> cliff or bluff or within the area of a 20 degree angle from the toe of a <b>coastal</b> cliff, whichever is greater, shall require the preparation of a geologic report as set forth in Policy CZ-9.3 to address risks from faults, bluff retreat, slope stability, erosion, tsunamis, etc. The report shall demonstrate that (a) the area is stable for development; and (b) the development will not create a geologic hazard or diminish the stability of the area.</p>
<p>COMMENT: Clarifies that the policy applies to coastal bluffs or cliffs.</p>		
35	CZ-9.5	<p><b>Coastal Bluff Top Annual Erosion Rate</b> – Develop a long-term annual average erosion rate for <b>coastal</b> bluffs, multiply this by the economic life of the structure and either multiply that by a safety factor or add a buffer factor as a set distance. The County will impose <b>coastal</b> bluff top setback requirements based on this calculation.</p> <p>For example, if the rate of erosion <b>by the sea</b> is determined to be 3 inches per year, the economic life of the structure is 100 years, and the safety factor is 1.2, then the minimum setback is 30 feet (3 in. x 100 yrs. = 300 in., 300 in. = 25 feet, 25 feet x 1.2 = 30 feet). If the buffer factor were a set distance of 10 feet, and the rate of erosion and economic life of the structure were the same as in the preceding example, then the setback would be 35 feet.</p> <p>The buffer factor may vary regionally, based on the quality of the erosion change data and the size or magnitude of extreme erosion events. Based on the above criteria, all development, including second story and cantilevered portions of a structure shall be set back a minimum of 25 feet or the long-term annual average erosion rate multiplied by the economic life of the structure and by a buffer factor of 1.2 from the top edge of the bluff, whichever is greater. An additional setback beyond what this erosion formula may yield may be required to meet a 1.5 Factor of Safety for gross or surficial landsliding.</p>
<p>COMMENT: Clarifies that the policy applies to coastal bluffs.</p>		
35	CZ-9.6	<p><b>Coastal Bluff Top Setback Lines</b> – <b>Coastal bluff Bluff</b> top setbacks shall be adequate to avoid the need for seawalls during the development's economic lifespan. The geologic report required for <b>coastal</b> bluff top development shall provide 100-year setback lines for bluff tops <b>subject to erosion by the sea</b>, and</p>

		provide the methodology pursuant to the policies of this plan for determining the setback.
COMMENT: Clarifies that this 100 year setback policy applies to coastal bluffs subject to erosion by the sea.		
35	CZ-9.7	<b>Coastal Bluff/Shoreline Setback Requirements For Reconstruction</b> - If a structure <del>or portion of a structure</del> is proposed for reconstruction (demolition and rebuild) or substantial improvement, it must follow the bluff/shoreline setback requirements in this Coastal Element and implementing ordinances. <del>For purposes of this policy, reconstruction shall not include reconstruction necessitated by accident or natural disaster as provided in Policy CZ-9.2. For purposes of this policy, substantial improvement shall mean an increase of more than 50% over the existing enclosed floor area. This policy shall not apply to maintenance of an existing structure.</del>
COMMENT: Clarifies that the policy applies to coastal bluffs. Eliminates absurd requirement (e.g., that a replaced bathroom would have to be replaced at a distance from an existing house if setback not met by existing house). Conforms to Policy CZ-9.2. Defines ambiguous term.		
35	CZ-9.8	<b>Coastal Bluff Top Landscaping</b> – <del>Coastal bluff</del> Bluff top landscaping shall use drought tolerant, native species to reduce need for artificial irrigation that may increase the potential for erosion.
COMMENT: Clarifies that the policy applies to coastal bluffs.		
35	CZ-9.10	<b>Development on Coastal Sand Dunes</b> – New <del>public</del> development on sand dunes shall be prohibited. <del>New private development on coastal sand dunes shall be prohibited.</del> unless there is no other feasible location on a legal parcel <del>or</del> <del>and</del> no other measures to preclude private development are available. If there is no feasible alternative to <del>private</del> development within the sand dune habitat, the new proposed development must be: 1) landward of the most seaward line of vegetation, 2) sited so that the structure avoids adverse impacts to natural dune formation, and 3) sited so that the structure does not adversely affect sandy beach habitat. Such new development proposals will require a geologic report to substantiate the stability and integrity of the dune, an erosion prevention and control plan, and a detailed biological survey and report prepared by qualified consultants and engineers. Where there is no vegetation, a geologic report must be prepared to establish a line seaward of which no new development will be allowed.
COMMENT: Clarifies that the policy applies to coastal sand dunes. Clarifies that the policy protects sand dunes from public as well as private developments.		
36	CZ-9.11	<b>Air Quality Protection</b> – <del>The County shall work to protect the air quality of the region in accordance with the policies under Goal HS 6 of the Health and Safety Element.</del>
COMMENT: Redundant. Merely restates county-wide goal and policies that already apply to CZ.		
36	CZ-10.1	<b>Water Supply and Flood Control</b> – 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 floodplain

		is feasible <b>and or</b> 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.
COMMENT: Would not have allowed an alteration needed to protect public safety or existing development unless it was <i>also</i> the only way to protect existing structures in a floodplain.		
36	CZ-10.2	<b>Water Conservation</b> - <b>Water conservation devices shall be required in conjunction with new development, consistent with Public Services Element Policy PS 3.24. Drought tolerant landscaping shall be required, consistent with Environmental Resource Management Element Policy ER 2.18. Construction of roads and driveways with pervious surfaces shall be encouraged where appropriate. Applicants shall be informed why pervious surfaces for roads and driveways might be desirable in appropriate areas. This policy shall not be construed as requiring pervious surfaces.</b>
COMMENT: First two sentences were redundant, merely referencing county-wide policies already applicable in CZ. Pervious concrete is new unproven technology. Few contractors are qualified to place it, and it is not known how it compares to other surfaces in terms of durability or appropriateness on a given site. Moreover, contaminants spilled through pervious concrete cannot be readily retrieved. Applicants should be left to decide for themselves whether to use a pervious surface or not.		
36-37	CZ-10.3	<b>Wastewater Discharges Into Coastal Waters</b> - All new and/or expanding wastewater discharges <b>from wastewater treatment plants</b> into the coastal waters of Monterey County shall require a permit from the County Environmental Health Division. <b>Wastewater treatment plants shall not include on-site septic systems serving not more than four single family dwellings.</b> Applicants for such permits shall be required to submit, at a minimum, the following information and studies: <ol style="list-style-type: none"> <li>a. Three years monitoring records identifying the existing characteristics of the proposed wastewater discharge. Particular areas of concern include toxic chemicals, inorganic heavy metals, bacteria, and other indicators prescribed as threats to the health and safety of coastal waters, or b. Comprehensive projections of the proposed wastewater discharges; both quantitative and qualitative characteristics must be specifically identified. Specific figures for the indicators identified in (a) above must be included in the projections.</li> <li>b. Complete information on levels of treatment proposed at the treatment facility to remove those indicators mentioned in (a) above. This information shall also include reliability and efficiency data of the proposed treatment.</li> <li>c. A comprehensive monitoring plan for testing of wastewater for indicators identified in (a) above.</li> <li>d. Perform oceanographic studies to determine the most suitable location and methods for discharge into the ocean.</li> <li>e. Perform tests of ocean waters at the proposed discharge site and surrounding waters to establish baseline or background levels of toxic chemicals, heavy metals, bacteria and other water quality indicators. These tests must be performed no more than one year prior to submittal of the proposal. Historical data may not be substituted for this requirement.</li> <li>f. Perform toxicity studies to determine the impacts of the proposed</li> </ol>

		<p>wastewater discharges on marine life, as well as on recreational uses of the coastal waters.</p> <p>g. Identify and analyze alternative methods of wastewater disposal. This shall include hydro-geologic studies of the applicant's groundwater basin to determine the water quality problems in that area and if onsite disposal will have an adverse impact on groundwater quality.</p> <p>The data and results of requirements (a) through (h) above must be submitted to the County for evaluation and approval. A wastewater discharge permit shall be issued by the County Environmental Health Division only if the above information demonstrates that the proposed wastewater discharge will not degrade marine habitats; will not create hazardous or dangerous conditions; and will not produce levels of pollutants that exceed any applicable state or federal water quality standards.</p> <p>Consultation with Monterey Bay National Marine Sanctuary staff is required for any development that may affect Sanctuary waters.</p>
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COMMENT: Clarifies that the policy applies to wastewater from a treatment plant. Without clarification, the policy could be interpreted as requiring every household in the coastal zone of Monterey County that added a bathroom or increased rain runoff to meet its reporting requirements. This is because all running water in Monterey County ultimately discharges into coastal waters, and because the definition of Wastewater in the definition section is so broad and vague that literally all "used" running water can be termed Wastewater (including rain runoff). The GPU's definition of Wastewater follows:

**Wastewater:** A community's used water and water-carried solids (including used water from industrial processes) that flow to a treatment plant. Storm water, surface water, and groundwater infiltration also may be included in the Wastewater that enters a wastewater treatment plant. The term "sewage" usually refers to household wastes, but this word is being replaced by the term "Wastewater."

38	CZ-11.2	<p><b>Grazing Use Preference</b> – Grazing is a preferred use of coastal lands where it is the predominant land use. In locations where grazing has been a traditional use, it should be retained and encouraged both under private and public ownership. <u>The County shall encourage private land in ranching use to remain in private ownership.</u> Williamson Act contracts, scenic easements, tax incentives, large lot zoning, and other techniques will be encouraged by the County to promote and assist agriculture.</p>
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COMMENT: The Big Sur Coast Land Use Plan repeatedly states that traditional ranching / grazing use of land should be encouraged in the area. However, various public agencies have now acquired much of the ranching land in Big Sur. Ranching by government agencies is *not* traditional ranching. Without an overt statement discouraging further acquisition of private ranchlands, traditional ranching may be extinguished completely by the next time the General Plan is updated.

38	CZ-11.5	<p><b>Essential Structures</b> - Essential agricultural structures required by commercial ranching and agriculture operations that cannot be feasibly located outside the viewshed shall be permitted under careful design and siting controls. Examples include barns, fences, windmills, water pumps, water tanks, stock ponds and corrals. However, all aquaculture facilities will be subject to the same resource protection criteria and environmental standards as other development. <u>Such uses shall conform to all non-critical viewshed standards. This policy shall not be construed as an exception to the critical viewshed policy.</u></p>
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COMMENT: The "critical viewshed" applies only in the Big Sur planning area. Standards for land "not in the critical viewshed" are also specific to the Big Sur area. It is not appropriate to have a policy refer to these standards in the Coastal-wide section of the Plan. The "public viewshed" is a county-wide policy

and can be referenced in the Coastal-wide section. Or, include this language in the Big Sur area section with a reference to this policy.		
39	CZ-12.2	<b>Processing Facilities</b> - The County shall allow aquaculture and related activities, including fish processing, in the same manner as other agricultural support facilities. <b>This policy shall not be construed as an exception to the critical viewshed policy.</b>
COMMENT: Clarifies that the policy is not an exception to the critical viewshed policy.		
39	CZ-12.3	<b>Harbor Facilities</b> - The County shall allow development of harbor facilities for aquaculture and commercial fishing that are compatible with overall conservation policies (see also policies under Goal CZ-4). <b>This policy shall not be construed as an exception to the critical viewshed policy.</b>
COMMENT: Clarifies that the policy is not an exception to the critical viewshed policy.		
39	CZ-12.4	<b>Aquaculture Facility Siting</b> - The County shall encourage the siting of aquaculture facilities in areas where good water quality is consistently maintained, and ecosystem health is not compromised. <b>This policy shall not be construed as an exception to the critical viewshed policy.</b>
COMMENT: Clarifies that the policy is not an exception to the critical viewshed policy.		
<b>DEFINITIONS SECTION</b>		
C-1	Definition [existing]	<b>Acceptable Risk:</b> A hazard that is deemed to be a tolerable exposure to danger given the expected benefits to be obtained. Different levels of acceptable risk may be assigned according to the potential danger and the criticalness of the threatened structure. <b>Generally, risk of exposure to a hazard is acceptable when it is within the level of risk that is generally acceptable to the community in the locality where the project is proposed. Except in cases where state or federal law proscribe development in specific areas, the County shall seek input from the Land Use Advisory Committee for the applicable planning area when assessing whether risk is acceptable.</b>
COMMENT: Risk is everywhere. The San Francisco bay area is at risk from earthquake damage. The entire Midwest is at risk from tornadoes and flooding. The southeast is at risk from hurricanes. Almost all of rural California is at risk from wildfire. The community where the risk is located should be the ones to decide which particular spots have risk that is unacceptable. The County should look to the LUACs for guidance on where risk is not acceptable unless state or federal law deems otherwise.		
C-1	Definition	<b>Adequate Public Facilities and Services (APFS):</b> The set of public facilities and services required to <del>adequately serve new development</del> <b>support subdivision of a parcel into more than 4 parcels</b> , as prescribed in Table PS-1 in this General Plan. Facilities and services are “adequate” to support <del>development</del> <b>major subdivision</b> if they do not decrease current service levels below locally established minimum standards. (See “Level of Service Standards”)
COMMENT: Conforms the definition to policy and table PS-1.		
C-1-C-2	Definition	<b>Affordable Housing:</b> Affordable housing means those residential projects, for

		<p>rent or sale, which are intended for and restricted to households of very low, low, and moderate income, which meet the following qualifications:</p> <ol style="list-style-type: none"> <li>1) A rental project for very low income households (income up to 50% of Housing and Urban Development (HUD) median household income for Monterey County) where the unit has a monthly contract rent less than or equal to 30% of 50% of the HUD median household income adjusted for household size; or</li> <li>2) A rental project for low income households (income between 50% and 80% of Housing and Urban Development (HUD) median household income for Monterey County) where the unit has a monthly contract rent less than or equal to 30% of 70% of the HUD median household income adjusted for household size; or</li> <li>3) A project for sale to low income households (income between 50% and 80% of Housing and Urban Development median household income for Monterey County) where the units are for sale to households with incomes not more than 80% of the HUD median household income for Monterey County.</li> <li>4) The average price of the unit will be based on the affordability of such a unit to a four person household earning 70% of the Monterey County median income as defined by HUD; or</li> <li>5) A project for sale to moderate income households (between 80% and 120% of Housing and Urban Development median household income for Monterey County) where the units are for sale to households with incomes not more than 120% of the HUD median household income for Monterey County. The average price of the unit will be based on the affordability of such a unit by a four person household earning 100% of the Monterey County median income as defined by HUD; or</li> <li>6) Any combination of the above.</li> </ol>
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COMMENT: Correct incorrectly split paragraph 4) and renumber following. Change to conform to affordable housing policy from Refinement Group (if any).

C-2	Definition	<p><b>Affordable Housing Overlay:</b> This Overlay area covers the following geographic areas: Greater Monterey Peninsula and Carmel Valley Planning Areas and all designated Community Areas and Rural Centers. Within this Overlay area, properties that are suitable for high density residential use may qualify for a density bonus and other developer incentives if the development project provides 100% affordable and workforce housing units.</p>
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COMMENT: Change to conform to affordable housing policy from Refinement Group (if any).

C-2	Definition	<p><b>Agricultural Management Plan:</b> A plan <u>that may be</u> required for the development of new or expanded agricultural uses, pursuant to the Monterey County Zoning Ordinance.</p>
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COMMENT: Presumably an AMP is not required for every change in ag use.

C-2	Definition	<p><b>Agricultural Mitigation Fee:</b> A fee levied on the developer of a project by a city, county or other public agency, which is directed toward <u>purchasing permanently protecting</u> agricultural lands <u>for permanent protection</u>.</p>
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COMMENT: Means of protection other than purchase should also receive funding. Government

ownership of agricultural land has been tried in other countries and proven to result in less production than private ownership. The Plan should reflect this commonly accepted historic lesson and provide for alternative means of ensuring continued agricultural production of land.

C-2	Definition	<b>Agricultural Support Facility:</b> An agricultural support facility means a necessary and accessory facility principally established to serve <b>on-site</b> farming or ranching activities and nearby lands that are part of the same agricultural operation <b>if such lands are located within close proximity (i.e., within approximately one mile of the facility).</b> Agricultural support facilities rely on the on-site agriculture as their major means of support. Such facilities include, but are not limited to, coolers, cold storage, loading docks and farm shops.
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COMMENT: Comments from agricultural representatives have indicated the highlighted language is a problem and needs to be changed.

C-2	Definition	<b>Alternative Onsite Wastewater Treatment System (AOWTS):</b> An alternative onsite treatment system is a domestic wastewater treatment and disposal technology that is located solely within the property lines of the property it serves, includes components different from those used in a conventional septic tank and drain field system <b>including and may include</b> the use of electrical components.
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COMMENT: Clarifies that an AOWTS may, but need not, include electrical components.

C-4	Definition	<b>Area of Special Biological Significance:</b> <b>Areas A nonterrestrial marine or estuarine area</b> designated by the State Water Resources Control Board <b>requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable to protect marine species or biological communities from an undesirable alteration in natural water quality.</b> <b>The term has been changed as of January 1, 2003 to "State Water Quality Protection Area". Pursuant to Public Resources Code section 36710(f), within such areas, point source waste and thermal discharges shall be prohibited or limited by special conditions, nonpoint source pollution shall be controlled to the extent practicable, and no other use is restricted.</b>
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COMMENT: Conforms definition to California law.

C-5	Definition	<b>Bicycle Path - Class I Bikeway:</b> A paved route separated from a street or roadway and expressly reserved for non-motorized traffic, with cross traffic minimized. <b>Class I bikeways shall be developed only where needed to achieve functional commuting needs of bicyclists rather than recreational uses.</b>
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COMMENT: Conforms the definition to the intent of the Legislature as expressed in California Streets and Highways Code sections 890 and 890.3.

"It is the intent of the Legislature, in enacting this article, to establish a bicycle transportation system. It is the further intent of the Legislature that this transportation system shall be designed and developed to achieve the *functional commuting needs* of the employee, student, business person, and shopper *as the foremost consideration in route selection ...*" (section 890, emphasis added).

"As used in this article, "bicycle commuter" means a person making a trip by bicycle *primarily for transportation purposes*, including, but not limited to, travel to work, school, shopping, or other destination that is a center of activity, *and does not include a trip by bicycle primarily for physical exercise or recreation* without such a destination." (section 890.3, emphasis added)

C-5	Definition	<b>Bicycle Lane - Class II Bikeway:</b> A paved striped lane for one-way bicycle travel on a street or roadway. <b>Class II bikeways shall be developed only where needed to achieve functional commuting needs of bicyclists rather than recreational uses.</b>
COMMENT: Conforms to California law. See comment to Bicycle Path – Class I Bikeway above.		
C-5	Definition	<b>Bicycle Route - Class III Bikeway:</b> A shared-use street or roadway, identified by bicycle route signs. <b>Class III bikeways shall be developed only where needed to achieve functional commuting needs of bicyclists rather than recreational uses.</b>
COMMENT: Conforms to California law. See comment to Bicycle Path – Class I Bikeway above.		
C-5	Definition	<p><b>Biological Survey</b> - A biological survey is a study performed by a qualified person(s) on the County's list of approved consultants. The survey must contain the following elements:</p> <ul style="list-style-type: none"> <li>a. A location map and site plan showing topography, the proposed project site or sites, and all existing and proposed structures and roads;</li> <li>b. Description of the method of survey;</li> <li>c. Identification of any environmentally sensitive habitat found <b>on the site within the area on which the project is to be developed,</b> and within 100 feet of the <b>site area on which the project is to be developed,</b> with an accompanying map delineating the habitat location or locations.</li> <li>d. Description and assessment of potential impacts of the development on the environmentally sensitive habitat(s) identified in the survey found <b>on the site or on neighboring properties within the area described in paragraph c of this policy;</b></li> <li>e. Recommendations of mitigation measures which will reduce impacts;</li> <li>f. Assessment of whether the mitigation measures will reduce the development's impact <b>on the environmentally sensitive habitat(s) described in paragraph d of this policy</b> to an insignificant level.</li> </ul>
COMMENT: Clarifies that the survey is to be conducted on the project site and surrounding area within 100 feet. Clarifies that the habitats described will be within the project site and surrounding area within 100 feet. Clarifies that the impact described is that on the environmentally sensitive habitats found in the project area and within 100 feet.		
C-5	Definition	<b>Bluff-Top Access:</b> Access to and along a bluff <b>as specified in an area section of this plan,</b> where no beach exists for the purpose of public viewing, or where trails can be sited to connect pocked beaches.
COMMENT: Area sections of the Plan specify the locations where bluff top access will be provided.		
C-6	Definition	<b>Building Site:</b> Building site means <b>the portion of</b> a parcel of land occupied or intended to be occupied by a main structure and accessory structures and uses, <b>including such open spaces as are provided or are intended to be used in connection therewith or are required by the regulations for the zoning district wherein such parcel is located.</b>
COMMENT: Open space is not part of a building site as the term is used in common speech.		

C-8	Definition	<b>Coastal Public Access Destination/Shoreline Destination:</b> An area that provides either contact with the water's edge, such as a beach, or visual access to the ocean, <u>such as a blufftop trail or vista point.</u>
COMMENT: Implies visual access limitations, and confused trail with accessway.		
C-10	Definition	<b>Cottage Industry:</b> An industry where the creation of products and services is home-based, rather than factorybased. Such businesses are conducted primarily by the residents on-site and involve the manufacturing of artistic, handicraft or other craft <u>or functional</u> items <u>or services.</u> Winery cottage industries are limited to wine production for personal or family use and not for sale, consistent with the Alcohol, Tobacco and Firearms (ATF) definition of "personal use" (per ATF Title 21, Subchapter A, Section 24.75).
COMMENT: Traditionally, cottage industry is not limited to craft items, but includes functional items and services (e.g., in rural areas, sharpening services, welding, etc., are not uncommon types of cottage industry).		
C-10	Definition	<b>Critical Habitat:</b> Defined within the Federal Endangered Species Act <u>and codified at Title 16 United States Code section 1532</u> as a specific <u>area within the geographic area(s) occupied by a species at the time it was federally listed as threatened or endangered, on which are found physical or biological features that make the area both</u> <del>that is</del> <u>essential for the conservation of a the</u> threatened or endangered species, <u>and that which</u> may require special management and protection. <u>If the United States Secretary of the Interior or Secretary of Commerce determines that such areas are essential to the conservation of the species, Critical Habitat "critical habitat" may include an area that is not currently occupied by the species but that will be needed for its recovery. Unless the Secretary of the Interior or the Secretary of Commerce determines otherwise, "critical habitat" shall not include the entire geographical area which can be occupied by the threatened or endangered species.</u>  <u>A species is federally listed as a threatened or endangered species when published as such in the Federal Register.</u>
COMMENT: Conforms the definition to the definition in the Endangered Species Act, as codified at Title 16 United States Code section 1532, and informs the reader when a species is listed under federal law.		
C-11	Definition	<b>Critical Viewshed:</b> <u>Generally, the The</u> composite area in the Big Sur area visible from Highway 1 and <u>expressly designated</u> major public viewing areas. <u>Specifically, the critical viewshed shall be as defined at policy Big Sur ER-43.</u>
COMMENT: The definition was oversimplified and inaccurate. The critical viewshed is as defined within the Big Sur area section of the Plan. The Big Sur policy cited is from the Big Sur area section as modified by the Big Sur and South Coast LUACs 9/02 and 5/03 (specific policy number will probably have to change due to policy renumbering).		
C-11	Definition	<b>Cultural Resources:</b> Properties such as landscapes or districts, sites, buildings, structures, objects, or cultural practices that are usually greater than 50 years of age and possess architectural, historic, scientific, or other technical value. By their nature, cultural resources are <u>generally</u> non-renewable. <u>Cultural Resources also include existing rural areas that have a strong sense of community as demonstrated by characteristics such as volunteerism and a desire to maintain</u>

		<u>their existing rural character.</u>
COMMENT: Unchanged, the definition confused Cultural Resources with Historic Resources. Failure to recognize existing rural communities as a cultural resource dooms the County to only protect the remnants of presently vibrant communities, after they are gone. Better that the County recognize that the primary Cultural Resource it should focus on protecting are its rural communities that are presently alive, but will be gone forever if not recognized as valuable assets worthy of nurturing and protection.		
C-12	Definition	<b>Developable Land:</b> Land that is suitable as a location for structures and that can be developed free of <u>unacceptable</u> hazards to, and without <u>unacceptable</u> disruption of, or significant impact on, natural resource areas, structures, or occupants of these structures.
COMMENT: Acknowledges the reality that there is always some level of hazard, disruption, or impact; and that land with unacceptable levels will not be considered developable.		
C-13	Definition	<b>Easement, Conservation:</b> <u>A tool for acquiring development rights from a landowner in exchange for retaining the land in agricultural use or open space. A legal instrument by which a landowner may voluntarily restrict the use of property. Conservation easements are generally used to voluntarily conserve property as open space in perpetuity, and are creations of law subject to the provisions of section 815 et seq of the California Civil Code.</u>
COMMENT: Conforms the definition to California law.		
C-13	Definition	<b>Easement, Scenic:</b> <u>A tool for acquiring development rights from a landowner in exchange for retaining the land in open space primarily for its scenic resource value. A legal instrument by which a landowner may restrict the use of property for the purpose of retaining the land as undeveloped open space for its scenic value. Scenic easements are subject to the provisions of California Government Code section 51070 et seq.</u>
COMMENT: Unchanged, the definition made little sense (the "exchange" was not an exchange at all) and implied coercion was a proper means for obtaining such an instrument.		
C-14	Definition	<b>Encourage:</b> For the goals and policies in this General Plan, this word implies a general endorsement, but not necessarily administrative, financial, or other County support. <u>Means of encouragement include education and positive incentives. Encourage does not mean require or coerce.</u>
COMMENT: Clarifies that encourage does not mean require, but means to provide positive incentives.		
C-14	Definition	<b>Energy Facility:</b> Any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy. <u>Photovoltaic systems or generators for on-site domestic production of electricity are not considered energy facilities for purposes of this Plan.</u>
COMMENT: Clarifies does not apply to domestic power generation.		
C-14	Definition	<b>Environmentally Sensitive Areas:</b> Includes <u>wetlands, areas designated as "critical habitat" areas of federal and state listed endangered species pursuant to the Endangered Species Act of 1973, as amended, Environmentally Sensitive</u>

		<p>Habitat Areas (ESHA) identified by the State Coastal Commission, "Natural Communities" listed in the State Natural Diversity Database, and "Areas of Special Biological Significance" as listed by the State Water Resources Control Board.</p> <p>The definition of "Environmentally Sensitive Areas" shall also include those areas expressly added to the meaning of the term in an area section of this plan, for application only within the applicable planning area.</p>
<p>COMMENT: Critical habitat is habitat designated for federally listed threatened or endangered species pursuant to federal law. ESHAs are not defined in the Coastal Act, and are therefore unknowable unless specifically identified by the Coastal Commission. Natural plant communities are typically common plants that do not require extraordinary protection. Recognizes that the term is defined differently in different area sections of the Plan.</p>		
C-14	Definition	<p><b>ESHA (Environmentally Sensitive Habitat Areas and their Habitats):</b> Defined within the California Coastal Act as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. See the definition for Environmentally Sensitive Areas.</p>
<p>COMMENT: Contrary to the statement in this definition, the Coastal Act does not define the term "environmentally sensitive habitat area". The Coastal Act definition stated in the definition, is the definition for an "environmentally sensitive area" provided at section 30107.5 of the Public Resources Code. It is therefore appropriate to direct the reader to the definition for "environmentally sensitive area" above. Unfortunately, the Coastal Act's definition of an environmentally sensitive area is so vague as to make it unknowable what they are and where they are located. It therefore seems appropriate for the Plan to define the term in a knowable manner.</p>		
C-14	Definition	<p><b>Erosion:</b> Erosion means: A) the loosening and transportation of rock and soil debris by wind, rain, or running water; and B) the gradual wearing away of the upper layers of earth. When used in this Plan, the word erosion only applies to erosion that presents a significant threat to public health or safety, or significant harm to resources.</p>
<p>COMMENT: Under the unchanged definition, erosion occurs essentially everywhere there is dirt every time it rains or the wind blows. Clarifies that the Plan speaks to prevent harmful erosion, not harmless erosion.</p>		
C-16	Definition	<p><b>Feasible:</b> Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technical factors.</p>
<p>COMMENT: Conforms to definition in CEQA Guidelines which recognizes that legal impediments may be as great a limitation as the other factors.</p>		
C-18	Definition	<p><b>Geographic Information System (GIS):</b> A unique assemblage of hardware, software, and personnel that integrates digital databases, spatial technologies, and analytical methods in order to capture, store, edit, analyze, and display geographic data. By its nature, GIS information is for general informational purposes only, and is subject to verification or correction for any particular locale.</p>
<p>COMMENT: Informs reader of the fallible nature of GIS information.</p>		

C-21	Definition	<b>Infrastructure:</b> The various systems and facilities needed to support the operation of <del>a</del> <b>an urban</b> community (e.g., sewer, water and storm drainage systems, electrical and communication lines, roads). <b>Rural communities have historically existed with little or no infrastructure, and many continue to do so.</b>
COMMENT: Rural communities often do not have much of the listed infrastructure, yet they are communities nonetheless. Clarifies that the communities that require the kind of infrastructure listed are urban communities.		
C-21	Definition	<b>Invasive Plant Species:</b> <b>Generally, an</b> <del>An</del> exotic or native plant species that is absent in undisturbed conditions, but will invade and often displace the original vegetation under conditions of disturbance including continued overuse. <b>Aggressive invasive plant species do not require disturbance of natural conditions, merely introduction into an area.</b> The term is most commonly used in connection with exotic or introduced species.
COMMENT: Aggressive invasive plants spread over undisturbed areas.		
C-22	Definition	<b>Landmark Trees:</b> <b>Unless defined differently in an area section of this Plan, landmark</b> <del>Landmark</del> trees are those having a trunk diameter more than 24 inches measured <del>above the ground at 2 feet</del> <b>as the smallest diameter between the ground and 5 feet above the ground,</b> visually or historically significant to an area or, exemplary of its species, or more than 100 years old.
COMMENT: Measuring a tree at a fixed point of 2 feet above the ground will not reliably give the true size of a tree. Landmark trees are defined differently in the Big Sur area section of the Plan.		
C-22	Definition	<b>Lateral Access:</b> A <del>path or trail</del> <b>shoreline accessway</b> which runs <b>on a beach</b> parallel to or along the shoreline. Widths of lateral access may vary, but in areas where sandy beach exists, they generally encompass a minimum of 25 feet of dry sandy beach.
COMMENT: Avoid confusion with trails (which have another meaning) by using shoreline accessway terminology. Conforms to Coastal Act reference to lateral access, e.g., "... impact on lateral public access along the beach." (California Public Resources Code section 30212(a)(5)).		
C-24	Definition	<b>Lot:</b> Lot means a unit of land which has been created under the provisions of the Subdivision Map Act or any prior law regulating the division of land or a local ordinance enacted pursuant thereto or was created prior to the time any local or state law regulated divisions of land or which were not subject to any local or state regulation of the time of its creation. In the Coastal Zone, an existing parcel means a separate legal parcel recorded as of December 31, 1976, or later if approved under a coastal development permit where such permit was required by law prior to 1977. Parcels crossed by a public road or highway right-of-way will not be considered "subdivided" by such a road or highway. <b>Except where a legal determination by the County (or by the Coastal Commission on appeal of a permit application) concludes otherwise for a particular ownership, contiguous lots conveyed by U.S. patent or aggregated under a single ownership will be considered as a single parcel for Subdivision Map Act purposes.</b>
COMMENT: Deleted language appears to conflict with recognition of lots created prior to passage of the Subdivision Map Act.		

C-30	Definition	<b>Public Utility:</b> Public Utility means a company regulated by the California Public Utilities Commission <del>or other regulatory body, including the County of Monterey.</del>
COMMENT: Conforms the definition to the commonly accepted meaning.		
C-30	Definition	<del><b>Public Viewshed:</b> The composite area visible from major publicly accessible viewpoints and scenic roads and highways.</del>
COMMENT: Delete the definition and all references to the public viewshed concept in the Plan. Instead, retain concept of land visible from designated scenic highways (which requires no definition, other than for designated scenic highway).		
C-31	Definition	<del><b>Rare, Threatened or Endangered Species:</b> Rare, threatened or endangered species means a plant or animal species identified by the California Department of Fish and Game, the United States Fish and Wildlife Service, or the National Marine Fisheries Service as rare, endangered or threatened. See also "threatened or endangered species".</del>
COMMENT: The definition mixes rare species and those that are threatened or endangered. Rare species are not subjected to the listing process undergone by threatened or endangered species and should be defined separately.		
C-31	Definition	<b>Remodeling of Existing Structure:</b> Improvements to a structure which do not change the use or intensity of use of the structure, or of the land or water; nor increase the area, height, and/or bulk of the structure by more than 10 percent; and which do not interfere with a currently existing <del>public view or legally established</del> public accessway.
COMMENT: The concept of the public viewshed has been deleted.		
C-31	Definition	<del><b>Ridgeline Development:</b> Unless used differently in an area section of this Plan, ridgeline development means a development on a crest of a hill that has the potential to would create a silhouette against the sky and thereby alter the visual appearance of the natural topography when viewed from a publicly accessible viewing area or state-designated scenic road or highway.</del>
COMMENT: Development that would not actually be visible against the sky is not significant enough to justify restricting. The public viewshed concept has been deleted from the Plan. The state scenic highway program is the appropriate method for designating scenic areas.		
C-33	Definition	<del><b>Scenic Corridor:</b> An area visible from a road, highway, waterway, railway, trail or public space that provides vistas over water, across expanses of land (such as farmlands, woodlands or wetlands) or of mountainous areas. Views may be from mountaintops or ridges as well designated scenic highway.</del>
COMMENT: The public viewshed concept has been removed from the Plan, and replaced by views from designated scenic highways.		
C-33	Definition	<b>Scenic Highway, Officially Designated:</b> A state <del>or county roadway</del> highway whose Scenic Corridor Protection Program has been reviewed and approved by the Board of Supervisors and Caltrans, and which has been designated a state scenic highway pursuant to California law and included as part of the State Scenic Highway System. Also called a designated scenic highway in this Plan.

COMMENT: The state scenic highway designation process is the appropriate process for designating highways as scenic highways.		
C-34	Definition	<b>Shoreline Access:</b> The provision of pedestrian access from a <b>the nearest</b> public road to and along the shoreline.
COMMENT: Conforms to the Coastal Act and clarifies access is from the nearest road to the sea.		
C-34		<b>Site:</b> See <b>"Lot,"</b> the definition for "building site."
COMMENT: Conforms to common understanding of the term.		
C-37	Definition	<b>Threatened and Endangered Species:</b> Species of plants and animals that <b>are listed as threatened or endangered species pursuant to state or federal law after having been nominated and considered through a statutorily established process.</b> Threatened and endangered species receive special protection under state and federal laws. Also referred to as listed, endangered, or protected species.
COMMENT: Clarifies that threatened and endangered species are those species listed as such pursuant to state and federal law.		
C-37	Definition	<b>Trail:</b> <b>In urban areas, a designated</b> <del>Designated</del> land corridor that provides recreational, aesthetic, alternate transportation or educational opportunities to both motorized and non-motorized users, for all ages and abilities. <b>In rural areas, trails are for non-motorized pedestrian or equestrian use. In scenic rural areas, trails are unpaved, rustic, minimally visible, and blend into the area they pass through.</b>
COMMENT: So-called multi-modal trails, suitable for motorized use, are out of character with rural areas but are appropriate in urban settings. The more rural and scenic an area, the less formal and obtrusive trails should be.		
C-39	Definition	<b>Vertical Access:</b> A <b>pedestrian</b> path <del>or trail</del> which connects the nearest public roadway <b>to the sea</b> with a <b>the</b> shoreline <del>destination</del> via a reasonably direct route.
COMMENT: Maintains the distinction between accessways and trails, and conforms to the Coastal Act with regard to public access to the shoreline.		
C-40	Definition	<b>Visual Access:</b> Access for scenic viewing of the shoreline and/or ocean from <del>either a vista point or public road or trail</del> <b>within the right-of-way of the nearest public road to the sea, unless a different viewing area is specified in the context where the term is used.</b>
COMMENT: Visual access is used in the Plan as an alternative to physical access to the shoreline. The change clarifies the intent of the term.		
C-40	Definition	<b>Wastewater:</b> A community's used water and water-carried solids (including used water from industrial processes) that flow to a <b>wastewater</b> treatment plant. Storm water, surface water, and groundwater infiltration also may be included in the Wastewater that enters a wastewater treatment plant. The term "sewage" usually refers to household wastes, but this word is being replaced by the term "Wastewater." <b>The term wastewater does not include rainwater or other water</b>

		<p>runoff that does not contain a quantity of contaminants sufficient to present a significant threat of harm to public health or safety, or a significant threat of harm to resources.</p>
<p>COMMENT: Clarifies that clean rainwater or other clean runoff water is not wastewater.</p>		
<p>C-41</p>	<p>Definition</p>	<p><b>Wetlands:</b> Wetlands shall not include lands caused to be flooded for purposes of agriculture or recreation or lands otherwise caused to be hydrated by artificial means, which would not have met the following descriptions of wetlands without such unnatural flooding or hydration.</p> <p>Generally, wetlands are lands Lands which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.</p> <p>In cases where application of the general definition of wetlands is disputed by an applicant, the following specific definition of wetlands shall be applied.</p> <p>Specifically, wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. To be considered wetlands, lands must have one or more of the following three attributes:</p> <ol style="list-style-type: none"> <li>1) at least periodically, the land supports predominantly hydrophytes;</li> <li>2) the substrate is predominantly undrained hydric soil; and</li> <li>3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.</li> </ol> <p>Where less than all three of the above attributes are present, lands shall not be wetlands unless there is also significant demonstrable use of the proposed wetland by wetland-associated fish or wildlife resources, related biological activity, and the land has significant wetland habitat values.</p> <p>Once land has qualified as wetland, the upland limit of the wetland area shall be determined as:</p> <ol style="list-style-type: none"> <li>1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;</li> <li>2) the boundary between soil that is predominantly hydric and soil that is predominantly non-hydric; or</li> <li>3) in the case of wetlands without vegetation or soil, the boundary between land that is flooded or saturated at some time each year and land that is not.</li> </ol> <p>The lower limit of wetlands in estuarine or marine areas (i.e., those wetlands which are subject to the ebb and flow of the tide) is established as coincident with the extreme low spring tide.</p> <p>The lower limit of wetlands in an inland setting (i.e., those wetlands associated with lakes, rivers, ponds, vernal pools, etc.) is established at a depth of two meters (6.6 feet) below low water; however, if emergents, shrubs, or trees grow beyond this depth at any time, then the deepwater edge of such vegetation is the boundary.</p>
<p>COMMENT: The definition of wetlands should not include lands that appear to be wetlands only because of human activities. The unchanged definition of wetlands was so broad it could apply to any near-vertical surface drenched in a driving rain. The added defining language is modeled after the definition</p>		

used by the California Department of Fish and Game, modified following Fish and Game Commission direction from the document, *Fish and Game Commission Comment to the Department of Fish and Game on the Wetland Policy Implementation Proposal*, as amended August, 1994 (the requirement of use by wetland associated wildlife, biological activity, and habitat values, if less than all three factors are present).