

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 (831) 427-4863

Th5b

C.F.K.
 2/13/03



February 13, 2003

TO: Commissioners and Interested Persons

FROM: Charles Lester, District Director
 Diane Landry, District Manager
 Rick Hyman, Deputy Chief Planner
 Mike Watson, Coastal Planner

RECORD PACKET COPY

SUBJECT: **CITY OF CARMEL-BY-THE-SEA: LAND USE PLAN RE-SUBMITTAL (3rd)**. For public hearing and Commission action at its meeting of March 6, 2003 to be held in San Luis Obispo at the Embassy Suites Hotel, 333 Madonna Road, San Luis Obispo, CA 93405.

SYNOPSIS

DESCRIPTION OF THE SUBMITTAL This is the Executive Director's Staff Report and Recommendation on the City of Carmel-by-the-Sea Local Coastal Program (LCP) Land Use Plan (LUP). This is the third re-submittal of the Land Use Plan. The previous iterations were prepared in the early 1980's. The current submittal is an entirely new compilation of documents and policies developed over the last several years and consists of three main chapters and six appendices. It was submitted on December 20, 2001, but could not be filed due to a lack of some supporting documentation. Meanwhile Coastal staff worked with City staff on issues raised by the submittal. The City Council passed and submitted an amended version of the Plan on November 12, 2002. The standard of review for the land use plan is Chapter 3 of the California Coastal Act. The Commission opened the hearing on the Land Use Plan at its December 2002 meeting. After receiving public comment, the item was continued to allow City and Coastal staff an additional opportunity to resolve outstanding issues. The City has also forwarded a companion Coastal Implementation Plan that is not yet filed and will be considered at a later date.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission hold a public hearing and take the following actions for the City of Carmel-by-the-Sea Land Use Plan: First staff recommends Denial of the Land Use Plan as resubmitted. Then staff recommends approval if the re-submittal is modified. The City has six months to accept the modifications or the re-submittal stands denied.



California Coastal Commission

The recommendation for denial of the LUP is based on inconsistencies of the re-submittal with several Coastal Act policies: those requiring scenic and community character protection, providing for public access and recreation, protection of water quality, shoreline hazards, ESHA, and ensuring that development is commensurate with the level of public services (in this case, water) available.

The recommendation for Certification of the Land Use Plan contains Suggested Modifications to address each of the noted deficiencies as discussed below.

Meetings between Commission and City staff have resulted in minor changes to the recommended modifications of staff's November 21, 2002 report and the provisional acceptance by the City of all but four Suggested Modifications. The City has agreed to provisionally accept (pending formal City Council action) modifications 1-6, 9-27, 29-65, and 67-70. The City has not agreed to Modifications 7, 8, 28, and 66. The unresolved issue areas concern residential building intensity, site coverage, preferential parking, and water quality.

SUMMARY OF ISSUES

Community Character:

The proposed land use plan contains several policies designed to ensure that Carmel-by-the Sea's unique community character is retained. Over the years Carmel's community character has changed significantly, as the community has redeveloped. Through the permit review process, and this LCP review, the Commission has identified specific ways that the character is changing including increasing home size, increased tree removal, greater lot coverage, less compatible designs, and loss of potential historic structures. Although the proposed land use plan has several policies that address each of these elements of community character, they are somewhat general, non-directive, and in some cases permissive. If the Land Use Plan were approved as submitted, community character would not be protected.

Therefore, staff recommends that modifications be adopted to bring the LUP into conformance with Chapter 3 of the Coastal Act. These modifications in large part add a series of design objectives to the land use plan that are based primarily on the City of Carmel-by-the-Sea's own Designs Tradition document. While application of these modified policies will still leave considerable discretion to the City decision-makers on matters of scale, siting, and design, it will also better ensure that new development fits within the City's existing community character.

The Land Use Plan has a series of policies designed to protect Carmel-by-the-Sea's historical structures, which are a significant component of the City's overall community character. Generally, these policies define what is historic and limit the amount of alterations that could occur to these structures. However, the Land Use Plan is deficient in describing key components of the identification process and in ensuring that all identified resources are subject to the appropriate regulatory policies, thereby, not



assuring that all significant historical structures will be protected. Therefore, modifications are suggested with regard to the Historical Preservation Board, the Carmel Inventory of Historic Resources, the City's Historic Context Statement, the site inspection process, the California Register of Historic Resources criteria, and the development review process.

Public Access and Recreation:

The proposed Land Use Plan provides a good description of the various public access and recreational and visitor-serving opportunities available in Carmel. Carmel-by-the-Sea is a popular visitor destination with a spectacular white sandy beach, bluff-top pathway, vibrant downtown shopping area, numerous overnight accommodations, and picturesque streets and residences. In general, the Land Use Plan policies call for protecting these facilities, and access to them, as well as for new improvements. However, staff has identified three deficiencies with the policies that would have adverse implications for public access and visitor-serving facilities. First, the land use plan places significant restrictions on beach parking in the evening hours, thereby depriving visitors of a way to be able to conveniently access the beach. Second, the land use plan does not address proposed abandonment of a shoreline street that could provide public access. Finally, the land use plan does not address retention of lower cost visitor serving facilities. Therefore, staff is recommending modifications to increase hours of available parking, to fully mitigate street abandonments, and to retain lower cost visitor opportunities.

Hazards

The proposed land use plan generally addresses coastal hazard issues in conjunction with shoreline policies. This is appropriate because, for the most part, coastal hazard issues within Carmel are predominantly shoreline related (including preserving Carmel Beach and the shoreline environs consistent with the established character and aesthetic there). The policies propose a series of analytical studies to allow the City and the Commission to better understand the interplay of natural shoreline processes with the inland urban development, including the seawalls and revetments that cover much of the Carmel's back beach shoreline. Additional policies are proposed that are designed to describe the circumstances under which shoreline armoring is allowed and how to manage the overall shoreline area. The intent of the proposed policies is to preserve and enhance the Carmel Beach shoreline area to ensure that this public access jewel remains in place and retains its charm for current and future generations to enjoy.

The submitted LUP generally responds to Coastal Act hazard policies, but it isn't entirely consistent with the Act in each case. There is also a lack of clarity and some internal inconsistency within the proposed policies that could lead to confusion when the LUP is implemented in the future. Such confusion would be at the expense of the



coastal resources it is designed to protect. Therefore, staff is recommending modifications designed to clarify the contextual background, the range of information necessary to adequately understand Carmel Beach shoreline dynamics, the types of armoring projects that may be allowed in the future (and the types of measures necessary to ensure that they are consistent with the character of the beach area), and the measures necessary to preserve the beach area in a hazards context.

Public Works

The proposed land use plan generally adequately describes the City's public infrastructure and offers policies for its future improvements and maintenance. However, the City of Carmel-by-the-Sea is in an area with severely limited water supplies and the proposed policies do not adequately address this situation in a manner consistent with the Coastal Act. Therefore, staff is recommending modifications to protect coastal priority uses, ensure development applications are complete with regard to available water sources, and prohibit individual private water sources that are not publicly managed.

Other Issues

By and large the proposed Land Use Plan adequately addresses issues of archaeological resources, ESHA, and water quality protection. There are proposed policies for identification and preservation of archaeological sites and environmentally sensitive habitats. The City also commits to a number of actions to actively manage and improve its habitat areas. Similarly, there are proposed policies to address storm water runoff in a manner to prevent water pollution, ultimately of Carmel Bay. There are two omissions from having a comprehensive set of water quality policies regarding limiting site coverage and meeting the 85th percentile storm event. There are also a few updates that need to be made to the ESHA discussion. Therefore, staff is recommending modifications to add to the water quality policies and update the ESHA policies.

In terms of other Coastal Act topics, they are not relevant and thus not discussed in this report. The City of Carmel-by-the-Sea lacks any agricultural land, timberlands, boating facilities, dams, coastal-dependent industries, or major energy plants.

PUBLIC PARTICIPATION SUMMARY

The noted issues and others of more local concern were debated in many public forums. The City has provided a detailed summary of public participation available for review at the Commission offices. As described, the Land Use Plan is a compilation of and based on material from different documents. Many of these were subject to local hearings. The City Council, Planning Commission, and other City committees held at least a combined 140 public hearings on various aspects of the Plan.



ADDITIONAL INFORMATION

For further information on the Land Use Plan or the staff report, contact Mike Watson at (831) 427-4863. Correspondence should be sent to the Santa Cruz district office at 725 Front St., Ste. 300, Santa Cruz, CA 95060.

Staff Report Contents

	page
SYNOPSIS.....	1
I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS.....	5
II. SUGGESTED MODIFICATIONS	7
III. FINDINGS AND DECLARATIONS.....	22
A. Background: History of the Local Coastal Program.....	22
B. Community Character/Visual	23
1. Carmel’s Character	25
2. Historic Resources	33
3. Scenic Resources	38
4. Archaeology	38
C. Public Access and Recreation.....	39
1. Preferential Parking.....	46
2. Abandonment of Public Roads and Road Right-of-ways	51
3. Low-Cost Visitor-Serving Amenities	52
D. Hazards.....	53
E. Water Resources	58
F. Water Quality	63
G. Environmentally Sensitive Habitat	69
H. Development.....	72
I. California Environmental Quality Act (CEQA).....	73

I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. (Resolution to certify the Carmel-by-the Sea Land Use Plan as submitted)

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in denial of certification of the land use plan as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the appointed Commissioners.



Motion #1: *I move that the Commission certify the Land Use Plan for the City of Carmel-by-the-Sea Local Coastal Program as submitted.*

Resolution to Deny Certification: *The Commission hereby denies certification of the Land Use Plan of the City of Carmel-by-the-Sea Local Coastal Program for the reasons discussed below and because the City of Carmel-by-the-Sea Land Use Plan fails to meet the requirements of and does not conform to the policies of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; is not consistent with applicable decisions of the Commission which shall guide the local government in its future actions under Section 30625(c) of the Coastal Act; and does not meet the requirements of Sections 21080.5(d)(2)(i) of the California Environmental Quality Act, because there are feasible alternatives or mitigation measures available that would substantially lessen any significant adverse impact that the Land Use Plan may have on the environment.*

Resolution II. (Resolution to certify the City of Carmel-by-the-Sea Land Use Plan if modified)

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the Land Use Plan with the suggested modifications and adoption of the following resolution and findings. The motion to certify with the suggested modifications passes only upon an affirmative vote of a majority of the appointed Commissioners.

Motion #2: *I move that the Commission certify the Land Use Plan as submitted by the City of Carmel-by-the-Sea, if modified as suggested by the following modifications in this staff report.*

Resolution to Certify the Land Use Plan if Modified: *The Commission hereby certifies the Land Use Plan of the City of Carmel-by-the-Sea Local Coastal Program subject to the following modifications, and adopts the findings set forth below on the grounds that, if modified as suggested below, the Land Use Plan will meet the requirements of conformance with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act; the Land Use Plan will contain a specific access component as required by Section 30500(a) of the Coastal Act; the Land Use Plan will be consistent with applicable decisions of the Commission that shall guide local government actions pursuant to Section 30625(c); and certification of the Land Use Plan will meet the requirements of Section 21080.5(d)(2)(i) of the California Environmental Quality Act, as there would be no further feasible mitigation measures or feasible alternatives which could substantially lessen significant adverse impacts on the environment. The suggested modifications to the*



submittal are necessary to achieve the basic state goals set forth in Section 30001.5 of the Coastal Act.

The Commission finds that if the City of Carmel-by-the-Sea adopts and transmits its revisions to the Land Use Plan in conformity with the suggested modifications, then the Executive Director shall so notify the Commission.

II. SUGGESTED MODIFICATIONS

The Commission suggests that the following changes to the submitted City of Carmel-by-the-Sea Land Use Plan are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the Land Use Plan will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

COMMUNITY CHARACTER

- 1. Add the following new policy under the Residential Development Objective O9-3 on page 36.**

Each site shall contribute to neighborhood character including the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping. It is intended by this policy that diversity in architecture be encouraged while preserving the broader elements of community design that characterized the streetscape within each neighborhood.

Site improvements shall be compatible with, and sensitive to, the natural features and built environment of the site and of the surrounding area. Design solutions should relate to and take advantage of site topography, vegetation and slope. Designs shall recognize the limitations of the land and work with these limitations rather than ignoring them or trying to override them.

- 2. Add the following new policy under the Residential Development Objective O9-3 on page 36.**

Residential designs shall maintain Carmel's enduring principles of modesty and simplicity and preserve the City's tradition of simple homes set amidst a forest landscape. Buildings shall not present excess visual mass or bulk to public view or to adjoining properties. Buildings shall relate to a human scale in their forms, elements and in the detailing of doors, window, roofs, and walkways. Oversized design elements make structures appear dominating and monumental. This out-of-scale character represents a poor fit to the human form, vitiates the more intimate, rural charm and village character of Carmel-by-the-Sea and should be



avoided.

The design of structures shall be coordinated with open space to enhance the park-like environment of the City. Open space should be distributed around buildings to provide visual relief from structural bulk and a distinct separation from buildings on adjacent sites. Designs shall coordinate structural elements with landscaping to achieve a pleasing overall site design.

3. Add the following new policy under the Residential Development Objective O9-3 on page 36.

Prior to submittal of design plans for new development that will alter the building footprint, add a second story or involve excavation, a site plan shall be prepared by a qualified professional to document topography, drainage features, existing trees and structures, street edge, and existing conditions on adjacent properties. Using this site plan, the City's planning staff and City Forester shall prepare a preliminary site assessment that includes an evaluation of the design character, streetscape attributes, potential historic resources, and forest resources of the block and neighborhood as well as the resource constraints of the site. Submittal of a Forest Enhancement and Maintenance Plan shall be required from project applicants in response to the site assessment. The Plan shall address the impacts of the proposed development on the existing forest conditions of the site. Site Plan designs shall recognize the constraints of the land and work within these limitations. Minimize the extent of excavation and fill on a site to avoid adverse impacts on trees and to ensure that new development follows the natural contours of the site.

4. Add the following new policy under the Residential Development Objective O9-3 on page 36. Maintain and enhance the informal, vegetated, open space character of the City's right-of-way. Trees in the right-of-way shall not be removed to provide parking. With the exception of driveways, installation of new paving in the right-of-way by private property owners is prohibited.

5. Add the following new policy under the Residential Development Objective O9-3 on page 36. Prohibit the removal of significant trees (i.e., as determined by the City Forester) unless it would prevent a reasonable economic use of the site or pose a threat to health and safety. Locate buildings and other site structures to avoid removal and pruning and otherwise minimize damage to existing significant trees. Avoid impacts to trees by avoiding/minimizing impacts to the root protection zone identified by the City Forester during the preliminary site assessment. Establish continuity of landscape elements throughout each neighborhood. Replace trees removed for construction with appropriate trees of the urbanized forest. Require that they be nurtured until well established.

6. Add the following new policy under the Residential Development



Objective O9-3 on page 36. All demolitions, rebuilds, remodels, and substantial alterations shall be consistent with the following findings:

- The design uses simple/modest building forms and a limited number of roof planes, and a restrained employment of offsets and appendages consistent with the City's Design Objectives.
- Mass of the building relates to the context of other homes in the vicinity.
- The development is similar in size, scale, and form to buildings on the immediate block and neighborhood.
- The development does not require removal of any significant trees unless necessary to provide a viable economic use of the property or protect public health and safety. All buildings and structures will be setback a minimum of 6 feet from significant trees.

7. Add the following new policy under the Residential Development Objective O9-3 on page 36. Limit above grade floor area on single lots (i.e., 4,000 square feet) to a maximum of 1,600 square feet. Projects with less above grade square footage shall be preferred. Structural coverage shall not exceed 40% of the site. Total site coverage (structural and other impermeable coverage) on 4,000 square foot lots shall not exceed 50% of the site. Locate open space so that it visually links with adjacent properties.

8. Revise description of Land Use Designations for Single-Family Residential on page 29, LAST TWO SENTENCES; Above-ground building intensity in this area may not exceed 45 40 percent floor area ratio and all development requires at least 45 50 percent open space. Proportionately less floor area and greater open space are required on larger lots: greater than 4,000 square feet.

HISTORICAL PRESERVATION

9. Add the following new text to page 23, END OF 1ST PARAGRAPH; The Carmel Inventory of Historic Resources shall be updated on an ongoing basis as new resources are surveyed. Properties not yet surveyed shall be evaluated on a case-by-case basis as the need arises (e.g., including for all site assessments, etc.).

10. Add the following new policy under the Historic Preservation Objective O9-13 on page 44. All resources previously surveyed and evaluated by the City that meet the criteria established by the City's LCP shall as of the date of certification of the Carmel-by-the-Sea LCP, be deemed included in the Carmel Inventory of Historic Resources.

11. Revise policy P9-61 on page 44. Maintain an Historic Context Statement that documents the historic periods, themes, events, people, architects and builders who



have contributed to the cultural and developmental history of the City. Use the Historic Context Statement to identify, document and understand the importance of historic resources. Exclusion from this document shall not preclude a finding of significance for any resource. The Historic Context Statement shall be updated at least every five years. Updates shall be submitted to the California Coastal Commission as LCP amendments. ~~periodically to remain current~~ (See Appendix F: Historic Context Statement, Carmel-by-the-Sea, 1997).

12. Revise policy P9-62 on page 45. Apply California Register of Historical Resources (California Register) criteria¹ ~~as the framework~~ to identify and document all historic resources. Use the Historic Context Statement to interpret the California Register criteria in determining the significance of Carmel's historic resources.

13. Revise policy P9-63 on page 45. Establish procedures for the Historic Preservation Board to add historic resources to the Carmel Inventory based on recommendations from a qualified professional, as part of the City's ongoing survey process. To qualify for listing in the Carmel Inventory, historic resources shall meet at least one of the California Register criteria, shall be representative of at least one theme included in the Historic Context Statement and shall retain substantial integrity². Integrity (association, feeling, setting, location, design, materials and workmanship) shall be documented by comparing the existing condition of the resource with the original building plans or early photographs or other substantial evidence (e.g. literature review, architectural files, land records, Sanborn maps, etc.) and/or by physical inspection by a qualified historic preservation professional.

14. Revise policy P9-64 on page 45. To qualify for listing in the Carmel Inventory, an historic resource eligible under for the California Register under just criterion #3 only, ~~shall be required to meet a higher standard for integrity than is required for resources qualifying under criteria #1, #2 or #4,~~ and shall: (1) have been designed and/or constructed by an architect, design/builder or contractor whose work has contributed to the unique sense of time and place recognized as significant in the Historic Context Statement; (2) have been designed and/or constructed by. ~~The work of a previously unrecognized architect, design/builder or contractor may be found historically significant only when~~ if there is substantial, factual evidence that the architect, designer/builder or

¹ The California Register has four criteria for historic significance. These (1) are associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) are associated with the lives of persons important to local, California or national history; or (3) embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

² Integrity is based on why a property is significant. Ultimately, the question of integrity is answered by whether or not the property retains the identity for which it is significant. The steps in assessing integrity are (1) defining the physical features that must be present for a property to represent its significance, (2) determining whether these features are still visible enough to convey significance, (3) determining whether the property needs to be compared to other similar properties to understand its significance and (4) determine which aspects of integrity are vital if the property is to qualify as a resource (adapted from the National Register of Historic Resources, Bulletin #15).



contractor contributed to one or more of the historic contexts³ of the City to an extent consistent with other architects, design/builders or contractors identified within the Historic Context Statement; (3) be a good example of an architectural style or type of construction recognized as significant in the Historic Context Statement; or (4) display a rare style or type for which special consideration should be given. ~~All such determinations shall be made by the Planning Commission based on recommendations from the Historic Preservation Board.~~

15. Delete policy P9-66 on page 46. ~~Properties that fail to meet the above established criteria for inclusion in the Carmel Inventory shall not be treated as historic resources under this section or under provisions of the California Environmental Quality Act.~~

16. Revise policy P9-67 on page 46. Establish procedures for the ~~Planning Commission~~ Historic Preservation Board, based on recommendations from the ~~Historic Preservation Board~~ qualified professionals, to ~~add or remove~~ historic resources from the Carmel Inventory based on ~~incorrect substantial~~ incorrect evidence (e.g., incorrect evidence, invalid analysis, or loss of integrity of the identified historic resource). An historic resource listed on the Carmel Inventory shall be presumed historically significant and shall not be removed unless a ~~preponderance of the~~ substantial evidence demonstrates that it is not an historic resource.

17. Revise policy P9-70 on page 47. Use the Carmel Inventory to identify historic resources for purposes of required coastal development permit and California Environmental Quality Act (CEQA) review of proposed projects. Historic resources on the Carmel Inventory shall have a presumption of significance pursuant to CEQA § 21084.1 and shall be treated as historical resources under CEQA and the Carmel LCP. Failure to include a property on the Carmel Inventory shall not preclude a future determination that it qualifies as an historic resource based on new evidence.

18. Change policy P9-79 on page 48 to a Goal and revise as follows: Protect and enhance historic resources. Ensure that City ordinances, development review processes and administrative policies support, facilitate and coordinate with preservation activities.

19. Change policy P9-80 on page 48 to an Objective and revise as follows: Incorporate historic preservation principles into the City's project review processes. Avoid and minimize potential impacts on historic resources when developing and

³ An historic context is a body of information about historic properties organized by theme, place and time. A single historic context describes one or more important aspects of the development of an area relating to its history, architecture, archaeology and culture. A context may be based on one or a series of events, patterns of community development, or associations with the lives of a person or group of persons that influenced the destiny and character of a place or region (from National Register Bulletin #24). Currently there are five themes developed in Carmel's Historic Context Statement. They are: (1) Prehistory and Hispanic Settlement, (2) Economic Development, (3) Government, Civic and Social Institutions (4) Architectural Development in Carmel and (5) Development of Art and Culture.



enforcing land use, design review, zoning, building code, fire code, environmental review, and other City regulations.

20. Add new text to page 21 after the first full paragraph: When evaluating resources for potential historic value, the threshold of 50 years old is often used by historic resource professionals as a trigger that such a review is needed. The passing of fifty years provides sufficient time for evaluators to determine whether a particular resource may have become significant in a particular context. Of course, it is also important that decision makers have the discretion and ability based on the recommendation of a qualified professional to determine that resources less than 50 years old are historic, as sometimes a younger resource does rise to a level of historic significance. The Carmel LCP provides the appropriate policies and procedures to allow evaluation of potential historic resources, whether older than 50 years or not.

21. Revise policy P9-81 on page 48. ~~Implement~~ Use the Secretary of the Interior's Standards and Guidelines as the standard of review for development projects affecting historic resources. ~~The City shall retain qualified professionals to~~ Historic Preservation Board shall review proposed exterior changes to historic resources to determine whether they are consistent with the Secretary of Interior's Standards and Guidelines Standards.

22. Revise policy P9-82 on page 49. Prohibit the demolition of all historic resources and prohibit changes to historic resources that are inconsistent ~~conflict~~ with the Secretary of Interior's Standards and Guidelines unless it is determined through environmental review that ~~there are no feasible alternatives~~ alternatives consistent with the Secretary of Interior Standards are not feasible. When completing environmental review of any project affecting an historic resource, require exploration of one or more alternative designs that would be consistent with the Secretary of the Interior's Standards and Guidelines Standards.

23. Revise policy P9-83 on page 49. Apply the ~~Implement~~ Design review guidelines to ensure preservation, protection, enhancement, rehabilitation, reconstruction, and perpetuation of existing structures of historic significance in a manner consistent with the character of the village. Such criteria shall include, but not be limited to, architectural design, size, scale, height, site coverage, spatial relationships, window, dormers, appurtenances, proportion and placement of improvements on the parcel, and landscaping, including planting or removal of vegetation.

24. Add new policy under the Historic Preservation Goal G9-5 on page 44. Establish a Historic Preservation Board with powers and duties to administer the City's Historic Preservation Program. Establish requirements for Board members to demonstrate historic knowledge of Carmel, knowledge of history, architecture, archaeology, or past experience with preservation.

25. Add new Historic Preservation Goal on page 50. Provide incentives for property



owners to preserve and rehabilitate Historic Resources.

26. Add new policy to Implement new Historic Preservation Goal on page 50. Pursue and support the use of appropriate federal, state, local, and private grants, loans, tax credits, and tax relief. Develop or assist financial, technical, and legal assistance programs to encourage or assist with rehabilitation and maintenance. Participate in the State and Federal preservation process and programs. Make application to the State for becoming a Certified Local Government (CLG), which enables the City to receive technical training.

VISUAL/COMMUNITY CHARACTER

27. Add the following text to page 5, end of the second paragraph: The incorporated City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics.

PREFERENTIAL PARKING

28. Revise policy P9-134 on page 68. Provide convenient and free public beach parking from 5:00 a.m. to until ~~10:30 p.m.~~ 12:00 midnight daily. Parking outside of these hours along Scenic Road and at the Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

DEL MAR ROAD ABANDONMENT

29. Revise policy P9-101 on page 64. Improve-pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and the Del Mar Avenue parking lot. ~~as part of the Del Mar and North Dunes Master Plan.~~

29a. Add new policy under the Beach Access Objective O9-16 on page 63. Abandonment or transfer of any public roadway or real property lying between the first public road and the sea shall not occur without reserving the right of public access over such real property unless an alternate route is made available to the public granting equal or greater public access to the Pacific Ocean in the same immediate vicinity.

VISITOR-SERVING

30. Add the following new policy under the Visitor Accommodations and Recreation Services Objective O9-26 on page 70: Lower cost visitor and recreational facilities shall be protected and encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.



HAZARDS

31. Add Coastal Act Section 30253(1) and (2) into the list of relevant polices in the Coastal Resource Protection Section on page 75 of the LUP:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

32. Revise Coastal Resource Protection section background as follows:

- a) Pages 76-77: "Carmel, like..., appears to derive most of its sand..."
- b) Page 77, last paragraph: "If left unmanaged, the bluffs surrounding Carmel Bay would progressively erode from the impact of winter storm waves, and ~~from surface drainage, and other steady and episodic erosion processes.~~
- c) Pages 77-78: "Erosion of Carmel's bluffs is quite variable along the shoreline and is includes both steady erosion and episodic events."
- d) Pages 78, second paragraph: Change the reference to Figure 9.7a to Figure 9.6.a.

33. The "Seawalls and Retaining Walls" bullet on page 78 shall be changed as follows:

~~"...Thus far, it is unclear whether the accelerated loss of beach sand that is often associated with seawall construction does not appear to be is occurring along Carmel Beach. This may be due to the unique natural sand transport process that is characteristic of the Carmel shoreline or it may be due to the City's annual sand redistribution that artificially moves beach sand from the lower beach to the upper beach to cover revetments and to restore access at the foot of Ocean Avenue. One recent study indicates that the beach has actually been decreasing in width since 1949.⁴ Further long-term study of beach levels is warranted to provide the best management for Carmel's beach...."~~

34. Replace LUP Figure 9.6a on page 83 with SMP Figure 8, and rename it as LUP Figure 9.6a.

35. Change title and legend of LUP Figure 9.6b on page 83 to "Sand Redistribution Sites."

36. Revise Policy P9-158 on page 98 as follows: Obtain and maintain an accurate digitized map of the Carmel shoreline to develop the City's beach management and

⁴ A recent article in the International Journal of Marine Geology reported that the beach width at Carmel Beach has narrowed noticeably in the last 40 years (C.D. Storlazzi, M.E. Field / Marine Geology 170 (2000) 289 – 316).



maintenance policies. Analyze historic beach trends using aerial photo analysis and other available tools. Update topographic information at least every 5 years and analyze shoreline changes to facilitate early identification of erosion hot spots, sand sediment losses/gains, migration of engineered revetments, and other long-term impacts.

37. Revise Policy P9-159 on page 98 as follows: Place a series of permanent surveyed benchmarks inland of the bluffs running the length of Carmel Beach. The surveyed benchmarks shall be described in relation to National Geodetic Vertical Datum (NGVD) and identified through permanent markers, benchmarks, survey position, written description, reference numbers, et cetera to allow measurements to be taken at the same location in order to compare information between years.

38. Revise Policy P9-161 on page 98 as follows: Protect public access, Scenic Road, and the aesthetic character of the coast by maintaining existing seawalls and engineered revetments ~~and by installing new protective structures when warranted.~~ When any existing seawalls or revetments need to be replaced or substantially reconstructed, review seawall and revetment design alternatives, as well as other beach management strategies and determine the best balance among objectives for access, aesthetics and protection of coastal resources (biological, geological, and recreational). Protect the natural character and features of the Del Mar and North Dunes by prohibiting the construction of any new shoreline protective structures unless required ~~for public safety, access or habitat preservation to protect existing structures in danger of erosion.~~ For the beach and shoreline area ~~south of Eighth Avenue,~~ only consider the installation of new protective structures after careful review of alternatives and when ~~found to be warranted required to~~ for protection of existing structures in danger of erosion and access amenities facilities from erosion risks. Mitigate the impacts of shoreline protective structures on visual quality and beach dynamics using landscaping, sand management and prudent engineering.

39. Revise Policy P9-162 on page 99 as follows: Construct new shoreline armoring in areas previously unprotected only when required to protect existing structures in danger of erosion ~~or wave action~~ and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Require any approved structures to include native landscaping (screening), be visually compatible with existing seawall designs, address drainage, incorporate visual mitigation, sand coverage for revetments, and golden granite facing for seawalls.

40. Add two new policies following P9-162 on page 99 as follows: Modification of existing shoreline structures shall adhere to the same standards for establishing need, obtaining permits, as well as landscaping, visual impacts, drainage and design as new seawall projects.

Any project (including but not limited to repair, maintenance, expansion, modification, or replacement) involving the shoreline armoring structure that extends along the Carmel



Beach bluff southeast from the mouth of Pescadero Creek shall require the facade to use materials that are complementary to shoreline armoring structures located along the Carmel Beach bluff south of 8th Avenue.

41. Revise Policy P9-165 on page 99 as follows: Evaluate the storm-water outfall system for purposes of reducing impacts to the beach environment. Consider options to modify and/or remove outfalls from the beach and replace or retrofit storm drains with filters or treatment devices to reduce impacts on the shoreline environment.

42. Revise Policy P9-167 on page 99 as follows: Prohibit any construction of substantial or permanent structures on the beach or within Carmel Bay except where required to protect existing structures in danger from erosion. Require design review for any structure proposed and minimize conflict with the scenic and aesthetic character of the shoreline environs through such review.

43. Revise Policy P9-169 on page 100 as follows: Prohibit the placement of loose rock on the beach except where such rock is placed as part of a revetment allowed to protect an existing structure in danger from erosion. When any part of a rock revetment migrates from an engineered structure reposition it to maintain engineering stability or remove it from the beach.

44. Revise Policy P9-170 on page 100 as follows: Protect the flat area/tidal zone of the beach for recreational use and to the extent feasible, avoid shoreline protective structures that reduce the amount of beach area available for public recreation.

45. Add new policy following P9-170 on page 100 as follows: Evaluate the potential to replace existing revetments with faced vertical seawalls or seawalls designed to mimic the natural bluff face, to reduce sandy beach area coverage and the need for sand bulldozing. All replacement structures must be found compatible with the area's aesthetic qualities. Recognize that physiographic conditions may dictate a better alternative (e.g., when a specific area of the beach is more susceptible to reflected wave energy and consequent accelerated scour).

46. Revise Objective O9-29 on page 100 as follows: Explore alternatives ~~for~~ to maintaining the sand elevation at the foot of Ocean Avenue to ~~facilitate~~ ensure public access and to ~~C~~cover with sand all exposed engineered revetments along the length of Carmel Beach.

47. Revise Policy P9-171 on page 100 as follows: Each spring inspect the volume of sand at locations along the backshore and determine if it is appropriate and timely to reestablish the sand to a higher elevation. The use of heavy equipment is authorized for redistributing beach sand to rebuild the dunes and cover revetments. Minimize ~~impacts on~~ beach encroachment and impacts on public access and protect public safety during this process.



48. Revise Policy P9-173 on page 101 as follows: After each ~~ten-five~~ -year period of monitoring beach sand elevations (beginning at ~~2005~~ 2010 after data from 2003, 2005, and 2010 are available), review all available data and make preliminary determinations regarding the effects of seawall structures and sand redistribution activities. If the results of the City's beach monitoring program indicate that the beach has been losing sand over time warranted, investigate options for beach nourishment using offshore deposits or other sources that match Carmel Beach sand to replenish the beach and protect its width. The beach nourishment program shall at a minimum: 1) identify potential sources of beach quality sand; 2) include testing and screening for determining the acceptable quality and quantity of beach material; 3) identify placement locations; 4) establish placement methods and any restrictions on work timing or methods.

49. Revise Policy P9-174 on page 101 as follows: Maintain Carmel Beach as a public recreational resource. If the results of the City's beach monitoring program ~~conclude~~ indicate that the beach has been losing sand over time, develop, implement, and then further monitor and evaluate a beach nourishment program to maintain or increase the available volume of sand.

50. Revise Policy P9-176 on page 101 as follows: Where unavoidable, Mitigate or minimize and mitigate all impacts to both marine and terrestrial resources when performing sand redistribution.

51. Delete Appendix B, the Shoreline Management Plan, from LUP.

52. Add new heading and policy on page 97 as follows:

Hazards Prevention

New development shall minimize risks to life and property, assure stability and structural integrity over the life of the development, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

WATER POLICIES

53. Delete policy P9-36 on page 40: ~~Maintain priorities for water allocations based on the General Plan/Coastal Plan. Give highest consideration to residential uses, including residential lots of records, and to Municipal projects that serve the broader community over other types of uses in the event water supplies are too limited to serve all forms of potential development.~~

54. Replace policy P9-36 with new policy on page 40: Where existing public services including water can accommodate only a limited amount of new development, priority uses, including essential public services, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by services to other



development.

55. Revise policy P9-43 on page 41: Establish priorities for ongoing water use in the event that further reduction of water consumption is required (e.g. during droughts or State-ordered cutbacks). ~~Give highest priority to residential uses and essential services.~~

56. Delete policy P9-42 on page 41: ~~Analyze the potential not increase in water demand that may be generated by any proposed change and/or intensification in land use. Prohibit the approval of any development application if water for the proposed type of project is unavailable within the allocation.~~

57. Add new policy under the Water Resources Objective 09-7 on page 41: Applications for new development shall demonstrate an adequate public (i.e., publicly-managed) water supply (e.g., the Cal-Am / MPWMD system or their successor agencies) to support the proposed development. Private water supplies are prohibited to serve existing and new development.

Applications for new development shall not be filed without a City determination that (1) no new water is required to serve the new development; or (2) there is water available in the City's allocation from the regional supply to support the new development. This determination shall include an evaluation of the proposed development's water demand, based on MPWMD's water unit value system (or equivalent regional system in effect at the time of the determination). All water transfers and corresponding retirements, if any, shall be described and agreed to prior to any City determination.

Prior to the commencement of construction of new development, evidence of water service, in the form of a water use permit from the Monterey Peninsula Water Management District (or successor agency), shall be provided to the City Planning Department.

58. Add new policy under the Water Resources Objective 09-7 on page 41: Prohibit private and public desalination facilities within the City limits.

59. Revise policy P9-40 on page 41: Use appropriate vegetation for all public right-of-ways. Require drought-tolerant plants for at least 75% of the commercial and residential landscaping on each development site. ~~Encourage~~ Require the use of native plants and/or non-invasive drought-tolerant plants adapted to the Central Coast environment in all landscapes plans for new development.

WATER QUALITY

60. Revise Policy P9-348 on page 125. Provide development guidelines and permit conditions ~~which that:~~ limit impervious surfaces and the connection of multiple impervious surfaces; implement simple infiltration techniques throughout drainage areas to efficiently manage storm water; infiltrate runoff into the soil, retain runoff for



slower release and convey runoff slowly through vegetation. ; employ treatment controls to capture and treat the polluted runoff before it enters the city's storm drain system or receiving waters; design structural BMPs in compliance with the NPDES Phase II permit.

61. Replace Policy P9-352 on page 126. All development shall incorporate structural and non-structural Best Management Practices (BMPs). BMPs are methods for controlling, preventing, reducing, or removing typical runoff pollutants. BMPs generally fall into two categories: source control BMPs and treatment BMPs. Source control BMPs are designed to reduce or eliminate the introduction of pollutants into runoff (e.g., regular sweeping/vacuuming of vehicle parking areas). Treatment BMPs are designed to remove pollutants from runoff (e.g., silt fences to trap sediments at construction sites). In order of priority, all development shall: first, limit impervious surfacing and pollutant loading through good site planning; second, reduce pollutant loads through source control; and third, reduce pollutant loads through treatment controls (where appropriate).

Development shall not result in the degradation of coastal waters caused by the introduction of pollutants, or by changes to the landscape that adversely impact the quality, quantity and flow dynamics of coastal waters. Runoff shall not be discharged in a manner that adversely impacts coastal waters.

62. Add new policy under the Water Quality Objective O9-73 on page 126. BMPs shall be incorporated into the project design in the following progression:

- Site Design BMPs (any project design feature that reduces the generation of pollutants or reduces the alteration of the natural drainage features, such as minimizing impervious surfaces or minimizing grading);
- Source Control BMPs (practices that prevent release of pollutants into areas where they may be carried by runoff, such as covering work areas and trash receptacles, practicing good housekeeping, and minimizing use of irrigation and garden chemicals);
- Treatment Control BMPs (a system designed to remove pollutants from runoff including the use of gravity settling, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process).

Site design and source control BMPs shall be included in all new developments. Where the development poses a threat to water quality due to its size, type of land use or proximity to coastal waters (or proximity to a creek, channel or storm drain system that leads to coastal waters) and the combination of site design and source control BMPs is not sufficient to protect water quality as required by P9-352, treatment control BMPs shall be implemented.



63. Add new policy under the Water Quality Objective O9-73 on page 126. The City shall include a procedure in the Implementation Plan for reviewing all development for impacts to water quality. This procedure shall include:

- A checklist or equivalent tool to help in the review of Coastal Development Permits for potential impacts to water quality. Such a checklist shall, at a minimum, include questions about the management practices proposed to reduce the impact of polluted runoff, area of impervious surface to be created, uses of the development that might generate polluted runoff and proximity of the development to coastal waters, drainage ways that lead to coastal waters or sensitive coastal resources.
- Criteria for determining whether a treatment control BMP will be required (criteria shall include, but are not limited to type of land use, size and type of development, proximity to coastal waters, drainage ways that lead to coastal waters, sensitive coastal resources, etc.).

This review procedure shall identify the potential water quality impacts from the development, and prescribe appropriate site design, source control or treatment control BMPs necessary to address those impacts.

64. Add new policy under the Water Quality Objective O9-73 on page 126. The Implementation Plan shall include a manual of BMPs to guide project design and engineering for development within the Coastal Zone. The City shall either develop the manual or identify an existing BMP manual (e.g., the latest version of the California Stormwater BMP Handbook). BMPs shall be selected to mitigate both construction and post-construction water quality impacts. The manual shall describe specific BMPs, including type, location, size, implementation and maintenance schedules. The manual shall describe the appropriate use of those BMPs to remove specific classes of pollutants. The manual will also provide guidance on how to size treatment control BMPs to meet the Numeric Design Standard.

65. Revise Policy P9-356 on page 126. ~~Post-construction structural BMP's should be designed to treat, infiltrate, or and filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMP's and/or the 85th percentile 1-hour storm event for flow-based BMP's, per the requirements of the City's NPDES permit.~~

Where post-construction treatment controls are required, the BMPs (or suites of BMPs) shall be designed to infiltrate and/or treat the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The term treatment includes physical, biological and chemical processes such as filtration, the use of bioswales, detention



and retention ponds and adsorption media. The actual type of treatment should be suited to the pollutants generated by the development as indicated in the BMP Manual.

66. Add new Policy on page 126. Under limited circumstances, where the implementation of a treatment control BMP would typically be required to reduce the impacts of a development on water quality, the City may determine that requiring this structural BMP to be sized to the Numeric Design Standard (P9-356) is not feasible. In these cases, the applicant may propose an alternative suite of site design, source control and treatment control BMPs which provide, at a minimum, equivalent protection to that provided by a standard suite of site design, source control and treatment control BMP meeting the Numeric Design Standard

The Implementation Plan shall include a procedure to determine when it would not be feasible to apply the required treatment control BMP(s) designed to meet the Numeric Design Standard and for evaluating whether alternative measures provide equivalent water quality protection. Coastal Development Permit applications that use this alternative shall provide complete explanation of how the proposed project will provide equivalent protection for water quality.

ESHA

67. Revise cited policies P9-218 , P9-220 in Appendix D Forest Management Plan to be consistent with policy P9-218 in the Coastal Resources chapter as follows:

P9-218 Permit the ~~Forest, Parks and Beach Director~~ City Forester to act on requests for the removal and pruning of all trees growing on public and private property.

P9-220 Permit the ~~Forest, Parks and Beach Director~~ City Forester to apply special procedures for tree removal and pruning during emergencies.

68. Delete Municipal Code Reference from the Forest Management Plan Appendix D:

~~A. Municipal Code*~~

~~*: Note these citations to the Municipal Code are illustrative of the Code in effect prior to certification of the Coastal Implementation Plan by the Coastal Commission. Please consult the certified portions of the Municipal Code for the current regulations.~~

69. Re-insert the following Wetland and Riparian Habitat objective into the Mission Trails Nature Preserve Master Plan: Encourage/allow the channelized ditch to revert to a more natural channel in order to enhance the Park's wetlands (riparian forest, wet meadow) and natural character.

70. Revise the Stewardship Program statement on page 10 of the Mission Trails Nature Preserve Master Plan as follows: The ESHA boundaries could not be



extended beyond the Preserve boundaries to include adjacent private land. Habitats do not follow man made area designations.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background: History of the Local Coastal Program

The City of Carmel-by-the-Sea is located on the Monterey Peninsula and is entirely within the Coastal Zone. It is relatively small (1 square mile approximately) and has a population of roughly 4,081. Against a backdrop of Monterey pine forest, the City fronts Carmel Bay and the world-renown white sandy beach running along its entire, approximate one and one-half mile length. The City is also renowned for the character of its unique early-mid 1900's cottages and architecture.

Carmel first commenced work on its local coastal program in 1978. The first land use plan was submitted in early 1980 and denied by the Regional Coastal Commission on April 14, 1980. The City Council revised the Land Use Plan and resubmitted it on November 26, 1980 with amendments on January 5 and February 2, 1981. The Coastal Commission certified the LUP as submitted in part and denied then certified with suggested modifications in part (private Beachfront area), on April 1, 1981. Again, the City chose not to accept the modifications and to resubmit a new Land Use Plan. This second resubmitted plan was denied and certified with suggested modifications regarding demolitions and historic buildings on April 27, 1984. The City did not accept the suggested modifications. There was a hiatus in work on the local coastal program until 1988 when a new draft was only partially completed, then sidetracked. In the 1990s several documents were prepared on specific topics that have been incorporated as Land Use Plan appendices. Work on the text of the three Land Use Plan chapters recommenced in 2000, in part funded by a Coastal Commission grant. These three chapters are based largely on the City's General Plan, which had been amended over the years. The resulting third re-submittal, consisting of an introduction, the three chapters, and six appendices, is quite different from its early 1980 predecessors.

The document was delivered to the Coastal Commission on December 20, 2001, but could not be filed because not all of the required supporting information was received. In the intervening period City and Commission staff worked closely on modifications to the City submittal. Staff also met with members of the public and participated in two public forums regarding the LCP that were sponsored by the Carmel Preservation Foundation and Carmel Resident's Association. On November 12, 2002 the City Council amended its submittal to incorporate numerous mutually agreed-upon modifications. This amended land use plan re-submittal was filed on November 15, 2002. The City has also resubmitted a Coastal Implementation Plan that is still pending.



The standard of review of the land use plan is Chapter 3 of the California Coastal Act. The following findings analyze the re-submittal with respect to its conformance with Coastal Act policies and discusses suggested modifications to bring the LUP into conformance with Chapter 3.

B. Community Character/Visual Coastal Act Provisions

One of the primary objectives of the Coastal Act is the protection of scenic and visual resources, particularly as viewed from public places. Section 30251 requires that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Another Coastal Act objective is to protect the character of special communities. Section 30253(5) states:

New development shall...(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Introduction/Background

It is often stated that Carmel, along with such other distinct communities as the town of Mendocino, is one of the special communities for which Coastal Act section 30253(5) was written. Carmel is a very popular visitor destination, known as much for the style, scale, and rich history of its residential, commercial, and civic architecture, as for its renowned shopping area, forest canopy and white sand beach. As a primarily residential community, the established pattern of development in Carmel plays a key role in defining the special character of the City, as various architectural styles reflect the historical influences that have existed over time. Carmel is distinctly recognized for



its small well-crafted cottages, informal streetscapes, architectural diversity, and forested landscape. These modest residences are associated with the era in which Carmel was known for its resident artists and writers, and functioned as a retreat for university professors and other notables. Homes were nestled into the native Monterey pine/Coast live oak forest, on a grid of streets that yielded to trees more than to engineering expediency.

Early development was greatly influenced by the Arts and Crafts movement, which stressed the use of simple designs and natural materials—quite unlike the extravagantly detailed architecture of the earlier Victorian period. Several European Revival styles became popular in the 1920's and 1930's. The introduction of more modern styles followed post-WWII. Many of Carmel-by-the-Sea's homes exhibit fine craftsmanship. Local builders often embellished their work with detailing and individual style creating a unique and appealing building design. Underlying this architectural diversity, are environmental influences (i.e., trees, topography, exposure to sunlight) and patterns of scale and form that consistently reappear to establish Carmel's character. But perhaps the most basic tenet of Carmel's small-scale character stems from the original 40 x 100 subdivision pattern established by the City's founders Devendorf and Powers.

Traditionally, most buildings in Carmel had simple forms and were small in scale relative to the size of their lots and natural surroundings. As reported in the City's Design Traditions project on the standard 4,000 square foot lot homes were small, one to one and one-half stories, and ranged between 800 square feet to 1,500 square feet on average. There were larger homes constructed as well, though the pattern was one of small homes on small lots and larger homes on building sites composed of several lots. Growth in the tourism industry and an increase in the popularity of the automobile led to an early development spike in Carmel's history. By the end of the 1930's much of the character of Carmel had been established both in the context of its built and natural environment.

The Design Traditions Project summarizes some of the features of character in the following manner:



TABLE 1

Subdivision Pattern	A grid of 40' x 100' lots running east-west with 20 lots per block.
Architecture	Variety of homes in several styles including Craftsman, Cotswold, Tudor Revival, European Revival styles (e.g., English, Spanish, Italian), Modern, Prairie, Post-war Ranch and Bay Area Traditions.
Size	A diversity of smaller houses on standard lots (e.g., 4,000 s.f.) ranging on average between 800 and 1,500 sq ft intermixed with larger homes on larger building sites.
Scale	Small relative to lot size and natural environment.
Height	Often one or one and one-half stories. .
Setbacks	Generous setbacks often exceeding minimum allowance. Average side-yard setback of 10 feet and average front yard setback ranged between 20 and 25 feet.
Streetscape	Informal meandering roads, unimproved rights-of-way often supporting trees and other vegetation.
Natural Environment	Monterey pine and Coast live oak dominated forest.
Land Use	Primarily residential with a strong commercial core, several public parks including 22 acre white sand beach.

This is the context for Carmel's traditional community life and its established unique community character.

1. Carmel's Character

Consistency with the Coastal Act

There are many components that together make up Carmel's community character today, including the assortment of small eclectic cottages built in the early 20th century. The City's coastal setting, forested landscape, and white sand beach are examples of universally recognized elements of Carmel's character. Other important elements of character include the informal streetscapes, small well-built cottages many of which are historic homes, and the visual quality established by the diversity of architecture and integration of homes into the natural environment. Although there is a broad range of architectural styles in Carmel, most have some features in common, including simplicity of form, modest scale, use of natural materials, and generous provision of open space.



In recent years, the issue of protecting Carmel's community character has come to the forefront of Commission concern because: 1) the special character of this residential coastal community is considered a unique asset of statewide and national significance, and 2) the volume of requests for coastal development permits that potentially affect community character has been substantial. According to the Commission's permit tracking database, approximately 170 projects involving demolition received coastal development permit authorization in Carmel since 1973. Of those, 23 CDP's were issued before 1990. Since 1990, roughly 13 residentially related demolition project applications per year were received; nearly all of these were approved. Other than the three-year recessionary period from 1992 – 1994 when just 13 applications were received, the number of development proposals in Carmel rose fairly steadily until 2000. However, in the year 2000 alone, the Commission received 44 applications. Of these 44 applications, 33 involved some form of demolition, rebuilding and/or substantial alteration of residential structures. In 2001, 24 applications were received; 16 of these involved residential demolitions/alterations. In 2002, 17 applications were received; 12 of these involve residential demolitions/alterations. Clearly the trend for demolition/rebuild/substantial remodel has been magnified in recent years as demand for Carmel properties has outstripped the limited supply represented by the approximately 3,200 parcels within the boundaries of this small town. As this trend continued, questions have been increasingly raised about whether the redevelopment of Carmel is leading to significant adverse changes to the unique character of Carmel and to the loss of historic resources that contribute to this character.

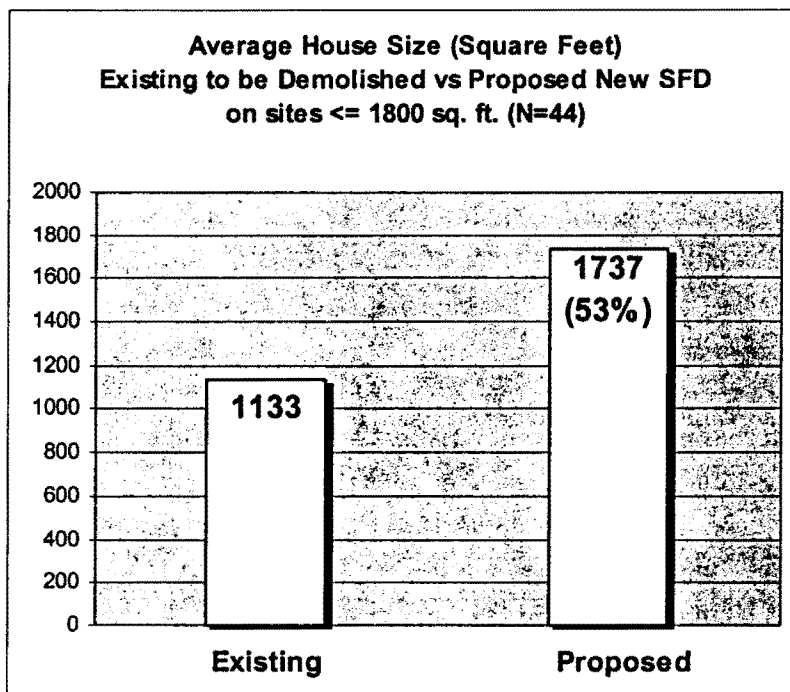
Coastal Commission Staff recently evaluated a sample of proposed demolitions and remodels on 4,000 square foot lots (44 projects), which revealed that the average size of the existing homes to be demolished was approximately 1,135 square feet, whereas the replacement structures approved were just under 1,740 square feet on average – a 53% average increase in size (See Figure 1)⁵. Staff also found that nearly 60% of the residential demolition and rebuilds involved the replacement of a one-story structure with a two-story structure. This data analysis is consistent with the results of the City of Carmel's own Design Traditions project released in October 1997. As discussed previously, the Design Traditions project found that the established pattern of development was of larger homes on larger lots and smaller homes on small lots. Given the common sized 4,000 square foot parcel, on average houses ranged in size between 800 and 1,500 square feet. That project also evaluated the recent development trends in the City from January 1990 to May 1997 and found that 1,192 building permits were issued for development in the residential district during that time. This represents roughly 180 permits per year. Of those 1,192 building permits issued, only 242 (20%)

⁵ The forty-four projects analyzed are: 3-95-047-DM, 3-97-022-DM, 3-97-045-DM, 3-98-006-DM, 3-98-024-DM, 3-98-033-DM, 3-98-053-DM, 3-98-082-DM, 3-99-005-DM, 3-99-012-DM, 3-99-046-DM, 3-99-072-DM, 3-99-074, 3-99-088, 3-00-011, 3-00-028, 3-00-082, 3-00-084, 3-00-085, 3-00-086, 3-00-091, 3-00-095, 3-00-101, 3-00-104, 3-00-107, 3-00-115, 3-00-120-W, 3-00-122, 3-00-128, 3-00-135, 3-00-136, 3-00-143, 3-00-145, 3-00-146-DM, 3-01-006, 3-01-025, 3-01-048, 3-01-065, 3-01-078, 3-02-005, 3-02-008, 3-02-019, 3-02-032, 3-02-059, 3-02-081.



required a public hearing, the remainder received design review through a staff administered process. Of those 242 receiving design review public hearings, 128 involved substantial alterations, 49 involved demolitions with a single replacement home, 14 involved demolition with two or more replacement homes, and 39 involved new construction on vacant lots. The vast majority of those projects other than substantial alteration were for new two-story homes. Eighty-eight percent or 90 out of 102 new homes were two-story.

Figure 1. Carmel, Changes in House Size



Since mid-1997, the City has continued to experience unprecedented development activity during one of the most prolific economic expansions in modern times. Commission Staff evaluated building permits issued by the City during one 18 month period at the height of the boom (i.e., 9/2000 – 2/2002) and discovered that more than 80 substantial alterations and remodel permits were issued; 55 of those involved development in excess of \$50,000. Though not technically considered demolitions (according to the City’s current definition), these types of construction activities have significantly altered the character of existing structures and neighborhoods, but have been generally excluded from the coastal development permit review process. Please see Figure 2.



Figure 2: Development Activity: 1974 - 2001

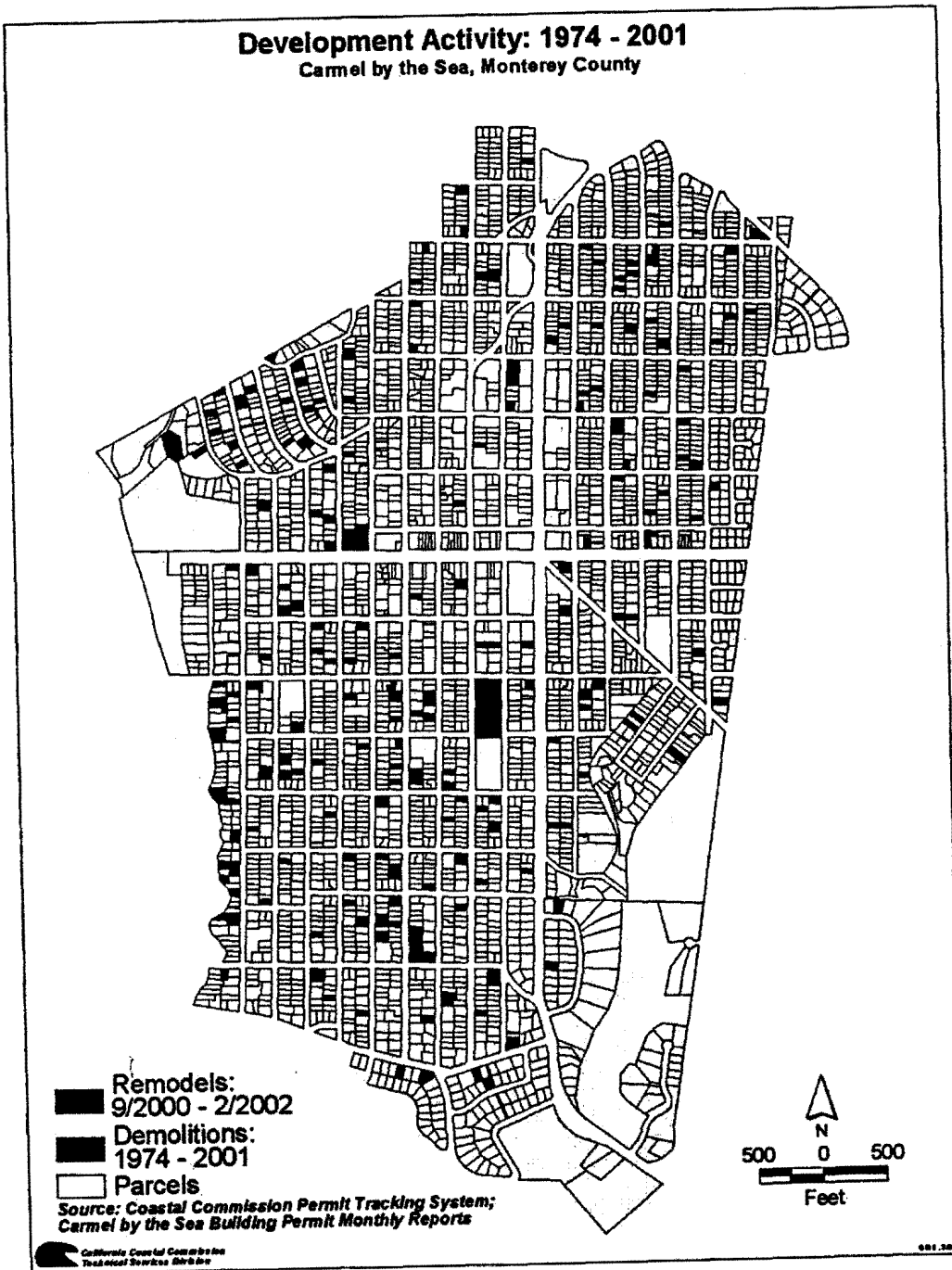


Figure 2 illustrates the scope and magnitude of the development activity occurring in Carmel. Of the approximately 170 demolition permits issued by the Commission, only 128 are represented on the figure. Additionally, as noted above, the data from the City building permits monthly reports are from one 18-month period. Overall, this information



shows that a significant number of smaller cottages have been demolished or altered or remodeled in a relatively short period of time. The replacement homes and substantial remodels are, on average, resulting in larger floor area, mass, and site coverage. In addition, the streetscapes and spatial relationships are changing, the forest prominence as a defining character element is declining, open space is disappearing, and more traditional architectural styles are being supplanted by modern eclecticism. There are also as yet unmeasured impacts on the watershed functions of the forest including absorption and conveyance of storm water and filtration of pollutants. Considering the trend of demolition, substantial alteration, and remodel activity over the past 10 years, it is evident that this development activity is having a significant cumulative impact on the unique character of Carmel.

In addition to the Commission's experience with permitting new development, the loss of Carmel's character was also identified in local public workshops as one of the primary concerns affecting the community at this time. As a result, the City dedicated the first chapter of the LUP to addressing the issue of community character and its many components.

Much of the background text in the submitted LUP document (pp. 7 –13) is dedicated to describing the natural setting, subdivision patterns, layout of public roads, arrival of Bohemians, and early architectural influences. It generally describes the turn-of-the-century cottages as simple, modest homes set amidst a forest landscape interspersed with larger homes similarly scaled and nestled in the forest on larger building sites. Recognizing that some amount of development or re-development of these houses is appropriate and necessary, the LUP maps a two-prong strategy for dealing with homes that are historic resources and homes that are not historic (i.e., character resources). The submitted LUP allows for new development and/or re-development of non-historic homes as long as it is consistent with the City's Residential Design Guidelines and the established character of the block and neighborhood. On page 22 of the Land Use Plan it states:

The City implements conservation of its character through its Design Guidelines for the residential district, the commercial district, and for the public way. The overall character of the City can be conserved through appropriate polices related to the urbanized forest, roadway design and building design.

The policies, goals, and objectives, directing development and re-development of Carmel's aging stock of residential homes are stated on pages 35 and part of page 36 of the re-submitted Land Use Plan. The first 12 policies of the submitted LUP are dedicated to maintaining and protecting the existing land use and subdivision patterns in the residential and commercial districts. The next 10 policies provide guidance for future development and re-development in the R-1 (residential) district. However, because much of the City's planning effort was implementation oriented, there is insufficient policy direction contained in the LUP. Thus, in order to find the LUP wholly consistent with section 30253 of the Coastal Act, additional policies are needed to



identify and protect community character.

The City's Residential Design Guidelines, which have also been submitted as part of the Implementation Plan, capture the important aspects of Carmel's character. Policies and recommendations were developed to preserve and maintain those qualities. One way to ensure that the conservation of character resources will be achieved consistent with section 30253 of the Coastal Act is to capture the essence of the policies and recommendations taken from the Guidelines and place them into the Land Use Plan. The City's Residential Design Guidelines more specifically address the treatment of size, massing, coverage, open space, streetscapes, and the forest landscape than the City's LUP submittal. Primary consideration is given to compatibility with the design traditions of Carmel, maintaining the urban forest character, promoting buildings that are in scale with that context, while encouraging diversity in design. The Commission recommends that the LUP be modified to incorporate various Residential Design Guidelines, while still allowing for diversity through design review. (See modifications 1 – 8).

Similarly, the submitted LUP identifies policies to guide future development and redevelopment of the City's commercial district. Part of page 36 and all of page 37 are dedicated to policies that preserve existing land use patterns, protect the unique character of Ocean Avenue, and retain the scale and variety of design established in the retail core, while also preserving and allowing for rehabilitation of the commercial district's historic architecture. LUP policy P9-25 specifically requires that the scale, ambience, and unique character of Ocean Avenue and the surrounding commercial core be protected and maintained. This is particularly important since a large portion of the commercial district was identified as a potential candidate for a historic district, during the City's 2001 historic resources reconnaissance survey. The commercial core (particularly Ocean Avenue) may be the most recognizable area in Carmel as it offers visitors their first glimpse of the village as they make their way down the hill from Highway 1.

The Commission received comment from the public concerned that recent changes to the City's ordinances may be leading to an increase in building intensity and a loss of character. Recent changes to the City's Commercial District ordinance increase the allowable building intensity from 80 – 100% floor area ratio (1 and 2 story respectively) to 95 – 135% floor area ratio. It also provides another 15% floor area bonus and 35% density bonus for affordable or senior housing and for special design amenities. Though the ordinance change could lead to an increase in density in some areas of the commercial core, currently much of the commercial area development already exceeds the old standards and is non-conforming. Quite a number of commercial buildings that line Ocean Avenue and elsewhere in the commercial district are already two-story and built out to the property lines. Thus, the increased floor area and density standards will likely only have the effect of making these buildings conforming. In addition, development or re-development of any commercial structures that are proven to be historic resources would need to be consistent with the Secretary of Interior Standards



(SOI). (See discussion of Historic Resources in Section 1 below). The SOI standards require, among other things, that spatial relationships be maintained. For example, a request to add a second-story element to an existing structure on a block where there are only a few remaining examples of single-story structures would not be appropriate or consistent with the LUP policies protecting the character of the commercial district. Thus, it appears that the recent changes to the commercial district ordinance will not have a deleterious effect or lead to a wholesale transformation of the commercial district, as there are adequate protections to preserve the commercial core's character.

Other aspects of character not addressed by the re-submitted LUP are the standards for floor area ratio and site coverage (pages 29–30). The increase in floor area allowed by the City's current zoning standards has slowly been eroding the small-scale aspect of character, as the City's older housing stock is demolished to make way for new development that is larger in size and scale. As noted in the background section above, the established development pattern is one of small homes on small lots and larger homes on larger lots resulting in a diverse range of home sizes. According to the GIS data provided with the LUP submittal, more than half of the total number of developed lots are 4,000 square feet. As discussed, the City's own Design Traditions Project has demonstrated these lots are developed with homes that range between 800 and 1,500 square feet. The Commission's experience with redevelopment projects is that smaller houses (~1,135 sq. ft.) are being replaced with larger houses. Furthermore, it has been shown that as redevelopment occurs, this variety of small homes is being replaced almost entirely with 1,800 square foot homes –the maximum currently allowed by the City. The diversity in small homes on small lots is being replaced by much larger homes all of the same size on the small lots. On average, based on the Commission's recent experience, the replacement homes are 50% larger than existing; some even larger. Total site coverage (structural and non-structural) commonly doubles when the lot redevelops, though there have been cases where site coverage has decreased. In most instances, massing is much greater as the typical single-story cottage is replaced by a two-story home. The buffer between adjacent homes is reduced. Front yard and rear yard setbacks are reduced. And there are immediate and long-term effects on the City's forest resources and water quality. In the short-run, trees are being removed to support larger development on the constrained sites. In a two-year period between 1999 and 2001, the City removed 262 Monterey pines, 179 that were infected with Pitch canker disease. Another 83 healthy trees were also removed. Long-term, the overall health of the forest may be declining due to impacts from construction to the root structure and diminishing open land available for absorption of water and natural regeneration. In addition to changing the character of Carmel, the increase in hardscape surfaces accelerates runoff and covers land previously available for absorption and filtration of storm water, contributing to an increase in polluted runoff and sedimentation of public waterways (see finding below). But, perhaps the biggest loss in character is to the sense of a cottage nestled in the forest. This is, after all, the essence of Carmel's character that is so widely cited.



One option to address this, is to limit the above grade building intensity to a maximum of 40% (i.e., 1,600 square feet on 4,000 square foot lots) in the R-1 zone with structural coverage limited to 40% of the site. Other site coverage (i.e., non-structural) would remain at 10% for a 4,000 square foot lot. Four thousand square feet is the standard size parcel as originally subdivided and the minimum allowable size lot for a single-family residence. Another option would be to place an upper limit on additional floor area (e.g., $\leq 10\%$ over existing) when a cottage redevelops as a means to maintain the relative scale and character of the site and preserve diversity in home size while allowing for some limited redevelopment. This may not allow enough floor area though, to accommodate modern expectations, particularly for larger families –a concern recently expressed by the City. The proposed 1,600 square foot above grade limit allows for a reasonable amount of re-development (roughly one-third greater than the average established size of existing small cottages) without the significant adverse impacts described above. Furthermore, it only represents about an 11% reduction in the City's current floor area standard. There is also a precedent for limiting floor area to 1,600 square feet. Categorical Exclusion Order E-77-13 under which the City currently operates, excludes from the permit requirements of the Coastal Act construction of residential homes in Carmel 1,600 square feet or less. The Commission found at the time of the adoption of the order that development of single-story residential structures 1,600 square feet or less would not result in any significant adverse impacts. Additionally, the above grade limit does not affect any potential for floor area sub-grade (i.e., basement or garden-level).

The City of Carmel has expressed concern that a maximum above grade floor area 1,600 square feet on standard lots is too small to attract families [i.e., with children]. The current zoning, which allows 1,800 square feet has been in effect for approximately 15 years. Prior zoning had allowed for even larger homes on standard lots. It's unclear to what extent this may have affected the demographics of Carmel. Data from the 2000 U.S. Census survey, shows that only 11.5% of households are families with children under the age of 18 in Carmel. Seventy percent (70%) of Carmel's population is older than 45 years. By comparison, 40% of Monterey County households are families with children under the age of 18. Census data also revealed that of the 3,331 residential housing units in Carmel, only 2,282 are occupied while 1,049 (31%) are vacant. The 2000 Census identified a large percentage of the vacant homes (83%) as being seasonal or recreational homes. Housing occupancy in the greater Monterey County was 92% in 2000.

The question raised by the City is whether an 1,800 sq.ft. home rather than 1,600 sq.ft. will better accommodate families relocating to Carmel. As we are seeing nationwide, families are opting for larger homes on larger lots. Data from the National Association of Home Builders illustrates a trend that is occurring all over the county –the new American home is getting larger. People are buying homes with more bedrooms, more bathrooms, and more flourishes than ever before. The average size of new homes is 2,325 square feet, about 12% larger than a decade ago. Most have at least 3



bedrooms, and more than half have two stories and at least 2.5 baths, roughly one for each member of the average household. Families are looking for a home with enough space to store its clothes, skis, mountain bikes, Surfboards, and SUV's. Families are also looking for more acreage. Nationwide, the average size home is constructed on lots that average 13,000 square feet. One does not have to look much beyond Carmel's City limits to see examples of this trend (e.g., Carmel Point, Pebble Beach, etc.). Thus, the real attraction for families appears to be a combination of larger homes on larger lots. Carmel does have a number of larger homes constructed on multiple lots. However, a majority of its building sites are the standard 4,000 square foot lot, which is much smaller than demanded by families on average. It should be noted that, although a maximum square footage addresses some of the character concerns raised by redevelopment (cumulative bulk, scale, tree protection), it doesn't necessarily maintain diversity. However, other modifications (Modification 1 - 6) provide the City with the necessary discretion to exercise its planning judgment in addressing community character on a block and neighborhood basis. For example, Modification 6 (new policy) requires that all development be consistent with the findings that the proposed development is similar in size, scale, and form to buildings on the immediate block and neighborhood while protecting trees and preserving the broader elements of community design.

As discussed above, policies addressing the treatment of size, mass, coverage, open space, streetscapes and the forest landscape are critical to maintaining and preserving community character in Carmel. The re-submitted land use plan policies do not fully encapsulate each of these character elements nor is it specific enough to ensure that they would be preserved. Thus, the Commission recommends the City of Carmel-by-the-Sea Land Use Plan be denied as submitted. The Commission has proposed modifications to the LUP that if amended, would adequately identify the elements of character and provide enough specificity to protect the residential character of this special community. The amended LUP will also provide the necessary context to both the development community and City Planners, for designing, constructing, evaluating and ultimately approving new development consistent with the goal of protecting community character. With the addition of the proposed modifications, the Commission finds the submitted LUP consistent with section 30253 of the Coastal Act.

2. Historic Resources

Background

The protection of historic resources is central to the issue of protecting community character in Carmel. Historical resources range from architecturally significant historic buildings and collections of buildings or residences that form distinctive neighborhoods to those associated with important persons or events in Carmel's history. It also includes street features, landscaping and both prehistoric and historic archaeological



resources. Like the character cottages described above, historic resources often embody the attributes and design traditions recognized in the City's Design Traditions Project as providing "character" to the community. However, historical resources are further distinguished from their character resource counterparts for their contribution to the broad patterns of local history. The types of historic resources in Carmel are classified using the criteria established in the California Register of Historic Resources. The criteria for historical significance ranges from architecturally significant historic buildings associated with significant events or persons, or resources that embody the distinctive characteristics of a type, period, region, or method of construction or represent the work of master builder, and resources that yield information important to the prehistory or history of the local area, California, or the nation. The City has prepared and adopted a Historic Context Statement (See Appendix F) that provides additional context for establishing historic significance under local criteria.

Historic preservation is a growing concern nationwide as redevelopment of our aging cities and towns intensifies. In Carmel, a rapid escalation in the value of property has led to an unprecedented amount of acquisitions of existing small cottages and requests for permits to demolish and redevelop the lots with larger modern homes. In response, public concern has turned to the need for a historic preservation program that protects historic resources from being demolished and that guides rehabilitation in a manner that is consistent with the Secretary of Interior Standards and the established character of the community. In large part, this single issue is driving the City's most recent effort at LCP certification. The City of Carmel has responded by submitting a program for preserving historic resources. The policies implementing this program are presented on pages 44 – 49 of the resubmitted Land Use Plan.

Carmel LUP as Submitted

The City's amended LUP submittal includes a variety of important policies to promote the identification and preservation of historic resources. This includes establishing procedures for identifying historic resources, updating the City's Historic Context Statement, educating the public about historic preservation, applying the Secretary of Interior Standards and Guidelines to proposed modifications of historic resources, ensuring rehabilitation of historic resources is consistent with the character of the City and so forth.

Coastal Act Consistency

The Commission recognizes that the loss of the City's historic cottages and houses has the potential to adversely impact community character and thus the recreational opportunities represented by them. Coastal Act section 30253(5) requires that special communities such as Carmel be protected against the erosion of its character through policies that guide development and redevelopment in a manner consistent with the established character of the village.



In particular, demolition and/or substantial alteration of existing historic homes and cottages may result in the loss of the unique character, which they individually represent and which cumulatively, form an important part of Carmel's architectural evolution and character. Once the character defining features of a house has been modified, its character is forever changed –replaced by something that may not retain substantial architectural integrity. Additionally, the design modification may not be consistent with the established character of the block, neighborhood, or City. As discussed in the Character Resources section above, the volume of requests for demolitions in recent years has increased substantially, leading to concerns that the character of the community may be slipping away.

As briefly summarized above, Carmel's resubmitted LUP contains a comprehensive set of historic resource policies designed to promote the identification and preservation of historic resources including buildings, structures, objects, sites, districts, and archaeological resources (discussed in section 4 below). The primary objectives of the historic preservation element (policies) are:

- Identify and preserve historic resources;
- Incorporate historic preservation principles into the City's design review process

The policies in the resubmitted LUP provide a framework for establishing a historic preservation program, though they are not specific with respect to identification, review process, and treatment of historic resources and as such, inconsistent with section 30253 of the Coastal Act. In order to achieve the objectives identified above consistent with 30253 of the Coastal Act, modifications are necessary as discussed below.

Modifications

As discussed above, identification and preservation of historic resources is critical to maintaining and protecting community character in Carmel. The City has submitted a historic preservation element that provides general guidance but requires some specificity on issues to carry out the requirements of the historic preservation program.

Specifically, the City's submittal is silent on the creation of a Historic Preservation Board that performs the ministerial functions of the historic preservation program. Though there is reference to the Board in the policies (and the submitted IP contains some detail on the HPB), there is no policy requiring its creation or establishing qualifications for its members. Modification 24 requires the establishment of the Historical Preservation Board. This is important to acknowledge and provide for the heightened review of historic resource issues (Modification 21) by a specialized review body.

Over the course of the past twenty years, a number of historic resource surveys have been prepared and resulted in the compilation of an inventory of potential historic resources. These "lists" have been used by the City of Carmel from time to time to



assist planners and city officials in making decisions. These inventories were created by registered Architectural Historians, which evaluated the structures for local historic resource significance. Although, there is still some debate as to the validity and current status of the inventories, they do provide additional context for the City and newly created Historic Resources Board in determining historical significance. Indeed, the City's current Historic Resources Inventory utilizes historic evaluations from past surveying efforts. Modification 10 requires that all resources previously surveyed and evaluated by qualified professionals that meet the criteria for historical significance as identified in the City's Historic Context Statement, be incorporated/consolidated with the newly created Carmel Inventory of Historic Resources.

The resubmitted LUP requires that the City's Historic Context Statement be updated periodically. The Statement was developed and adopted by the City Council in 1997. Since that time, at least one partial reconnaissance survey of the City has been performed potentially identifying additional context for Carmel's established character. Modification 11 requires that the Context Statement be updated every 5 years to keep pace with changes and new information, and to assure that those updates are submitted as LCP amendments.

P9-64 of the resubmitted LUP established the procedures for determining the Integrity of a potential historic resource and includes employing the original building plans or early photographs. There are other materials available to assist in the determination of Integrity including literature reviews, architectural files, land records, Sanborn maps, etc. Modification 13 broadens the scope of materials to be used in making this determination. Additionally, modification 13 clarifies that a physical inspection be conducted by a qualified historic preservation professional.

To qualify as a historical resource under criteria 3 of the California Register of Historic Resources, a structure must "embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values." P9-65, as submitted, places additional restrictions on meeting these criteria. In the field of Historic Preservation the criteria for determining the significance of a resource are based on such factors as association with historical events, association with significant persons, embodiment of distinctive types, historic periods, and methods of construction, etc. The California Register, which is managed by the State Office of Historic Preservation, has encapsulated these into four criteria for historic significance: resources that (1) are associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; or (2) are associated with the lives of persons important to local, California or national history; or (3) embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.



As submitted the Carmel LUP adequately addresses some of these criteria, particularly in its grounding of their interpretation in the adopted Historic Context Statement. However, the City's submittal inappropriately limits the application of category 3, above, by specifying that a higher degree of integrity be shown. The LUP already provides that integrity be shown for any resource to be considered historic and there is no good basis for requiring a higher standard for category 3 as distinct from the other categories. In addition, and related, there is insufficient attention in the LUP to the significance criteria for category 3, above. Although it is appropriate to further elaborate on what types of resources may be considered significant under the general category 3 language, Modification 14 further clarifies that resources may be significant if they embody distinctive characteristics in such a way as to be a good example of these characteristics as reflected in the Context Statement for Carmel. Thus, the degree to which a structure represents the characteristics important to any particular historic context is an important and well-accepted criteria for historic significance. Indeed, in a community such as Carmel, where the character is defined by the cumulative look and feel of the built environment, particularly concerning particularly periods, types, and styles of architecture, it is important to recognize the role that category 3 plays in defining this cumulative community character. Finally, as already acknowledged by the City's LUP, structures that are rare are important to acknowledge, and should qualify for listing under category 3.

The Commission recommends deleting P9-67 (Modification 15) because it is not necessary for the LCP, particularly in light of other policies that address identification of historic resources.

A minor modification (Modification 16) to P9-68 is needed to clarify the intent of this policy and to assure that resource are not removed from the City's historic resources inventory unless substantial evidence warrants such a decision.

Similarly policy P9-70 was modified to recognize the statutory requirements of the Coastal Act for issuance of a coastal development permit and to recognize the City's LCP as the standard of review for development that affect historic resources. (Modification 17).

Policy P9-79 was changed from a policy to an overriding goal of the element and revised to restate the purpose of the City's mission. "Protect and enhance historic resources. Ensure that City ordinances, development review policies...." (Modification 18)

Similarly, policy P9-80 of the submitted LUP was changed from a policy to an objective of the program. A small revision was made to clarify the intent of the program consistent with section 30253 of the Coastal Act. (Modification 19)

To fulfill the intent of section 30253 of the Coastal Act, the LUP submittal must include policies and procedures to protect historic resources. Modification 22 prohibits all demolition and any alterations of historic resources unless it is determined through



environmental review that there are no feasible alternatives (e.g., rehabilitation consistent with Secretary of Interior Standards). Additionally, modification 20 requires all buildings regardless of age be evaluated for historical significance by a qualified professional in accordance with criteria in the California Register of Historic Resources.

Finally, one aspect of a successful historic preservation program are the incentives granted to homeowners to preserve and maintain their resources. The current submittal of the LUP is silent on establishing incentives to promote historic preservation. Modification 25 is a new goal establishing historic preservation incentives. Modification 26 is a new policy outlining the various incentives available to homeowners for historic preservation.

With Modifications 9 - 26, the Commission finds that the LUP historic resource policies are consistent with Coastal Act section 30253(5).

3. Scenic Resources

Carmel is one of those special communities for which Coastal Act section 30253 was written. Though much is made of the eclectic cottages in the forest and brilliant white sand beach, world-renowned shopping, proximity to Pebble Beach and gateway to Big Sur, the LUP does not designate Carmel a "special community" worthy of protection. Modification 27 acknowledges the significance of City's unique character and designates Carmel a special community and highly scenic area for the purposes of Coastal Act Sections 30251, 30253, and 30610 along with corresponding regulation 13250. This designation provides the basis for requiring coastal development permit review of development proposals that potentially impact historic and/or character resources.

Other than the need to protect character through implementation of land use and landscape policies, the scenic views and resources of Carmel's beach, parks, and open space are adequately protected in the LUP. The re-submitted LUP proposes the adoption of policies that would impose an 18-foot height limit on houses that front North San Antonio and Scenic Drive (P9-18). Additionally, the City's tree and vegetation maintenance program policies require regular pruning to protect views to and along the coast as seen from Scenic Road and the blufftop path (P9-188). New development along Scenic Road, Junipero Avenue, and Torres Street at 3rd Avenue is required to protect the unique scenic quality and public views, minimize landform alteration, and be visually compatible with the character of surrounding areas (P9-201). The LUP also contains a general policy to preserve and protect areas, which due to their outstanding aesthetic quality, historical value, wildlife habitats or scenic viewsheds, should be maintained in permanent open space (P9-199). As such the resubmitted LUP policies are adequate to carry out the intent of Coastal Act section 30251.

4. Archaeology

This aspect of community character has likewise been adequately addressed in the



City's LUP policies. The plan calls for the creation of an archaeological overlay district and standard reporting format for all archaeological documentation (P9-86). All development within the overlay is required to perform a phase 1 study to determine if significant archaeological resources are present (P9-87). If sensitive resources are found on a site, all available measures to avoid development shall be pursued (P9-88). The remaining policies require mitigation for impacts incurred during construction, monitoring, safe retrieval, collection and archiving, or preserving in-situ of all identified archaeological resources. All archaeological resource reports are to be transmitted to the Northwest Information Center as designated by the State Office of Historic Preservation (P9-89, 90, 91). As submitted, the archaeological resource protection measures and policies in the re-submitted Land Use Plan are consistent with Coastal Act Section 30244 for the protection of archaeological resources.

C. Public Access and Recreation

Coastal Act Provisions

A broad policy goal of California's Coastal Management Program is to maximize the provision of coastal access and recreation consistent with the protection of public rights, private property rights, and coastal resources as required by the California Constitution and provided in Section 30210 of the Coastal Act. Several additional policies contained in the Coastal Act, which are incorporated into the Land Use Plan, work to meet this objective. The Coastal Act requires that development not interfere with the public right of access to the sea (Section 30211); provides for public access in new development projects with limited exceptions (Section 30212); distributes access to mitigate against overcrowding (Section 30212.5); encourages the provision of lower cost visitor and recreational facilities (Section 30213); addresses the need to regulate the time, place, and manner of public access (30214); specifies the need to protect ocean front land suitable for recreational use (Section 30221); gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses (Section 30222); and requires the protection of upland areas to support coastal recreation, where feasible (Section 30223).

Coastal Act Policies

Section 30210 of the Coastal Act states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

The Coastal Act also requires that development not interfere with the public right of access to the sea in Section 30211:



Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act provides for public access in new development projects with limited exceptions and provides for the distribution of parking over a wide area in Section 30212.5:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an



adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

In addition, the Coastal Act encourages the provision of lower cost visitor and recreational facilities in Section 30213:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30214 of the Coastal Act addresses the need to regulate the time, place, and manner of public access:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.



(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

The Coastal Act specifies the need to protect ocean front land suitable for recreational use in Sections 30220 and 30221:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The Coastal Act also gives priority to the use of land suitable for visitor-serving recreational facilities over certain other uses in Section 30222:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 requires the protection of upland areas to support coastal recreation, where feasible:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.



Finally, the Coastal Act also facilitates public access by providing for public transit, alternative means of circulation and adequate parking in new development in Section 30252:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Introduction/Background

The beach at Carmel-by-the-Sea is a popular tourist destination for visitors from foreign countries, all 50 states of the U.S., as well as for residents of cities and towns located in Central California. All 22 acres are held in public ownership and open 24 hours each day. In 2002, National Geographic Traveler magazine declared Carmel beach one of America's Best Beaches. At about one mile in length, the beach's white sands extend out below translucent blue waters into Carmel Bay. Wind-sculpted Monterey cypress trees line the shoreline. Views to the north are of the majestic rocky bluffs of Pebble Beach; the south vista is of Carmel Point and Point Lobos beyond. Above the beach on Scenic Road, a recreational trail system offers a unique public pathway experience as it meanders along the undulating bluffs. The decomposed granite pathway passes between Cypress tree and vegetated bluff outcrops and is complemented by nine vertical access stairways and a series of benches and overlooks. The trail provides a complementary experience to the sandy beach for individuals interested in enjoying the shoreline from the bluff.

Aside from its world-class beach, the City also maintains a handful of parks, preserves, and other recreational opportunities within its boundaries including Mission Trails Nature Preserve, Rio Park, Forest Hill Park, and the Carmel Mission. With the exception of the Mission, these parks are generally undeveloped forestlands with Monterey pine and coast live oaks, though all contain a wide variety of vegetation and habitats. Most of the parks are developed to support passive and active recreational activities (e.g., hiking, nature study, etc). The Carmel Mission (Mission San Carlos Borromeo) is a state and federally listed Historic Resource. It was originally constructed



in the late 18th century and is an excellent example of a restored/reconstructed California Mission, which has the added importance of being founded by Father Junipero Serra. The Mission is open to the public and is the gathering place for a multitude of functions including weddings, masses, concerts and lectures, and as a historical museum.

Carmel-by-the-Sea is also world renown for its shopping. Ocean Avenue is the starting point for a multitude of art galleries, restaurants, jewelry stores, clothing shops, and bistros. The City's commercial core is dominated by ground floor retail shops often with second story visitor-serving accommodations. Hundreds of thousands of visitors each year come to Carmel to stroll through the village, shopping, eating, people watching, and maybe rub elbows or catch a glimpse of some of the town's most famous residents and visitors.

As alluded to above, the City of Carmel-by-the-Sea also provides an excellent amount of overnight visitor-serving accommodations. There are approximately 950 hotel/motel rooms within the city limits occupying roughly 50% of the land area in the business district. Accommodations range from elegant resort-like hotels to smaller whimsical bed and breakfasts. As noted above, most visitor-serving lodging resides in the business district around Ocean Avenue, though there are a few sites sprinkled in the residential-zoned neighborhoods. Based on approximately 3,200 home sites within its boundaries, the City of Carmel provides roughly 1 visitor-serving room per every 3.5 houses.

Consistency with the Coastal Act

On November 15, 2002, the City of Carmel-by-the-Sea resubmitted its Coastal Land Use Plan that includes among other things goals, objectives, and policies designed to protect, maintain, and improve a multitude of public access and recreational opportunities along its shoreline and inland parks. The LUP discussion of access and recreational issues appears on pages 51 – 71 and includes policies that are to a great extent, consistent with Coastal Act policies 30210, 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222, 30223, and 30252.

The City's LUP policies identify and maintain the current variety and number of public access points and recreational support facilities along the nearly 1 mile stretch of coastline. Development activity is limited to public information signing and facilities that support active and passive recreational activities, beach access, bluff protection (when warranted) and protection of infrastructure (when warranted). The plan recognizes the Del Mar Avenue parking lot as the principal vertical access point to Carmel beach with its 125 free public parking spaces, a sand wash-off station, and public restrooms. The access discussion notes that traffic and congestion in this area are a problem and that attempts to redesign or improve circulation need to avoid or minimize the loss of parking spaces at this location. South of Ocean Avenue along Scenic Road, there are another eight improved vertical access stairways and two vertical sand ramps. LUP



policies provide additional protection and maintenance of these vertical access points requiring they be repaired or maintained when storm damaged. A pedestrian path follows the undulating bluff on the western edge of Scenic from 8th Avenue south to Santa Lucia. The City has adopted LUP policies to maintain this path as a public recreational resource and has recommended that the entire length of the blufftop path (approximately 1 mile) be designated as a local segment / connection in the California Coastal Trail. Additionally, the LUP directs the City to research and identify a location for replacing the current temporary restroom facility on Scenic with a permanent structure. Accessing the blufftop path is logically gained from one of the roughly 125 free parking spaces spread along Scenic Road. In addition, there is one unimproved vertical access point north at 4th Avenue. In the spirit of maximizing public access and maintaining frequent public access points, the LUP requires that this vertical access be improved for public use and enjoyment. LUP policies were also developed to allow a balance of uses with the City's inland parks and preserves. The LUP contains policies that provide for public access and passive enjoyment of City parks while maintaining and preserving sensitive habitat and natural resource areas. In summary, the City's LUP policies address the access and recreation policies of the Coastal Act by: maintaining the Del Mar dunes in public ownership, retaining existing and providing additional public restroom facilities, designating the blufftop pedestrian path as a segment of the California Coastal Trail, maintaining the existing vertical access stairways, improving the vertical accessway on 4th Avenue, providing public parking, and recognizing public prescriptive rights of access.

The LUP also requires that procedures and regulations for temporary events on the beach be implemented to protect public access and environmental resources. Each year Carmel beach is the scene of a handful of public events including a surf contest, kite festival, sandcastle contest, and movie on the beach. These events are free and open to the public and do not preclude access to the City-owned beach. Additionally, the City receives between 3 and 6 requests annually for special event permits for private beach parties (e.g., weddings, etc).

Visitor-serving accommodations provide an opportunity for overnight visitors to stay in the City, and experience the character and charm of the coastal village. They also facilitate access to the City's beaches, parks, and shopping areas as well as providing an economic benefit to the primarily residential community. As noted above, the City provides roughly 950 visitor-serving rooms within its one square mile boundaries. Although the adopted LUP policies do not require any further expansion of visitor-serving amenities, it does establish that the current balance between visitor-serving, residential, and commercial uses be maintained. The LUP also requires a periodic evaluation of whether an appropriate balance of land uses is being maintained.



1. Preferential Parking

The LUP includes a preferential parking policy for Scenic Road and the Del Mar parking lot. Under the program, public parking along this stretch of coastline, as well as the Del Mar Avenue parking lot, would be available from 5:00 a.m. to 10:30 p.m. daily. Residents of Scenic Road are allowed to park 24 hours each day with a resident parking permit. This policy was included to address perceived public nuisance concerns associated with nighttime visitors to Carmel Beach. As discussed below, the policy is not consistent with Coastal Act sections 30210 and 30212, which require maximum public access and access from the nearest public roadway.

Scenic Road lies at the western most edge of the City. It follows the naturally undulating bluffs above Carmel Beach and offers magnificent views of the shoreline. Private homes line the east side of Scenic Road. The western right-of-way provides parking for roughly 125 vehicles and a delineated pedestrian blufftop path experience. There are eight vertical access stairways and two sand ramps leading to the beach along this eight-block stretch of coastal roadway. The Del Mar Avenue parking lot at the foot of Ocean Avenue provides another roughly 125 parking spaces and other public recreation improvements. Several homes dot the southern "turn-around" of the lot. Parking or stopping during the evening (i.e., 10:30 p.m. – 5:00 a.m.) would be prohibited for the general public, though residents and their guests would be allowed to park by displaying a parking permit.

The issue of preferential parking arose in 2000 when the Commission discovered that the City had been operating a public parking ban along Scenic Road for several years without the benefit of a coastal development permit. The discovery was made when the City submitted an application for an "after the fact" permit for the Scenic Road parking program and to expand the parking ban to the Del Mar Avenue parking lot. The parking restriction prohibited parking one half hour after sunset to 5:00 am for all except those with a resident parking pass. The City withdrew its application prior to Commission action. The issue was elevated to a Coastal Act violation and passed on to the Commission's Enforcement division. Pending action by Enforcement, the City agreed to remove or make ineffective the parking program until such a time when it could provide evidence in support of the program. The City then decided to pursue the parking program in the form of an access policy in the City's re-submittal of its Coastal Land Use Plan.

In this instance, the City of Carmel-by-the-Sea proposes the parking restrictions to address a perceived public nuisance due to evening public parking near the beach. Over the past two years, staff has suggested that an evaluation of the available supply of parking for the homes along Scenic Road and Del Mar Avenue and demand for off-street parking during the evening, busy weekends, and holidays be submitted within the context of an coastal development permit application or LCP submittal. The City provided:



“there is some time of day variability and seasonality associated with recreational beach visitors. Most members of this group visit during daylight hours and peak use occurs in the afternoons. Summer is the peak season of use with substantially less demand in the winter season.”

Additionally, the City provided nine months of data from its police department (i.e., 2002 year-to-date calls for service) as evidence that a parking program was necessary. See Table 2.

TABLE 2

	8:00 am – 4:00pm	4:00 pm – 12:00am	12:00am – 8:00am
Noise Complaint	9	12	1
Suspicious Person	3	6	2
Suspicious Vehicle	4	3	2
Suspicious Activity	1	3	2
Vehicle Code Violation	3	2	0
Beach Fire Violation	20	56	9
CMC Violation	6	9	1
Parking Violation	82	39	4
Vehicle Lockout	0	1	0

Table 2 breaks out the types of complaints by hour. The first column lists the type of complaints. The second, third, and fourth columns represent the hours and numbers of occurrences. Column two occurrences are outside the affected hours of the parking program, however the data does provide a context for evaluating responses during other hours.

The LUP policy raises issues regarding public use of public streets for parking in order to access the beach, elimination of low-cost recreational amenities during the evening, exclusive use of public property for private use, and absence of adequate parking nearby. To begin with, Carmel Beach is a free resource open to the public 24 hours each day. The ability to take a stroll along the beach or pedestrian path during the evening is substantially dependent upon parking in one of the 300 available public parking spaces on Scenic Road or in the Del Mar lot. The City has offered that nighttime beachgoers (after 10:30 p.m.) could park on adjacent neighborhood streets and access the beach via one of the unimproved connecting easements. San Antonio is located immediately inland of and is parallel to Scenic Road. It is narrow in width without any walkways or street lighting. The public owned right-of-ways in many cases have trees and/or other landscaping impeding parking. Often the available undeveloped spaces are used for second or third resident vehicles. There are no through roads to the beach between 8th Avenue and 13th Avenue. There are however, poorly marked



unlit easements approximately 3' – 4' in width that can be used to walk down to Scenic Road. Although, adequate for using during daylight hours, these easements contain tree roots and cracked and uneven surfaces that make walking on them in the dark hazardous. Furthermore, because they are not well signed or illuminated, they are difficult for visitors to locate even during daytime hours.

Secondly, displacing visitors and their vehicles onto adjacent neighborhoods may introduce problems associated with additional traffic and parking into an area where there are not the improvements to handle them. Because the street right-of-ways are often used by residents for second and third vehicle parking, reallocating public parking onto San Antonio may lead to increased user conflicts as residents and visitors compete for available spaces. Additionally, the limited amount of parking on San Antonio may lead to an increase of parking on or very near sensitive resources such as the root area of significant trees or other vegetated strips. Conversely, both Scenic Road and the Del Mar parking lot have clearly designated parking spaces, a separate and safe pedestrian path, restrooms, and greater street widths to handle the mix of cars, people, bikes, etc.

The City's recommendation for restricting parking at 10:30 p.m. coincides with the 10:00 p.m. curfew on beach fires, but it does not account for the possibility of a midnight walk or late night stargazing or even nighttime fishing. The blufftop pedestrian path similarly provides one of the few coastal recreational opportunities on the Monterey peninsula for persons with disabilities during the evening. Access to this recreational experience is gained from parking along Scenic Road. A 10:30 p.m. ban on public parking along Scenic Road and the Del Mar lot would preclude nighttime access to the coast for this user group. During the summer months the sun sets at 8:30 p.m. and the sky is not completely dark until shortly after 9:00 p.m. People, visitors and residents alike, are still bustling about at 10:00 p.m., 11:00 p.m., even midnight on warm summer evenings. Restricting parking at 10:30 p.m. substantially decreases the opportunity for all persons to enjoy the beach other than those that live on Scenic or Del Mar or are the guests of these residents.

The City has argued that LUP policy P9-134 is consistent with the intent of Coastal Act section 30210 (maximum public access), 30212 (public access from nearest roadway), and 30214 (regulate time, manner, and place of access) consistent with public safety needs, the need to protect public rights, the rights of private property owners, and natural resources from overuse. As has been demonstrated in the findings above, the LUP policy is clearly not consistent with 30212 because it displaces public parking from the nearest public roadway. This is not consistent with sections 30210 or 30214 as well. Coastal Act section 30210 requires that the provision of maximum public access consider public rights and the rights of private property owners. In this case, the land on which public parking is provided is public lands. Access to the beach is gained by traversing on public lands. And the beach itself is again on public lands. In no instance is the public trespassing onto private property. However, as proposed, implementation



of a preferential parking program would infringe on the rights of the public, the right of access to the coast. Thus, the Commission concludes that LUP policy P9-134 is not consistent with Coastal Act section 30210.

Similarly, Coastal Act section 30214 states that the access policies shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending upon the facts and circumstances in each case including the proximity of the access area to adjacent residential uses. At the time the City's made its application, only 16 of 61 homes that were noticed along Scenic Road and Del Mar Avenue were sent to Carmel addresses suggesting a low residency percentage at this location. Table 1 above provides a summary of request for calls for police service for the first nine months of 2002. There were 128 complaints during the hours unaffected by the parking ban (8:00 a.m. – 4:00 p.m.) and 131 complaints during the 4:00 p.m. – 12:00 a.m. time period. Beach fires and parking violations required the most responses. Parking violations result when a vehicle is parked in an illegal spot such as a red zone or handicap space or is greater than maximum allowed size class. Most of these occur during daylight hours when demand for parking spaces is strong. Beach fire violations result from having a fire in an area prohibited by the City or when they are not extinguished at 10:00pm. The City's beach fire requirements are confusing and not well signed. Coastal visitors unfamiliar with these requirements make up the bulk of these calls for service. Noise complaints followed up the parking and fire responses with 13 complaints during the 4:00 p.m. – 8:00 a.m. period or roughly 1.4 per month. There were 9 noise complaints during the day. Finally, there were a handful of other requests for service, though the numbers are insignificant (i.e., less than one per month). It is notable that there were no violent crimes reported over the past nine months. Several local juveniles did, however, vandalize the portable restrooms at the end of Scenic Road this past summer. Thus, with the exception of a very few incidents, most of the requests for police services were for minor infractions of the City's municipal code. Most could be addressed through educating the public about beach rules and regulations; the remainder are enforcement issues and not atypical of any California community. The information provided by the City does not support the need to regulate time and place of access as stringently as the City proposes. Therefore, LUP policy P9-134 is not consistent with Coastal Act section 30214 either.

The City has also argued that other nearby beach locales have been allowed to enact and operate parking restrictions and beach closures and is requesting that the Commission approve its preferential parking program. The nearest public beaches are Carmel River State Beach and Point Lobos State Reserve. Both are state owned and managed and have nighttime parking restrictions and beach closures that begin generally at sunset. However, both areas differ from a resource perspective than the City's urban beach setting. The estuary at the mouth of Carmel River is a designated Environmentally Sensitive Habitat Area that provides habitat for waterfowl. Point Lobos is a State Reserve that contains rare plant communities, endangered archaeological sites, and one of the richest marine habitats in California. For these reasons, the State



manages access to these resources in a manner that places a greater emphasis on resource protection during the evening consistent with the Coastal Act section 30214(3). From Point Pinos south to Carmel, there are few stretches of beach that are easily accessible and have adequate parking. Asilomar State Beach represents the public's best beach access opportunity along this stretch of coastline. Parking along Sunset Drive at Asilomar is restricted from 12:00am to 5:00am daily. The City of Monterey has also requested in its LUP resubmittal a limited parking restriction of midnight to dawn along its shoreline.

Finally, City staff has indicated the need for a preferential parking program to ensure that there was adequate parking for the beach side residents. Allowing that roughly three-quarters of the homes are vacant most of the time along Scenic Road and Del Mar Avenue, the City's argument is weak. Moreover, every home along Scenic Road has a parking garage and adequate driveway space to accommodate a minimum of two vehicles. Furthermore, Commission staff observed during visits to the area in the evenings, that there were an adequate number of available parking spaces along Scenic Road and the Del Mar Avenue parking lot for resident's guests and visitors alike. Thus, this argument is unconvincing.

This process began roughly two years ago when the City applied to the Commission to legitimize and expand the parking restrictions at Carmel Beach. At that time, City officials and residents predicted significant conflicts between visitors and residents would occur unless beach parking, and by extension, access to the beach was denied to all but the 61 shorefront residents along Scenic Road and Del Mar Avenue. This has not occurred, as the parking signs have been covered over the last 12 months. Based on the evidence provided by the City and over the course of many months of investigation and analysis, it appears the additional restrictions on public access due to the potential for public nuisance problems is unwarranted. As a result, LUP policy P9-134 implementing a preferential parking program from 10:30 p.m. – 5:00 a.m. along Scenic Road and the Del Mar Avenue parking lot is inconsistent with the Coastal Act.

Recommended Modification

The loss of coastal recreation opportunities resulting from the implementation of a preferential parking program represents a significant adverse impact to the availability of public access and recreational opportunities in Carmel. Defined broadly, these opportunities include not only the physical availability of access and recreation areas, but also the ability of the public to reach and utilize these sites. The recommended preferential parking policy contained in the Land Use Plan is inconsistent with the intent of the Access and Recreation policies of Chapter 3 of the Coastal Act. The City's LUP policy P9-134 states:

P9-134 Provide convenient and free public beach parking from 5:00 a.m. until 10:30 p.m. daily. Parking outside of these hours along Scenic Road and at the



Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

Although the Commission is unconvinced that a public parking ban is needed along Carmel Beach, it does recognize that certain benefits can accrue from enacting a limited overnight parking ban along Scenic Road. Thus, in order to insure the protection and provision of public access along with the consideration of public safety needs, the needs to protect public rights, rights of private property owners, and the protection of natural resources consistent with 30210, 30212, and 30214, staff is recommending that LUP policy P9-134 be modified to:

Modification 28 Provide convenient and free public beach parking from 5:00 a.m. until ~~10:30 p.m.~~ 12:00 midnight daily. Parking outside of these hours along Scenic Road and at the Del Mar parking lot shall be limited to residents and guests with a resident's parking permit.

Should the City insist on further restricting public access and parking along Scenic Road, one potential alternative would be to provide unrestricted public parking in the Del Mar lot and south of Santa Lucia on Scenic Road while allowing for restricted overnight parking elsewhere along Scenic Road. These areas can adequately accommodate public parking with minimal disturbance or inconvenience to residents. Therefore, based on the findings provided above including the recommended modification to policy P9-134 contained in the Land Use Plan, the Commission finds that the Public Access and Recreation policies contained in the Land Use Plan for the City of Carmel-by-the-Sea meets the requirements of and conforms to all of the Public Access and Recreation policies of Chapter 3 of the Coastal Act.

2. Abandonment of Public Roads and Road Right-of-ways

A second ongoing issue is the abandonment of public roads and road right-of-ways. Several segments of public property have been abandoned along a stretch of coastal dune between the Del Mar Avenue parking lot and 8th Avenue without the benefit of a coastal development permit. California Government Code Section 53036 prohibits local agencies from selling or abandoning public lands lying between the first public road and the sea without reserving the right of public access over such real property, unless an alternate route is made available granting equal or greater public access in the same immediate vicinity. The loss of this public property represents a significant loss of potential public recreational opportunities and as such has been elevated to a Coastal Act violation. Central Coast staff has been negotiating with the staff of the City of Carmel to resolve this issue but has been unsuccessful to date.

Recommended Modification

Coastal Act sections 30210 – 30213 require public access to the coast be protected



and sections 30221 – 30223 require protection of coastal recreational uses. As submitted, the City's LUP is silent on road abandonments and is therefore inconsistent with the Chapter 3 policies listed above. Additionally, LUP policy P9-101 states:

P9-101 Improve pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and Del Mar as part of the Del Mar and North Dunes Master Plan.

The Commission recommends the following modifications to bring the LUP into compliance with the Coastal Act:

Modification 29 (Revise P9-101) Improve pedestrian circulation between the north end of the Beach Bluff Pathway at Eighth Avenue and the beach facilities at Ocean Avenue and the Del Mar Avenue parking lot.

Modification 29A (New Policy) Abandonment or transfer of any public roadway or real property lying between the first public road and the sea shall not occur without reserving the right of public access over such real property unless an alternate route is made available to the public granting equal or greater public access to the Pacific Ocean in the same immediate vicinity.

As so modified by Modification 29 and 29A, the City of Carmel-by-the-Sea LUP is consistent with the Chapter 3 policies for provision of access and recreational opportunities.

3. Low-Cost Visitor-Serving Amenities

As stated previously, the City of Carmel-by-the-Sea and its magnificent beach and parks is a world-renowned destination for visitors from Central California, all 50 contiguous U.S. states, and the world. Overall, a wide variety of recreational opportunities exist within the City such as surfing, diving, hiking, beach-combing window-shopping, nature study, and equestrian use. The City of Carmel provides a substantial number of lower-cost visitor-serving amenities within its roughly one square mile boundaries. It has been estimated that there is 1 visitor-serving room per every 3 homes in Carmel. It follows naturally that the City's LUP contains policies protecting the current balance of land uses including the mix of residential, commercial, and visitor-serving. However, the LUP is silent on preserving low cost visitor-serving amenities. The LUP does reference Coastal Act section 30213 at the beginning of the Access and Recreation chapter. It requires that lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Due to the astronomical rising cost of property and increased rents in the City's commercial district, it is essential that low cost visitor and recreational facilities be protected. For this reason, the LUP cannot be considered consistent with 30213.



Recommended Modification

Coastal Act section 30213 requires low cost visitor and recreational facilities be protected and encouraged and where feasible, provided. As submitted the City's LUP is not consistent with this policy. Staff recommends adding the following new policy to the City's adopted LUP:

(Modification 30) Lower cost visitor and recreational facilities be protected and encouraged and where feasible, provided. Developments providing public recreational opportunities are preferred.

As modified, the City's LUP policies for the protection and provision low cost visitor serving amenities is consistent with Chapter 3 of the Coastal Act.

D. Hazards

Coastal Act Policies

The Coastal Act addresses coastal hazards through Coastal Act Sections 30235 and 30253. Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and to avoid landform altering protective measures in the future. Section 30253 provides, in applicable part:

Section 30253. New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Coastal Act Section 30235 addresses the use of shoreline protective devices:

Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Policy Summary

In sum, the Coastal Act requires that new development be constructed in such a



manner as to assure stability over its lifetime. Such stability is meant to be ensured at the time of construction; future stability problems are to be avoided by ensuring that adequate provisions are made at the time of construction to address coastal hazards. The Coastal Act also includes provisions for allowing shoreline armoring under certain circumstances.

In the case of Carmel, evidence to date does not indicate that there are any areas more prone to 30253 hazard issues than other Monterey Peninsula communities. The primary Coastal Act hazard issue in Carmel appears to be associated with shoreline hazards (including episodic and steady bluff retreat and erosion, storm wave and surf attack, and coastal flooding).

Under Section 30253, new development is to be designed, sited, and built to allow the natural process of erosion to occur without creating a need for a shoreline protective device. In other words, coastal zone development approved and constructed pursuant to 30253 should not require shoreline protection in order to "assure stability and structural integrity" because it was constructed with adequate setbacks and/or other measures in order to negate the need for future armoring.

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, with the exception of new coastal-dependent uses, Section 30235 limits the construction of shoreline protective works to those required to protect existing structures or public beaches in danger from erosion. The Coastal Act provides these limitations because shoreline structures can have a variety of negative impacts on coastal resources including adverse affects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach.

LUP Submittal

The proposed LUP includes a range of policies applicable to shoreline hazards and erosion response. The LUP also includes as an appendix a shoreline management plan (SMP) that includes hazard and erosion response components for the shoreline, and also includes information and policies relevant to public access, recreation, and other coastal resource issues associated with that area seaward of the first public road.

Analysis and Required Modifications

The submitted LUP generally responds to Coastal Act hazard policies, but it isn't entirely consistent with the Act in each case. There is also a lack of clarity and some internal inconsistency within the proposed policies that could lead to confusion when the LUP is implemented in the future. Such confusion would be at the expense of the coastal resources it is designed to protect. The following paragraphs discuss these deficiencies and offer suggested modifications to bring the LUP into conformance with



the relevant policies of the Coastal Act.

Coastal Act Section 30253 missing

The draft LUP omits reference to Coastal Act Section 30253 parts 1 and 2 in the Coastal Resource Protection Section where Coastal Act polices are listed. These Coastal Act Sections are relevant to ensuring the stability of new development, particularly ensuring that new shoreline development does not require additional shoreline protection measures in the future that could alter natural landforms. Fortunately, this issue can be easily addressed by including a reference to these Coastal Act sections in the applicable policies section of the LUP.

LUP's "Coastal Resource Protection" background section

The Coastal Resource Protection section background component includes a number of small inconsistencies, and some small errors. Fortunately, these can be easily corrected to ensure that the LUP accurately describes Carmel's coastal resource background by incorporating the following changes into the LUP:

- Pages 76-77: "Carmel, like..., appears to derives most of its sand..."
- Page 77, last paragraph: "If left unmanaged, the bluffs surrounding Carmel Bay would progressively erode from the impact of winter storm waves, and from surface drainage, and other steady and episodic erosion processes."
- Pages 77-78: "Erosion of Carmel's bluffs is quite variable along the shoreline and is includes both steady erosion and episodic events."
- Pages 78, second paragraph: Change the reference to Figure 9.7a to Figure 9.6.a.

In the Coastal Resource Protection section, the LUP asserts that historic shoreline structure development along the back beach has not led to the loss of beach sand at Carmel Beach. However, this assertion has not been well verified. Although some anecdotal evidence suggests that the cumulative sand supply impact from the almost complete armoring of the southern portion of the Carmel Beach bluffs over the years may be negligible, there has not been any exhaustive analyses that clearly prove this theory. Moreover, one recent study suggests that the width of the beach has decreased since 1949. Accordingly, the status of the beach resource as indicated in the LUP's background text, and on which the proposed policies are based, is not so clear cut. Fortunately, this issue can be easily addressed by including verbiage qualifying the status of the beach resource as understood from current information and studies.

LUP Figure 9.6a refers to "Public Coastal Protection Structures." As a result, it only maps a portion of the shoreline structures along Carmel's shoreline. Although the vast majority of such structures are public, there are also some private structures (e.g., at



the mouth of Pescadero Creek). The figure will thus tend to understate the extent of armoring and could, as a result, understate the extent of coastal resource impacts associated with same. To be as clear as possible, the figure should be amended to map all shoreline structures, and then to identify which of those are public versus private. Since SMP Figure 8 already does this, this issue can be addressed by inserting SMP Figure 8 as LUP Figure 9.6a

LUP Figure 9.6b is entitled "Sand Displacement and Deposition" and indicates that it maps "Sand Displacement and Replenishment." However, it is clear from the corresponding the LUP text (and from SMP Figure 9 that is more detailed) that this figure actually identifies areas where the City has historically manipulated beach sands by redistributing sand from the lower to higher beach elevations. While 'displacement' could be accurate, deposition and replenishment, as these terms are understood, has not historically been a part of the City's sand movement program. These inaccuracies can contribute to an incorrect understanding of the beach area resource, as similar to others above, that could lead to both incorrect policies and implementation of them in the future. Fortunately, this issue can be easily addressed by changing the title and the legend of Figure 9.6b.

Shoreline Armoring

The Coastal Act allows shoreline armoring only in specific circumstances. The policies suggested, while mimicking Coastal Act requirements in some respects, are internally inconsistent (e.g., P9-167 prohibits structures on the beach, while P9-161 and P9-162 allow them in certain situations; P9-161 and P9-162 establish different criteria from each other) and in some cases overly broad (e.g., P9-161 and P9-162 could be read to allow armoring in situations not envisioned by the Act).

Because the City's shoreline is relatively small, the policies should be very specific. In Carmel this boils down to decision points regarding when an armoring project is warranted, what needs to be done to ensure that allowable armoring projects are consistent with the established beach aesthetic and character, and sensitive to maintaining and preserving the beach and the overall beach recreational experience as directed by the Act. Armoring is allowed for existing endangered structures. In the case of Carmel, the Commission has previously recognized Scenic Road and the recreational trail system on the bluff above Carmel Beach as facilities worthy of such protection. Thus, the policies proposed provide a thorough basis, but can be clarified to ensure Coastal Act consistency and ease of implementation (both this LUP and a future IP) in the future.

In addition, the LUP contains a series of policies intended to help coastal managers better understand Carmel Beach dynamics. These policies are directly related to the LUP's Shoreline Management Plan (SMP) that was submitted as part of this proposed LUP. The SMP was a requirement of the CDP 3-00-140 (issued to the City for shoreline armoring), and built upon previous SMP-like requirements of other armoring permits



issued to the City. The previous SMP requirements are clear, and were developed to assist the City in just such plan development.

Part of the issue precipitating the SMP, as discussed above, is that it is not clear whether Carmel Beach is shrinking, and what effect shoreline development and armoring has had on this process. Although anecdotal evidence suggests that it is in a state of relative equilibrium, recent studies indicate that the beach may be retreating.⁶ Because the bluff has effectively been fixed along most of Carmel's back beach, beach retreat would eventually imply that Carmel Beach would no longer be present. The City has committed to analyzing the dynamics of the Carmel Beach, building upon their significant efforts to date, and to monitor beach erosion, particularly as it is affected by shoreline structures. The SMP goal and policies P9-157, P9-158, P9-159, and P9-160 are specifically related to this task. The same can be said for portions of policies P9-172, P9-173, P9-174. However, such plan development should be consistent with past Commission action and adequately responsive to the types of information necessary to understand the issue.

As to P9-157, P9-158, P9-159, P9-160, P9-172, P9-173, and P9-174, while generally appropriate, there are a few areas where these policies can be clarified to remove redundancy and to ensure that the analysis and studies are the most useful to the City and the Commission as they can possibly be, and as consistent with past Commission action on this issue as possible. And so that, ultimately, decisions are made as regards the irreplaceable treasure of Carmel Beach with this knowledge available. Thus, modifications are suggested.

Shoreline Management Plan

It is not clear at the current time how best to integrate the submitted SMP and its emergency action response plan into the LUP. Part of the reason for this is that the LUP is arranged by issue area, while the SMP is really more of a specific plan related to the shoreline, including a range of policies applicable to hazards as well as those applicable to ESHA, public access and recreation, and other shoreline issue areas. The SMP includes incredibly valuable background information on the Carmel shoreline and how to preserve it for future generations. Additional analysis is needed, however, to ensure that it integrates seamlessly into the LUP. This is particularly the case as it relates to the SMP's emergency action response plan inasmuch as it appears to pre-authorize development under particular conditions and outside of the coastal permit process. The SMP, and its more detailed information designed to clearly describe the steps necessary for the long term management of the Carmel shoreline, are better dealt with in the IP. A modification is thus suggested that the SMP be included in the IP, and removed from the LUP.

⁶ A recent article in the International Journal of Marine Geology reported that the beach width at Carmel Beach has narrowed noticeably in the last 40 years (C.D. Storlazzi, M.E. Field / Marine Geology 170 (2000) 289 – 316).



Long-term Stability

The LUP is lacking a general hazard policy that is unrelated to shoreline hazards. Such a policy is necessary to ensure that all development in the City, not just shoreline development, is constructed in such a way as to ensure its long-term stability, as directed by the Act. Fortunately, this is easily addressed by including a new policy applicable citywide

Hazard Conclusion

As modified by Modifications 31 - 52, the LUP can be found consistent with Coastal Act policies 30235, 30253(1) and 30253(2).

E. Water Resources

The following sections of the Coastal Act pertain to the management of available water supplies:

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entertainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30250(a). *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30254. *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted, consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded, except where assessment for, and provision of, the service would not*



induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public reaction, commercial recreation and visitor-serving land uses shall not be precluded by other development.

LUP Reference: Community Infrastructure, Water Resources

Background

Following the severe drought conditions in the late 1970's, voters in Carmel and elsewhere on the Monterey Peninsula, approved the formation of the Monterey Peninsula Water Management District (MPWMD) to regulate water resources on the Monterey Peninsula. The MPWMD regulates the collection, storage, distribution and delivery of water within the 170-square mile area of the district. All of the water used within the MPWMD comes from the Carmel River, from wells in the Carmel Valley, and the Seaside Basin. The MPWMD allocates water from these sources to the various water companies and smaller local jurisdictions.

The largest water distribution system in the Monterey Peninsula is operated by the California-American Water Company, which provides water to the City of Carmel and to nearly 95 percent of the 112,000 residents in the MPWMD. Cal-Am provides water to its users through groundwater extractions and diversions from the Carmel River via the Los Padres Dam. Both of these sources are currently being used at near or above their sustainable yield. Two threatened species, the California red-legged frog (*Rana aurora draytonii*) and the Steelhead (*Oncorhynchus mykiss*), are found in the Carmel River.

In 1995, State Water Resources Control Board Order 95-10 reduced the amount of water Cal-Am could take from the Carmel River aquifer by 20 percent in the near-term and up to 75 percent in the long-term. The MPWMD requested relief through the courts, but the Monterey County Superior Court upheld the 20 percent reduction in water use specified by the order. Since that time, the jurisdictions along the Monterey Peninsula, including the City of Carmel, have been under strict conservation measures, and have focused their efforts on improving water conservation programs while working on other water supply augmentation proposals that will garner community support and help Cal-Am attain the goals established by the Order.

State Order 95-10 also mandates that Cal-Am maintain production below 15,285-acre feet of water per year within the Cal-Am boundaries. All of this water is already allocated to current users or proposed construction that has already been approved, and no additional water source is presently available to serve Cal-Am customers within the district.



A 1998 report on the estimated future water needed for buildable legal lots of record on vacant parcels within the Cal-Am service area states that approximately 923 acre-feet of water would be needed for new buildings as of January 1997 and remodels through the year 2006 (MPWMD 1999 Annual Report). The MPWMD has since been working on completing an update of this report, and while the 2001 update is not yet published, the agency has determined that approximately 1,400 acre-feet of water would be needed for the existing vacant legal lots of record on unimproved parcels within the MPWMD boundaries. Additional water needed for unincorporated County areas with existing vacant legal lots of record that have some improvements on them (such as small sheds or other such structures) have not yet been calculated. However, it is expected that the total water requirement would be somewhat greater than 1,400 acre-feet.

At this time, no new supply of water is on the horizon. Cal-Am and the MPWMD, however, are currently searching for additional water supplies. Possible alternative strategies include implementation of groundwater injection (e.g., storage of excess water from the Carmel River in the Seaside Coastal Basin during winter months), desalinization of seawater, wastewater recycling (i.e., using reclaimed wastewater for irrigation purposes), and additional water conservation efforts that include retrofitting or replacing water-using appliances and fixtures and drought resistant landscaping.

Carmel, like all the cities on the peninsula, has little or no unallocated water for new development according to City Planning Staff. As there are very few vacant lots in the City of Carmel, most new development involves the demolition of older buildings and the subsequent construction of replacement structures. In order to ensure that the City stays within their allocation, these replacement buildings must demonstrate that they will not use additional water beyond that used by the demolished structure. Although the replacement buildings, particularly new homes, are often significantly larger than the demolished structures, water parity is maintained by the use of water conserving fixtures and landscaping that does not require extensive irrigation.

Given that water is an important coastal resource, especially within the Monterey Peninsula area where water supplies are extremely limited, it is vitally important that the LUP contains policies that adequately regulate development to protect water resources. These policies must be consistent with Coastal Act policies requiring that new urban development be located in urban areas with adequate public services, and ensure that certain types of coastal-related development not be precluded by other development when public services are limited.

LUP Policies

The Carmel LUP contains a number of policies directed to the preservation and allocation of water in the City. (Pages 40-41. LUP) These policies ensure that new and



existing development will comply with the various water conservation policies relevant to fixtures and landscaping and City coordination with other cities and agencies to monitor the allocations and seek new sources of water. (Policies G9-3, 09-6, P9-35, P9-37, P9-38, P9-39, P9-40, P9-41, and O9-7). These policies are mostly consistent with the policies in the Coastal Act that require the protection of water resources and that new development should be directed to existing areas able to support it through adequate public services (PRC 30231 and 30250 (a)). Water supplies are so limited, however, that a stricter policy on the use of native (and thus less needful of irrigation) plants in new development landscaping is needed. Please see modification 59.

The LUP also contains two policies that establish priorities for water allocations when supplies for new development are very limited as is the case now. Policy P9-36 gives priority for water to residential uses and to Municipal projects. In contrast, the Coastal Act, in Section 30254, gives priority to "*coastal dependent land use, essential public services, and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation and visitor-serving land uses.*" In the case of Carmel, there is no existing development that is "coastal dependent" and none is planned for in the LUP. Carmel is also not developed with any basic industries and no land is designated for such use in the LUP so these Coastal Act priority land uses are not relevant to Carmel and thus don't need to be given any priority for scarce water supplies. Carmel is, however, a popular visitor destination and has significant public recreation facilities and visitor serving development. Virtually all of the land designated for such uses is built out with those uses and as currently developed, there is neither room nor need for much additional public recreational or visitor serving development with the exception of the planned permanent restrooms on Scenic Drive. In order to ensure that these uses are not precluded in the future and Coastal Act consistency is achieved, policy P9-36 must be revised to provide for the reservation of water capacity for these types of development. As revised by Suggested Modification 53 to acknowledge these priorities, the policy is consistent with the requirements of Coastal Act Section 30254. Proposed policy P9-43 must also be revised to be consistent with the proposed modifications to P9-36. (Please see Suggested Modification 54)

As discussed in a preceding section of this report, most of the new development in Carmel is, and will continue to be, demolitions and re-builds because the City has virtually no unallocated water. Coastal Act Section 30250(a) requires that new development must be able to be served by adequate public services. In order to comply with this requirement by ensuring that the City's water allocation will not be exceeded, new replacement development cannot require more water the development it replaces. Proposed Policies P9-42 and P9-44 partially address this issue but more specific policy language is needed to ensure consistency. Suggested Modifications ensure that all new development will be carefully analyzed to ensure that it remains within the available water allocated to the use it replaces. (Please see Suggested Modifications 56 and 57)



Section 30250(a) requires urban uses to be served by public services for water and sewer service. Carmel is entirely urban. Public water service is provided by the Cal Am Water Company, a privately owned purveyor that is regulated by the public through the PUC. This policy derives from one of the most fundamental principles of the Coastal Act, as well as modern urban and environmental planning: *the establishment and maintenance of stable urban/rural boundaries for the protection of sensitive resources and to provide for the rational planning of public services to support new urban development.*

In particular, the benefits of urban/rural boundaries include the prevention of urban sprawl, protection of agricultural land, efficient use of land, and the rational planning and construction of urban infrastructure (e.g., roads, utilities, and sanitation systems) to support urban intensities of land use. Urban-level intensity land uses are then directed to locate within urban areas, preserving rural lands for low intensity rural land uses. Certainly the services that are required to support urban uses (e.g., water supply and storage/conveyance/treatment systems, sewer connections, wastewater treatment plants, etc.) are greater and different than those needed for rural land uses (e.g., small wells and individual septic systems). Coastal Act policy 30250 states this premise as follows:

Section 30250(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources... [Emphasis added].

This policy provides that if an urban area lacks critical infrastructure - e.g., water, sewer, or road capacity - to support further urban development, then new development must be delayed until the capacity of the limited service can be increased, through a comprehensive urban planning process, in order to support it. It does not mean that urban uses should proceed incrementally, using what are essentially rural-level services (e.g., private wells and septic systems). The proliferation of rural services within an urban area causes practical problems (e.g., wells run dry, lot sizes are too small to accommodate septic systems) and planning problems. Ultimately, incremental development without comprehensive planning may lead to serious environmental resource impacts such as groundwater overdraft, polluted groundwater, degraded riparian habitat, and so on.

Since water supplies are limited, the City has been very careful to ensure that all new development can be served by public water and keep within their allocation from Cal Am and the Monterey Water District. In most cases, authorization of private wells or private desalination facilities within this public service area, whether for potable water or supplemental non-potable water for irrigation purposes, would be contrary to the



planning principals discussed above and could lead to potential cumulative impacts which undermine Cal-Am's ability to provide adequate water supplies to existing service connections within the Monterey Peninsula Water Management District. Suggested Modification 54 is needed to ensure that the Coastal Act requirement that urban uses be served by public utilities is met.

Finally, Section 30254 of the Coastal Act limits the capacity of public infrastructure to be consistent with planned build out of urban areas rather than allow these facilities to be oversized, which would promote urban sprawl. In the event that a desalination plant is ever chosen as a method to increase the public water supply, a policy limiting it's size is needed to meet the requirements of Section 30254. (Please See Suggested Modification 58)

Therefore, as revised by Suggested Modifications 53 through 59, the Water Resources Section of the Carmel LUP can be approved as consistent with the cited Coastal Act policies.

**F. Water Quality
Coastal Act Policies**

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Background

Carmel-by-the-Sea lies within and at the bottom of the Carmel River watershed.



Runoff from the City flows into Carmel Bay, which is designated both as an Area of Special Biological Significance (ASBS) in the California Ocean Plan, and as a California Fish and Game Ecological Reserve. It is also part of the Monterey Bay National Marine Sanctuary. An ASBS is an area designated by the State Water Resources Control Board that requires special protection of species or biological communities that could be impacted by water quality degradation. As discussed in the Public Access finding, Carmel Beach and the shoreline also is a highly popular public recreation area. Maintaining and restoring water quality throughout the Carmel River watershed, and in this case, Carmel's urban landscape, is necessary to protect these sensitive coastal resources.

The Commission shares responsibility for regulating non-point source water pollution in the Coastal Zone of California with State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the January 2000 Plan for California's Non-point Source Pollution Control Program (Plan), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices are best implemented at the local planning level, since they can be most cost effective during the design stage of development.

The Commission and the Central Coast Water Quality Control Board (CCWQCB) are both working to protect water quality in the Carmel area, although each has different authorities and responsibilities in that effort. The Commission has primary responsibility for protecting many coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through writing discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards and taking enforcement actions where standards are violated.

Carmel LUP as Submitted.

The City's amended LUP submittal includes a variety of important policies to address water quality issues. These include policies to develop a City-wide Storm Water Utility Program that will also address the City's need to implement a National Pollution Discharge and Elimination System permit; policies to regulate illegal discharges; watershed protection policies to retain natural drainages; restore areas beneficial to water quality; and so forth.

The submitted LUP also includes development policies that require the protection of natural drainage systems, site planning to address drainage and polluted runoff, and the use of Best Management Practices (BMPs). Specific standards include requirements to: design post-construction BMPs to infiltrate and/or treat, storm runoff; minimize impervious surfaces; use a water quality checklist in project reviews; and



incorporate BMPs into commercial developments. Please see pages 117-124 for the entire listing of LUP water quality policies submitted by the City.

Coastal Act Consistency

The Commission recognizes that new development in Carmel-by-the-Sea has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. Coastal Act Sections 30230 and 30231 listed above require that coastal water quality be protected through policies that manage these types of new development impacts.

In particular, new development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. As discussed in the community character finding, redevelopment activity in Carmel has the potential to lead to increased impermeable surface, particularly on the smaller, 4000 square foot lots in the City where typically small structures are located. In the last several years the Commission has reviewed permits for residential demolition and rebuilds that have generally resulted in significant increased impervious coverage. For example, in the last year the average proposed increase in site coverage on 4000 square foot lots was approximately 375 square feet or 9%. This includes, though, a wide range of proposed changes in coverage, including some projects that reduced coverage slightly to projects that increased coverage by over 70% or greater than 1000 square feet.

The reduction in permeable surface therefore leads to an increase in the volume and velocity of storm water runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion, sedimentation, and non-point source pollution. Recently, a study prepared by the Pews Oceans Commission discussed the link between increasing impervious surfaces and degraded water quality:

Land conversion rates are profoundly important in light of recent research on aquatic ecosystems. A variety of studies during the past decade converge on a central point: When more than ten percent of the acreage of a watershed is covered in roads, parking lots, rooftops, and other impervious surfaces, the rivers and streams within the watershed become seriously degraded. . . .

If the percentage of the coast that is developed rises sharply (from 14 percent to 25 percent) over the next 25 years, these studies point to an irreversible decline in coastal aquatic ecosystem health.

The report acknowledges that site coverage is but one component of the land use-



water quality nexus, but it does underscore the importance of minimizing impervious site coverage overall.

In a setting such as Carmel, where informal street design (no curbs and gutters generally; unpaved road edges, etc.) and drainage are the norm, increased site runoff could have a significant impact on existing runoff patterns, ultimately resulting in increased erosion and a future need to manage runoff through engineered drainage structures. Thus, minimizing impervious coverage is essential to both protecting water quality, and maintaining the informal streetscape of Carmel.

Maintaining permeable surfaces and managing runoff onsite also helps to limit the impacts of pollutant runoff. Pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;
- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;



- acute and sub-lethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health. They are particularly important to manage in the vicinity of significant marine resources such as Carmel Bay – an Area of Special Biological Significance and Ecological Reserve.

As summarized above, Carmel's submitted LUP contains a comprehensive set of water quality policies designed to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including non-point source pollution, into the City's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and City services.

With the exception of two areas, --minimizing impervious surfaces, and managing polluted runoff -- these policies contained in the Carmel LUP provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Thus, as submitted, with the exception of the policies discussed below, the LUP is consistent with the water quality protection policies of the Coastal Act (30230, 30231).

Modifications

Minimizing Impervious Surfaces

As discussed above, minimizing impervious surfaces is critical to maintaining and protecting water quality in Carmel. As discussed in the Community Character finding, it is also critical to protecting the urban forest and informal streetscape of Carmel – both essential pieces of Carmel's unique community character.

The City has submitted a water quality policy that requires the new development minimize development footprints and directly connected impervious surfaces, as well as the increase in new impervious surfaces. The LUP also includes a policy to require new development to protect the absorption, purification, and retention functions of



natural systems on the site of proposed developments. Nonetheless, given the critical importance of this issue to the protection of water quality, particularly on the smaller, more constrained 4000 square foot lots of Carmel, it is necessary that the LUP have a specific impervious surface limitation for the small lot scenario. Without such specific limitation, it will be more likely that the small lots of Carmel will redevelop over time with more impervious surfaces, and that the cumulative impacts of these surfaces on water quality will be substantial.

Modification 7, therefore, requires that non-permeable surface on the 4000 square foot lots not exceed 50% or 2000 square feet. Such a limitation allows for a reasonable development envelope on these lots, while assuring that at least half of the available site area is available for natural percolation, as well as for the design of on-site drainage features. As previously discussed, most redevelopment projects in Carmel are resulting in increased impervious surfaces. In the last year, 4 out of 7 proposed redevelopment projects proposed impervious surface coverage greater than 50% (ranging from 55% to 65%). Three other projects, though, were proposed at less than 50%. Thus, it is reasonable and feasible to limit coverage in this way. In conjunction with other proposed limits to protect community character, this limit also provides reasonable development options even with the 1600 square foot single story house. Thus, such a project would have an additional 400 square feet of impervious surface to work with, which might include, for example, a driveway of 150 square feet, and 250 square feet of walkway and outdoor patio surface.

Finally, it should be emphasized that this water quality modification also supports and works with the community character policies of the modified LUP that seek to protect the small scale look and feel, as well as the urban forest resources, of Carmel's residential neighborhoods. The coverage limitation will also assure that the informal streetscapes of Carmel do not gradually convert to hardscapes, with concrete gutters and other drainage features made necessary by increased impervious surfaces the watershed. Given the significant potential for redevelopment in Carmel, and the associated increases in coverage that will occur, even with the proposed limitations of the modified LUP, a specific coverage limitation is the only mechanism to assure water quality protection over the long run. Therefore, to assure consistency with Coastal Act sections 30230 and 30231, Modification 7 is necessary to require the 50% coverage limit on the 4000 square foot lot.

Managing Polluted Runoff

The Commission finds that the application of appropriate methods and design goals for sizing BMPs is critical to the successful function of post-construction treatment Best Management Practices (BMPs) in removing pollutants in storm-water to the maximum extent practicable. The majority of runoff is generated from small storms because most storms are small. Additionally, storm-water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small more frequent storms, rather than for the large infrequent



storms, results in optimal BMP performance at lower cost.

The Commission also finds that sizing the proposed post-construction structural BMPs to accommodate the storm-water runoff from the 85th percentile storm event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs). Therefore, the Commission requires that the proposed post-construction structural BMPs (or suites of BMPs) shall be designed to infiltrate and/or treat, the amount of storm-water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. As submitted, the City of Carmel has not provided a specific design goal for BMPs, although it does have a policy generally addressing the treatment and filtering of runoff. Therefore, to assure consistency with Coastal Act sections 30230 and 30231, Modifications 60 - 66 are necessary.

Conclusion

As modified above, the Carmel-by-the Sea LUP includes a comprehensive and adequate set of policies to meet the goal of protecting and enhancing water quality of local coastal waters and ground waters from adverse impacts related to development. These policies specifically provide for minimizing impermeable surfaces and the requirement of Best Management Practices (BMPs) related to siting and design of the project and the post-construction phase of the project. It supports the Commission's view that all development has the potential to impact water quality, and that site design and source control measures can often mitigate such impacts, decreasing the need for structural treatment controls. Therefore, the Commission finds that the LUP water quality policies as modified are consistent with Coastal Act sections 30230 and 30231.

G. Environmentally Sensitive Habitat

Coastal Act Sections 30107.5, 30231, and 30240 define ESHA and afford protection of such areas and their associated biological productivity, and state:

Section 30107.5 *Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial*



interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240. *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Additional Section 30233 in part provides wetland protection as follows:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:...

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Although the City of Carmel-by-the-Sea is largely built out over most of its acreage, it does contain some areas of environmentally sensitive habitats. The proposed Land Use Plan re-submittal does an adequate job of ensuring that ESHA is protected pursuant to the Coastal Act policies.

First, the Land Use Plan identifies known ESHA in the City. The introduction to the Coastal Resource Protection chapter (pages 83 –92) and Appendix E: ESHA Study map describes the City's ESHAs including Monterey pine forest, wetlands, riparian forest, wet meadow, and coastal terrace prairie, and known occurrences of special-status plant and wildlife species, including Hickman's onion, and Monterey dusky footed woodrat. These are located in Pescadero Canyon, Mission Trails Nature Preserve, and Carmel beach. The Commission notes that although Monterey Pine in Pescadero Canyon is appropriately identified as ESHA, it is not identified as a Special Status Species. This is apparently because when Appendix E was writing in 1995, it did not yet



have that status. Now it is universally recognized as a Special Status Species (CNPS 1B, Federal Species of Concern). The Commission biologist has reviewed the ESHA appendix and concurs that ESHA has been appropriately identified and described. The analysis is based on the Coastal Act definition of ESHA and has identified those areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Second, the Land Use Plan provides for identification of additional ESHA in the future (Policies G9-22; P9-256), and also makes it clear that the maps show just currently designated ESHA (page 84).

Third, the Land Use Plan provides for protection of ESHA from most new development. Most of the ESHA is designated "Open Space." Public recreational and cultural uses and activities that are compatible with the natural resources are allowed (page 29). Policy 9-256 mimics Coastal Act language to "protect environmentally sensitive habitat areas against any significant disruption of habitat values. Only uses dependant upon those resources shall be allowed." Additionally, the Land Use Plan provides many very specific management measures for the three main ESHA areas to ensure that the public development is compatible with resource protection.

Private lots in ESHA are allowed limited single-family development to address Constitutional takings issues (Policy P9-323). However, the Land Use Plan also provides for transfer of development credits (Policy P9-313) and/or public acquisition programs (see policy citations below) to hopefully prevent the remaining private ESHA parcels from developing.

In addition to the noted open space areas, Monterey pine (and other) trees occur throughout the City. The Land Use Plan contains numerous policies designed to maintain these trees (through not cutting them, appropriate pruning, avoidance of root damage, and other measures) and planting new ones. Appendix D is a detailed Forest Management Plan that covers the entire City.

Fourth, the Land Use Plan provides for buffers to ESHA consistent with Section 30240b. One-hundred foot buffers to riparian areas for chemical applications are established (Policy P9-315), as is a minimum 50 foot development buffer for Pescadero Creek (Policy P9-323). The ESHA appendix further indicates that a 100-foot buffer is recommended for Pescadero Creek (page 5-11 of Appendix ESHA Study) and mitigation measures are required for adjacent development (page 5-11 of Appendix ESHA Study). The Land Use Plan also commits to a program of notifying residents adjacent to ESHAs of protective measures (Policy P9-317). Elsewhere, a 30-foot ESHA buffer is required (Figure 9.7; page 5-24 of Appendix ESHA Study), including specifically a 30-foot vegetation buffer along the perimeter of Mission Trail Nature Preserve (Policy P9-321).

Finally, the Land Use Plan provides for many maintenance, rehabilitation, and



improvement measures to ensure that ESHA remains vibrant. Examples of such measures include restoring native dune habitat (Policies P-9-181; P9-329), controlling invasive non-natives (Policy P-9-182), pruning so as not to disturb nesting birds (Policy P9-240). Almost all ESHA is within City owned land and the cited policies and others represent a commitment to maintain the City's ESHA. Furthermore, several policies (e.g., O9-35, P9-199, O9-46, P9-310) commit the City to acquiring additional existing or potential habitat areas.

However, there are two areas of concern within Appendix E, the Mission Trails Nature Preserve Master Plan: 1) the deletion of an objective to enhance the Preserve's wetlands by encouraging the channelized ditch to revert to a more natural channel; and 2) the declaration that the ESHA boundary could not be extended beyond the Preserve boundaries. As noted elsewhere in the LUP, the benefits to maintaining natural drainage patterns include absorption, filtering, and conveyance of storm water, provision of habitat, and enhancing visual resources. The Master Plan allows for maintenance of the natural channel to ensure public safety and protect structures threatened by erosion. However if allowed to be entirely channelized, along with decreasing habitat values, the natural functioning of the drainage will diminish which may actually exacerbate the problems that were intended to be prevented. Secondly, it is well known and understood that ESHA boundaries rarely follow manmade distinctions and thus, precluding ESHA from extending beyond the boundaries of the Preserve would not be consistent with Coastal Act policies protecting ESHA. Therefore, since Appendix E is an attachment of the submitted Land Use Plan, the Commission recommends modifications 69 and 70 to bring the Mission Trails Nature Preserve Master Plan into conformance with the Coastal Act.

In conclusion, the sum total of cited and related policies will ensure protection of ESHA consistent with the cited Coastal Act policies.

Finally, there are two structural problems with the Land Use Plan ESHA related policies. Appendices A-1 through A-4 of the Forest Management Plan contain outdated ordinance references. These need to be evaluated in the context of the Implementation Plan and cannot be certified at this time. Section IV of the Forest Management Plan repeats policies of the Coastal Resources chapter, but fails to update all those that reference the City Forester (as opposed to the Forest, Parks, and Beach Director). Therefore, modifications (see Modification 62 and 63) are necessary to correct and update these deficiencies. If so modified, the Land Use Plan will be fully consistent with Coastal Act ESHA policies.

H. Development

Coastal Act Section 30250 states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such



areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The Land Use Plan has a map and text, which designates land use categories throughout the City, consistent with the Coastal Act mandate to indicate kinds, locations, and intensities of land use. Generally, there is a commercial core surrounded by residential neighborhoods. Carmel-by-the-Sea is within the urbanized Monterey Peninsula. Except for the current lack of water, described in Finding E above, the proposed intensity of and locations of development is consistent with Coastal Act policies to concentrate development in urban areas with available services.

I. California Environmental Quality Act (CEQA)

Section 21080.9 of the Public Resources Code (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a Local Coastal Program (LCP). Instead, certification of an LCP by the Coastal Commission is subject to the requirements of CEQA. The Coastal Commission's regulatory program involving the preparation, approval and certification of local coastal programs has been certified by the Resources Agency under Public Resources Code Section 21080.5 as the functional equivalent of CEQA review. As a result of this certification, the Coastal Commission is exempt from the requirement of preparing an EIR in connection with a local coastal program. As set forth above, the Commission finds that the Carmel-by-the-Sea Land Use Plan as modified conforms with the Coastal Act policies regarding protection of the environment. The Commission finds that approval of the modified Land Use Plan will not result in significant adverse environmental impacts within the meaning of CEQA. The Commission further finds that there are no feasible alternatives or additional mitigation measures that would substantially lessen any significant adverse impact on the environment from approval of the Land Use Plan as modified.



