

Attachment C

Planning Commission Errata Memo

Phase 2C Amendments to the Local Coastal
Program: Environmentally Sensitive Habitat Areas
(ESHA)



**COUNTY OF VENTURA
RESOURCE MANAGEMENT AGENCY**

M E M O R A N D U M

Date: August 18, 2021

To: Clerk of the County of Ventura Planning Commission and Planning Commissioners

From: Dave Ward, AICP, Director of the Planning Division
Abigail Convery, Case Planner (Abigail.Convery@ventura.org)

Subject: Correction to August 19, 2021, 8:30 a.m. Agenda Item # 6A, Public Hearing Regarding Proposed Adoption of Phase 2C Amendments to the Local Coastal Program (LCP), which includes Amendments to the Coastal Area Plan and Coastal Zoning Ordinance (PL17-0083)

The following revisions to the Staff Report and Coastal Zoning Ordinance are submitted as an amendment to your Planning Commission packet for item No. 6A on the Planning Commission Agenda of August 19, 2021. These revisions will be explained in more detail in the staff presentation but are summarized below. Note: Recommended inclusions and deletions are shown in red text with underline and strikeouts respectively.

1. Lighting Related Definitions

Within Appendix 2 of the Coastal Zoning Ordinance definitions for outdoor lighting were organized by grouping lighting terms under the topic heading, such as “Lighting, XXX” rather than alphabetically, by the first letters. There are definitions crafted for the Santa Monica Mountains (M) Overlay Zone Dark Sky that need to be reformatted and moved. The Errata revisions are described and shown as follows:

- a. The definition of “Essential Lighting” will be re-termed “Lighting, Essential” and moved within the Article 2.
- b. A duplicative definition for “Seasonal or Festive Lighting” located under the “S” definitions will be deleted because it is already represented under “Lighting, Seasonal or Festive”.
- c. The existing definition for “Lighting, Security” will be amended to support the definition of the “Lighting, Essential” (see (a)). The “Lighting, Essential” definition clarifies the difference between security lighting and safety lighting. The “Lighting, Security” definition does not make this distinction and is shown in revised format below:

Lighting, Security – A light fixture that is primarily intended to deter or detect intrusions or other unwanted activity. ~~It can also be used to allow safe passage, such as security lighting used along a roadway or pedestrian walkway. Also see the definition for “Lighting, Essential”.~~

Essential Lighting, Essential - A light fixture used for safety or security purposes. Safety lighting are outdoor light fixtures used by pedestrians to navigate safely along walkways between building entries, parking areas, and other legally established structures within the building site. Security lighting are light fixtures found at entry gates, building entries, and in parking areas that are primarily intended to deter or detect intrusions or other unwanted activity. Also referred to as “Essential Light fixture”.

2. Lighting Related Standards

Coastal Zoning Ordinance Sec. 8177-4.1.11.3 (b) (below) did not cross-reference the intended essential lighting Sec. 8177-4.1.11.5 (h)(1) and (2). To create a clean revision by not mixing standards for existing lighting and new lighting, staff moved the language up into the existing lighting section, rather than providing cross-references. The Errata revision below clarifies that existing security lighting with light output greater than 850 lumens, or which spills over beyond the building site boundary, must be placed on motion sensor timers set to 10 minutes.

Sec. 8177-4.1.11.3 Existing Lighting

The provisions of Article 12-Nonconformities and Substandard Lots, do not apply to any lighting subject to this Section= 8177-4.1.11. Any outdoor light fixture installed before [effective date of ordinance adopting these text amendments] that does not conform with any standard or requirement of this Sec. 8177-4.1.11-Outdoor Lighting, is subject to the following, as applicable:

- a. **Non-Essential Light Fixtures.** Existing non-essential light fixtures may remain in use until replaced, but shall comply with the following requirements as of [one year after effective date of ordinance adopting these text amendments]:
 1. Light fixtures that have adjustable mountings with the ability to be redirected shall be directed downward, to the extent feasible, to reduce light glare and trespass; and
 2. The lighting shall be turned off during dark hours as described in Sec. 8177-4.1.11.5 (g).
- b. **Essential Lighting Fixtures.** ~~Existing essential lighting may remain in use until replaced, but shall comply with the following requirements to reduce light glare and trespass onto adjacent properties a~~As of [one year after effective date of ordinance adopting these text amendments]; any existing essential light fixture shall meet the requirements outlined in subsection (a) (1) and (2) above to reduce light glare and trespass onto adjacent

properties. Where security lighting output exceeds 850 lumens, or light trespass occurs in excess of 0.1 foot-candles at the vertical plane and the horizontal plane at the edge of the building site, light fixtures with motion sensors and timers shall be installed and programmed to turn off the light(s) no more than 10 minutes after activation regardless of dark hours requirements.

Several public comment letters have been received requesting to have the proposed Dark Sky regulations apply to existing development within a shorter time frame than the currently proposed standard: "when replacement is needed". These requests are for the Planning Commission to consider and provide direction to staff.

3. County Fire Protection District Revision

At the request of the Ventura County Fire Protection District (VCFPD), Coastal Zoning Ordinance Sec. 8178-8.4.2.3(c) is modified to reference VCFPD defensible standards directly, rather than any specific measurement, since these measurements in state and local fire codes can change in the future. The Errata revisions are shown as follows:

Sec. 8178-8.4.2.3 – Landscaping in a Mandatory ~~Required~~ Fuel Modification Zone

Landscaping in a *fuel modification zone* shall be designed, installed and maintained in conformance with the following standards:

- c. Except as permitted by Section ~~7~~ 8178-7.5.4 or required by the Ventura County Fire Protection District Ordinance and defensible standards, in no case shall the *fuel modification zone* result in the removal of a *native tree* ~~nor~~ create a bare ring of earth around *structures*. Other vegetation may be retained provided it avoids the spread of fire to other vegetation or to a *building* or *structure* and is located and maintained as follows:

1. Tree canopies and shrubs shall be spaced ~~a minimum of 15 feet from other shrubs or trees~~ in accordance with Ventura County Fire Protection District defensible standards.
2. All trees and shrubs shall be trimmed to a minimum vegetative (leaf and branch) clearance in accordance with Ventura County Fire Protection District defensible standards of either 5-6 feet from the ground surface ~~or one-third the height of the tree, whichever is less.~~
- d. All vegetation and *mulch* proposed to be planted in the *fuel modification zone* shall be consistent with the ~~Ventura County Fire Protection District Fuel Modification Plan approved~~ for the site authorized by the Ventura County Fire Protection District.

Approved landscaping installed within a required *fuel modification zone* shall be maintained for the life of the project.

4. Historical Roost Sites

Based upon comments received from the Resource Conservation District of Ventura County and conversations with stakeholders associated with the Xerces Society, staff modified the proposed Coastal Zoning Ordinance amendments to address two of their comments. The first comment addressed the length of time for a roost site to be considered historical. Scientists are learning more each day about Western Monarch overwintering biology and new information is constantly forthcoming. Because of the loss of this butterfly's migratory population, and the importance of overwintering sites that occur in the County, the term of an historical roost site is extended from 10 years to 20 years to ensure that these habitats are not removed accidentally. The Errata revision is shown as follows:

Sec. 8178-2.7.8 – Monarch Butterfly Roosting Sites

To protect *colonial roosting habitat* for the monarch butterfly from disturbance and degradation, *development*, including *outdoor festivals* and *outdoor sporting events*, shall meet the following standards:

- a. ~~Roosting~~ Site Identification - Potential *roost habitat trees* for overwintering monarch butterflies, as well as known historical *overwintering roost sites* occupied by monarch butterflies in one or more years within the previous ~~120~~-year period, shall be considered potentially active *monarch butterfly roost sites*.

The second comment and recommended revision was made to correct another reference to the time a roost site is considered historical. The Errata revision shown below removes the reference of the historical period time and provides a cross-reference to the monarch roost standards.

Sec. 8178-7.4.2 - Tree Removal and Alteration

- a. The *alteration* or *removal* of a *tree* that is *ESHA* pursuant to ~~Section=~~ 8178-7.3-12.4.1 shall only be permitted when:
 - 1. The *tree* poses an imminent hazard to life or property and there is no feasible alternative to ensure public health and safety (see ~~Section=~~ 8178-7.5.4 ~~Emergency Tree Alteration or Removal~~); or
 - 2. *Tree alteration* or *removal* is necessary to allow a new *principal use* that is the minimum necessary to provide a ~~reasonable~~ *economically beneficial use* of the property (see ~~Section=~~ 8178-7.4.1 ~~General Standards~~ and ~~Sec. 8178-2.5.3 =Economically Beneficial Use~~); or
 - 3. *Removal* or *alteration* of the *tree* is a necessary component of an approved ~~habitat restoration plan (Sec. 8178-7.4.2 - Tree Removal and Alteration), or ESHA Mitigation Plan (Sec. 8178-2.10-9),~~ *Monarch overwintering roost habitat management plan (Section 8178-2.10.7(d)), or ESHA Vegetation Management Plan.*
 - 4. There is no current or historical (within the last 7 years) evidence or knowledge that the tree is used by the following: 1) nesting raptors; or 2) as a denning site for mountain lions, bobcats, coyotes, or other special status species; or 3) it functions as a colonial roost/breeding site (See Sections 8178-2.4.1 and 8178-2.7.8(a)).
 - 5. A dead tree classified as ESHA shall not be removed unless it poses a hazard to persons or property that cannot be remedied through other means or alterations.

5. Sea Level Rise

Comments received from Friends of the Santa Clara River in Exhibit L, were reviewed by staff. The issues from these comments are complex and beyond this current amendment process. However, the comments do relate to the sea level rise planning project that the Planning Division is currently completing and will be heard by the Planning Commission and the Board during this fiscal year. One comment is directly related to the ESHA amendment and the following revision is made within the Section 4.1.3-3 ESHA Program 3: Inter-Agency Coordination of the Coastal Area Plan by adding a new “d” to the currently proposed “a-c”:

ESHA Program 3: Inter-Agency Coordination.

The County will coordinate and collaborate with County and County-affiliated agencies, *natural resource agencies* and *conservation organizations* to protect and enhance sensitive biological resources in the *coastal zone* through the following actions:

d. Sea Level Rise Adaptation Strategies for ESHA: Participate and encourage efforts to implement recommended interjurisdiction sea level rise adaptation planning strategies for sensitive habitats and vulnerable

species. These planning efforts will help to prioritize conservation resources, as well as develop management actions triggered by definitive changes in sea level rise, human use, and other climate change hazards.

6. Inter-Agency Coordination

Section 4.1.3-3 ESHA Program 3(a): Inter-Agency Coordination of the Coastal Area Plan is modified to include the Agricultural Commissioner to the list of agencies that the Planning Division will distribute certified LCP policies and provisions related to the use of toxic substances. The Errata revision is shown as follows:

ESHA Program 3: Inter-Agency Coordination

The County will coordinate and collaborate with County and County-affiliated agencies, natural resource agencies and conservation organizations to protect and enhance sensitive biological resources in the coastal zone through the following actions:

(a) Effects of Toxic Rodenticides, Insecticides, Herbicides and Other Chemical Substances: The Planning Division will distribute certified LCP policies and provisions related to the use of toxic chemicals substances to the County's Agricultural Commissioner, General Service Agency, RMA/Environmental Health, Public Works Departments, and other applicable State, County and County-affiliated agencies;

7. Ordinance Typographic Error

While making revisions to the Coastal Zoning Ordinance Section 8178-2.6.10 – Standards for Recreational Development, subsection (a), text was accidentally replicated and is corrected as follows:

Section 8178-2.6.10 – Standards for Recreational Development

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

- a. To the maximum extent feasible, areas used for passive recreation, such as hiking trails, shall utilize established trails corridors when available, follow natural contours, minimize grading and stormwater runoff and be located outside ESHA wet environments. Whenever To the maximum extent feasible, locate all recreational development shall be located outside an ESHA or buffer zone. Where such

passive recreation areas are allowed in ESHA or buffer zone, utilize well-defined trails, sustainable trail design (e.g., trails with negligible soil loss/movement, minimal maintenance requirements), fencing, signage or other techniques to protect and control access into sensitive areas shall be utilized;

~~b. Areas used for passive recreation, such as hiking trails, shall utilize established trails corridors when available, follow natural contours, minimize grading and stormwater runoff and be located outside ESHA wet environments. Whenever To the maximum extent feasible, locate recreational development shall be located outside an ESHA or buffer zone. Where such passive recreation areas are allowed in ESHA or buffer zone, utilize well defined trails, sustainable trail design (e.g., trails with negligible soil loss/movement, minimal maintenance requirements), fencing, signage or other techniques to protect and control access into sensitive areas shall be utilized;~~

~~b. e.~~ Areas used for recreational aircraft, including drones, are prohibited within 1,000 feet of ESHA.

~~d. c.~~ Recreational facilities/areas shall not be located where they would adversely impact the *habitat* of a species listed as threatened or endangered by a federal or state *natural resource agency*.

If you have any questions on the above, please contact the case planner, Abigail Convery at (805) 654-2489 or by email at Abigail.Convery@ventura.org