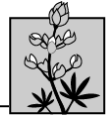
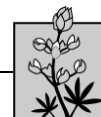




Chapter V. ENVIRONMENTAL RESOURCE MANAGEMENT ELEMENT





Chapter V. ENVIRONMENTAL RESOURCE MANAGEMENT ELEMENT

Part I: Introduction

This introductory narrative is provided for background purposes only. It is not policy, and shall not be cited as policy or used to interpret or construe the policies of this plan.

The Environmental Resource Management Element (ERME) provides direction and guides the County in the long-term conservation and preservation of open space lands and natural resources while protecting private property rights. It is not the County's intent to alter existing legal authority, or to serve as the basis for greater regulation, but rather for greater cooperation among public agencies and the public to share management responsibilities in accomplishing the shared goal of conserving and protecting the resources of the region.

State Requirements

This Element incorporates the State-mandated requirements for Open Space and Conservation Elements, and also addresses Scenic Resources, Cultural and Historic Resources, Energy and Mineral Resources. Policies regarding natural environmental hazards are addressed in the Health and Safety Element. Open Space for recreation is addressed within the Public Services Element.

The State General Plan Guidelines provide the ability to combine elements. The Guidelines state: "In order to minimize redundancies in the general plan, combining elements or organizing the plan by issue often makes practical sense. For example, conservation, open-space, and safety might be combined into an environmental resource management element." This combined approach is reflected in this Element. Thus, the nature of this Element overlaps other Elements but has equal legal status with all other Elements.

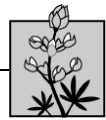
Guiding Objectives

The goals and policies of this Element are a result of public discussion, recommendations of the Planning Commission, and decisions by the Board of Supervisors during the course of drafting this update of the General Plan. Specific Guiding Objectives cited during this process are:

- #1. Preserve the unique character of areas throughout Monterey County as represented by the different Area Land Use Plans.*
- #9. Provide long-term protection of identified resource rich and critical habitat areas.*
- #10. Protect the visual integrity of ridgelines; designated scenic corridors, and other identified sensitive visual resources throughout Monterey County*
- #11. Seek to provide an adequate and sustainable water supply while protecting the County's watersheds and marine environment, including surface water, ground water, and aquifer recharge areas.*

Exemptions for Routine and Ongoing Agriculture

Routine and ongoing agricultural activities, are exempt from certain ERME policies. In addition, scenic resource protection policies would not apply to routine and ongoing agricultural practices. Pursuant to Policy LU-12.3,




where a coastal-wide or area-specific policy in the Coastal or Inland Areas elements addresses one of the routine and ongoing agricultural uses, the coastal-wide or area-specific policy will take precedence over the countywide policies in this Element.

Activities and Land Use Subject to Environmental Review



The policies within this Environmental Resource Management Element apply to “development” activities. It should be noted that most of the policies apply only to new development. Existing development and uses are only affected if a proposed activity requires a new ministerial, administrative, or discretionary development permit or a change in land use designation.




Ministerial permits are granted when a proposed development complies with standard building and safety requirements. As an example, building permits are ministerial in nature meaning that so long as the proposal complies with the Building Code a permit will be issued. The purpose of a building permit is to ensure that new structures are structurally sound and safe for human habitation.

Discretionary permits require review and approval by a decision-making body including, but not limited to, the Planning Commission or Board of Supervisors and generally address the use of the property as well as the physical location and appearance of structures. Planning permits are discretionary in nature meaning that there is no guarantee that the permit will be approved. Planning permits can be approved, approved with conditions, or denied.

The following maps have been developed to illustrate areas that may be affected by ERME policies:

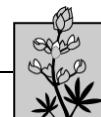
Reference Maps for the ERME	Map No.
Critical Habitats designated by USF&WS	ER-1
Vegetation Classes Map	ER-2
Deleted	ER-3
Potential Aquifer Recharge Areas Map	ER-4
Storm Water Management Permit Boundary	ER-5
Relative Soil Erosion Hazards	ER-6
Mineral Resource Map	ER-7
Deleted	ER-8
Historic Resources Map	ER-9
Archaeological Sensitivity Map	ER-10
Paleontological Resources Map	ER-11

The map of “Critical Habitats” has been prepared through compilation of Critical Habitat maps of endangered species listed by the US Fish & Wildlife Service. The mapping of critical habitats is subject to change and is for general informational purposes. These maps do not imply any additional authority by the County over these areas. This




Each environmental resource has been mapped to the best available level of detail possible at this time. All maps are based on known data at the time this document was prepared. Availability of existing data and overall size of the County limits the precision and exactness of this mapping. Therefore this mapping is subject to potential error. Data will need to be updated and corrected over time as new information becomes available from state and federal agencies. It is intended and anticipated that as more detailed data or revisions become available, the maps will continue to be updated and incorporated into the County’s Geographic Information System (GIS).

This mapping should only be used as a general guide. Data shown on the maps may not be inclusive for all areas and field verification may still be required. On-the-ground conditions shall prevail over mapped information that may be out of date or incorrect. The goals, policies, objectives, and implementation aspects of this Element take precedence and supersede the mapping shown.



identification will not, of itself, prevent a change of land use designation in any of the areas identified or change the existing land use.

The existence of threatened and endangered species is not limited to just those geographically depicted by the mapping. The mapping provides guidance, but does not ensure that state or federal Endangered Species Act review and permit requirements do not apply outside the areas depicted. Published lists and biologic survey reporting shall take precedence over the mapping.

 **Critical Habitat** is as defined within the Federal Endangered Species Act. See the Glossary for a detailed description.

Comment: *The revisions to ERME policies are intended to focus ERME policies on the prevention of significant harm to resources that need protection. More specifically, these revisions are intended to ensure that laws having as their purpose protection of listed threatened and endangered species are not applied to unlisted species, and that mitigation measures are as required by state and federal law. ERME policies must not discourage landowners from voluntarily caring for their land, and must be worded to avoid misapplication, unjustified extension, and abuse.*

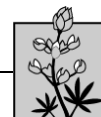
Part 2 Goals and Policies

Goal ER-I – Coordination of Resource Management Permit Processing and Review

Coordinate Permit Requirements and exempt Routine and Ongoing Agricultural Activities.

Policy ER-I.1 Deleted

Comment: *References to “natural communities” and “natural plant communities” listed in the State Natural Diversity Database should be eliminated throughout ERME. The term “Natural Plant Communities” refers to DFG publication “List of California Terrestrial Natural Communities.” Almost all of the species listed in this database are not threatened or endangered. As an example, Chamise Chaparral is one listed species that exists abundantly throughout California as well as in Monterey County. This species was cited in Planning Commission meetings as an example of a plant that overwhelms grazing areas and has to periodically be removed by mechanical means or controlled burns. Another example is Toxicodendron diversalobum (poison oak). Such usage by County staff is attempting to create a classification of protection afforded to threatened and endangered species simply because the common species is a member of a “community.” The term “Natural Plant Communities” refers to the recently passed SB 107, Fish & Game Code Sections 2700 and 2800 having to do with Natural Communities Conservation Plans (NCCP’s). Per DFG Sacramento office these are the State equivalent to the federal HCP plans except they provide for further protection to plant species as well as animal species. These codes are supposed to be strictly voluntary (as are HCP’s) and are set up to only provide an organizational mechanism for willing participants. In addition Fish & Game Code Section 1900 concerning*



Native Plants specifically says that Native Plant protection controls are not intended to apply to agriculture or fire control measures (§1913).

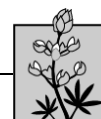
Staff maintains that “Natural Plant Communities” must be protected by GPU policy because of references in the CEQA Checklist (Appendix G to the CEQA Guidelines). However, that is only a checklist to help identify when a project may have a significant effect on the environment (“Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?”)

Staff also maintains that “Natural Plant Communities” must be protected by GPU policy because of Section 21001(c) of the CEQA statute. That section is merely a statement of a legislative goal, and does not mandate local regulation (“The Legislature further finds and declares that it is the policy of the state to...prevent the elimination of fish or wildlife species due to man’s activities, insure that fish and wildlife populations do not drop below self perpetuating levels...”).

The State Water Resources Control Board has changed the term “Areas of Special Biological Significance” to “State Water Quality Protection Area” (SWQPA) in keeping with Public Resources Code §36700 (January 2003) SWQPA is defined in the statute as “a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality”(PRC §36700[f]). Therefore this term should only be used in Chapter XII Section A containing the policies for the Coastal Zone areas of the County. Moreover, the Public Resources Code expressly limits regulatory actions related to SWQPAs. "In a state water quality protection area, point source waste and thermal discharges shall be prohibited or limited by special conditions. Nonpoint source pollution shall be controlled to the extent practicable. No other use is restricted." Public Resources Code section 36710(f), emphasis added.

Coastal Commission ESHA’s should also be limited to Chapter XII Section A containing the policies for the Coastal Zone areas of the County.

Policy ER-I.new Consistency With State and Federal Law – In exercising the County’s police power, the County’s environmental resources management policies, ordinances and regulations shall uphold the constitutional rights of landowners, as secured by the United States Constitution and the Constitution of the State of California. All County environmental resources management policies, and any rules, directives or instructions issued to implement those policies, must be supported by constitutional authority and by constitutionally sanctioned statutes, ordinances and regulations. Any setback, easement, condition or other mitigation measure required by the County pursuant to this plan shall meet the constitutional requirements of nexus and proportionality.



Policy ER-1.2 **Deleted**

Comment: *The Board of Supervisors made clear that the GPU should keep “hands off” policies mandating county enforcement of state and federal regulations.*

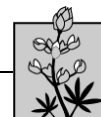
Policy ER-1.new **Mitigation Measures** – The County may require a mitigation measure for reasons of environmental protection not expressly mandated by state or federal law, if the mitigation measure is supported by the following findings by the appropriate decision-making body:

- a. A finding supported by substantial evidence in the record that the mitigation measure is essential to avoid a substantial threat to environmental resources, stating with specificity what the threat to resources is, why the threat is substantial, and why the mitigation measure is essential to avoid the threat;
- b. A finding supported by substantial evidence in the record that the substantial nature of the threat is confirmed by authoritative studies or other sound scientific basis that is generally accepted by the applicable scientific community, including citation to such scientific basis; and
- c. A finding supported by substantial evidence in the record that the mitigation measure is narrowly tailored to address the threat while minimizing cost to the applicant and restrictions on use of the applicant’s property.

Policy ER-1.3 **Exemptions for Agriculture** – In order to encourage the continuation and economic viability of the agricultural industry, the County shall work with the agricultural industry and state and federal agencies to streamline permit procedures and exempt “routine and ongoing agricultural” activities as enumerated in this policy. Exemptions do not preclude compliance with other state and federal requirements.

"Routine and Ongoing Agricultural Activities," as defined in Policy AG-1.1, are exempt from several ERME policies, including the following:

- Policy ER 2.3 Development in Rural and Agricultural Lands
- Policy ER 2.4 **Deleted**
- Policy ER 2.5 Mitigation Measures to Avoid Disturbance to Critical Habitats and Natural Plant Communities
- Policy ER 2.7 Biological Survey
- Policy ER 2.8 **Deleted**
- Policy ER 2.9 **Deleted**
- Policy ER 2.10 Native Vegetation and Natural Plant Communities
- Policy ER 2.11 Natural Plant Communities – Removal and Replacement
- Policies ER 2.12, 2.13 Tree Removal
- Policy ER 2.19 **Deleted**
- Policies 3.1, 3.2 River and Ground Water
- Policy ER 3.3 Erosion Control
- Policy ER 3.4 Site Preparation
- Policy ER 3.5 Vegetation Removal from Grading
- Policy ER 3.6 Grading Permits
- Policy ER 3.7 Control of Runoff
- Policy ER 3.9 Off-Road Vehicles
- Policies ER 4.1, 4.2, 4.3, 4.5 Water and Water Flow
- Policy ER 5.4 New Development within Aquifer Recharge Areas
- Policy ER 9.1 Development Review
- Policy ER 9.2 Protection of Views



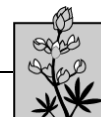
- Policy ER 9.3 Dedication of Scenic Easements
- Policy ER 9.4 Scale and Character
- Policy ER 9.5 Ridgeline Development (Ag. Structures and Crops)
- Policy ER 9.6 Topographic Alteration
- Policy ER 9.7 Signs and Outdoor Storage
- Policy ER 9.8 Exterior Lighting
- Policy ER 9.9 Satellite and Cell Towers
- Policy ER 9.10 Solar Collectors and Wind Power Generators
- Policy ER 9.11 Overhead Utility Lines
- Policies ER 9.13, 9.14, 9.15, 9.16 Scenic Vistas, Etc. **[9.13 Deleted]**

In addition to “routine and ongoing agricultural” activities, other structures necessary for farming and ranching operations that cannot feasibly be located outside the viewshed of designated scenic highways, roads, and public viewing areas, shall be exempt from Scenic Resources Policies. This exemption applies to structures including: barns, stables, fences, non-commercial windmills, water pumps, water tanks, stockponds and reservoirs, corrals, farm houses and farmworker housing, storage facilities, and similar farm outbuildings. Other exempt agricultural activities include establishment, repair and maintenance of agricultural access roads, changes in crops, brush removal, nighttime farming and ranching operations, loading and disposal, planting, and harvesting. Agricultural processing plants, commercial pallet manufacturing, feed lots, commercial grain storage, warehousing, cooling plants, dehydrators, commercial truck stops and other similar agricultural support facilities are not exempt from Scenic Resources Policies.

The exemptions do not enhance or diminish any requirements under state or federal law, and shall be applied consistent with state and federal requirements.

Goal ER-2 – Conservation of Natural Resources
 Conserve wildlife and natural resources.

- Policy ER-2.1 **Encourage Growth that Conserves Resources** – The County shall protect Environmentally Sensitive Areas by encouraging future urban growth in Urban Areas .
- Policy ER-2.2 **Community Plans** – The County shall require that Community Plans and associated environmental impact studies, analyze and, to the extent feasible, mitigate adverse impacts of planned development upon environmental resources. Where state and federal environmental impact procedures allow, an adoption of a Community Plan and Master Environmental Impact Report may eliminate the need for duplicative environmental resource impact studies and project level mitigation measures for subdivision of lands or individual development projects. This assumes the adopted Community Area Plan will have its own community-wide environmental resource mitigation program in place, if one is needed, or subsequent focused environmental impact review or overriding considerations prior to the approval and development of new subdivisions or construction projects consistent with the Community Plan.
- Policy ER-2.3 **Development in Rural Lands and Agriculture Lands** – The County shall ensure that development on both new and existing lots of legal record within Rural Lands and Agriculture Lands avoid significant impacts to Critical Habitat. Where avoidance is not feasible, new development shall be located within an appropriately defined “building envelope” on the legal parcel to minimize impacts to environmental resources. New subdivisions, and other development projects shall incorporate measures required in order to protect riparian areas and wetlands.



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 or permit are exempt from this policy.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.



Building Envelope is an area within a parcel of land that is either free of constraining features such as Critical Habitat or other restrictions, or has the means to be able to offset or mitigate or minimize these constraints.

Comment: The above reference to Policy AG-1.1 is to Policy AG-1.1 as modified by the Refinement Group, as are other references to AG-1.1 throughout this Element.

Policy ER-2.4 **Deleted**

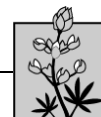
Policy ER-2.5 **Mitigation Measures to Avoid Disturbance to Critical Habitats** – In Rural Lands, development projects shall mitigate potential significant impacts to Critical Habitat by locating development on the least environmentally sensitive areas or incorporating feasible mitigation measures to offset significant impacts of the development .

Mitigation measures shall be determined through coordination and agreement with state and federal agencies having jurisdiction. Mitigation measures may include clustering of structures and dedication of open space or agricultural conservation easements, or other measures appropriate to reduce significant impacts to less-than-significant levels. Mitigation measures should demonstrate that disturbance or damage to Critical Habitat is avoided, mitigated or offset to a level that results in “no net loss” of Critical Habitat. “No net loss” means that the loss of any Critical Habitat is mitigated to a level of non-significance .

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.

Policy ER–2.6 **Prior-Programmatic Project Mitigation Plans** – The County shall support use of prior-project programmatic mitigation plans of countywide and regional 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 and viable wetlands. Part of any such programmatic mitigation plan shall be the development of Best Management Practices (BMPs) for each type of activity to be conducted. Upon approval of a BMP as part of such plan, any entity may use the BMP to fulfill mitigation requirements for similar activity within the County. The County Planning and Building Inspection Department shall publish a list summarizing each such BMP approved, and shall make details available to the public upon request.

Policy ER-2.7 **Biological Survey** – Where substantial scientific evidence in the record demonstrates that new development activities or land disturbance may significantly adversely impact Critical Habitat, the County shall require preparation of a detailed biological survey. Determination of whether a biological survey is required shall be based upon study and field review of the project site by the County Planning & Building Inspection Department. Surveys shall only be required for the portion of the property impacted by the proposed development. Surveys that would duplicate prior surveys shall not be required.



If determination is that a biological survey is needed, the report shall be prepared by a qualified professional as appropriate from the County's list of approved consultants. The specific nature of the Critical Habitat shall determine the appropriate type of consultant needed. The report shall include the results of detailed field reconnaissance surveys performed at the appropriate time of year to determine, identify, describe and delineate areas where there may be significant impact to listed threatened or endangered species. Properties that are participating in a program sponsored by the United States Fish & Wildlife Service (USFWS), such as the Safe Harbor or Habitat Conservation Plan programs, shall not be required to perform surveys for 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.

The report shall include a description of specific Critical Habitats that substantial evidence in the record demonstrates may be significantly affected by the project and detailed recommendations for mitigation of such impacts, when applicable.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.

Policy ER-2.8 **Deleted**

Comment: The stricken policy would have required a 400-foot bridge to cross every creek or stream, and would preclude construction of water works, erosion control measures, and other developments that are necessary and appropriate near streams. Note that 200' on either side of a stream = 48 acres in one mile. Setbacks would be a new, local program increasing the land area affected by federal and state environmental regulation without benefit of due process and without basis in existing law. Land areas that are regulated by federal and state law are designated through due process and are clearly defined. There are no federal or state regulations that require buffers beyond designated areas. Setback requirements would impose a new burden on property owners not already required in federal and state law and would therefore extend the impact of federal and state law.

Policy ER-2.9 **Deleted**

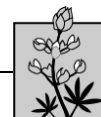
Policy ER-2.10 **Native Vegetation** – The County desires to maintain native vegetation.

As part of the project permit review process, the County shall work with landowners to encourage them to voluntarily conserve existing native vegetation with proposed new development projects.

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, shall not be considered native vegetation, as well as all other forms of planted vegetation except for plantings made for required mitigation purposes.

Within Community Areas, the adopted Community Plan requirements and environmental mitigation measures take precedence.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.



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 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. See the Refinement Group's glossary revisions for the new definition for "encourage."*

Policy ER-2.11 **Removal and Replacement of Native Oak Trees** – Where native oak trees greater than twelve inches in diameter, measured at the smallest diameter from ground level to five feet above ground level, are removed in connection with new development, the County shall require a replacement plan using local acorns or transplanting of trees at a ratio of up to 3:1 where feasible (ratio of replacement trees to number of trees removed) on site. The replacement plan shall include maintenance and monitoring by the project sponsor for a maximum of five years, to be verified through the submittal of annual mitigation monitoring reports to the County.

This policy shall not apply to trees removed to maintain woodlands in a safe and healthy condition as provided in policy ER-2.new [Safe and Healthy Woodlands, following ER-2.19]. Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.

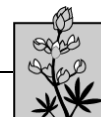
Comment: *The title of this policy was changed from "Natural Plant Communities – Removal and Replacement."*

Comment: *Ag is proposing this revised policy with the understanding that the definition of "development" will exclude routine and ongoing agricultural activities.*

Comment: *This policy demonstrates the need to revise the definition of "development" to exclude routine and ongoing agricultural activities.*

Policy ER-2.12 **Tree Removal Permits** – Removal permits shall be required for the removal of living protected native trees larger than twelve inches or more in diameter measured at the smallest diameter from ground level to five feet above the ground. Protected native trees are native Sycamores, native Oaks, Redwoods, Monterey Cypress, Gowen Cypress, Monterey Pine, and Madrones. Removal permit shall not be required for removal of three or less protected native trees larger than twelve inches or more in diameter measured at the smallest diameter from ground level to five feet above the ground within a single parcel of land. Preparation of a tree removal plan may be required for removal of more than 3 protected native trees within a one-year time frame within a parcel.

Removal permits may be granted only if it is determined that the removal will not significantly adversely affect environmental resources including soil erosion, water quality, or if the tree(s) are diseased, injured, or create hazardous conditions and require action for the safety of life or property. Removal permits are not required of governmental agencies for trees within the right-of-way of public roads.



Where feasible, 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. The replacement shall include maintenance and monitoring by the project sponsor for a maximum of five years, to be verified through the submittal of annual mitigation monitoring reports to the County.

This policy shall be construed to support the removal of trees in order to maintain woodlands in a safe and healthy condition as provided in Policy ER-2.new [Safe and Healthy Woodlands, following Policy ER-2.19].

Comment: Under the current ordinance, only oak trees are “protected” county wide. GPU1 listed four species as “protected” (Monterey pine, native oak, native sycamore and madrone). GPU2 increased the list to 14, including willows, the bane of Salinas Valley farmers. Of the fourteen, only three are listed as rare, endangered or threatened. The revised policy increases the number of protected species to seven.

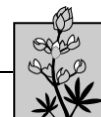
Policy ER-2.13 **Landmark Trees** – The County shall encourage the retention of living, healthy landmark protected trees as defined in policy ER-2.12. Landmark trees shall be defined as those having a trunk diameter more than 24 inches measured at the smallest diameter from ground level to five feet above ground level. Trees planted for tree farms, ornamental, or landscaping purposes, are exempt from this policy. Planted trees shall not be considered landmark trees, except for those that were planted as a required mitigation measure.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.

Policy ER–2.14 **Hazardous Trees** – Hazardous trees are those that are diseased, injured, or in danger of falling and damaging an existing or proposed structure, or creates an unsafe vision clearance, or likely to promote the spread of insect or disease. In the case of emergency caused by hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with tree removal permit requirements, except that the person responsible for cutting or removal of the tree(s) shall report such action to the Director of the County Planning and Building Inspection Department within ten (10) working days thereafter.

Policy ER-2.15 **Pine Pitch Canker, Sudden Oak Death and Other Diseases Harmful to Native Vegetation** – The County shall support programs and scientific strategies to control the spread of Pine Pitch Canker, Sudden Oak Death syndrome and any other diseases harmful to native vegetation in Monterey County. The County shall develop regulations and public information programs to address the diseases, and publicize management practices to stop artificial spread such as quarantine and movement of host materials, keeping firewood within local areas rather than transporting to other locations; how to properly destroy and dispose affected trees, transporting the wood to compost facilities in sealed containers; and instructing cyclists to clean soil from their tires, etc.


Policy ER-2.16 **Invasive Exotic and Noxious Plants** – The County shall work with the Multi-Agency Weed Management Task Force and landowners to remove and prevent the spread of noxious weeds. The County shall not permit use of invasive plant species in landscape planting plans submitted for review in new development projects within Agricultural Lands, Rural Lands, and Public Lands. Invasive plants are those plants listed in the State’s Noxious Weed List and the



California Exotic Pest Plant Council's list of Ecological Pest Plants. Plants with a pest rating of A, B, C or Q and Red Alert shall be discouraged for sale in nurseries as ornamentals. Hay and straw used for erosion control shall be encouraged to be weed free.

Policy ER-2.17 **Integrated Weed and Pest**

Management – 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.


Best Management Practices (BMP) are defined as activities or structural improvements that aid in reducing the quantity and improve the quality of stormwater runoff.

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 eradication methods that pose no significant threat 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.

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.*

Policy ER-2.18 **Landscape Requirements for Native Plants and Drought Resistant Compatible Plants** – Native and native-compatible species, especially drought resistant species, shall be encouraged in fulfilling landscaping in connection with discretionary permits.

Policy ER-2.19 **Deleted**

Comment: *The County should not go beyond existing State and Federal law. This policy is not needed because the County is already required to comply with these regulations. The policy could have had significant implications for agricultural operations.*

Policy ER-2.new **Safe and Healthy Woodlands** – The County shall not discourage landowners from maintaining their woodlands in a safe and healthy condition. Policies ER-2.10 through ER-2.12 inclusive shall be construed to support vegetation or tree removal conducted to maintain 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. The County supports policies that promote fire prevention and suppression.

Comment: *This new policy is essential so owners of woodlands will not be discouraged from maintaining their woods in safe and healthy condition by other tree and vegetation policies.*



Goal ER-3 - Hydrology (Drainage and Ecology)

Preserve the natural hydrology of rivers and streams to maintain drainage and ecological functions.

Policy ER-3.1 Ground Water Quality – The County is committed to protect the quality of all of its water resources. Effective management practices can act to slow and capture stormwater runoff, provide sites for groundwater recharge, water storage, and wildlife habitat. The County shall continue to monitor ground water quality and support Best Management Practice measures to control both direct and indirect discharges of harmful substances into ground waters and the ocean and marine environments such as the Monterey Bay National Marine Sanctuary.

Policy ER-3.2 Erosion Control – 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 Accelerated Erosion as defined in the Monterey County Erosion Control Ordinance from new development activities and reduce and prevent damage to soil, watercourses, and Critical Habitats from sedimentation and erosion. The County shall require Erosion Control Plans for non-exempt development as provided in the Monterey County Erosion Control Ordinance.

Erosion Control Plans for Major Development Proposals shall be prepared by a registered Civil Engineer, a professional forester, landscape architect, registered geologist, certified engineering geologist, 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).

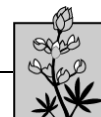
Routine and ongoing agricultural activities as defined in Policy AG-1.1 are also exempt from this policy.

Comment: This policy departed significantly from the County's existing grading and erosion control ordinances. These proposed text and terminology revisions conform to the County's existing Erosion Control Ordinance (Chapter 16.12).

Policy ER-3.3 Control of Runoff – The County will require appropriate runoff management and drainage improvements as a condition of development permits within areas identified by the Water Resources Agency under the Clear Water Act, National Pollutant Discharge Elimination System, Phase 2 (NPDES phase 2) to slow and reduce excessive runoff (see Map ER-5). Applicants for development permits within these designated areas shall be encouraged to slow storm water runoff and retain soil on-site, but where this is not feasible or appropriate, sufficient flood control improvements shall be required to prevent impacts to natural drainage channels and downstream properties. Runoff control systems in connection with permits for new development such as onsite retention/detention basins and sediment settling ponds, or other "Best Management Practices", will be encouraged and where required must be designed and maintained to prevent any increase in stormwater site runoff velocities over pre-project or pre-soil disturbance rates. This is to prevent significant



**Public Services Element
Goal PS-5 - Storm Drains**



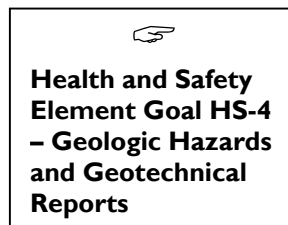
sediment transport and turbidity over existing conditions (defined to mean greater than 10% over existing), and to maximize on-site collection of non-point source pollutants.

Runoff control systems shall not be required by the County if not required by the Regional Water Quality Control Board. Approval by the Regional Water Quality Control Board of a Stormwater Pollution Prevention Plan (SWPPP) shall satisfy the requirements of this policy. Development on lots or parcels for which a drainage plan was approved and implemented in connection with the creation of the lot or parcel is exempt from this policy.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.

Policy ER-3.4

Site Preparation – 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 report where required. In locations where erosion or movement of side castings would present a significant risk to persons, property or Critical Habitat, side castings shall be removed from the site or placed in a manner that shall reduce such risk to an acceptable level, including but not limited to distribution on the site so as not to change the natural landform. This policy shall not apply to site preparation activities that are required as a condition of development approval.



Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.

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.*

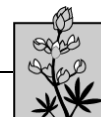
Policy ER-3.5

Vegetation Removal from Grading – The County shall require that all disturbed surfaces resulting from grading operations be prepared and maintained to control erosion. Vegetation removal on construction sites shall be minimized and limited to that amount indicated on approved Erosion Control Plans where required, and shall be consistent with fire safety requirements. Natural features, such as tree cover, should be preserved to the extent feasible. All areas disturbed by grading shall be revegetated with native plants to recreate to the extent feasible the original condition consistent with the extent and character of the approved grading.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.

Policy ER-3.6

Grading Permits – Grading permits shall be required for any new development that results in excavation of more than 100 cubic yards of soil, an excavation which is more than two feet deep, or creation of a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical. Excavation of less than 100 cubic yards of soil, which are less than two feet deep, or which do not create a cut slope greater than five feet in height and steeper than one and on-half horizontal to one vertical, are exempt from this policy. Fills, basements and footings, cemetery graves, permitted refuse disposal sites, casual grading, wells and utilities, mining and soil testing, all as provided in Section 16.08.040 of the Monterey County Code are also exempt from this policy.



Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy. Such exempt activities shall also qualify for a categorical exemption pursuant to Section 15304 of the CEQA Guidelines.

Comment: Revisions to this policy are based on the current Monterey County Grading Ordinance, Chapter 16.08, and Section 15304 of the CEQA Guidelines.

Policy ER-3.7 **Excessive Runoff or Soil Erosion** – Where any land use activity results in repeated, excessive runoff or soil erosion, the County shall require that the harm to persons, property, or resources created by such activities be remedied by the offending property owner. Excessive runoff and/or erosion is defined as that more than 10% greater than existing runoff or erosion produced from the land under similar conditions prior to the activity.

Policy ER-3.8 **Deleted**

Goal ER-4 – Hydrology (Coastal and Marine)

Protect and conserve the quality of the coast, ocean and marine environments.

Policy ER-4.1 **Water Pollution of Receiving Waters** – In accordance with federal and state water quality requirements, the County shall protect, maintain, and preserve, salt and freshwater marshes, tide pools, wetlands, and waterways that drain and have an impact upon the Monterey Bay National Marine Sanctuary.

Policy ER- 4.2 **Discharge into Streams and Rivers** – In accordance with Federal Clean Water Act requirements, the County shall prohibit discharges of pollutants into streams and rivers.

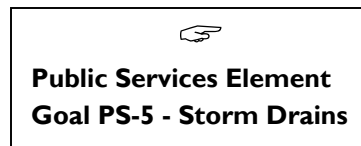
Policy ER- 4.3 **Vegetated Buffer Strips** – As a means to slow runoff and provide natural water pollutant removal, the County may require where feasible new development in urban areas to incorporate use of vegetated buffer strips and other “best management practices” adjacent to large impermeable surfaces such as concrete or asphalt parking lots.

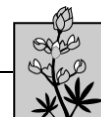
Policy ER- 4.4 **Animal Confinement Operations** – In accordance with State Regional Water Quality Control Board requirements, new development where confinement of large domestic animals (e.g. horses, cattle, pigs and other livestock) is proposed to occur on a permanent basis, such as feed lots, dairies, poultry or other similar confined area, the County shall require retention of surface drainage from manure storage and washwater to be held for 24 hours during a 25 year storm and protected from overflow to stream channels in a 100 year peak stream flow.

Goal ER-5 – Hydrology (Water Supply)

Protect and enhance replenishable water supplies of suitable quality, including the County’s ground water recharge systems, to meet the County’s present and future needs.

Policy ER-5.1 **Stormwater Runoff Rate** – In order to enhance ground water percolation, maintain ground water quality and reduce flood hazards, all new development shall not cause the release of storm water off site at a rate greater than stormwater runoff standards of the Water Resources Agency





for a 10 year magnitude storm than that existing prior to development. Feasible mitigation measures such as minimizing earth moving, minimizing removal of natural vegetation, creation of on-site stormwater detention facilities, use of vegetated buffer strips adjacent to impermeable surfaces, use of cisterns, and other available Best Management technologies and practices may be required.

Policy ER-5.2 **Wastewater Reclamation to Reduce Seawater Intrusion** – The County shall seek to limit and reduce the spread of seawater intrusion within all groundwater basins within the County through further reclamation of highly treated (advanced tertiary) wastewater. Its use in agricultural and urban irrigation practices shall be encouraged so long as treated wastewater meets agricultural and state health requirements and is cost effective. Nothing in this policy is intended to modify or affect the mission and legal responsibilities of the Monterey County Water Resource Agency.

Policy ER-5.3 **Aquifer Recharge** – The County shall identify, protect and preserve critical aquifer recharge areas, so that their function is maintained and ground water quality is not degraded (see Map ER-4).

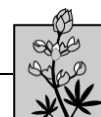
Policy ER-5.4 **New Subdivision Within Aquifer Recharge Areas** – New subdivision proposed within Aquifer Recharge Areas (see Map ER-4) shall be subject to a detailed hydro-geological review by a qualified hydro-geologist from the County’s list of approved consultants. The report shall consider the effects of the proposed development on aquifer recharge, percolation of pollutants into the ground water system or diminishment of a “long-term, sustainable water supply.” In order to avoid unnecessary paperwork and expense, the County shall utilize existing reports prepared in connection with other projects within the Aquifer Recharge Area whenever possible. New subdivisions shall be required to include feasible mitigation measures to protect and replenish Aquifer Recharge Areas such as maintaining existing drainages within their natural state, use of vegetated buffer strips adjacent to impermeable surfaces, use of cisterns, and/or requirements for detention basins to be constructed to offset the creation of impermeable surfaces.

Development on an existing lot of record, and routine and ongoing agricultural activities as defined in Policy AG-1.1, are exempt from this policy.


Goal ER-6 – Mineral Resources


Conserve, manage, and utilize the County’s mineral and petroleum resources

Policy ER-6.1 **Mineral Extraction Reserves** – In accordance with the requirements of Public Resources Code §2762 and the Regulations of the California Board of Mining and Geology, the County shall a) recognize designated significant mineral resources within the County, b) emphasize the conservation and development of those resources, and c) protect those resources from incompatible land uses which would interfere with their extraction. With the exception of the former Fort Ord Community Area, lands within MRZ-2 zones shall be planned and used in ways that reserve future option for extraction and use of minerals. Uses in MRZ-2 zones shall be limited to mining and mining-related uses and other uses compatible with mining.



Policy ER-6.2 **Incompatible Land Use Adjacent to Existing Mineral Extraction Areas –** Land development and land uses such as residential housing, schools, libraries, hospitals and others that are incompatible with mineral extraction operations will not be permitted to occur within an area of 300 feet of the boundaries of any lands included within the mining plan of any mineral extraction operations. Existing and proposed development within 1,000 feet of the parcel boundaries of mineral extraction activities shall be noticed of the rights of the mining operation. The County shall ensure compliance with SMARA and rezone incompatible land uses with MRZ-2 zones (see Map ER-7).


**Land Use Element Goal LU-9,
Policy LU-9.15 - Mineral
Extraction Buffers and Mineral
Resources; Big Sur Policies ER-15
through ER-23**



**Mineral Resource Zones, Category 2
(MRZ-2)**
Areas designated by the state indicating that significant mineral deposits are present, or that a high likelihood exists for their presence.

Policy ER-6.3 **Incompatible Land Use Adjacent to Mineral and Petroleum Resource Extraction Areas –** Where a proposed land use has been determined to threaten the potential to extract minerals or oil in the areas identified on the Mineral Resources Map ER-7, the County shall require all reasonable and feasible mitigations to avoid or minimize conflicts between the proposed use and development of the mineral resource. The County shall make written findings in support of its decision to permit such a use, in accordance with the requirements of the California Surface Mining and Reclamation Act (SMARA).

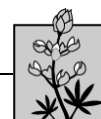
Policy ER-6.4 **Compliance with State and Federal Regulations –** Environmentally sound mining and oilfield operations shall be required through compliance with SMARA and other applicable standards. Environmental impact assessments, implementation of approved reclamation plans, and posting of adequate financial security insuring the reclamation of mined lands will be required as conditions for extraction permits.

Goal ER-7 – Energy Consumption
Reduce consumption and reliance upon non-renewable energy sources.


Policy ER-7.1 **Land Use Planning –** Within Community Areas, the County shall strongly encourage new residential development, employment centers and other land use, provide a balanced mix of uses, site planning and design to minimize the need for motor vehicle trips.


**Land Use Element Goal LU-3,
Policy LU-3.9 – Design Criteria
for Community Areas**

Policy ER-7.2 **Site Planning and Design –** The County shall require energy conservation planning principles be incorporated where feasible, in new development and within renovation, rehabilitation and redevelopment of existing developments, consisting of more than one single family residential unit. Planning and design of these developments should encourage, where feasible, incorporation of energy efficiency principles into site planning, building orientation, structural design, use of recycled building materials, and landscape design. Design of new development should incorporate energy recovery systems and facilitate orientation for solar access and potential wind power generation where economically feasible. Measures that may be taken to conserve energy can include building orientation and shading, landscaping, reflectance of building, use of active and passive solar heating and hot water systems, and other means to minimize consumption of energy.




Policy ER-7.3 **Incorporation of Alternative Transportation Facilities** – 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 where appropriate throughout the County. In urban areas, trails and roadway designs will be planned to accommodate both non-motorized and small neighborhood electrical transportation vehicles.


**Circulation Element
Goal C-2, Policy C-2.6 –
Transit/Pedestrian
Oriented Development**


Comment: *Such alternative transportation facilities should only be developed where appropriate. Intermodal trails are out of character with rural areas. Clarifies that the policy is intended for urban areas (e.g., small neighborhood electric vehicles).*

Policy ER-7.4 **County Facilities** – Reduce energy consumption of County governmental facilities from non-renewable power sources including natural gas, gasoline, and other fossil fuels by 15% over consumption in the year 2000 within 5 years from the adoption of this General Plan.

Policy ER-7.5 **Incentives** – The County will work with the California Energy Commission to develop incentives to promote the use of available rebate programs for farmers and developers utilizing renewable energy generating systems and utilizing more efficient agricultural practices that conserve energy, such as alternative technologies including drip irrigation, high efficiency water pumps, and electrical utility vehicles. Incentives are to be developed for new development as a means to achieve and surpass Title 24 Energy Efficiency standards.

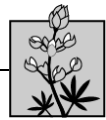

California Code Title 24,
California's Energy Efficiency
Standards for Residential and
Nonresidential Buildings.

Policy ER-7.6 **Exterior Lighting** – In accordance with State Executive Order D-19-01, all retail establishments including but not limited to shopping centers, auto malls and dealerships shall be encouraged to voluntarily reduce outdoor lighting during non-business hours except as necessary for the health and safety of the public, employees or property.


**Environmental Resource
Management Element Goal ER-9,
Policy ER-9.8 – Exterior Lighting**

Goal ER-8 – Energy Resources – Generation and Distribution
Support the development and distribution of small-scale efficient energy generators and utilization of renewable energy sources.

Policy ER-8.1 **Energy Recovery Systems** – Wherever economically and physically feasible, the County shall encourage use of energy recovery systems in new and existing projects greater than one single family residential unit and related secondary unit when undergoing renovation and permit is required.



Policy ER-8.2 **Methane Recovery from Landfills** – The County shall encourage methane gas recovery methods and technologies to generate power from existing solid waste disposal sites. New solid waste facilities shall incorporate methane recovery into the facility design.


**Public Safety Element Policy
PS-6.3 – Operation of Existing
Facilities**

Policy ER-8.3 **Energy Production and Distribution Systems** – The County shall encourage clean alternative energy sources and energy conservation. 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, distributed passive and active solar systems may be more efficient. 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%) to allow siting of alternative energy systems. Such exceptions shall be determined on a site-specific case-by-case basis.

Comment: 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.

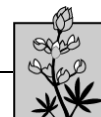
Goal ER-9 – Scenic Resources

Protect the scenic resources of the County for environmental quality and to support the economic vitality of the County’s tourism industry.

Policy ER-9.1 **Development Review** – The County is committed to protecting the quality of the important visual resources within the county. Development applications within the Public Viewshed of designated scenic highways and roads and Designated Common Public Viewing Areas (see definition of Designated Common Public Viewing Area), will be required by the County to include a visual impact analysis and graphic representation to determine how the proposed development would impact the scenic quality.

The visual impact analysis shall locate and identify the Designated Common Public Viewing Area(s), and accurately identify proposed development structure(s) as to dimensions, height, and rooflines. Where on-site visual inspection indicates that any portion of the project, including access roads, may have the potential to create a substantially adverse visual impact when viewed from the Designated Common Public Viewing Area(s), such portion of the project shall be staked and flagged in accordance with “County-wide Staking and Flagging Criteria” and the flagging and staking shall be analyzed through use of photographs and/or graphic simulations taken from the Designated Common Public Viewing Area(s). Where required, flagging and staking shall remain in place during the duration of the project review and approval process. The location of new access roads and driveways in designated highly scenic areas shall be reviewed prior to any grading work to ensure minimum visual disturbance. For all purposes of this policy, visibility shall be determined in terms of normal unaided human vision.

Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.



Comment: See the Refinement Group's definition of "Designated Common Public Viewing Area."

Policy ER-9.2 **Protection of Views** – Development projects determined to have a potentially substantially adverse visual impact when viewed from a Designated Common Public Viewing Area shall be designed and conditioned to minimize the project's visibility by feasible techniques which may include, but are not limited to:

- Lot configurations which provide high potential for each building site to be screened by existing or proposed topography and vegetation;
- Specified building sites and new access road locations that allow for screening by existing or proposed topography and vegetation, minimized grading, minimized tree removal, and development on less than 30% slopes.
- Clustering of structures, with visually significant wooded hills and ridges for which there is sufficient nexus and proportionality to support the requirement placed in open space or scenic easements.

Distant development, that may be technically visible from a Designated Common 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. This policy shall not be interpreted or applied for the protection or enhancement of private views.

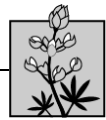
Routine and ongoing agricultural activities as defined in Policy AG-I.I are exempt from this policy.

Policy ER – 9.3 **Dedication of Scenic Easements** – Whenever land is proposed for new subdivision that would have a substantially adverse visual impact when viewed from a Designated Common Public Viewing Area, and no other feasible measures are available to mitigate the visual impact to an acceptable level, the subdivider may be required to dedicate scenic easements over portions of the remaining undeveloped lands within the subdivision as reasonably necessary to protect the Public Viewshed from the Designated Common Public Viewing Area to the extent that there is sufficient nexus and proportionality to support the requirement.

Routine and ongoing agricultural activities as defined in Policy AG-I.I are exempt from this policy.

Policy ER- 9.4 **Scale and Character** – In order to maintain visual continuity within the viewshed of Designated Common Public Viewing Areas, new development projects within such viewshed shall be designed to be in scale with or subordinate to the character of the scenic resource area. Elements within designated common Public Viewshed areas that make up the scenic character of the area, 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 feasible 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. This policy shall not be interpreted or applied to prohibit development within the Public Viewshed.

Routine and ongoing agricultural activities as defined in Policy AG-I.I are exempt from this policy.



Policy ER- 9.5 **Ridgeline Development** – In order to preserve the County’s scenic and rural character, ridgeline development shall not be allowed unless a special permit is first obtained. Such permit shall only be granted upon findings being made that the development as conditioned by permit will not create a substantially adverse visual impact when viewed from a Designated Common Public Viewing Area. New subdivisions shall avoid lot configurations that create building sites that will constitute ridgeline development. Siting of new development visible from private viewing areas may be taken into consideration during the subdivision approval process. For the purposes of this policy, ridgeline development is defined as development on the crest of a hill which has the potential to create a silhouette against the sky or other substantially adverse impact when viewed from a Designated Common Public Viewing Area.

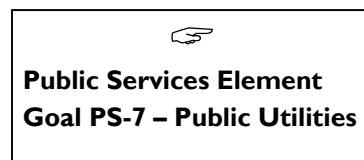
Comment: The revised language is taken from the existing General Plan and Title 21. As proposed by county staff, the policy would have been an absolute prohibition and would not allow for discretionary review of ridgeline projects and approval of those that in fact have no substantial adverse visual impact.

Comment: Ag is proposing this revised policy with the understanding that the definition of “development” will exclude routine and ongoing agricultural activities.

Policy ER- 9.6 **Topographic Alteration** – For any development project where topographic alteration may be necessary, structures shall be designed where feasible to fit within the natural topography, rather than significantly altering the landform to accommodate buildings designed for level sites. Where feasible, grading plans shall generally reflect the existing topography and avoid geometric cuts or fills. Where feasible, 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 advance other policies of this plan.

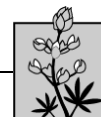
Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.

Policy ER- 9.7 **Off-site Signs** – Off-site advertising within the viewshed of designated scenic highways and Designated Common Public Viewing Areas shall be prohibited where feasible. 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.



Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.

Policy ER- 9.8 **Exterior Lighting** – Exterior light sources shall be directed downward so as not to be directly visible from designated scenic roads and highways or Designated Common Public Viewing Areas wherever feasible. No lights shall be installed so that they distract motorists. Exterior lighting, for any proposed development within areas requiring biologic survey review, shall be required to conform to recommendations that may be included within the biologic




survey. Mobile sources and agricultural practices that occur after dark are exempt. Routine and ongoing agricultural activities as defined in Policy AG-1.1 are exempt from this policy.

Policy ER- 9.9 **Satellite Dishes, Cellular Towers, and the Like** – Within the scenic viewshed areas of designated scenic highways and roads and Designated Common Public Viewing Areas, satellite-receiving dishes, cellular radio or phone towers and similar devices, shall be sited so they are not immediately visible (within direct view) where feasible. 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 rather than in direct view. Federal laws regarding communication facilities and equipment shall apply and take precedence if there are conflicting requirements.

Policy ER-9.10 **Siting of Solar Collectors and Wind Power Generators** – Within the viewshed areas of designated scenic highways and Designated Common Public Viewing Areas, solar collectors and wind power generators and similar devices, shall be sited and/or conditioned so they are not immediately visible. The facilities may be located within a designated Public Viewshed so long as their visual impact is mitigated and minimized and/or they are viewed as distant objects.

Policy ER-9.11 **Overhead Utility Lines** – Overhead utility distribution facilities shall not be permitted in any new subdivisions that consist of more than four housing units within the viewshed of designated scenic highways and Designated Common Public Viewing Areas unless underground facilities are not feasible. Utilities required for commercial agricultural and ranching operations are exempt from this policy.


Public Services Element Goal PS-7, Policy PS-7.5 – Co-location of Cell Towers; Health and Safety Element Goal HS-1, Policy HS-1.8

Policy ER-9.12 **Scenic Route Network** – The County shall recognize designated scenic routes in Monterey County as part of the scenic routes in California to be enjoyed by all travelers.

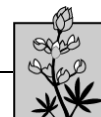


Policy ER-9.13 **Deleted**

Comment: “Scenic Corridors” is a new concept in the GPU, in addition to designated scenic highways. All of the protections are obtained through the designated scenic highway policies, and “Scenic Corridors” are just extra baggage. The term “Scenic Corridors” should be deleted from the GPU glossary as well.

Policy ER-9.14 **Public Participation in the Designated Scenic Highway Plan Planning Process** – Public participation shall be an imperative part of the designation of a Designated Scenic Highway.

- a. Affected property owners, residents, local citizens' committees, environmental groups and all other interested parties who might be impacted or interested in the proposed designation, including all owners of property and persons residing within the viewshed of the proposed scenic highway shall be involved in the designation of the Designated Scenic Highways.
- b. The county shall host a public meeting specific to a proposed Designated Scenic Highway in order to facilitate public participation and to define community expectations and perceptions of how a Designated Scenic Highway through their community will be regulated.



- c. Review of a proposed Designated Scenic Highway shall be directed through the area Land Use Advisory Committee before final designation. County staff and the LUAC will jointly present a final proposal for a Designated Scenic Highway to the Planning Commission for their recommendation to the Board of Supervisors.

Comment: These revisions establish a public participation procedure for the designation of scenic highways.

- Policy ER-9.15 **Vista Points** – Where feasible and appropriate, vista points may be incorporated within the right-of-way of new public designated scenic highways. Designation of such vista points shall follow the same procedure as provided in Policy ER-9.14 for the designation of scenic highways.

Comment: Requiring or allowing vista points outside the right-of-way of highways has the potential to significantly increase the scope of the “Public Viewshed” thereby placing unreasonable restrictions on the property rights of property owners within that artificially expanded viewshed.

Conservation of Social and Cultural Resources

Goal ER-10 – Historic Resources

Preserve, protect, and where feasible, enhance and restore the historic resources, features and places that contribute to the heritage of Monterey County and its man-made resources and traditions.

- Policy ER-10.1 **Historic Review Process** – The County shall encourage historic preservation by improving the County planning and review process for rehabilitation of individual listed historic structures and/or for new development within historic districts. The County shall review all present and future zoning, land use plans and regulations to ensure that these are consistent with the guidelines and requirements of state and federal historic preservation goals.

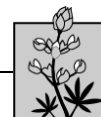
- Policy ER-10.2 **Historic Resources Review Board** – The County shall require the Historic Resources Review Board review proposed projects that involve historic resources listed on the National or California Register of Historic Resources and the County historic resources database, including County owned historic resources, to insure that all properties containing such historic resources are constructed or reconstructed to the extent feasible to compliment historic resources in a manner that is consistent with good preservation practices.

- Policy ER-10.3 **Deleted**

Comment: This policy would have created new restrictions not contained in the newly-adopted Historic Preservation Ordinance.

- Policy ER-10.4 **Historic Resource Features** – In addition to historic structures, the County shall protect to the extent feasible, on-site historic resource features important to the setting of listed historic resources such as mature trees and vegetation, walls and fences.

Comment: This policy would have created new restrictions not contained in the newly-adopted Historic Preservation Ordinance.



Policy ER-10.5 **Deleted**

Comment: *A potential Heritage Corridor is the deAnza Trail which runs generally through the Salinas Valley adjacent to the Salinas River, thence northeasterly through Salinas and the Gabilan foothills and up to Fremont Peak. It has potentially significant impact on farming operations in the Salinas Valley.*

Policy ER-10.6 **Historic Listings** – The County shall encourage and support appropriate nominations to the National Register of Historic Places, to the California Register of Historic Resources and to the Monterey County Inventory of Historic Resources. Property owners shall be provided notification of consideration of any listing prior to official designation. The County shall not nominate any private property for listing on any local, state or federal register without the prior written consent of the property owner.

Comment: *The added sentence conforms to the newly adopted Historic Preservation Ordinance.*

Comment: *Listing on a local, state or federal register of historic places has significant implications for the ability to remodel, alter, expand or demolish a structure (see CEQA §21084.1 and CEQA Guidelines §15064.5). If the structure is listed, any demolition, destruction, relocation or alteration of the structure or its immediate surroundings such that the significance of the resource would be “materially impaired” is automatically declared to be a significant environmental impact for which an EIR is required and for which it is difficult, if not impossible, to mitigate.*

Policy ER-10.7 **Update of Historic Resources Inventory** – The County’s Inventory of Historic Resources database shall be updated regularly to include archaeological, ethnographic and ethno-historic resources. Listed structures must be 50 years old or older. Survey documentation shall be accessible to property owners, County staff, Historic Resources Review Board members, and scholarly research. This data, with the exception of sensitive archaeological, paleontological and other cultural resource information and mapping, shall also be available to the general public. Property owner’s consent must be obtained prior to the formal listing of any property on any local, state or federal register.

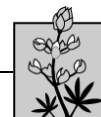
Policy ER-10.8 **Deleted**

Comment: *There is no definition of “interested party” in the National Historic Preservation Act. The full text of Section 106 of the Act follows, which does not appear to correspond to the proposed policy.*

Section 106

[16 U.S.C. 470f Advisory Council on Historic Preservation, comment on Federal undertakings]

“The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall,



prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking. "

- Policy ER-10.9 **Historical Resource Protection Regulations** – Historical resources and sites shall be protected through zoning and other suitable regulatory means to ensure that new development shall be compatible with existing listed historical resources to maintain the special values and unique character of the listed historic properties. Repair or rehabilitation of listed historic structures may be permitted upon determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure or that appropriate mitigation measures have been taken to minimize the impact of the repair or rehabilitation. Such regulations shall be interpreted and applied so as not to deprive any property owner of a viable economic use of the property, or deprive the owner of the reasonable investment-backed expectations with respect to the use of the property.

Comment: *“Viable economic use” and “reasonable investment-backed expectations” are the constitutional standards to protect against a regulatory “taking.”*

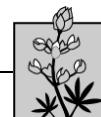
- Policy ER-10.10 **Retention, Reuse And Restoration Of Historic Structures** – Monterey County shall initiate, adopt, and promote the availability of monetary and other incentive programs to encourage the retention, reuse and restoration of historic structures. The County shall integrate historic preservation into governmental programs and agencies such as Community Development Block Grant, Redevelopment and Housing programs, Public Works, Planning and Building Inspection, and Facilities and Construction.

- Policy ER-10.11 **Retain Character Of Historic Districts** – The County shall assist in retaining the special character of designated historic districts and neighborhoods, including protecting historic resource features such as mature trees and vegetation, walls and fences, and promote compatible development within historic districts by use of special development standards within designated historic districts. Consent of all property owners within the proposed district must be obtained prior to the formal creation of any historic district.

- Policy ER-10.12 **Integrate Historic Preservation Programs** – The County shall integrate historic preservation into development and construction of County properties.

- Policy ER-10.13 **Public Information Programs** – The County shall inform the public of the availability of opportunities and programs to preserve historic resources, including educating owners of historic properties about use of deed restrictions as a preservation tool. Information regarding the restrictions and limitations to the landowner that can occur with listing of historic structures shall also be provided.

- Policy ER-10.14 **Exceptions to Zoning District Regulations** – Exceptions may be provided as necessary to permit the rehabilitation, expansion or reuse of a designated historic resource. These exceptions may be granted when such exception is necessary to permit the preservation, rehabilitation, expansion, reuse or restoration of, or improvements to, a structure designated as historically significant. Such exceptions may include, but are not limited to parking, yards, height and coverage regulations. These exceptions shall not include approval of uses not otherwise allowed by the zoning district regulation.



Policy ER-10.15 **Promote Heritage Tourism** – Where appropriate, the County may 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.

Comment: It is not appropriate to encourage use of roads with an already unacceptable level of service, as overuse will degrade the visitor experience for those who already find their way to the area.

Policy ER-10.16 **Historic Resources Education** – The County may foster greater appreciation and understanding of historic resources .

Goal ER-11 – Archaeological Resources

Encourage the conservation and identification of the county’s archaeological resources.

Policy ER-11.1 **Community Plans** – In Community Areas where a Community Plan has been adopted with a full CEQA Environmental Impact Report and with implementation of community wide mitigation measures and to the extent consistent with CEQA, no project level EIR or further archaeological surveys may be required if the project proposed is consistent with the Community Plan.

Policy ER-11.2 **Archaeological Sensitivity Zones** – The Archaeological Sensitivity Zones map prepared by County Planning & Building Inspection Department shall be used, along with any other pertinent data that may be available, to evaluate whether archaeological resources are threatened by proposed development projects. Mapping shall be updated as new data becomes available and shall have a scientific peer review in five years. (see Map ER-10)

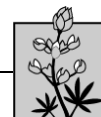
Policy ER-11.3 **High Sensitivity Area Review** – All portions of property proposed for development requiring a discretionary permit, including land divisions, within high archaeological sensitivity zones shall require an archaeological field inspection prior to project approval.

Comment: Ag is proposing this revised policy with the understanding that the definition of “development” will exclude routine and ongoing agricultural activities.

Policy ER-11.4 **Major Project Review** – All major projects requiring a discretionary permit (i.e., projects that propose 2.5 acres or more of land disturbance) that are proposed within moderate archaeological sensitivity zones, including land divisions, shall require an archaeological field inspection prior to project approval.

Comment: Ag is proposing this revised policy with the understanding that the definition of “development” will exclude routine and ongoing agricultural activities

Policy ER-11.5 **Low Sensitivity Area Review** – Projects proposed within low sensitivity zones shall not be required to have an archaeological survey taken unless specific additional information has been obtained to suggest that archaeological resources are present and the project is of a nature that it has a significant likelihood of disturbing archaeological resources if.



Comment: If the project is of a nature that it would not disturb archaeological resources if present, it is unreasonable to require an archaeological survey at the owner's expense.

Policy ER-11.6 **Protection Measures** – All feasible measures, including purchase of archaeological easements, dedication to the County, tax relief, purchase of development rights, consideration of reasonable project alternatives, etc., shall be explored prior to development approval to avoid development on sensitive archaeological sites. Where significant adverse impact to an identified archaeological site cannot be avoided by new development, the County shall comply with the California Environmental Quality Act and other state law. Private property owners shall not be required to dedicate archaeological easements without adequate compensation. This policy, and any mitigation measure imposed pursuant to this policy, shall not be interpreted or applied so as to deprive any property owner of a viable economic use of the property, or deprive the owner of the reasonable investment-backed expectations with respect to the use of the property.

Comment: Compliance with the California Environmental Quality Act may involve preparation of an EIR, or findings of overriding consideration.

Comment: “Viable economic use” and “reasonable investment-backed expectations” are the constitutional standards to protect against a regulatory “taking.”

Policy ER-11.7 **Mitigation upon Discovery** – On discovery of archaeological sites or historic sites, or upon identification of ethnographic or ethnohistoric sites, procedures shall be followed, where feasible, that employ project modification, relocation or on-site mitigation measures appropriate to the location, significance of the find and potential impacts of development.

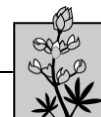
Policy ER-11.8 **Destructive Activities** – Off-road vehicle use, unauthorized collecting of artifacts, and other activities that are likely to destroy or damage archaeological or cultural sites shall be prohibited on such sites.

Policy ER-11.9 **Public Access to Resource Sites and Data** – Public access to or over known archaeological sites shall be limited to scientific study with landowner consent consistent with State law. Public disclosure of detailed archaeological and other cultural resource maps and documentation will not be publicly available except for scientific study consistent with State law. Any agency or group requesting site specific maps or data of archaeological site information must have written approval from the Director of the Planning & Building Inspection Department.

Goal ER-12 – Paleontological Resources

Maintain, protect and enhance paleontological resources of the County because of their scarcity, scientific and educational value.

Policy ER-12.1 **Community Plans** – In Community Areas where a Community Plan has been adopted with a full CEQA Environmental Impact Report and with implementation of community wide mitigation measures and to the extent consistent with CEQA, no project level EIR or further paleontological surveys may be required if the project proposed is consistent with the Community Plan.



- Policy ER-12.2 **Significant Paleontological Localities** – The Significant Paleontological Localities Map prepared as part of the study of Geological Resources and Constraints prepared by consultants in April 2001, shall be used, along with any other pertinent available data, to evaluate whether paleontological resources are threatened by proposed development projects. Mapping shall be updated as new data becomes available and shall have a scientific peer review in five years. (see Map ER-11)
- Policy ER-12.3 **Mitigation of Impacts on Paleontological Resources** – Where significant development is proposed that is likely to adversely affect paleontological resources, a mitigation plan to reduce potential impacts shall be required prior to project approval. 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.
- Comment: If the project is of a nature that it would not disturb paleontological resources if present (e.g., paving an existing driveway), it is unreasonable to require a mitigation plan at the owner’s expense.***
- Policy ER-12.4 **Discovery of Paleontological Resources** – If paleontological resources are discovered during the course of development and land altering activities, a registered geologist shall be consulted to determine appropriate protection or feasible mitigation measures. Measures may include project modification or on-site mitigation measures appropriate to the location, significance of the find and potential impacts of development.
- Policy ER-12.5 **Paleontological Resource Protection Program** – The County shall develop a program to protect paleontological resources through the negotiation of open space easements, other deed restrictions, tax relief, and purchase as necessary. Private property owners shall not be required to dedicate paleontological easements without adequate compensation. This policy, and mitigation measure imposed pursuant to this policy, shall not be interpreted or applied so as to deprive any property owner of a viable economic use of the property, or deprive the owner of the reasonable investment-backed expectations with respect to the use of the property.
- Comment: “Viable economic use” and “reasonable investment-backed expectations” are the constitutional standards to protect against a regulatory “taking.”***
- Policy ER-12.6 **Public Access to Resource Sites and Data** – Public access to or over known paleontological sites shall be limited to scientific study with landowner consent. Public disclosure of detailed paleontological and other cultural resource maps and documentation will not be publicly available except for scientific study. Any agency or group requesting site specific maps or data of paleontological site information must have written approval from the Director of Planning and Building Inspection.