

CALIFORNIA COASTAL COMMISSION

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May 22, 2003

TO: Commissioners and Interested Persons

FROM: Deborah Lee, Deputy Director
Stephen Rynas, Orange County Area Supervisor
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 1-02B to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the June 10-13, 2003 meeting in Long Beach).

SUMMARY OF LCP AMENDMENT REQUEST NO. 1-02B

Request by the City of Laguna Beach to amend the Land Use Plan portion of the LCP by revising Topic 4: Water Quality and Conservation in the Open Space/Conservation Element of the certified Land Use Plan, in Laguna Beach, Orange County. The proposed amendment includes revisions and additions to the background text and the addition of new policies to Topic 4. Only the Land Use Plan (LUP) portion of the certified LCP is proposed to be changed by this amendment. The City of Laguna Beach Local Coastal Program (LCP) was certified by the Coastal Commission in July 1993.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

- 1. Deny the amendment request to the Land Use Plan as submitted;**
- 2. Approve, only if modified, the amendment request to the Land Use Plan.**

The motions to accomplish this recommendation are found on page 3. The suggested modifications, found on pages 5 - 8, are necessary to ensure that the amendment is in conformity with and adequate to carry out the Chapter 3 policies of the Coastal Act. The suggested modifications would modify some of the proposed policies and add a number of new policies. Additionally, because the existing Implementation Plan (IP) portion of the certified LCP is not adequate to carry out the LUP amendment as proposed and the City is not proposing to amend the IP at this time, a suggested modification would delay effectiveness of the amendment until changes necessary to implement the LUP amendment policies are made to the IP and are certified by the Commission. The modifications would augment the City's existing and proposed policies in order to assure that water quality protection is maximized consistent with the Chapter 3 policies of the Coastal Act. Only if modified as suggested will the Land Use Plan amendment be consistent with and adequate to carry out the provisions of the Coastal Act.

STANDARD OF REVIEW

For the proposed Land Use Plan amendment, the standard of review is conformance with the Chapter 3 policies of the Coastal Act.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The City of Laguna Beach Planning Commission held public hearings on the proposed amendment on July 24, 2002 and on September 25, 2002 and voted to recommend approval of the amendment to the City Council. Two speakers spoke at public comments portion of the July 24, 2002 Planning Commission hearing. The first speaker spoke regarding the environmental plans the City will need to approve in conjunction with Caltrans and other government agencies. The second speaker expressed concern that there appeared to be staffing issues for this item and suggested reassignment. She also raised concern about the effect of this issue and the MS4 requirements with respect to a subdivision proposal known as Driftwood. On October 15, 2002 the Laguna Beach City Council held a public meeting and approved the proposed amendment and approved submittal of the amendment for action by the Coastal Commission. Public notices for the hearings were printed in the Laguna Beach Coastline Pilot newspaper.

ADDITIONAL INFORMATION

Copies of the staff report are available at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact *Meg Vaughn* in the Long Beach office at (562) 590-5071.

I. STAFF RECOMMENDATION

Staff recommends adoption of the following motions and resolutions:

A. Denial as Submitted

Motion:

*"I move that the Commission **CERTIFY** Land Use Plan Amendment 1-02B as submitted by the City of Laguna Beach."*

Staff Recommendation to Deny:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Deny:

The Commission hereby **DENIES** certification of the Land Use Plan Amendment 1-02B as submitted by the City of Laguna Beach and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. Approval with Suggested Modifications

Motion:

*"I move that the Commission **CERTIFY** the Land Use Plan Amendment 1-02B for the City of Laguna Beach if it is modified as suggested in this staff report."*

Staff Recommendation to Certify with Suggested Modifications:

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

Resolution to Certify with Suggested Modifications:

The Commission hereby **CERTIFIES** the Land Use Plan Amendment 1-02B for the City of Laguna Beach if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

II. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the Local Coastal Program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The City's resolution of adoption (Resolution No. 02.068) states that this LCP amendment will take effect upon Commission certification. However, this certification is subject to the City's incorporation of suggested modifications made by the Commission. Therefore, this local coastal program amendment will not become effective until the City of Laguna Beach formally adopts the suggested modifications and complies with all the requirements of Section 13544.5 and the Commission staff and Commission take the steps outlined in that section, including the requirement that the Executive Director determine the City's adoption of the amendment to the Land Use Plan is legally adequate.

Furthermore, this amendment shall not become effective until necessary amendments are made to the City's Implementation Plan (IP). Under the Coastal Act, after full certification of an LCP, the local government's Implementation Plan (IP) must be adequate to carry out the provisions of the local government's Land Use Plan (LUP), which together provide the standard of review for development. The City of Laguna Beach's existing IP is not adequate to carry out the provisions of this LUP amendment. Suggested Modification 3 adds a requirement to the amendment that delays the effectiveness of the LUP amendment until changes necessary to implement the LUP amendment policies are made to the IP and are certified by the Commission.

III. SUGGESTED MODIFICATIONS

Certification of City of Laguna Beach LCP Amendment Request No. 1-01 is subject to the following modifications.

The suggested additions are shown in **bold, italic, underlined text.**

The suggested deletions are shown in ~~strike-through text.~~

No Modifications to City's Existing Policies (Provided Here for Reference):

4A Protect fresh water lakes, streams, waterways and riparian habitats, and preserve the borders and banks of lakes and streams in their natural state.

4B Encourage the planting of drought tolerant and native vegetation as a means of conserving water.

4C Encourage conservation of water resources for existing and new development.

4D Cooperate with the County of Orange to ensure that the existing natural hydrological process of Laguna Lakes is maintained as a means to preserve them.

4E Oppose any physical alteration to the Laguna Lakes shoreline or adjacent habitat areas, that may result in adverse effects to the lakes or would depreciate the visual quality of the lakes.

4F Coordinate with the County of Orange to maintain and enhance the ecological quality of the Laguna Lakes.

4G Encourage periodic reevaluation of the Oil Spill Contingency Plans affecting the City.

4H Oppose activities which degrade the quality of offshore waters.

No. 1. **MODIFY CITY'S PROPOSED NEW POLICIES AS FOLLOWS:**

4I **New Development shall** minimize the amount of impervious surfaces and directly connected impervious surfaces in areas of new development and redevelopment, and where feasible slow runoff **to** and maximize on-site infiltration of runoff. **Where infiltration of runoff would exacerbate geologic hazards, include equivalent BMPs that do not require infiltration.**

4J Implement pollution prevention methods supplemented by pollutant source controls and treatment. Use small collection strategies located at, or **as** close as possible to, the source (i.e., the point where water initially meets the ground) to minimize the transport of urban runoff and pollutants offsite and into the City's separate storm sewer system.

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4K Preserve, and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, vernal pools and buffer zones. Encourage land acquisition of such areas by public and/or non-profit entities.

4L Limit disturbances of natural water bodies and natural drainage systems caused by development, including driveways, roads, highways and bridges. Development shall protect the absorption, purification, and retention functions of natural drainage systems. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems shall be restored, where feasible.

4M Prior to making land use decisions, utilize methods available to estimate increases in pollutant loads and flows resulting from projected future development. Require incorporation of non-structural and/or non-structural Best Management Practices (BMPs) as necessary to mitigate reduce or minimize the projected increases in pollutant loads.

4N Avoid development of areas that are particularly susceptible to erosion and sediment loss; or establish development guidance that identifies these areas and development standards to protects them from erosion and sediment loss.

4O Reduce pollutants associated with vehicles and increasing traffic.

4P Post-development runoff from a site shall not contain pollutants which have not been reduced to the maximum extent practicable and that cause or contribute to an exceedance of receiving water quality objectives ~~and which have not been reduced to the maximum extent practicable.~~

No. 2. ADD THE FOLLOWING NEW POLICIES:

4Q The City, property owners, or homeowners associations, as applicable, shall sweep permitted public and private streets frequently to remove debris and contaminant residue.

4R Promote pollution prevention and elimination methods that minimize the impacts of pollutants on coastal waters by reducing nuisance flows and the generation and release of pollutants.

4S Special attention shall be devoted to protecting pristine waters from impairment, such as the South Laguna Marine Wildlife Refuge and the Heisler Park Ecological Reserve, and rehabilitating impaired waters, such as Aliso Creek.

4T New development shall not result in changes to the hydrologic landscape that impact coastal water quality.

4U Development shall minimize to the maximum extent feasible erosion, sedimentation, and the introduction of pollutants from grading and construction-related activities. Applicants shall develop construction-phase erosion control and runoff control plans which incorporate the appropriate BMPs necessary to minimize erosion and runoff, including landscaping and re-vegetation of bare slopes. In- or over-water construction (e.g., for piers, bulkheads, etc.) shall implement site-specific pollutant and turbidity control measures.

4V New development shall be designed to minimize the introduction of pollutants to surface waters, groundwater, and coastal waters. To meet these requirements, applicants shall prepare a post-development drainage and runoff control plan that incorporates all Best Management Practices necessary to increase water quality and reduce pollutant loading to the maximum extent feasible. BMPs may include Site Design, Source Control, and Treatment Control. Monitoring and maintenance of BMPs shall be required as necessary to maintain optimum effectiveness. Development shall occur consistent with the approved post-development drainage and runoff control plan.

4W Where treatment control BMPs are required, post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter 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.

4X BMPs shall be incorporated into the project design in the following progression:

- **Site Design BMPs**
- **Source Control BMPs**
- **Treatment Control BMPs**

4Y Site design and source control BMPs shall be included in all developments. When the combination of site design and source control BMPs is not sufficient to protect water quality, structural treatment control BMPs shall be required in addition to the site design and source control BMPs.

4Z The City shall prepare a water quality checklist to be used in the coastal development permit review process to assess potential water quality impacts of proposed development.

4AA In conjunction with coastal development permit review all development shall be evaluated for consistency with the policies of this section. Measures shall be imposed on all development as necessary to minimize adverse impacts to water quality.

4BB Conduct and promote watershed-wide water quality analysis and planning efforts within City jurisdiction. Results of the watershed analyses and planning efforts should be applied: (i) when determining the different kinds and intensities of uses that are appropriate for different areas of the City; (ii) when planning and constructing new infrastructure; and (iii) when determining what Site Design, Source Control and Treatment Control BMPs are appropriate for implementing the requirements of the Local Coastal Program.

4CC The City should encourage collaboration on watershed protection and analysis with other municipalities and agencies within the County of Orange and with neighboring jurisdictions within the San Diego Regional Water Quality Control Board, Southern Orange County Region.

4DD Preserve, and where feasible, restore natural hydrologic conditions, such that downstream erosion, natural sedimentation rates, surface flow, and groundwater recharge function near natural equilibrium states.

4EE Storm drain stenciling and signage shall be provided with new stormdrain construction in order to discourage dumping into drains.

4FF Engage in water quality public education and outreach to ensure successful application of BMPs. Require educational components in BMP programs, where applicable, as conditions of approval of Coastal Development Permits.

4GG Certain types of commercial development and land use activities are known to generate a significant number of pollutants and pose a threat to water quality. Therefore, restaurants, gasoline stations, car washes, automotive repair facilities, and parking lots shall be reviewed for potential water quality impacts.

4HH Development on steep slopes and/or sites with erosive soils shall be prohibited or be required to implement structural BMPs to prevent or minimize erosion.

4II Beachfront, waterfront, and ocean-fronting bluff development shall incorporate BMPs designed to prevent or minimize polluted runoff to the beach and coastal waters.

4JJ Development adjacent to watercourses shall incorporate BMPs designed to prevent or minimize polluted runoff into streams and drainage courses.

No. 3. **Necessary Implementation**

The Land Use Plan amendment approved by the City in Resolution 02.068, as modified pursuant to the suggestions of the Coastal Commission, shall not become effective until the City of Laguna Beach formally adopts the suggested modifications and complies with all of the relevant requirements of Section 13444.5 of the California Code of Regulations and the Coastal Commission certifies an amendment to the City's Implementation Plan that is adequate to carry out and implement such Land Use Plan Amendment.

IV. **FINDINGS**

The following findings support the Commission's denial of the LUP amendment as submitted, and approval of the LUP amendment if modified as indicated in Section II (Suggested Modifications) of this report.

The Commission hereby finds and declares as follows:

A. **Amendment Description**

The City of Laguna Beach has requested an amendment to the Land Use Plan (LUP) portion of the certified Local Coastal Program (LCP) to revise Topic 4: Water Quality and Conservation in the Open Space/Conservation Element of the LUP. The proposed amendment includes revisions and additions to the background text and the addition of new policies. The revisions include: a general update of the Topic 4 narrative, including the addition of a new section addressing watershed protection, and the addition of eight new water quality policies to the existing eight policies.

The City is required by the San Diego Regional Water Quality Control Board to comply with the Municipal Separate Storm Sewer System (MS4) permit which requires, among other things, that the City update their General Plan, as necessary, to add or modify water quality and watershed protection policies to comply with MS4. The MS4 permit implements requirements of the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) storm water regulations. The City's Local Coastal Program Land Use Plan is part of the General Plan. To meet the requirements of the MS4 permit, the City has submitted the proposed LUP amendment for Commission for review and action.

The eight new proposed policies are the policies listed in the San Diego Regional Water Quality Control Board's MS4 permit. The proposed policies describe methods to maximize water quality protection. Some of the methods to maximize water quality that

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are described in the proposed new policies include: minimizing impervious surfaces, preserving riparian corridors, requiring Best Management Practices in development projects, as well as other methods that would maximize water quality.

The proposed changes to the narrative portion of Topic 4 include: revisions and additions to the section addressing Laguna Lakes, which are located outside the coastal zone; an update to the section that discusses Ocean Resources by reflecting increased area figures due to the addition of the South Laguna area since the LUP was originally certified, and deleting a reference to an oil spill document dating from 1979; deleting an outdated discussion in the Water Conservation section; and the addition of a Water Quality section. This new section lists the beneficial uses of water including consumption and habitat preservation. The section recognizes that urban runoff which is not properly managed spreads pollution and impairs the beneficial uses of water. The section also recognizes that increases in impervious areas create concentrated pollution sources. In addition, the importance of restoring the natural hydrological cycle and of increasing filtration to reduce volume/peak rate runoff flows which decreases the pollutant loads of urban runoff are discussed. Finally, this new section lists the legal authority for the requirements regarding storm water quality protection.

No changes to land use designation are proposed as part of this amendment request.

B. Water Quality

Section 30230 of the Coastal Act states:

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:

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.

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1. Policies

For the proposed Land Use Plan amendment, the standard of review is conformance with the Chapter 3 policies of the Coastal Act. The chief objective of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including water quality. Section 30230 requires that marine resources be maintained, enhanced, and where feasible restored.

Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be protected. Section 30231 further requires that the quality of coastal waters be adequate to maintain healthy populations of marine organisms. Section 30231 also requires the use of means, including managing wastewater discharges, controlling runoff, protecting groundwater and surface water, encouraging wastewater reclamation, and protecting streams, which are necessary to maintain and enhance water quality. Section 30231 provides that natural vegetation buffer areas that protect riparian habitats be maintained, and that the alteration of natural streams be minimized. Natural vegetation buffers also protect riparian habitats by providing area for infiltration of runoff, minimizing erosion and sedimentation. Section 30236 limits channelizations, dams, or other substantial alterations of rivers and streams to only three purposes: necessary water supply; protection of existing structures where there is no feasible alternative; or improvement of fish and wildlife habitat.

Development 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, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. In addition, water bodies in and adjacent to the City of Laguna Beach, such as Aliso Creek, currently suffer from water quality impairment.

When development increases impervious surface area, the infiltrative function and capacity of the project site is decreased. The reduction in permeable surface therefore leads to an increase in the volume and velocity of stormwater 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 and sedimentation.

Further, 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;

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- 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 sublethal 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. Also where streams outlet on to recreational sandy beach areas, such as Aliso Creek, adverse impacts to public beach access can result. A temporary solution to the discharge of polluted summertime nuisance flows from Aliso Creek has been to divert the runoff to the adjacent sewer outfall. This is not a permanent solution. The permanent solution is to eliminate the upstream discharge of pollutants into the creek.

The goal of the LUP water quality policies is 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 nonpoint 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.

Best Management Practices include but are not limited to structural and nonstructural controls and operation and maintenance procedure. BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants

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into receiving waters. A site design BMP is a 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. A source control BMP is a practice that prevents 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 the use of irrigation and garden chemicals. A treatment control BMP is a system designed to remove pollutants from the runoff including the use of gravity settling, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

The Commission and the San Diego Regional Water Quality Control Board (SDRWQCB) both work to protect water quality, 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. Given the common goal of clean coastal water quality, there is a gray zone where the authorities of these agencies overlap. For example, based on the need to regulate land use in order to protect water quality, the SDRWQCB has approved the MS4 permit to reduce adverse impacts on water quality. The City of Laguna Beach is one of the co-permittees of the MS4 permit. The new policies proposed by the City are taken from the approved MS4 permit.

While the Commission recognizes that the City's proposed policy additions would increase water quality within the City, it also recognizes that there are additional steps that could be taken to further protect, restore and/or enhance water quality within the City. The proposed amendment could not be found consistent with Sections 30230 and 30231 of the Coastal Act, if feasible measures known to positively impact water quality were not included in the policies added to the water quality section of the City's LUP as part of the current proposal. The Commission's standard of review, which requires the preservation, protection, and enhancement of coastal resources including water quality, necessitates that the additional measures be imposed. Thus, the Commission finds that only if the amendment is modified as suggested can it be found consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act.

The LUP amendment, as modified, includes several policies to meet the goal of protecting and enhancing water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Several policies provide specifically for the requirement of Best Management Practices (BMPs) related to siting and design of the project, the construction phase of the project, and the post-construction phase of the project.

The modifications are suggested to augment the City's existing and proposed policies in order to assure that water quality protection is maximized. The suggested modifications include many programs to protect and restore water quality, including implementation of

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best management practices, filtration and treatment of stormwater, maintenance of drainage devices, and street sweeping. A suite of new policies has been developed to ensure that adequate BMPs are included for all new development. Policy 4W requires that post-construction treatment controls be able to treat the amount of stormwater up to and including the 85th percentile storm event. This numeric standard is based on a point of diminishing returns, beyond which the marginal water quality benefit of capturing equally larger volume of stormwater begins to decrease and is no longer worth the marginal effort. The Commission has previously found that this design standard is based on sound science and notes that the same design standard has been used by numerous stormwater management agencies throughout the State. Policy 4X requires that Best Management Practices be incorporated into a project in a tiered fashion, depending on the scope of the development. For example, the development of one single family residence probably would not necessitate the installation of a large treatment device; instead site controls (such as reducing impervious surfaces) and source controls (such as conditioning the project to prohibit pesticide use) might be sufficient to mitigate the water quality impacts of a small residential development. Policy 4Y, however, would require developments that pose a greater threat to water quality to implement treatment controls, as well as, site design and source controls. Policy 4Y requires that all development implement site design and source control BMPs. In addition, all development, no matter how small, shall be reviewed, based on its potential impact on coastal waters, to determine if treatment control BMPs are necessary to ensure maximum protection of coastal water quality. To determine which developments require which type(s) of BMPs, Policy 4Z is required. Policy 4Z requires the City to prepare a water quality checklist to be used to assess potential water quality impacts of proposed development. Namely, the checklist will ensure that development is designed to ensure that biodiversity and optimum populations of marine organisms are protected from water quality impacts, as specified in Coastal Act Sections 30230 and 30231. Taken together, the existing, modified and new water quality policies will provide for improved water quality in the Laguna Beach area. The suggested modifications are necessary to provide consistency with Coastal Act Sections 30230 and 30231.

2. Necessary Implementation

No amendment to the City's certified Implementation Plan (IP) has been submitted to implement the water quality policies of the Land Use Plan, and none currently exist in the certified IP. The City does have a Water Quality Ordinance, Chapter 16 of the City's Municipal Code. In addition, the City has a document titled the Local Implementation Plan, which is the document that implements the City's SUSMP. Other City documents exist, such as the Drainage Area Management Plan (DAMP), which would be used together with the Water Quality Ordinance and SUSMP by the City to implement the General Plan water quality policies. However, none of these documents has been submitted for inclusion in the City's certified LCP Implementation Plan. Thus, there is no implementation to support the proposed water quality land use policies in the LCP.

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In order for the water quality policies to be effective, specific mechanisms must be in place to implement them. For example, specific standards that BMPs must meet are necessary to assure their effectiveness. In order to assure that the LUP policies that require treatment controls actually result in treatment of the amount of stormwater necessary to maximize water quality protection, this standard should be applied in the implementation of the land use plan water quality policies.

To adequately implement the LUP water quality policies, a water quality checklist is necessary in order to review all developments for their individual impacts on water quality. This checklist would assist in determining which level of BMPs and which specific types of BMPs should be required with specific project types.

There are certain types of development that inherently create significant, adverse water quality impacts. These include restaurants, gasoline stations, car washes, automotive repair facilities, and parking lots. Restaurants create water quality problems stemming from oil and grease, solvents, phosphates, suspended solids, and other pollutants being released into the storm drain system due to standard operations such as washing equipment and disposing of grease generated by cooking. Gasoline stations, car washes and automotive repair facilities result in the introduction of oil and grease, solvents, car battery acid, coolant, gasoline, and other pollutants into the storm drain system from fueling areas, repair and maintenance bays, vehicle/equipment wash areas, and loading/unloading dock areas. Parking lots collect oil and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants which are washed into the storm drain system by rain or hosing of the area. Measures to deal with these specific types of developments and their associated pollutant load must be detailed in the implementation plan.

Many of the measures that are necessary to improve water quality are technical in nature. The level of detail that is required to assure that the Best Management Practices outlined in the LUP policies, as modified, is most appropriate in the Implementation Plan. The LUP policies alone cannot provide the detail necessary to describe the appropriate measures necessary to increase water quality with each development. Thus, a suggested modification is imposed that requires the City to submit an amendment to the certified IP that provides the documentation necessary to implement the water quality policies of the Land Use Plan. The Commission finds that only if modified to delay effectiveness of the Land Use Plan amendment until water quality implementation is submitted and certified by the Commission, will the amendment be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act.

Under the Coastal Act, after full certification of an LCP, the local government's Implementation Program (IP) must be adequate to carry out the provisions of the local government's Land Use Plan (LUP), which together provide the standard of review for development. The City of Laguna Beach's existing IP is not adequate to carry out the provisions of this LUP amendment. If these provisions became effective before the IP was amended, the IP would not meet its mandate under the Coastal Act to be adequate to

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carry out the LUP. Therefore the effectiveness of the LUP amendment must be delayed until the necessary amendments to the IP are certified.

Suggested Modification 3 adds a new policy to the LUP amendment that states that the Land Use Plan amendment shall not become effective until the Commission certifies an amendment to the IP that is adequate to carry out this amendment.

Conclusion

These policies, as modified, 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. Therefore, the Commission finds that, as modified, the LUP amendment meets the requirements of and is in conformity with Sections 30230 and 30231 of the Coastal Act.

C. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA) and the California Code of Regulations [Title 14, Sections 13540(f) and 13555(b)] the Commission's certification of this LCP amendment must be based in part on a finding that it is consistent with CEQA Section 21080.5(d)(2)(A). That section of the Public Resources Code requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Land Use Plan amendment as proposed has been found not to be in conformance with the Chapter 3 policies of the Coastal Act regarding water quality. To resolve the concerns identified, suggested modifications have been made to the proposed amendment. Without incorporation of the suggested modifications, the Land Use Plan amendment as submitted, is not adequate to carry out and is not in conformity with the Chapter 3 policies of the Coastal Act. The suggested modifications minimize or mitigate any potentially significant environmental impacts of the Land Use Plan amendment. As modified, the Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The Commission finds that for the reasons discussed in this report, if the LCP amendment is modified as suggested, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any adverse environmental impacts. The Commission further finds that the proposed LCP amendment, if modified as suggested, is consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.

RECEIVED

CERTIFIED COPY

RESOLUTION NO. 02.068

COASTAL COMMISSION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, APPROVING GENERAL PLAN/LOCAL COASTAL PROGRAM AMENDMENT 02-02 AMENDING TOPIC 4 (WATER QUALITY AND CONSERVATION) OF THE OPEN SPACE/CONSERVATION ELEMENT OF THE CITY'S GENERAL PLAN

WHEREAS, the City of Laguna Beach is one of the copermittees affected by the San Diego Regional Water Quality Board's issuance of the Municipal Separate Storm Sewer System ("MS4") Permit on February 13, 2002; and

WHEREAS, the MS4 Permit establishes conditions under which pollutants can be discharged from the storm drain system to local streams and the Pacific Ocean; and

WHEREAS, the MS4 Permit implements requirements of the Federal Clean Water Act and National Pollutant Discharge Elimination System ("NPDES") storm water regulations; and

WHEREAS, the MS4 Permit requires the City to develop a storm water management program designed to control the discharge of pollutants into and from the storm sewer system; and

WHEREAS, part of the storm water management program includes an assessment of the City's General Plan and the addition of water quality and watershed protection policies to help direct land-use decisions; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Section 15061(3) of the CEQA Guidelines, the City has determined that this amendment to the City's General Plan/Local Coastal Program is exempt; and

COASTAL COMMISSION
LGBC LCPA 1-02 P3
EXHIBIT # A
PAGE 1 OF 7

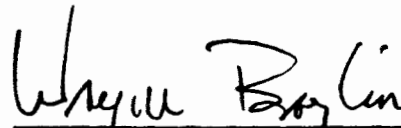
1 WHEREAS, after conducting legally noticed public hearings on July 24 and
2 September 25, 2002, the Planning Commission reviewed and unanimously recommended
3 revisions to Topic 4 of the City's Open Space/Conservation General Plan Element/Local
4 Coastal Program to the City Council; and
5

6 WHEREAS, after conducting a legally noticed public hearing on October 15, 2002,
7 the City Council of the City of Laguna Beach desires to amend Topic 4 of the City's Open
8 Space/Conservation General Plan Element/Local Coastal Program; and


9 WHEREAS, the City Council of the City of Laguna Beach desires that the proposed
10 General Plan/Local Coastal Program Amendment be carried out in a manner fully consistent
11 and in conformance with the California Coastal Act.
12

13 NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of
14 Laguna Beach hereby approves the amendments to Topic 4 of the City's Open
15 Space/Conservation General Plan Element/Local Coastal Program contained in Attachment
16 "A" and stipulates that these amendments shall become effective upon certification by the
17 California Coastal Commission.
18

19 ADOPTED this 15th day of October, 2002.
20

21 
22 _____
Wayne Baglin, Mayor

23 ATTEST:


24 
25 _____
26 City Clerk
27
28

1 I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, California, do
2 hereby certify that the foregoing Resolution No. 02.068 was duly adopted at a Regular
3 Meeting of the City Council of said City held on October 15, 2002, by the following vote:

4 AYES: COUNCILMEMBER(S): Kinsman, Dicterow, Iseman, Baglin

5 NOES COUNCILMEMBER(S): None

6 ABSENT COUNCILMEMBER(S): Freeman

7 
8 _____
9 City Clerk of the City of Laguna Beach, CA

TOPIC 4: WATER QUALITY AND CONSERVATION

Background

The preservation and conservation of water resources in Laguna Beach are significant local and regional concerns. Water is vital to human survival, and plays a significant role in the recreational, residential, commercial and industrial activities of the community. Water resources in Laguna Beach consist of both inland water bodies and offshore ocean resources.

Issue Identification and Analysis

Laguna Lakes: Laguna Lakes are located in the vicinity of Laguna Canyon Road north of Sycamore Hills and are the only known natural fresh water lakes in Orange County. The non-tidal lake system is filled by seasonal rains and natural and urban runoff. The Lakes are numbered 1 through 3 from upstream to downstream. Lakes 1 and 2 are on the west side of the road and Lake 3 is on the east side. Lake 3 is the largest lake and is approximately 12 acres in size. About 30% (four acres) of Lake 3 is situated within the Laguna Beach City limits and is owned by the City. The three lakes comprise three biotic communities: fresh water aquatic, fresh water marsh and riparian habitat. The Lakes support a variety of biotic species including: microscopic plants; aquatic and semi-aquatic plants such as reeds and willow thickets; migrating waterfowl and birds, frogs, salamanders; and a variety of mammals such as coyote, gray fox and mule deer.

The lakes are of local and regional significance, and are an important habitat for many waterfowl and birds that are not widely found within the County. The lakes support significant wildlife habitats in the freshwater marsh and riparian communities, and they possess much regionally uncommon aquatic and marsh-related vegetation.

Plans have been approved to improve about a 5-mile stretch of Laguna Canyon Road north of El Toro Road. These improvement plans will generally move this portion of Laguna Canyon Road to the west, away from the lakes and flood plain. It will also widen the highway to two lanes in each direction and elevate areas prone to flooding. This improvement project will allow Lakes 2 and 3 to be recombined.

Ocean Resources: The Pacific Ocean is one of the most significant physical features of Laguna Beach, creating about 8 linear miles of coastline and over 100 acres of sandy beach. In addition to its aesthetic and recreational value, the ocean and tidal zone of Laguna Beach also supports a wide variety of plant and animal life. This coastal ecology is particularly vulnerable to pollutants, which typically include chemical, gas or oil spills that originate on both land and sea. The quality of the ocean water is also susceptible to degradation from runoff sedimentation and debris from major drainage basins such as Aliso Creek and Laguna Canyon, and from sewer outfalls. A major degradation of the coastal waters has the potential of significantly disrupting the ecological balance of the area and adversely affecting tourism.

Oil spills are a particularly serious threat because of their potential for widespread damage. The Federal, State and County governments all have oil spill contingency plans that are activated during an oil or toxic chemical spill. These contingency plans are designed to initiate and expedite the process of cleanup and containment of oil and toxic chemical spills occurring offshore. These plans establish lead agencies responsible for the clean-up and administrative support and in some cases technical advice as needed during a major oil spill.

The Orange County Plan, however, differs from the State and National plans in that both these plans recognize the Environmental Protection Agency or Coast Guard as the lead agency for the spill response, while the County recognizes the local fire department of the affected jurisdiction as the lead agency.

The City's role in an oil or chemical spill emergency involves discovery of the spill, taking immediate action to limit damage and protect the public, notifying the appropriate State and Federal agencies, and providing support for clean-up operations by private industry.

Water Conservation: Communities can no longer depend entirely upon importing water to meet increased demand, but instead need to conserve water, thus reducing demand. Several jurisdictions have addressed this issue by establishing policies and ordinances to require water conservation. Other methods include reducing water demand in new residential development by reorienting outdoor space and its' landscaping, decreasing lot or lawn size and encouraging drought-tolerant landscaping through subdivision and landscape ordinances. In addition, residential water consumption can be reduced through economic and other incentives, building codes that mandate water saving devices, and public education on water conservation opportunities.

In Laguna Beach, the Laguna Beach County Water District (LBCWD) conducts a voluntary water conservation program by encouraging people not to waste water and by promoting the planting of native plants that use less water. This program also includes the subsidized sale of irrigation system rain sensors, a toilet exchange program and water efficient home products rebate program. Part of the program is administered by printing water conservation messages on water bills and by providing literature on these subjects at the LBCWD office.

Water Quality: Water is necessary for the survival and well being of humans, plants and wildlife. The beneficial uses of water include, but are not limited to, domestic, agricultural and industrial consumption supply; power generation; recreation; aesthetic enjoyment; and the preservation of human, wildlife and plant habitats. The pollution of water is a direct endangerment to and adversely affects the beneficial uses of water. Conversely, the protection of the quality of water ensures and promotes the beneficial uses of water.

Urban runoff impairs the beneficial uses of water. The discharge of pollutants from urban storm water systems into runoff receiving waters impairs or threatens to impair water's beneficial uses. The most common categories of pollutants in urban runoff include total suspended solids or sediment; pathogens (e.g., bacteria, viruses and protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polynuclear aromatic hydrocarbons; synthetic organics

(e.g., pesticides, herbicides and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (e.g., decaying vegetation and animal waste); and trash.

During urban development two important changes occur. First, natural vegetated pervious ground cover is converted to impervious surfaces, such as paved driveways, highways, streets, rooftops and parking lots. Secondly, urban development creates new concentrated pollution sources.

The most natural approach to water quality management is to filter and infiltrate runoff by allowing runoff to flow slowly over permeable vegetated surfaces. By preserving and restoring the natural hydrological cycle, filtration and infiltration can reduce the volume/peak rate, velocity and pollutant loads of urban runoff.

Since the urbanization process is a direct and leading cause of water quality degradation to receiving waters, fundamental changes to existing policies, regulation and practices about urban development are required. The main goal in the implementation of water shed protection principles and policies is to direct land use decisions that protect storm water quality. These changes concentrate on the three phases of urban development: land use planning, construction and the "use" phase.

The legal authority for municipal management of water quality is based on the federal Clean Water Act, the Porter-Cologne Water Quality Control Act, all applicable provisions of state and regional Water Quality Control Plans, the California Toxics Rule and the California Toxics Rule Implementation Plan. Laguna Beach is under the jurisdiction of the San Diego Regional Water Quality Control Board and must comply with the Board's Municipal Separate Storm Sewer System (MS4) Permit.

POLICIES

- 4A Protect fresh water lakes, streams, waterways and riparian habitats, and preserve the borders and banks of lakes and streams in their natural state.
- 4B Encourage the planting of drought tolerant and native vegetation as a means of conserving water.
- 4C Encourage conservation of water resources for existing and new development.
- 4D Cooperate with the County of Orange to ensure that the existing natural hydrological process of Laguna Lakes is maintained as a means to preserve them.
- 4E Oppose any physical alteration to the Laguna Lakes shoreline or adjacent habitat areas, that may result in adverse effects to the lakes or would depreciate the visual quality of the lakes.

- 4F Coordinate with the County of Orange to maintain and enhance the ecological quality of the Laguna Lakes.
- 4G Encourage periodic reevaluation of the Oil Spill Contingency Plans affecting the City.
- 4H Oppose activities that degrade the quality of offshore waters.
- 4I Minimize the amount of impervious surfaces and directly connected impervious surfaces in areas of new development and redevelopment, and where feasible slow runoff and maximize on-site infiltration of runoff.
- 4J Implement pollution prevention methods supplemented by pollutant source controls and treatment. Use small collection strategies located at, or close as possible to, the source (i.e., the point where water initially meets the ground) to minimize the transport of urban runoff and pollutants offsite and into the City's separate storm sewer system.
- 4K Preserve, and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, vernal pools and buffer zones. Encourage land acquisition of such areas.
- 4L Limit disturbances of natural water bodies and natural drainage systems caused by development, including driveways, roads, highways and bridges.
- 4M Prior to making land use decisions, utilize methods available to estimate increases in pollutant loads and flows resulting from projected future development. Require incorporation of structural and non-structural Best Management Practices (BMPs) to mitigate the projected increases in pollutant loads and flows.
- 4N Avoid development of areas that are particularly susceptible to erosion and sediment loss; or establish development guidance that identifies these areas and protects them from erosion and sediment loss.
- 4O Reduce pollutants associated with vehicles and increasing traffic.
- 4P Post-development runoff from a site shall not contain pollutants that cause or contribute to an exceedance of receiving water quality objectives and which have not been reduced to the maximum extent practicable.

The foregoing instrument is a correct copy
of the original on file in this office.

Attest

December 13, 2002

City Clerk of the City of Laguna Beach,
County of Orange, State of California.

By:

Martha C. [Signature]
[Signature] City Clerk

A7

