


**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 S. CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

**W 7a****RECORD PACKET COPY**

**DATE:** June 25, 2004

**TO:** Commissioners and Interested Persons

**FROM:** Chuck Damm, Deputy Director   
Melanie Hale, Supervisor, Planning and Regulations  
Lillian Ford, Coastal Program Analyst

**SUBJECT:** City of Carpinteria Local Coastal Program Amendment 1-04 (Creeks Preservation Program)

**DESCRIPTION OF THE SUBMITTAL**

This Local Coastal Program Amendment (LCPA) proposes to amend the Implementation Program (IP) of the certified City of Carpinteria Local Coastal Program (LCP) to include a Creeks Preservation Program.

The LCPA was approved by the City Council through Resolution No. 4755 on July 22, 2002, and was originally submitted to the Commission as LCPA 1-02b on December 31, 2002. The proposed amendment was subsequently deemed incomplete by Commission staff and was completed on May 6, 2003. The Commission granted a one-year extension for Commission action on June 13, 2003 pursuant to Section 30517 of the Coastal Act. On May 25, 2004, the City simultaneously withdrew their application for LCPA 1-02b and resubmitted the amendment. The new amendment, LCPA 1-04, was deemed complete on June 9, 2004. The Commission must act on this submittal no later than August 8, 2004.

**SUMMARY OF STAFF RECOMMENDATION**

Commission staff recommends that the Commission **DENY** the proposed Implementation Program Amendment (Creeks Preservation Program), as submitted, and **APPROVE, only if modified**, the proposed Implementation Program Amendment (Creeks Preservation Program) as revised by the suggested modifications. As submitted the Implementation Program amendment is inconsistent with various policies in the certified City of Carpinteria Land Use Plan pertaining to protection of coastal waters and environmentally sensitive habitat areas. In addition, some technical modifications are necessary in order for the amendment to conform to

the definition of an Implementation Program component as set forth by the Coastal Act. As modified, the amendment is consistent with the certified City of Carpinteria Land Use Plan and the technical requirements of the Coastal Act.

### **STAFF NOTE:**

Due to its size, the entire Creeks Preservation Program has not been attached to this report but is available upon request from the South Central Coast District Office as noted below.

### **ADDITIONAL INFORMATION**

For further information, please contact Lillian Ford at the South Central Coast District Office of the Coastal Commission at **805-585-1800**. Copies of the amendment submittal are available for review at the South Central Coast District Office located at 89 S. California, Ventura, CA 93001.

## **I. PROCEDURAL ISSUES**

### **A. STANDARD OF REVIEW**

The standard of review for Implementation Program (IP) amendments is found in Section 30513 of the Coastal Act. This section requires the Commission to certify an IP amendment if it finds that it conforms to, and is adequate to carry out, the provisions of the certified Land Use Plan. Specifically, Section 30513 states:

*....The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan.*

Thus the standard of review for this amendment is the certified City of Carpinteria Land Use Plan.

### **B. LUP POLICY EFFECTIVENESS**

In accordance with Policy LU-1b of the certified City of Carpinteria LUP, certain LUP policies shall not become effective until the Commission certifies amendments to the Implementation Program that are adequate to carry out those policies. The Creeks Preservation Program amendment, as modified by the Commission, is adequate to carry out several LUP policies whose effectiveness has been delayed by Policy LU-1b.

All LUP policies shown in the third column of Exhibit 6 shall be deemed effective upon certification of this amendment. The LUP policies shown in the far right column are adequately

implemented by the amendment in regards to creek protection and water quality, but require additional implementation to be fully effective.

### **C. 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 as 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. 4755) indicates that this LCP amendment will require formal local government adoption after Commission approval. In addition, this certification is subject to suggested modifications by the Commission. Therefore, this LCP amendment will not become effective until the City of Carpinteria formally adopts the suggested modifications and complies with all the requirements of Section 13544.5 including the requirement that the Executive Director determine the City's adoption of the amendment to the Implementation Program is legally adequate.

### **D. SUMMARY OF PUBLIC PARTICIPATION**

Public review of the Creeks Preservation Program began with the publication of the document in January 2002 and the publication of a draft Mitigated Negative Declaration (MND) in March 2002. The draft MND was reviewed by the City Environmental Review Committee on April 18, 2002. The IP amendment was reviewed by the City of Carpinteria's Planning Commission at public hearings held on May 6, 2002 and June 17, 2002, and was subsequently reviewed by the City Council on July 22, 2002. Notice of Public Hearing for the hearings was advertised in the Santa Barbara News-Press and mailed to adjacent local governments, state and regional agencies, and a variety of interested groups, businesses, and individuals. The Creeks Preservation Program and the MND were made available for public review at the Carpinteria City Hall.

## **II. COMMISSION RESOLUTIONS ON CITY OF CARPINTERIA LOCAL COASTAL PROGRAM AMENDMENT 1-04**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided just prior to each resolution.

### **A. DENIAL AS SUBMITTED**

**MOTION I:**

*I move that the Commission reject the Implementation Program for the City of Carpinteria as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program submitted for the City of Carpinteria and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

**B. APPROVAL WITH SUGGESTED MODIFICATIONS**

**MOTION II:**     *I move that the Commission certify the Implementation Program for the City of Carpinteria if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program for the City of Carpinteria if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program 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 Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### III. SUGGESTED MODIFICATIONS TO THE AMENDMENT

#### A. ORGANIZATIONAL NOTES

The addition or deletion of implementation measures may affect the numbering of subsequent implementation measures when the City of Carpinteria publishes the final document incorporating the Commission's suggested modifications. This staff report has not made revisions to the submitted implementation measure numbers, but has added several new implementation measures and has assigned them numbers according to the submitted format. The City may make modifications to the numbering system when it prepares the final IP amendment for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

#### B. SUGGESTED MODIFICATIONS

The Commission certifies the following, with modifications as shown. Language as submitted by City of Carpinteria is shown in straight type. Language recommended by the Commission for deletion is shown in line-out. Language to be inserted is underlined. Global text suggested modifications are shown in straight type.

##### Suggested Modification 1:

Page 3-16, Section 3.3

....Program regulations are provided below in the following subsections: Geomorphology, Hydrology and Water Quality, and Biological Resources.

The program regulations section of the proposed IP amendment contains three levels of text, titled "objectives," "policies," and "implementation measures." Only the implementation measures, as modified by the Commission, are to be considered enforceable regulations of the City's Local Coastal Program Implementation Program.

**Global Text Suggested Modification 2:** As submitted, this IP amendment contains supportive narrative describing the basis for many implementation measures. Some of these implementation measures have been modified as a result of this Commission action. Consequently, the corresponding supportive narrative may no longer be relevant for supporting modified implementation measures. The Commission empowers the City with the approval of the Executive Director to revise supportive narrative so that it will be consistent with the implementation measures of the IP amendment as modified through the suggested modifications. Since this policy refers to a global text revision, once the global text revisions are made, this policy does not need to be included in the amended IP.

**Global Text Suggested Modification 3:** In order to be consistent with the certified LUP, the acronym "ESH," denoting "Environmentally Sensitive Habitat Area," shall be replaced by

"ESHA". Since this policy refers to a global text revision, once the global text revisions are made, this policy does not need to be included in the amended IP.

**Suggested Modification No. 4**

Page 3-17, Section 3.3.1

**Implementation Measure 1.1.1.** <<Insert Water Quality Protection Ordinance, included as Exhibit 4>>

**Suggested Modification No. 5**

Page 3-18, Section 3.3.2

**Implementation Measure 2.1.2.** A setback of 50 feet from top of the upper bank of creeks or existing edge of riparian vegetation (dripline), whichever is further, is required for all new development. This setback may be increased to account for site-specific conditions. The following factors shall be used to determine the extent of an increase in setback requirements:

- a. soil type and stability of the stream corridor
- b. how surface water filters into the ground
- c. types and amount of riparian vegetation and how such vegetation contributes to soil stability and habitat value
- d. slopes of the land on either side of the stream
- e. location of the 100 year floodplain boundary, and
- f. consistency with other applicable adopted plans, conditions, regulations and/or policies concerning protection of resources.

Where existing buildings and improvements, conforming as to use but nonconforming as to the minimum creek setback established herein, are damaged or destroyed by fire, flood, earthquake or other natural disaster, such buildings and improvements may be reconstructed to the same or lesser size and in the same general footprint location, provided that reconstruction shall be inaugurated by the submittal of a complete construction application within 24 months of the time of damage and be diligently carried to completion.

**Suggested Modification No. 6**

Page 3-18, Section 3.3.2

**Implementation Measure 2.1.3.** Development within stream corridors is prohibited with the exception of the following:

- Fish and wildlife habitat enhancement projects
- Flood protection where no less environmentally damaging method for protecting existing structures exists and where protection is necessary for public safety. Flood control measures shall incorporate the best mitigation measures feasible, and shall utilize

natural creek alteration methods where possible, including, but not limited to, earthen channels and biotechnical stabilization. Flood control projects shall not be permitted prior to the issuance of all necessary State and Federal permits.

- Bridges, public trails, and public park improvements including interpretive signs, kiosks, benches, raised viewing platforms, or similar sized structures immediately adjacent to public trails, where no alternative route or location is feasible and where located to minimize impacts on ESHA. New stream crossings shall be accomplished by bridging wherever possible. Trail and park improvements construction shall be allowed only in accordance with Implementation Measure 2.7.2 of this program.
- Repair and replacement of existing stream crossings where such repair and replacement is the least environmentally damaging alternative.
- Vegetation removal in accordance with the following standards:
  - Vegetation removal, including weeding and brush clearance, tree trimming for safety purposes, and removal of dead or dying plant material shall be allowed only if it can be shown that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Program and the certified LCP. Such activity shall require approval from the City Biologist or a determination by the City that the proposed activity is consistent with the provisions of this Program and the certified LCP.
  - For improvements existing prior to adoption of this Program, a maintenance program shall be submitted by the property owner(s) that describes the scope and nature of maintenance activities. The City shall review the program, make any changes to avoid further disruption of habitat values and shall approve the program. Unless maintenance work is proposed that is outside the scope of the approved program or a State Department of Fish and Game permit is required, no further review by the City shall be required; maintenance activities beyond those stated in the approved maintenance program are prohibited.
- Reconstruction of existing lawfully constructed buildings and improvements within creek setback areas destroyed by fire, flood, earthquake or other natural disaster. Such buildings and improvements may be reconstructed to the same or lesser size and in the same general footprint location, provided that reconstruction shall be inaugurated by the submittal of a complete construction application within 24 months of the time of damage (within 12 months for non-residential structures) and be diligently carried to completion. Reconstruction projects must comply with Chapter 14.82 of the City zoning code.
- Reconstruction of existing lawfully constructed primary residences within creek setback areas, due to normal wear and tear such as structural pest damage or dry rot. Such residences may be reconstructed to the same or lesser size (square footage, height, and bulk) in the same footprint. If the reconstructed residence is proposed to be larger than the existing structure, it may only be permitted in accordance with the standards for structural additions provided below;
- Structural additions or improvements to existing lawfully constructed primary residences within creek setback areas in conformance with Chapter 14.82 of the City zoning code and the following standards:
  - Second story additions shall be considered the preferred alternative to avoid ground disturbance;
  - Additions shall be located on those portions of the structure located outside or away from the ESHA;
  - In no case shall additions result in the extension of ground floor development into or toward ESHA;



- Additions shall be allowed only if they: are located a minimum of six feet from any oak or sycamore canopy dripline; do not require removal of oak or sycamore trees; do not require any additional pruning or limbing of oak or sycamore trees beyond what is currently required for the primary residence for life and safety; minimize disturbance to the root zones of oak or sycamore trees to the maximum extent feasible (e.g., through measures such as raised foundations or root bridges); preserve habitat trees for sensitive species as defined by the certified LUP, in accordance with all provisions of the certified LCP and this Program;
- Improvements, such as decomposed granite pathways or alternative patios, may be allowed in existing developed areas within the dripline of oak and sycamore trees if such improvements are permeable, and do not require the compaction of soil in the root zone.
- Additions and improvements shall be allowed only if it can be shown, pursuant to the required site-specific biological study, that such development shall not adversely impact the adjacent riparian species and meets all other provisions of this Program and the certified LCP.

All permitted development shall incorporate the best mitigation measures feasible to minimize impacts to the greatest extent. When development results in the loss of habitat, mitigation shall be provided in accordance with Implementation Measure 2.4.4 of this program.

Creek bank and creek bed alterations shall be allowed only where no practical alternative solution is available.

Development, including any structure, feature, or activity, that would significantly fragment habitat or create significant barriers to the movement of fish and wildlife is prohibited in creek ESHA areas and/or creek setback areas.

Development, including any structure, feature, or activity, proposed to be undertaken within a creek or below the top of bank must be approved by the State Department of Fish and Game prior to City permitting.

#### **Suggested Modification No. 7**

Page 3-18, Section 3.3.2

**Implementation Measure 2.1.4. New fencing on parcels adjacent to creeks and/or within a creek ESHA overlay area shall be wildlife permeable as defined by the following criteria:**

- Fences shall have a wooden (not wire) rail at the top
- Fences shall be less than 40 inches high
- Fences shall have a space greater than 14 inches between the ground and the bottom rail.

Solid or chain-link fences are prohibited.

#### **Suggested Modification No. 8**



Page 3-18, Section 3.3.2

**Implementation Measure 2.1.5.** New development in or adjacent to habitat used by sensitive, rare, threatened, or endangered species, as defined by the certified City of Carpinteria Land Use Plan, shall be set back sufficiently far as to minimize impacts on the habitat area. For nesting and roosting trees used by sensitive, rare, threatened, or endangered raptors on parcels adjacent to Carpinteria Creek, this setback shall be a minimum of 300 feet. In addition, the maximum feasible area surrounding nesting and roosting sites shall be retained in grassland and to the extent feasible shall be sufficient to provide adequate forage for nesting success. Additions or alterations to existing development on parcels adjacent to Carpinteria Creek may be located within the applicable setback in accordance with the following requirements:

- In accordance with established multi-week protocols, a pre-construction survey for nesting and roosting activity shall be performed by a qualified biologist for all improvements to existing development on parcels adjacent to Carpinteria Creek.
- Only those improvements that, in the opinion of a qualified biologist, do not adversely affect the future use of the nesting or roosting trees shall be approved.
- If nesting or roosting sensitive, rare, threatened, or endangered raptors are found within 300 feet of the proposed improvements, no construction activity shall occur within the nesting or roosting season, as applicable.
- Nesting or roosting trees are considered significant vegetation and shall only be altered or removed if it is determined by a qualified arborist that alterations or removal are necessary for the protection of public safety or the maintenance of the health of the affected tree, and there are no other feasible means of limiting the public hazard posed by the tree (e.g., fencing around the tree, supportive cabling of weak limbs). Removal of nesting or roosting trees shall be mitigated. In no case shall nesting or roosting trees be removed or altered during the nesting or winter roosting season.

#### **Suggested Modification No. 9**

Page 3-18, Section 3.3.2

**Implementation Measure 2.1.6.** If it is asserted that the application of the policies and standards contained in the LCP and this Program regarding use of property would constitute a taking of private property, the applicant shall apply for an economical viability determination in conjunction with their coastal development permit application and shall be subject to the following provisions:

1. The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information unless the City determines that one or more of the particular categories of information is not relevant to its analysis:

- a. The date the applicant purchased or otherwise acquired the property, and from whom.
- b. The purchase price paid by the applicant for the property.

- c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
- d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection d above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
- g. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
- h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
- j. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
- k. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
- l. Any additional information that the County requires to make the determination.

2. A coastal development permit that allows a deviation from a policy or standard of the LCP to provide a reasonable use may be approved or conditionally approved only if the appropriate governing body, either the Planning Commission or City Council, makes the following supplemental findings in addition to the findings required in Chapter 14.60 of the Zoning Code (Coastal Development Permits):

- a. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed in the LCP Policies and/or standards would not provide an economically viable use of the applicant's property.
- b. Application of the LCP policies and/or standards would interfere with the applicant's investment-backed expectations.
- c. The use proposed by the applicant is consistent with the applicable zoning.
- d. The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises.

- e. The project is the least environmentally damaging alternative and is consistent with all provisions of the certified LCP other than the provisions for which the exception is requested.
- f. The development will not be a public nuisance. If it would be a public nuisance, the development shall be denied. Implementation

#### **Suggested Modification No. 10**

Page 3-18, Section 3.3.2

**Implementation Measure 2.3.1.** The City shall annually provide notice to the owners of property within creek ESHA overlay areas concerning the limits on activities in creek ESHA overlay areas, the prohibition of any disruption of habitat values and the procedure for requesting approval of activities potentially affecting a creek ESHA.

#### **Suggested Modification No. 11**

Page 3-19, Section 3.3.2

**Implementation Measure 2.4.1.** ~~All Development Permit applications for projects within or immediately adjacent to creek ESH areas and/or creek setback areas~~ within a creek ESHA overlay area must include a complete description of the proposed project, site plan, grading plan and other information required on the application form. The site plan and grading plan must be of a scale and contour interval to adequately depict the proposed work and delineate environmental features on the site. A biological study must be submitted with the application. The biological study must contain a topographic map at an appropriate scale and contour interval that adequately delineates the boundaries of creek beds and banks, wetlands, native riparian and upland vegetation, vegetation driplines, ESH areas, and creek setback boundaries, as defined in the General Plan/Local Coastal Plan and Zoning Ordinance-ESH Overlay District. In addition, the map must clearly show areas that would be directly impacted by project construction and development footprints. The biological study must also describe the flora and fauna known to occur or having the potential to occur on the site, including ~~endemic, rare, threatened, endangered, and of concern species~~ sensitive species as defined by the certified City of Carpinteria Land Use Plan. Where trees suitable for nesting or roosting, or significant foraging habitat is present, a formal raptor survey will be conducted as part of the biological study. The study shall include an analysis of the potential impacts of the proposed development on the identified habitat or species, an analysis of project alternatives designed to avoid and minimize those impacts, and mitigation measures that would minimize or mitigate residual impacts that cannot be avoided through project alternatives. Research and survey methodology used to complete the study must also be provided. The biological study must be prepared by a professional biologist approved by or working directly for the City. The City will review the submitted application materials and require additional information as necessary to assess the potential impacts of the project to the affected creek(s).

**Suggested Modification No. 12**

Page 3-19, Section 3.3.2

**Implementation Measure 2.4.2.** Development Permit applicants ~~for project sites including ESH areas and/or creek setback areas on parcels adjacent to creeks and/or within a creek ESHA overlay area~~ will provide the City with a Construction Mitigation Plan. The Construction Mitigation Plan will describe protective measures that will be implemented to minimize the impacts of project construction activities on biological habitat. This includes impacts from direct ground disturbance, clearing, noise, dust generation, increased runoff, erosion, water pollution, application of herbicides, pesticides, and other harmful substances, and any other construction activities that may harm biological resources. Measures that will be required (where applicable) to minimize construction impacts include the following:

- The limits of the construction area will be clearly delineated (flagged, fenced, etc), and construction activities will stay within these limits.
- Protective fencing shall be placed around the outermost limits of the protected zones of native trees within or adjacent to the construction area prior to the commencement of construction activities, and shall be maintained in place for the duration of all construction. The protected zone of a native tree shall extend 5 feet from the dripline or 15 feet from the trunk of the tree, whichever is greater. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas, or within the protected zones of any on-site native trees. Any development approved pursuant to Implementation Measure 2.1.6, including grading or excavation, that encroaches into the protected zone of a native tree shall be constructed using only hand-held tools.
- Important resources (e.g., native vegetation) located within the construction area that are to be preserved will be clearly marked to avoid the accidental removal of such resources.
- Appropriate buffer and/or setback areas, as defined by the provisions of this program and the General Plan/Land Use Plan, or in the absence of applicable provisions, by a qualified biologist, will be clearly delineated and maintained between construction activities and the breeding, roosting, and foraging habitat of sensitive species and communities, as defined by the certified LUP. ~~sensitive biological receptors such as bird nests.~~
- Construction activities will be scheduled to avoid the breeding seasons of sensitive wildlife species ~~whenever possible~~. If nesting or roosting sensitive, rare, threatened, or endangered raptors are found within 300 feet of the proposed improvements, no construction activity shall occur within the nesting or roosting season, as applicable.
- Construction Phase BMPs Requirements from the City's SWMP Water Quality Protection Ordinance will be implemented to minimize impacts related to runoff, erosion, and water quality ~~(see Appendix B, Attachment A);~~
- The use of herbicides will be minimized by using manual removal methods to eliminate undesired vegetation whenever possible.

The Construction Mitigation Plan will be prepared by a professional biologist, arborist or landscape architect whom the City approves as qualified to complete the work. The Construction Mitigation Plan will be reviewed and approved by the City prior to issuance of the Development Permit.

**Suggested Modification No. 13**

Page 3-20, Section 3.3.2

**Implementation Measure 2.4.3.** A qualified biological monitor approved by or working directly for the City will be provided during construction activities for projects within ~~creek ESH areas and/or creek setback areas~~ on parcels within a creek ESHA overlay area to ensure that protective measures provided in the Construction Mitigation Plan are fully implemented. The biological monitor will be responsible for conducting orientations for the work crew upon project commencement and subsequent orientations upon significant crew changes to educate work crews about the sensitivity of biological resources at the site, and to inform them of protective measures that must be complied with. The monitor will also be responsible for observing construction activities and directing construction crews as needed to ensure that protective measures are implemented. If any breach in protective fencing occurs, the monitor shall order all work suspended until the fence is repaired or replaced. The biological monitoring must be supervised by a professional biologist approved by or working directly for the City and who is qualified to complete the specific nature of the work.

**Suggested Modification No. 14**

Page 3-20, Section 3.3.2

**Implementation Measure 2.4.4.** If, after project review and consideration of all ESH protection measures, a project is approved that will result in any destruction or degradation of natural habitat within ~~creek ESH areas and/or creek setback areas~~ a creek ESHA overlay area, a Habitat Restoration Plan will shall be required. The plan will be prepared by a professional biologist whom the City approves as qualified to complete the work. The plan will incorporate the following minimum conditions and elements:

- A clear statement of the restoration project goals will be provided. Some restoration goals may be broad, but the plan must also provide qualitative and quantitative standards by which the progress of the restoration effort can be measured. Examples of specific restoration standards may relate to the re-establishment of a diverse benthic macroinvertebrate community, use of the site by a particular wildlife species, or the establishment of native vegetation over a specified percentage of the site. The goals of the restoration project are to be based on the stream restoration principles identified in Policy 2-10 Implementation Measure 2.10.7.
- The Habitat Restoration Plan will delineate all habitat areas that will be destroyed or degraded by the project, and those that will be restored. A minimum habitat area replacement ratio of ~~2:4~~ 3:1 will be required for habitat that is destroyed or degraded. Such restoration plans shall be approved by the City prior to implementation.
- On-site restoration (i.e., on the parcel or parcels the project is located on) will be conducted wherever feasible. If on-site restoration is not feasible, restoration will occur at a suitable off-site location along the affected creek(s).
- As to consolidate off-site restoration areas, the area to be restored will be acquired by ~~the applicant (if it is not already under their ownership), if feasible, and permanently~~

protected in a conservation easement and/or open space designation, by acquisition of the property by the applicant or by other means.

- Restored habitat will be in-kind with the habitat lost or degraded, will realize equal or greater biological value proportionate to the 3:1 replacement ratio provided above, and will be self-sustaining and viable in the long-term. Restoration efforts will address physical features such as topography, soils, and creek bed and bank features (e.g., riffles, pools, large woody debris, boulders, etc.), vegetation and wildlife.
- A Grading and Site Preparation Plan will be provided that identifies finished topographic contours, and rock, soil and mulching materials that will be used. As part of site preparation, all debris and undesired non-native vegetation will be removed from restoration areas. The Grading and Site Preparation Plan will be prepared with the assistance and approval of a certified professional engineer.
- A Planting Plan ~~will~~ shall be provided that lists the plant species that will be replanted, the source of plant material, planting methods, and locations. An appropriate palette of plant species native to the restored habitat will be used for revegetation. Plant material used in restoration projects will be collected and propagated from local, naturally occurring plant stocks, preferably from the same watershed and habitat type.
- A Maintenance, Monitoring, and Corrective Action Plan will be provided that identifies measures that will be implemented to ensure that restored habitat becomes properly established. Maintenance measures that may be employed include erosion control, watering vegetation until it becomes established, weeding, and replacing plants and trees that do not survive. Monitoring of the restoration area will be conducted at regular intervals. A performance bond in an amount sufficient to fund the Action Plan ~~must~~ shall be filed with the City to ensure compliance with the performance standards established in the Habitat Restoration Plan. This bond shall remain in effect for five years or until the City biologist has determined the restoration has been successfully completed. Monitoring reports will be submitted to the City on an annual basis at a minimum, and more frequently if deemed necessary. Monitoring reports must assess the progress of the restoration effort in relation to the project goals. If restoration project goals are not met, corrective measures will be devised and implemented to achieve the goals. The City must consent that the subject property has been properly restored before the project proponent is released from maintenance, monitoring, and corrective action requirements. Monitoring must be conducted for a minimum of five years.

#### **Suggested Modification No. 15**

Page 3-22, Section 3.3.2

**Implementation Measure 2.4.5.** Development Permit applicants for ~~project sites including ESH areas and/or creek setback areas~~ parcels adjacent to creeks and/or within a creek ESHA overlay area ~~will~~ shall provide the City with a Post-Construction Mitigation Plan. The Post-Construction Mitigation Plan ~~will~~ shall describe protective measures that will be implemented to minimize impacts to biological resources due to effects including but not limited to such as noise, lighting, vehicular and pedestrian traffic, domestic pets, water pollution, erosion, landscape plantings, etc. At a minimum measures that will be required (as applicable) to minimize post-construction impacts include the following:



- Mechanisms to provide for the permanent protection of areas identified and approved on the Development Permit (or other project approvals) as natural areas will be included in property exchange documents, deeds, lease agreements, CC&Rs, etc.
- Permanent landscaping will be provided to developed area (e.g., parking lots, buildings, backyards, etc.). Landscaping will be planted with appropriate native plant species selected by a qualified landscape architect and/or biologist.
- Project proponents permittees and any and all successors will provide informational materials (e.g., in lease agreements, CC&Rs, deed restrictions) to future occupants of future developments that ensure protective standards/conditions of approval are recognized and complied with throughout the life of the project.
- Educational materials including interpretive signs will be installed near creeks and natural habitat areas. These educational materials and signs will discuss the importance and sensitivity of creek habitats, regulations that have been established to protect them, those standards/conditions of approval that affect the project, and penalties that may be imposed on violators of such regulations.
- The planting of any landscape plants that are on the California Exotic Pest Plan Council's Lists of Exotic Pest Plants of Greatest Ecological Concern in California is prohibited in any ESH or creek setback area. These lists are provided in Appendix C.
- Loud, stationary equipment (e.g., air conditioners, etc.) shall be located away from or provided with enclosures to minimize potential impacts to wildlife.
- Post-Construction BMPs Requirements from the City's SWMP Water Quality Protection Ordinance will be implemented to minimize impacts related to runoff, erosion, and water quality ~~(See Appendix B)~~.
- All fencing shall be wildlife permeable.
- Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity features, shielded, and directed away from creek ESHA to minimize impacts to wildlife. Permitted lighting shall conform to the following standards:
  - The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Community Development Director.
  - Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.
  - The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.
  - A light, not to exceed 60 watts or the equivalent, at the entrance to the (identify non-residential accessory structures).
  - No lighting around the perimeter of the site, no lighting for sports courts or other private recreational facilities, and no lighting for aesthetic purposes is allowed.

The Post-Construction Mitigation Plan ~~will~~shall be prepared by a professional biologist whom the City agrees is qualified to complete the work. The Mitigation Plan ~~will~~shall be reviewed and approved by the City prior to issuance of the Development Permit.

#### **Suggested Modification No. 16**



**Implementation Measure 2.5.1.** In addition to all other available remedies, the City may seek to enforce the implementation measures contained herein pursuant to the provisions of Public Resources Code section 30800 – 30822.

Any person who performs or undertakes development without a coastal development permit or inconsistent with any coastal development permit previously issued may, in addition to any other penalties, be civilly liable in accordance with the provisions of Public Resources Code Division 20 Section 30820. Pursuant to Public Resources Code section 30811, the Community Development Director may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the appropriate authority, the development is inconsistent with the provisions of the Local Coastal Program, and the development is causing continuing resource damage. Pursuant to Public Resources Code section 30821.6, any person who intentionally or negligently violates a restoration order may be civilly liable for a penalty for each day in which the violation persists.

At a minimum, violators shall be required to restore physical conditions and biological habitat that has been damaged as a direct result of their actions. This shall entail the preparation and implementation of a Habitat Restoration Plan that meets the requirements described above in Implementation Measure 2.4.4. In addition, penalties in the form of fees may be assessed for violations. Fines that are collected from violators to the extent they exceed the City's costs of achieving compliance, shall be dedicated towards the acquisition, preservation, and restoration of local creeks.

**Suggested Modification No. 17**

Page 3-23, Section 3.3.2

**Implementation Measure 2.6.1.** The City shall periodically review the ESHA Overlay Map to ensure its accuracy relative to specific studies conducted for proposed projects or other related biological studies. The City shall also revise the ESHA Overlay Map periodically to account for changes in habitat boundaries resulting from approved habitat restoration projects. Each periodic revision to the ESHA Overlay Map should be submitted to the Coastal Commission as an amendment to the certified Local Coastal Program.

**Suggested Modification No. 18**

Page 3-23, Section 3.3.2

**Implementation Measure 2.7.2.** Where new or expanded recreational trails are provided in ~~creek ESH areas and/or creek setback areas~~ stream corridors, they will be constructed of alternative surface materials (i.e., not paved), and shall be a maximum of five feet wide, and will be. New or expanded public trails and/or park improvements shall be designed and sited to minimize disturbance of sensitive creek resources including native vegetation, creek beds and banks. When such activities require removal of riparian plant species outside of trail limits, revegetation with local native riparian plants shall be required. Creek crossings will be minimized.

**Suggested Modification No. 19**

Page 3-24, Section 3.3.2

**Implementation Measure 2.9.1.** The City will coordinate with other agencies such as the County of Santa Barbara during any surveys of local creeks and riparian habitats conducted by other agencies. Creek surveys will involve walking the length of creeks and noting observations including flora and fauna, condition of the creek bed, banks, and floodplains, creek discharge, and water clarity. In addition, when intensive surveys are proposed to be conducted in Carpinteria Creek, the City will cooperate and participate to extent feasible. Intensive surveys will include water quality testing, assessment of physical habitat, surveys of aquatic and terrestrial flora and fauna, and collection and identification of benthic macroinvertebrates. Creek survey methodology provided in Appendix A will be used as a guide for conducting surveys. In addition, detailed stream assessment guides such as the U.S. EPA's *Rapid Bioassessment Protocols for use in Wadeable Stream and Rivers* and CDFG's *California Stream Bioassessment Procedure* will be used as references for stream survey methodology. Generally, creek surveys will be conducted in the spring (April or May) during periods of consistent creek flow. Survey dates may be adjusted from year to year depending on variations in rainfall and creek flow. However, in order to allow meaningful comparison of data collected from survey to survey, survey dates and methods will be kept as constant as possible. Whenever possible, creek monitoring surveys will be coordinated with water quality monitoring studies encouraged by ~~BMP 3-4 of the City's SWMP~~ the Water Quality Protection Ordinance.

**Suggested Modification No. 20**

Page 3-27, Section 3.3.2

**Implementation Measure 2.10.7.** The City will actively encourage and pursue, as funds are determined available by City Council, projects proposed to preserve and restore local creek habitats, using a holistic, watershed-based approach. Creek preservation and restoration projects shall conform to the following principles:

- The underlying purpose of each restoration project will be to form self-sustaining habitats that are equivalent or similar to what once naturally occurred at the subject site(s). Restoration goals for particular habitat components (e.g., creek morphology, plant community composition, wildlife community composition, etc.) will be determined based on documented historical conditions at the restoration site, or documented conditions at a nearby reference site. Also, restoration goals will be realistic given the limitations imposed by existing development, flood control needs, water supply needs, etc.
- The full range of factors that shape the subject habitat will be considered in the design of creek restoration projects. This includes small-scale factors such as creek bed and bank materials, bank stability, stream gradient, riparian canopy cover, and local stream flow patterns, as well as large-scale factors such as watershed topography, geology, land use patterns, and sources of stream flow, sediments, nutrients, and pollutants.

- Restoration projects will eliminate sources of creek habitat degradation (i.e., creek flow alterations, increased erosion and sedimentation rates, water pollution, removal of vegetation, etc.), and allow the creek to restore itself through natural processes whenever possible. Physical alterations such as revegetation, bank stabilization (natural bank reconstruction), and the creation of instream habitat may also be pursued, but will be of a secondary priority.
- Restoration projects shall help create self-sustaining habitats with long-term viability, rather than short-term improvements that require continuous, long-term maintenance.
- Monitoring will be conducted for a minimum of five years to assess the progress of the project in relation to the restoration goals. Where restoration goals are not met, corrective measures will be devised and implemented to achieve the goals.
- Restoration efforts will take a large-scale, watershed based approach whenever possible. In order to facilitate this, the City will communicate with other interested agencies, groups, and citizens.

#### **Suggested Modification No. 21**

Page 3-26, Section 3.3.2

**Implementation Measure 2.10.2.** The City will specifically promote through both public and private efforts the aquatic and riparian habitats of Carpinteria Creek for restoration. Restoration actions that will be considered by the City include the following:

- Implementing the ~~SWMP~~ Water Quality Protection Ordinance to address watershed-scale issues related to water quality, erosion, and sedimentation.
- Removing riprap, pipe and wire revetment, concrete bank revetments, and other artificial elements in the creek. This includes features such as road crossing culverts and detention basins that hinder the movement and migration of aquatic organisms such as steelhead trout.
- Removing trash and debris from the creek.
- Stabilizing eroded and cleared creek banks and floodplains. Natural materials such as native soils, rocks, and heavy timber will be used to reconstruct eroded areas. Native vegetation will be replanted to bind soil.
- Eradicating highly invasive, non-native vegetation such as giant reed, German ivy, periwinkle, and ice plant from the creek and adjacent riparian/upland areas, and replacing it with native vegetation.
- Improving habitat quality and complexity for aquatic invertebrates, fish, amphibians, and reptiles by re-introducing large woody debris and overhanging riparian vegetation to the creek bed and banks in a manner that does not create flooding hazards.
- Widening the band of riparian and upland habitat along the creek by purchasing adjacent land, restoring it with native biological communities, and preserving it.

#### **Suggested Modification No. 22**

Page 3-26, Section 3.3.2

**Implementation Measure 2.10.3.** The City will specifically promote Lagunitas Creek and adjacent riparian and coastal scrub habitats for restoration. Restoration activities that will be pursued by the City include the following:

- Implementing the SWMP Water Quality Protection Ordinance to address watershed-scale issues related to water quality erosion, and sedimentation.
- Removing trash and debris from the creek, including abandoned sewer lines and several large concrete roadway dividers.
- Stabilizing and revegetating areas that have been eroded or cleared.
- Eradicating highly invasive, non-native vegetation such as German ivy, English ivy, and ice plant from the creek and adjacent riparian/upland areas, and replacing it with native vegetation.
- Acquiring land along the tributary drainage ditches north of U.S. 101, and restoring natural swales, creek channels, and native vegetation.

### **Suggested Modification No. 23**

Page 3-27, Section 3.3.2

**Implementation Measure 2.10.4.** The feasibility of habitat restoration along Franklin and Santa Monica Creeks is limited by their highly altered condition, flood control considerations, and tightly encroaching urban and agricultural developments. However, ~~it may be~~ where feasible, ~~proposed development shall~~ to restore natural elements to these creeks, including earthen banks, natural creek beds with riffles and pools, and a narrow corridor of riparian vegetation, while still maintaining the interests of the flood control function. ~~These~~ Where feasible, ~~proposed development shall include~~ elements that would provide wildlife habitat, and increase the value of the creeks as migration corridors for terrestrial and aquatic wildlife. Franklin Creek Park (City-owned) ~~could~~ shall serve as a focal point for restoration efforts along Franklin Creek, unless other feasible and environmentally preferable locations are identified. Santa Monica Creek historically supported steelhead trout, ~~and it may be possible~~ Where feasible, proposed development in lower Santa Monica Creek shall ~~to restore~~ the lower portion of the creek to a condition that would allow steelhead passage into the mountain tributaries. If funding is available, the ~~The City shall consider conducting~~ conduct a study to explore restoration options for Franklin and Santa Monica Creeks.

## **IV. FINDINGS FOR DENIAL OF THE CITY OF CARPINTERIA'S IMPLEMENTATION PROGRAM AMENDMENT, AND APPROVAL WITH MODIFICATIONS**

The following pages contain the specific findings for denial of the City of Carpinteria Implementation Program amendment, as submitted, and approval with modifications. The Commission hereby finds and declares as follows:

## **A. PROPOSED AMENDMENT**

The proposed amendment is for the adoption of the City's Creeks Preservation Program (CPP) as part of the Implementation Program (IP) of the City's certified Local Coastal Program. Due to its size, the proposed LUP/GP is not included in this report, but is available upon request from the South Central Coast District office.

The proposed amendment was approved by the City Council through Resolution No. 4755 on July 22, 2002, and was originally submitted to the Commission as LCPA 1-02b on December 31, 2002. The proposed amendment was subsequently deemed incomplete by Commission staff and was completed on May 6, 2003. The Commission granted a one-year extension for Commission action on June 13, 2003 pursuant to Section 30517 of the Coastal Act. On May 25, 2004, the City simultaneously withdrew their application for LCPA 1-02b and resubmitted the amendment. The new amendment, LCPA 1-04, was deemed complete on June 9, 2004. The Commission must act on this submittal no later than August 8, 2004.

The CPP is divided into two major sections. The first section is narrative, describing and providing baseline data on the hydrology, geomorphology, water quality, and biological resources of the four creeks within the City as well as land uses within each watershed. The second section consists of the program regulations. It is this second section that is the focus of Commission review. The CPP also contains four appendices, which contain stream survey data forms and methodology, a draft stormwater management plan, lists of exotic pest plants, and a glossary.

The program regulations section of the CPP contains three levels of text, titled "objectives," "policies," and "implementation measures." Only the implementation measures are to be considered enforceable regulations of the City's IP. Therefore, the Commission's review of the proposed IP amendment is limited to a review of the implementation measures. Objectives and policies contained within the document are to be considered narrative text only. The entire program regulations section, including all objectives and policies, is included as Exhibit 2.

## **B. CREEKS WITHIN THE CITY OF CARPINTERIA**

The City of Carpinteria ("City") is a small coastal city located in the southwest corner of Santa Barbara County. The City occupies the lower portion of the Carpinteria Valley, a broad coastal terrace located between the Santa Ynez Mountains and the Santa Barbara Channel. The City contains the lower reaches of three creeks originating in the Santa Ynez Mountains, most notably Carpinteria Creek, a perennially-flowing stream that supports an annual steelhead run. The other two creeks, Franklin Creek and Santa Monica Creek, are contained in concrete channels within the city limits. In addition, Lagunitas Creek, a small intermittent stream originating in the foothills just north of town, winds through the Carpinteria Bluffs and is discharged through a pipe on the bluff face. Program creeks drain a combined watershed area of approximately 24 square miles. Carpinteria Creek and Lagunitas Creek are located within the Environmentally Sensitive Habitat Area (ESHA) overlay included in the LUP.

## C. LOCAL COASTAL PLANNING HISTORY

The Central Coast Regional Commission certified the City's Local Coastal Program (LCP) with suggested modifications on December 15, 1979. The State Commission found no substantial issue with the LCP as approved by the Regional Commission and certified the LCP with suggested modifications on January 22, 1980. Significant amendments to the LCP include the Bluffs Local Coastal Program Amendment 1-94 (Carpinteria Bluffs Area I, II, and III) and the subsequent LCPA 1-95 (Carpinteria Bluffs Access, Recreation & Open Space Master Program), as well as a comprehensive update of the Land Use Plan (LUP), which was certified by the Commission on April 10, 2003. Under Policy LU-1b of the updated LUP, certain policies shall not become effective until the Commission certifies amendments to the Implementation Program that are adequate to carry out those policies. The Creeks Preservation Program amendment, as modified by the Commission, is adequate to carry out several LUP policies whose effectiveness has been delayed by Policy LU-1b. These policies are listed in Exhibit 6.

## D. GLOBAL MODIFICATIONS / PROGRAM ORGANIZATION

Three suggested modifications of a technical nature are necessary to clarify the scope of the IP amendment, allow revision of supporting narrative, and bring into agreement a term used in both the LUP and this amendment. These suggested modifications are discussed in turn below.

### Scope of amendment

The City's Creeks Preservation Program (CPP) amendment can be divided into two major divisions. The first division is narrative, which describes and provides baseline data on the hydrology, geomorphology, water quality, and biological resources of the four creeks within the city as well as the land uses within each watershed. The second division of the IP amendment consists of the program regulations. It is this second division that is the focus of Commission review.

The program regulations section of the CPP contains three levels of text, titled "objectives," "policies," and "implementation measures." This organizational system is problematic under the Coastal Act, which separates policies and implementing actions within a local government's Local Coastal Program.

Section 30108.4 of the Coastal Act defines "implementing actions" as:

*...the ordinances, regulations, or programs which implement either the provisions of the certified local coastal program or the policies of this division and which are submitted pursuant to Section 30502.*

Section 30108.5 of the Coastal Act defines the "Land Use Plan" as:

*...the relevant portion of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.*

Sections 30108.4 and 30108.5 distinguish policies from implementing actions, and locate the former in the Land Use Plan portion of a Local Coastal Program.

The City has submitted the CPP as a proposed amendment to the Implementation Program portion of its LCP.

The City's resolution of submittal, Resolution No. 4755, states:

*...the proposed Local Coastal Plan Amendment is intended to carry out the policies of the City's Local Coastal Plan.*

In addition, the CPP states in its introduction:

*Once it is officially adopted and certified by the CCC, the document will become an implementing program of the City's General Plan and Local Coastal Plan.*

City staff members have also confirmed that the submittal is to be regarded as an implementation program amendment.

The Coastal Act requires that enforceable policies be located in the Land Use Plan portion of an LCP. Therefore, it is necessary to clarify that only the implementation measures are to be considered enforceable regulations of the City's IP, and that the objectives and policies are to be considered narrative text only. Suggested Modification 1 inserts this clarification into the CPP as an introductory statement under Section 3.3 - Program Regulations.

#### Revision of Supporting Narrative

As submitted, this IP amendment contains supportive narrative describing the basis for many implementation measures. Some of these implementation measures have been modified as a result of this Commission action. Consequently, the corresponding supportive narrative may no longer be relevant or may conflict with the modified implementation measures. In order to allow the correction of internal inconsistencies, it is necessary to include Suggested Modification 2, which empowers the City (with the approval of the Executive Director) to revise supportive narrative so that it will be consistent with the implementation measures as revised by the suggested modifications. Since this policy refers to a global text revision, once the global text revisions are made, this policy does not need to be included in the amended IP.

#### ESHA acronym

The final global text modification, Suggested Modification 3 replaces the acronym "ESH" with "ESHA." This revision is necessary for consistency with the term used in the certified LUP.

## **E. WATER QUALITY**

The City of Carpinteria is located in coastal Santa Barbara County and includes four creeks – Carpinteria Creek, Franklin Creek, Santa Monica Creek, and Lagunitas Creek. These creeks drain a combined watershed area of approximately 24 square miles into Carpinteria Marsh and the Pacific Ocean, where sensitive resources and popular public recreation areas exist.



Carpinteria Marsh and Carpinteria Creek are both designated as impaired waterbodies according to the 303(d) list adopted by USEPA in July 2003. Maintaining and restoring water quality throughout Carpinteria is necessary to protect these sensitive coastal resources and recreational amenities.

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with the 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 Plan for California's Nonpoint Source Pollution Control Program (2000), 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 to incorporate during the design stage of development. In practice, the Coastal Commission protects water quality primarily through: (1) managing coastal development that generates runoff or creates spills; (2) assisting local coastal governments and other agencies to address land-use planning and development activities that may produce nonpoint source pollution; and (3) implementing educational and technical assistance programs.<sup>1</sup>

The Commission and the Central Coast Regional Water Quality Control Board (RWQCB) are both working to protect water quality in Carpinteria. The Commission has primary responsibility for protecting 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, taking enforcement actions where standards are violated and, most recently, coordinating the Phase II National Pollutant Discharge Elimination System (NPDES) Permit process. Given the common goal of clean coastal water quality, there are many issues where the authorities of these agencies are complementary and mutually supporting. For example, the Central Coast RWQCB has, in the Phase II Permit, provided guidance for new and redevelopment that may impact water quality. In support of coastal stormwater programs and in keeping with Coastal Act policies, Coastal Commission staff has been working with municipalities to update their LCPs to include a comprehensive water quality protection element. The element includes guidelines for water quality measures to be integrated into development within the coastal zone. This process reflects the special significance of coastal development on coastal water quality and supports the premise that all development has the potential to impact water quality but can be mitigated using simple cost-effective measures.

The City's certified LUP contains the following policies relevant to protecting water quality:

Policy OSC-6e:

*Natural drainage patterns and runoff rates and volumes shall be preserved to the greatest degree feasible by minimizing changes to natural topography, and minimizing the areas of impervious surfaces created by new development.*

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<sup>1</sup> 2000 Nonpoint Source Program Strategy and Implementation Plan, 1998-2013

Policy OSC-6f:

*All development shall be evaluated for potential adverse impacts to water quality and shall consider Site Design, Source Control and Treatment Control BMPs in order to minimize polluted runoff and water quality impacts resulting from the development. In order to maximize the reduction of water quality impacts, BMPs should be incorporated into the project design in the following progression: (1) Site Design BMPs, (2) Source Control BMPs, and (3) Treatment Control BMPs.*

Policy OSC-6, IM 31:

*Develop a water pollution avoidance education program, to include distribution of literature on how to minimize point and non-point water pollution sources, and development of a curb drain inlet stenciling program to deter dumping of pollutants.  
[5-year]*

Policy OSC-6, IM 32:

*In order to protect watersheds in the City, all construction related activities shall minimize water quality impacts, particularly due to sediments that are eroded from project sites and are conveyed to receiving waters, by implementing the following measures:*

- a. Proposed erosion and sediment prevention and control BMPs, both structural and non-structural, such as:*
    - Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method*
    - Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method*
    - Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site*
    - Prevent blowing dust from exposed soils.*
  - b. Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:*
    - Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials*
    - Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies*
    - Provide sanitary facilities for construction workers*
- City of Carpinteria General Plan and Local Coastal Plan  
Open Space, Recreation & Conservation Element*
- Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.*

Policy OSC-6, IM 33:

*In order to protect watersheds in the City, all development shall minimize water quality impacts, particularly due to storm water discharges from existing, new and redeveloped sites by implementing the following measures:*

- a. Site design BMPs, including but not limited to reducing imperviousness, conserving natural areas, minimizing clearing and*

grading and maintaining predevelopment rainfall runoff characteristics, shall be considered at the outset of the project.

b. Source control Best Management Practices (BMPs) shall be preferred over treatment control BMPs when considering ways to reduce polluted runoff from development sites. Local site and soil conditions and pollutants of concern shall be considered when selecting appropriate BMPs.

c. Treatment control BMPs, such as bio-swales, vegetated retention/detention basins, constructed wetlands, stormwater filters, or other areas designated to control erosion and filter stormwater pollutants prior to reaching creeks and the ocean, shall be implemented where feasible.

d. Structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

e. Permits for new development shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPs. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility. The City, property owners, or homeowners associations, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.

Policy OSC-10c:

*Degradation of the water quality of groundwater basins, nearby streams or wetlands, or any other waterbody shall not result from development. Pollutants such as sediments, litter, metals, nutrients, chemicals, fuels or other petroleum hydrocarbons, lubricants, raw sewage, organic matter and other harmful waste shall not be discharged into or alongside any waterbody during or after construction.*

Policy OSC-10, IM 53:

*Provide storm drain stenciling and signage for new stormdrain construction in order to discourage dumping into drains. Signs shall be provided at creek public access points to similarly discourage creek dumping.*

Policy OSC-10, IM 54:

*The City shall adopt and implement a Storm Water Management Plan (SWMP) to minimize the water quality impacts of runoff from development in the City. The City's SWMP shall satisfy the requirements established by EPA's Final Phase II National Pollutant Discharge Elimination System (NPDES) regulations, which will be implemented*

*by the Phase II general permit administered by the Central Coast Regional Water Quality Control Board. The City's SWMP shall, at a minimum, include Best Management Practices (BMPs) in the following categories:*

- Public Education and Outreach*
- Public Participation and Involvement*
- Illicit Discharge Detection and Elimination*
- Construction Site Runoff Control*
- Post-Construction Runoff Control*
- Pollution Prevention and Good Housekeeping in Municipal Operation.*

The water quality policies of the City's 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. 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 water quality policies in the LUP also include requirements for the preservation of natural drainage patterns and natural landforms, the minimization of water quality impacts from agricultural practices and other land uses, and the minimization of impervious surfaces created by new development. Finally, the LUP policies require the adoption and implementation of a Storm Water Management Plan (SWMP) that meets the requirements of the Phase II Permit administered by the Central Coast RWQCB.

The Carpinteria Creeks Preservation Program (CPP) is an implementation program to guide the preservation and restoration of creeks in the City of Carpinteria. The goals of creek preservation, restoration and enhancement are directly related to the protection of water quality. Natural creek processes and water quality may be impacted by erosion and sedimentation, removal of natural vegetation, alteration to natural drainage patterns and hydrology, and an increase in polluted runoff, which are all impacts caused by development and other land use activities.

The CPP includes measures that require development projects to provide a Construction Mitigation Plan and a Post-Construction Mitigation Plan that include Best Management Practices (BMPs) from the City's Storm Water Management Program (SWMP). The development, adoption, and implementation of this SWMP are requirements established in the City's LUP. The SWMP must comply with the Central Coast RWQCB requirements for the Phase II Permit.

The City developed a SWMP and submitted it in August 2003 to the Central Coast RWQCB to meet the requirements of the Phase II Permit. However, the City's SWMP merely reiterates the requirements of the Phase II Permit to establish a program to reduce pollutants in stormwater runoff from construction activities and a program to address stormwater runoff from new development and redevelopment projects, without identifying the methods for the development and implementation of these programs. The SWMP does not establish the City's authority to review development and determine if Best Management Practices are necessary to ensure the protection of water quality. In addition, there are no guidelines on how to determine if BMPs are necessary for a project, no established process for the review of Site Design, Source Control and Treatment Control BMPs for new development, and no guidelines for criteria that will be used to determine if water quality has been protected, as required in Policy OSC-6f and Policy OSC-6 IP 33 of the LUP. There are no specific BMPs included in the SWMP, only a statement that the City will develop and implement appropriate BMPs.

The City's SWMP is not adequate to support the implementation of the CPP to carry out the water quality policies in the LUP, because the CPP would have to rely on measures that have not been sufficiently developed in the SWMP. Therefore, Suggested Modification 4 (Water Quality Protection Ordinance) is recommended to enable the CPP to address and implement the water quality provisions of the LUP.

Suggested Modification 4, the Water Quality Protection Ordinance (WQ Ordinance), will ensure that all development is evaluated for potential adverse impacts to water quality and meets the objectives of the water quality provisions in the City's LUP. The WQ Ordinance defines what activities new development must undertake to protect water quality and outlines what applicants should consider regarding Site Design, Source Control and Treatment Control BMPs in order to prevent polluted runoff and water quality impacts.

The WQ Ordinance requires the development and submittal of water quality plans that incorporate site design modifications and BMPs designed to prevent or minimize impacts to water quality. These plans are required for both the construction phase and post-construction phase of development, and must detail how stormwater and polluted runoff will be managed or mitigated. The basic design elements for all projects will demonstrate how the project will use appropriate Site Design and Source Control BMPs to minimize adverse effects of the project on water quality. For certain categories of development, a Water Quality Management Plan (WQMP) will be required showing how Treatment Control (or Structural) BMPs will be used (in addition to Site Design and Source Control BMPs) to minimize the discharge of polluted runoff from the project. Projects that fail to adequately protect water quality using Site Design and Source Control BMPs shall be required to complete a WQMP.

The WQ Ordinance also provides Development Standards, which specify BMP selection methods, sizing criteria, and maintenance requirements. Requirements for development on hillsides and standards related to specific types of development (i.e., commercial, restaurants, etc.) are also provided in the WQ Ordinance.

Commission staff has worked closely with the Central Coast RWQCB to ensure that water quality provisions within Coastal Development Permits and Local Coastal Plans are supportive and complimentary to Phase II Permit requirements. The WQ Ordinance, Suggested Modification 4, reflects the coordinated efforts to link Coastal Commission Local Coastal Planning responsibilities with RWQCB discharge and Phase II requirements. Specifically, the WQ Ordinance supports the implementation of the design standards outlined in Attachment 4 of the Phase II Permit (Exhibit 5), including adopting development-specific design standards (Section 5), sizing of Treatment Control BMPs (Section 4.1.3), and protection of hillsides and natural drainage areas (Section 4.2).

Two important differences do exist between the WQ Ordinance and the activities required for the Phase II NPDES Permit. First, Attachment 4 of the Phase II Permit requires the Design Standards to be followed for "discretionary development" projects within one of seven categories.<sup>2</sup> The WQ Ordinance similarly defines "Special Categories of Development"

<sup>2</sup> Development categories which trigger the use of the Attachment 4 Design Standards include 1) Single-Family Hillside Residences, 2) 100,000 Square Foot Commercial Developments, 3) Automotive Repair Shops, 4) Retail Gasoline Outlets, 5) Restaurants, 6) Home Subdivisions with 10 or more housing units, 7) Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to stormwater runoff.

(Section 3.3.1) and "Development-Specific Design Standards" (Section 5) where additional water quality design elements must be applied. However, unlike Attachment 4 of the Phase II Permit, the WQ Ordinance identifies a minimum set of Site Design and Source Control measures that shall be integrated into all development regardless of size. This distinction is important because it reflects the special significance of coastal development on coastal water quality and supports the premise that all development has the potential to impact water quality but can be mitigated using simple cost effective site design principles (e.g., limiting impervious surfaces, maximizing on site infiltration).

The second important difference between the requirements outlined in the WQ Ordinance and the requirements of the Phase II Permit for Carpinteria is that, based on criteria adopted by the State Water Resources Control Board, Carpinteria initially does not have to comply with Attachment 4 of the Phase II Permit. During the first 5 years of the Phase II program, the SWRCB has required only municipalities subject to high growth or serving populations of at least 50,000 people to comply with Attachment 4. Municipalities like Carpinteria are still required under Phase II to have a "Post Construction Storm Water Management" program, however, the specific requirements are not well defined.

The development requirements for the protection of water quality within the WQ Ordinance exceed those being required in the City of Carpinteria's initial Phase II Permit submittal. However, *all* municipalities are required under Phase II of the federal stormwater regulations to "Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law. For those Small MS4s described in Supplemental Provision E below, the requirements must at least include the design standards contained in Attachment 4...". The WQ Ordinance meets this definition. The SWRCB addresses conflicts between the Phase II Permits and local ordinances by stating, "Those that must comply with Attachment 4 shall have a program that is at least as stringent as that contained in the Design Standards in Attachment 4".<sup>3</sup> While the WQ Ordinance exceeds the initial requirements of the Carpinteria Phase II Permit, it is consistent with Attachment 4 and meets the objectives described in the City's LUP.

Suggested Modifications 12, 15, 19, 21, and 22 replace references to the City's SWMP with a reference to the WQ Ordinance, for the purpose of identifying BMPs and other measures that should be incorporated into development. As discussed previously, the City's SWMP does not include the level of specificity necessary to support implementation of the water quality protection policies of the City's LUP. The WQ Ordinance has been developed to address the implementation of water quality provisions that will carry out the City's LUP.

The plans, developments standards, and other provisions of the Water Quality Protection Ordinance are necessary to support the CPP and implement the water quality policies of the LUP. The implementation of this ordinance will ensure that all development is evaluated for potential adverse impacts to water quality and that applicants consider Site Design, Source Control and Treatment Control BMPs in order to prevent polluted runoff and water quality impacts resulting from the development.

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<sup>3</sup> Phase II Small MS4 General Permit Questions and Answer Document  
(<http://www.swrcb.ca.gov/stormwtr/smallms4faq.html>)



In summary, the Commission staff finds that, only as modified by Suggested Modifications 4, 12, 15, 19, 21, and 22, the proposed amendment is consistent with and adequate to carry out carry out the water quality protection policies of the City's LUP.

## F. BIOLOGICAL RESOURCES

The Creeks Preservation Program applies to four creeks that are located within the City: Santa Monica Creek, Franklin Creek, Carpinteria Creek, and Lagunitas Creek. These creeks are diverse in geomorphology and biological value.

Santa Monica Creek and Franklin Creek originate in the Santa Ynez Mountains, but are contained in concrete channels within city limits. Southeast of the City, both creeks flow through the Carpinteria Salt Marsh, in earthen channels, prior to reaching the ocean. Santa Monica Creek and Franklin Creek are not designated ESHA in the City of Carpinteria LUP; however, the quality of their waters impact Carpinteria Salt Marsh, a wetland ESHA, downstream. Adjacent properties include primarily densely developed residential and general commercial uses.

Carpinteria Creek also originates in the Santa Ynez Mountains, but has a natural bed and banks and supports an annual steelhead run. The stream is largely shaded by riparian vegetation, including native trees such as black cottonwood, California sycamore, and arroyo willow, and native understory plants including blackberry, poison oak, cattails, and several coastal sage scrub species. The stream corridor also contains a considerable amount of non-native and invasive vegetation, including giant reed, ivy, iceplant, fennel, castor bean, myoporum, nasturtium, and eucalyptus. Monarch butterflies are known to overwinter in stands of eucalyptus and native trees along Carpinteria Creek, and raptors also make use of these areas for roosting and possibly nesting. The mouth of Carpinteria Creek is typically blocked by a sand berm in the summers, which creates a small estuary surrounded by cattails, willows, and giant reed. This estuary provides potential habitat for Tidewater goby (*Eucyclogobius newberryi*). The creek corridor also serves as a wildlife movement corridor. Surrounding land uses are primarily residential, although the creek passes through agricultural land as it enters city limits, and State Park property near its mouth. Considerable development, including residential landscaping and structural improvements, is located on the creek banks or within creek setback areas established by the updated LUP. Carpinteria Creek is located within the Environmentally Sensitive Habitat Area (ESHA) overlay, as shown in Figure OSC-1 of the City's LUP.

Lagunitas Creek is a small intermittent stream originating in the foothills just north of town. The creek winds through the Carpinteria Bluffs and is discharged through a pipe on the bluff face. The portions of the creek on the Bluffs contain dense arroyo willow vegetation as well as invasive ivy and other non-native species. The creek does not support fish but supports amphibians such as Pacific tree frog, as well as songbirds and other terrestrial species. The creek also serves as a wildlife movement corridor. The portion of Lagunitas Creek on the Bluffs is located within the Environmentally Sensitive Habitat Area (ESHA) overlay, as shown in Figure OSC-1 of the City's LUP.

The proposed amendment includes many implementation measures intended to protect riparian habitat and biological resources. These measures include development standards, application



requirements, and restoration and mitigation measures for proposed projects in or adjacent to creek areas, and measures for continued study, preservation, and restoration of riparian habitat within the City. The implementation measures are intended to carry out the creek habitat protection policies of the City's LUP.

The certified LUP contains the following policies relevant to protecting the biological resources of riparian areas:

Policy OSC-6:

*Preserve the natural environmental qualities of creekways and protect riparian habitat.*

Policy OSC-6a:

*Support the preservation of creeks and their corridors as open space, and maintain and restore riparian habitat to protect the community's water quality, wildlife diversity, aesthetic values, and recreation opportunities.*

Policy OSC-6b:

*Protect and restore degraded creeks on City-owned land where protection and restoration does not interfere with good flood control practices.*

Policy OSC-6c:

*When alterations to creeks are permitted by the Coastal Act and policies herein, the creek shall be protected by only allowing creek bank and creek bed alterations where no practical alternative solution is available, where the best mitigation measures feasible have been incorporated, and where any necessary State and federal permits have been issued. Creek alterations should utilize natural creek alteration methods where possible (e.g. earthen channels, biotechnical stabilization). Nothing in this policy shall be construed to require the City to approve creek alterations not otherwise allowed herein and by the Coastal Act.*

Policy OSC-6d:

*Carry out and maintain all permitted construction and grading within stream corridors in such a manner so as to minimize impacts on biological resources and water quality such as increased runoff, creek bank erosion, sedimentation, biochemical degradation, or thermal pollution.*

Policy OSC-6, IM 25:

*A setback of 50 feet from top of the upper bank of creeks or existing edge of riparian vegetation (dripline), whichever is further, shall be established and maintained for all development. This setback may be increased to account for site-specific conditions. The following factors shall be used to determine the extent of an increase in setback requirements:*

- a. soil type and stability of the stream corridor*
- b. how surface water filters into the ground*
- c. types and amount of riparian vegetation and how such vegetation contributes to soil stability and habitat value*

- d. slopes of the land on either side of the stream
- e. location of the 100 year floodplain boundary, and
- f. consistency with other applicable adopted plans, conditions, regulations and/or policies concerning protection of resources.

Where existing buildings and improvements, conforming as to use but nonconforming as to the minimum creek setback established herein, are damaged or destroyed by fire, flood, earthquake or other natural disaster, such buildings and improvements may be reconstructed to the same or lesser size and in the same general footprint location, provided that reconstruction shall be inaugurated by the submittal of a complete construction application within 24 months of the time of damage and be diligently carried to completion.

Policy OSC-6, IM 26:

*Prior to issuance of a development permit, all projects shall conform with the applicable habitat protection policies including but not limited to the General Plan/Local Coastal Plan, Open Space Bluffs Master Program, Creek Preservation Ordinance, and the Zoning Ordinance.*

Policy OSC-6, IM 27:

*Prepare and implement a Watershed Management Plan in coordination with the County and Carpinteria Valley Water District with an emphasis on: erosion control, natural waterway restoration and preservation, wildlife habitat restoration, including steelhead runs, and water quality. [5-year]*

Policy OSC-6, IM 28:

*Prohibit all development within stream corridors except for the improvement of fish and wildlife habitat, development necessary for flood control purposes, (where no other method to protect existing structures in the floodplain is feasible and where protection is necessary for public safety), and bridges and trails (where no alternative route/location is feasible and, when supports are located within stream corridor setbacks, such locations minimize impacts on critical habitat). All development shall incorporate the best mitigation measures feasible to minimize impact to the greatest extent.*

Policy OSC-6, IM 29:

*Limit all development within stream corridors, including dredging, filling and grading, to activities necessary for the construction specified in policy # 28 (see above) and to public hiking/biking and equestrian trails. When such activities require removal of riparian plant species, revegetation with local native riparian plants shall be required. Minor clearing of vegetation may be permitted for hiking/biking and equestrian trails.*

Policy OSC-6, IM 30:

*Prohibit further concrete channelization or other major alterations of streams in the city with the exception of natural habitat enhancement projects, or when the City finds that such action is necessary to protect existing structures and that there are no less environmentally damaging alternatives. Where alteration is permitted, best feasible mitigation shall be a condition of the project.*

In addition, the LUP contains the following policies for protection of ESHA that are relevant to this amendment:

Policy OSC-1:

*Protect, preserve and enhance local natural resources and habitats.*

Policy OSC-1a:

*Protect Environmentally Sensitive Habitat Area(s) (ESHA) from development and maintain them as natural open space or passive recreational areas.*

Policy OSC-1b:

*Prohibit activities, including development, that could damage or destroy ESHA.*

Policy OSC-1c:

*Establish and support preservation and restoration programs for ESHA, including but not limited to Carpinteria Creek, Carpinteria Bluffs, Carpinteria Salt Marsh, seal rookery, Carpinteria reef, Pismo clam beds and the intertidal zones along the shoreline.*

Policy OSC-1d:

*Property including ESHA should be designated with a zoning category that allows for the protection of, and access to, the resource area, such as Open Space/Recreation or Public Facility zoning. Any development on property including ESHA should be designed and conducted to protect the resources. Within environmentally sensitive habitat only uses dependent upon those resources shall be allowed and the resources shall be protected against any disruption.*

Policy OSC-1f:

*Protect and restore degraded wetlands, butterfly habitat, native plant communities, and sensitive, rare, threatened or endangered species habitat on City-owned land to the maximum extent feasible.*

Policy OSC-1, IM 4:

*The City shall maintain an Environmentally Sensitive Habitat Area (ESHA) Overlay district within its zoning ordinance with the purpose of protecting and preserving areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in the ecosystem and which could be easily disturbed or degraded by human activities and development. The intent of the zoning district shall be to ensure that all development on properties subject to the ESHA overlay is designed and carried out in a manner that will provide maximum protection to sensitive resources. The overlay area shall apply at a minimum to those parcels designated with the overlay designation on Figure OSC-1, any parcel identified as ESHA either on an official resource map adopted by the city or through the city's development review process, any parcel that meets the criteria for ESHA provided in this LUP, and any parcel located within 250 feet of a parcel so designated or determined to be ESHA.*

## Policy OSC-1, IM 5:

*Any area not designated on the ESH Overlay map (Figure OSC-1) or identified in Table OSC-1, that meets the definition of ESHA provided in Section 30107.5, shall be considered ESHA and shall be afforded the same protections as formally designated areas.*

## Policy OSC-1, IM 6:

*Any activity proposed within an ESHA, including maintenance of property improvements such as weeding and brush clearing, tree trimming, and removal of dead or dying plant material ("maintenance"), shall not result in the significant disruption of habitat values and shall require approval from the City Biologist or a determination by the City that the proposed activity is consistent with the habitat management plan adopted by the City, and certified as an amendment to the City's LCP, for the area. Further, the City shall annually provide notice to the owners of property that include ESHA concerning the limits on activities in ESHA, the prohibition of any disruption of habitat values and the procedure for requesting approval of activities potentially affecting an ESHA. Any activities proposed to be undertaken within the creek or below the top of bank must first be approved by the State Department of Fish and Game. For improvements existing prior to adoption of this plan, a maintenance program shall be submitted by the property owner(s) that describes the scope and nature of maintenance activities. The city shall review the program, make any appropriate changes to avoid further disruption of habitat values and shall approve the program. Unless maintenance work is proposed that is outside the scope of the approved program or a State Department of Fish and Game permit is required, no further review by the city shall be required; maintenance activities beyond those stated in the approved program are prohibited.*

## Policy OSC-1, IM 7:

*Determine appropriate methods for the preservation of sites that include ESHA. These methods may include land purchase, tax relief, purchase of development rights, or other methods. Where these methods are not feasible, the city should ensure through permit review that development does not result in any significant disruption of habitat identified on a site or on adjacent sites.*

## Policy OSC-1, IM 8:

*Regulate all development, including agricultural development, adjacent to ESHA, in or adjacent to ocean-fronting parks or recreation areas, or contiguous to coastal waters, to prevent adverse impacts on habitat resources. Regulatory measures shall include, but are not limited to: setbacks, buffer zones, grading controls, noise restrictions, lighting restrictions, requirements for wildlife permeable fencing, and maintenance and establishment of native vegetation.*

## Policy OSC-1, IM 9:

*Prior to issuance of a development permit, all projects shall be found to be in compliance with all applicable habitat protection policies of the General Plan/Local Coastal Plan and implementing policies and regulations of the Coastal Access and Recreation Program, Carpinteria Bluffs Access Recreation Master Open Space Program, and any other implementing plan for these policies that has been certified as an amendment to the City's LCP.*

Policy OSC-1, IM 10:

*Provide public education and information services on the community's significant natural resources including the creeks, the Carpinteria Salt Marsh, coastal bluff areas, Monarch butterfly habitat, etc., to increase community awareness of sensitive environmental habitats and their value to Carpinteria.*

Policy OSC-1, IM 11:

*Require City Biologist review and recommendation for all development projects that the Community Development Department has determined have the potential for impacts on ESHA or water quality.*

The LUP also contains the following policies concerning sensitive species that are relevant to this amendment:

Policy OSC-8, IM 38:

*Preserve and restore habitat used by sensitive, rare, threatened, and endangered species.*

Policy OSC-8, IM 39:

*Sensitive, rare, threatened, and endangered species' shall be defined as federal or state listed rare, endangered, threatened, or candidate plants or animals, including those listed as Species of Special Concern or Fully Protected Species, or plants or animals for which there is other compelling evidence of rarity, for example those designated 1b (rare or endangered) by the California Native Plant Society.*

Policy OSC-8, IM 40:

*New development in or adjacent to habitat used by sensitive, rare, threatened, or endangered species shall be set back sufficiently far as to minimize impacts on the habitat area. For nesting and roosting trees used by sensitive, rare, threatened, or endangered raptors on the Carpinteria Bluffs or on parcels adjacent to Carpinteria Creek, this setback shall be a minimum of 300 feet. In addition, the maximum feasible area surrounding nesting and roosting sites shall be retained in grassland and to the extent feasible shall be sufficient to provide adequate forage for nesting success. Additions or alterations to existing development on parcels adjacent to Carpinteria Creek may be located within the applicable setback in accordance with the following requirements:*

- (a) In accordance with established multi-week protocols, a pre-construction survey for nesting and roosting activity shall be performed by a qualified biologist for all improvements to existing development on parcels adjacent to Carpinteria Creek.*
- (b) Only those improvements that, in the opinion of a qualified biologist, do not adversely affect the future use of the nesting or roosting trees shall be approved.*
- (c) If nesting or roosting sensitive, rare, threatened, or endangered raptors are found within 300 feet of the proposed improvements, no construction activity shall occur within the nesting or roosting season, as applicable.*
- (d) Nesting or roosting trees are considered significant*

*vegetation and shall only be altered or removed if it is determined by a qualified arborist that alterations or removal are necessary for the protection of public safety or the maintenance of the health of the affected tree, and there are no other feasible means of limiting the public hazard posed by the tree (e.g., fencing around the tree, supportive cabling of weak limbs). Removal of nesting or roosting trees shall be mitigated. In no case shall nesting or roosting trees be removed or altered during the nesting or winter roosting season.*

The riparian protection policies in the City's LUP require the maintenance and restoration of riparian habitat, and the ESHA policies in the LUP provide additional protections for riparian ESHA areas. In addition, the policies regarding sensitive species require preservation and restoration of riparian areas used by raptors and other sensitive plant and animal species. These LUP policies provide the policy basis for the creeks program; in turn the CPP implementation measures must be consistent with, and adequate to carry out, these policies.

The implementation measures submitted contain inconsistencies with the LUP, and are not adequate to carry out all of the relevant LUP policies. Therefore, several suggested modifications are necessary, as discussed below.

## **1. CONSISTENCY WITH THE LUP**

The IP, as submitted, contains terms and language that are inconsistent with the LUP. For instance, Implementation Measures 2.4.1, 2.4.2, 2.4.3, and 2.4.5 establish special permit application requirements and development standards for projects "within or immediately adjacent to creek ESH areas and/or creek setback areas," or for project sites "including ESH areas and/or creek setback areas." This language must be compared with that in LUP Policy OSC-1 IM 8, which requires special regulatory standards for development "adjacent to ESHA" or "contiguous with coastal waters", and in LUP Policy OSC-1, IM 4, which requires development within the ESHA Overlay district to be regulated to ensure that it is "designed and carried out in a manner that will provide maximum protection to sensitive resources."

Under LUP Policy OSC-1 IM 4, the ESHA Overlay area includes any parcels that are identified by the City (either on an official resource map or through the development review process) as ESHA, any parcel that meets the ESHA criteria set forth in the LUP, and any parcel located within 250 feet of a parcel so designated or determined to be ESHA. Therefore the ESHA Overlay area would include all parcels within creek ESHA areas, as well as all properties within 250 feet of those parcels. It thus includes all properties "adjacent to ESHA", for which special standards must apply under LUP Policy OSC-1 IM 8; however, it does not include parcels adjacent to Franklin Creek and Santa Monica Creek, which are channelized creeks that contain no sensitive habitat.

Implementation Measures 2.4.1 requires development permit applications to include a detailed biological study of the project site. Implementation Measure 2.4.2 requires permit applications to include a Construction Mitigation Plan, and provides detailed requirements for the protection of habitat and water quality. Implementation Measure 2.4.3 requires a biological monitor to be on site during construction activities, Implementation Measure 2.4.4 details requirements for

Habitat Restoration Plan should unavoidable impacts be permitted, and Implementation Measure 2.4.5 outlines requirements for a Post-Construction Mitigation Plan, including standards for noise, lighting, landscaping, fencing, educational signs, and legal mechanisms for the permanent protection of sensitive areas.

Implementation Measures 2.4.1, 2.4.3, and 2.4.4 apply only to areas that contain or are adjacent to sensitive habitat. Therefore, Suggested Modifications 11, 13, and 14 state that the requirements of these implementation measures apply "on parcels within a creek ESHA Overlay district." However, Implementation Measure 2.4.2 includes provisions for the protection of water quality as well as sensitive habitat, therefore Suggested Modification 12 applies the requirements of this implementation measure to "parcels adjacent to creeks and/or within a creek ESHA Overlay district." In addition, Implementation Measure 2.4.4 includes post-construction regulatory measures, including noise restrictions, landscaping requirements, and, as modified, lighting restrictions and requirements for wildlife permeable fencing. These measures are consistent with those required by LUP Policy OSC-1 IP 8 for areas adjacent to ESHA and contiguous with coastal waters. Therefore, Suggested Modification 15 applies the requirements of this implementation measure to "parcels adjacent to creeks and/or within a creek ESHA Overlay district." These modifications are necessary in order to clarify and extend the geographic applicability of these implementation measures consistent with LUP Policy OSC-1 IP 4 and LUP Policy OSC-1 IP 8.

Similar modifications are necessary for consistency with LUP Policies OSC-8 IP 38, OSC-8 IP 39, and OSC-8 IP 40 for the preservation and restoration of habitat used by sensitive species. Implementation Measure 2.4.1 states that biological studies for project sites within or adjacent to creek areas must describe plants and animals occurring or potentially occurring on the site, including "endemic, rare, threatened, endangered, and of concern species." Suggested Modification 11 revises that section of the text to require the studies to describe sensitive species as defined by the LUP. Suggested Modification 11 also adds language requiring raptor studies when suitable habitat is present, and providing criteria for such studies.

Implementation Measure 2.4.2 requires that appropriate buffers between construction activities and "sensitive biological receptors such as bird nests" be defined by "a qualified biologist." Suggested Modification 12 inserts language stating that the setbacks be defined "by the provisions of this program and the General Plan/Land Use Plan, or, in the absence of applicable provisions," by a qualified biologist. This modification is necessary to ensure implementation of setbacks included in the LUP, and in the CPP. Suggested Modification 12 also replaces the language regarding sensitive biological receptors with language reflective of LUP Policy OSC-8 IP 40, in order to ensure consistency with the provisions of that policy.

## **2. ADEQUACY TO CARRY OUT THE LUP**

The amendment, as submitted, is not adequate to carry out several creek-related LUP policies. These policies include OSC-6c, OSC-6 IM 28, OSC-6 IM 29, and OSC-6 IM 30, which limit alteration of creeks and development within creek ESHA and creek setback areas; OSC-6, IM 25, which provides for a development setback from creeks; OSC-8 IM 40, which provides for a development setback from habitat used by sensitive species; OSC-1 IM8, which requires development standards for wildlife permeable fencing and exterior lighting adjacent to ESHA and coastal waters; OSC-7a, OSC-7b, and OSC-7 IM31, which provide for the protection of native trees; OSC-1 IM 4 and OSC-1 IM 5, which require the City to maintain an ESHA Overlay



district map; and OSC-6a and OSC-6b which require the City to restore riparian habitat and protect and restore degraded creeks on City-owned land.

In order to render the amendment adequate to carry out these policies, Suggested Modifications 11, 12, 13, 14, 15, 18, 19, 21, 22, and 23 amend existing implementation measures and Suggested Modifications 5, 6, 7, 8, 9, 10, 16, 17, and 20 insert new implementation measures into the CPP regulations. Some of the new implementation measures contain language identical to the LUP policies that they are implementing, along with, in some cases, more specific language outlining permitted and non-permitted development; other new implementation measures duplicate language in found in CPP program regulations policies, which are not enforceable components of this amendment.

#### Development within stream corridors

The Carpinteria LUP contains policies that require special development standards for creek bank and beds and stream corridors, which are defined as "streams and their minimum prescribed buffer areas".<sup>4</sup> In order to make the amendment adequate to carry out these policies, Suggested Modifications 5, 6, 8 and 18 establish setback requirements, specify permitted and non-permitted development in stream corridors, and, where development is permitted, provide special development standards.

Suggested Modification 5 inserts a new implementation measure that incorporates the setback provisions found in LUP Policy OSC-6 IP 25. The new implementation measure repeats the language found in LUP Policy OSC-6 IP 25, with minor revisions for clarity. This modification is necessary in order to carry out the provisions of this policy.

Similarly, Suggested Modification 8 inserts a new implementation measure that incorporates the sensitive species setback provisions found in LUP Policy OSC-8 IP 40. The new implementation measure repeats the language found in LUP Policy OSC-8 IP 40, with minor revisions to delete language that applies to sites outside of creek corridors. This suggested modification is necessary in order to carry out the provisions of this policy.

Suggested Modification 6 inserts a new implementation measure that limits development within stream corridors consistent with LUP Policies OSC-1 IP 3, OSC-1 IP 6, OSC-6c, OSC-6 IP25, OSC-6 IP 28, OSC-6 IP 29, and OSC-6 IP 30. This new implementation measure prohibits development within stream corridors with several exceptions, including fish and wildlife enhancement projects, flood protection where no less environmentally damaging method exists and where necessary for public safety, repair and replacement of existing stream crossings where such repair and replacement is the least environmentally damaging alternative, the construction of bridges and trails, vegetation removal, and reconstruction and improvements to existing lawfully constructed residences.

This new implementation measure is necessary to implement policies that allow limited development within stream corridors, including the following: LUP Policy OSC-1 IP3, which

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<sup>4</sup> Stream corridors include the creek bed and banks and the creek setback area, which extends a minimum of 50 feet from the top of upper bank of creeks or the existing edge of riparian vegetation, whichever is greater. Thus the stream corridor of Franklin Creek, which is contained in a concrete channel, would extend 50 feet from either channel edge. However, the stream corridor for Carpinteria Creek would extend at least 50 feet from the edge of riparian vegetation, which in some places is located more than 100 feet from the top of its upper bank.

requires habitat management programs to "recogni(ze).... the right to maintain existing legal non-conforming development" in ESHA; LUP Policy OSC-1 IP 6, which outlines a process for vegetation maintenance in ESHA; LUP Policy OSC-6, IP 25, which provides for reconstruction of buildings and improvements that are damaged or destroyed by natural disaster within the creek setback area; and LUP Policies OSC-6 IP 28 and OSC-6 IP 29, which allow for construction of bridges and trails in stream corridors. Suggested Modification 6 also requires that non-conforming development be consistent with Section 14.82 of the City's Zoning Code, which provides general standards for non-conforming structures. Suggested Modification 6 combines the requirements of the relevant LUP policies into a single implementation measure that allows the City to limit development within stream corridors consistent with the LUP and existing provisions of the IP.

Implementation Measure 2.7.2 provides additional development standards for recreational trails in stream corridors. Suggested Modification 18 expands the scope of these standards to apply also to park improvements, and incorporates language from LUP Policy OSC-6 IP 29 that requires revegetation with native riparian plants should such development require removal of riparian plant species. This modification is necessary in order to fully carry out LUP Policy OSC-6 IP 29. Suggested Modification 18 also replaces language identifying the area to which the measure applies from "creek ESHA areas and/or creek setback areas" to "stream corridors," for consistency with the LUP and other provisions of the CPP, and for clarity.

#### Economically Viable Use

There may be cases where the majority or the entirety of an undeveloped legal parcel contains habitat that is environmentally sensitive habitat area. Under Section 30240 of the Coastal Act, which is incorporated within the LUP under Policy LU-1a, no development, with the exception of a resource-dependent use, could be permitted on such a site. However, Section 30240, as incorporated under LUP Policy LU-1a, must be applied in concert with other Coastal Act requirements, particularly Section 30010. This section states that:

*The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.*

Thus if strict application of the ESHA protection requirements of Section 30240 would cause a taking of property, then the policy must be applied in a manner that would avoid this result. The U.S. Supreme Court has held that, in some situations, a permit decision may constitute a categorical or "per se" taking under *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1005. According to *Lucas*, if a permit decision denies all economically viable use of property by rendering it "valueless", the decision constitutes a taking unless the denial of all economic use was permitted by a "background principle" of state real property law. Background principles are those state law rules that inhere in the title to the property sold to be developed and that would preclude the proposed use, such as the common law nuisance doctrine.

Second, if the permit decision does not constitute a taking under *Lucas*, a court may consider whether the permit decision would constitute a taking under the ad hoc inquiry stated in cases such as *Penn Central Transp. Co. v. New York City* (1978) 438 U. S. 104, 123-125. This inquiry generally requires an examination into factors such as the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations, as well as any background principles of property law identified in *Lucas* that would allow prohibition of the proposed use.

To alleviate this concern, Suggested Modification 9 provides a mechanism to determine through a formal economic viability determination whether the application of the policies and standards contained in the LCP regarding use of property designated as Environmentally Sensitive Habitat area would likely constitute a taking of private property. If so, a use that is not consistent with the Environmentally Sensitive Habitat Area provisions of the LCP shall be allowed on the property, provided that such use is consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking as determined through an economic viability determination. Suggested Modification 9 provides that such a project would have to be the alternative that would result in the fewest or least significant impacts, and any impacts to ESHA that could not be avoided through the implementation of siting and design alternatives would be mitigated to the maximum extent feasible, with priority given to on-site mitigation.

Suggested Modification 9 makes clear that an economic viable use determination, for the purposes stated above, requires the applicant to provide specific information to determine whether all of the property, or which specific area of the property, is subject to the restriction on development, so that the scope/nature of development that could be allowed on any portions of the property that are not subject to the restriction can be determined. This economic viability determination is implemented through Suggested Modification 9, which outlines information requirements to complete an economic viability study.

#### Development Standards

As noted in Subsection 1 above, the CPP contains a number of implementation measures that provide development standards and special permit application requirements for projects adjacent to creek areas. However, some modifications are necessary in order to fully carry out the provisions of the LUP regarding protection of creeks and creek ESHA.

Suggested Modification 7 inserts a new implementation measure that requires new fencing to be wildlife permeable on parcels adjacent to creeks and/or within a creek ESHA Overlay district. The implementation measure also provides standards that define wildlife permeable fencing. Suggested Modification 7 is necessary to carry out LUP Policy OSC-1 IP 8, which requires special regulatory measures, including wildlife permeable fencing, in areas adjacent to ESHA or contiguous to coastal waters.

Similarly, Suggested Modification 15 adds language to Implementation Measure 2.4.5 requiring wildlife permeable fencing as well as lighting restrictions be incorporated into the Post-Construction Mitigation Plan required by this measure. This suggested modification is also necessary to carry out the provisions of LUP Policy OSC-1 IP 8, which requires special regulatory measures adjacent to ESHA and coastal waters.

In addition, Suggested Modification 10 adds a new implementation measure that requires the City to provide annual notice to property owners in ESHA stating limitations on development in ESHA and outlining the permitting process. This suggested modification is necessary in order to implement an identical provision contained in LUP Policy OSC-1 IP 6.

Suggested Modification 12 and Suggested Modification 13 are necessary to carry out native tree protection policies in the City's LUP. Suggested Modification 12 revises Implementation Measure 2.4.2 to require protective fencing of native trees as part of the Construction Mitigation Plan required for all development applications. The requirements for protective fencing are those that will protect the root zone and stability of trees consistent with LUP Policy OSC-7 IP 31. Suggested Modification 13 modifies Implementation Measure 2.4.3 to require on-site biological monitors to suspend all work until any breach in protective fencing is repaired or replaced. These suggested modifications are necessary to carry out LUP Policies OSC-7a and OSC-7b.

#### Other Provisions

As noted in Section D. above, the CPP includes objectives and policies that are not enforceable provisions of this Implementation Program amendment. Several suggested modifications insert new implementation measures that are identical to CPP Policies, thus allowing the provisions of those policies to be enforced. Suggested Modification 16 inserts a new implementation measure concerning violations that incorporates language from Policy 2.5, as well as additional language concerning remedies provided by the Coastal Act. This modification is necessary in order to allow the City to fully carry out and enforce the creek protection policies of the LUP. Similarly, Suggested Modification 17 inserts a new implementation policy that incorporates Policy 2.6, which requires the City to periodically review and update the ESHA Overlay Map. This modification is necessary in order for the ESHA protection policies to be effectively carried out in respect to creeks, and the creek ESHA Overlay district to be maintained as required by LUP Policy OSC-1 IP4. Lastly, Suggested Modification 20 inserts a new implementation measure that incorporates language from Policy 2.10 requiring the City to actively encourage and pursue creek restoration projects. This modification is necessary to carry out LUP Policy OSC-1c, which requires the City to establish and support restoration programs for ESHA such as Carpinteria Creek, LUP Policy OSC-6a, which requires the City to maintain and restore riparian habitat, and LUP Policy OSC-6b, which requires the City to restore degraded creeks on City-owned land where it does not interfere with good flood control practices.

Implementation Measure 2.10.4 provides a specific mandate to restore natural elements to Franklin and Santa Monica Creeks, which are both contained in concrete channels. Suggested Modification 23 makes several revisions to clarify and strengthen the intent of the measure consistent with LUP Policies OSC-6a and OSC-6b. This modification is necessary to carry out those LUP policies.

In summary, for all of the reasons stated above, the Commission therefore finds that the proposed amendment, as submitted, is not consistent with and inadequate to carry out the City's LUP with regard to the protection of coastal waters and creek ESHA unless modified as suggested above.

## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the City of Carpinteria's certified Local Coastal Program Implementation Program. The Commission originally certified the City of Carpinteria's Local Coastal Program Land Use Plan and Implementation Program in 1980. For the reasons discussed in this report, the LCP amendment, as submitted, is inconsistent with the intent of the applicable policies of the Coastal Act and the certified Land Use Plan and feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed LCP amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding section, the Commission's suggested modifications bring the proposed amendment to the Implementation Program of the LCP into conformity with the Coastal Act and certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and in conformity with and adequate to carry out the Land Use Plan.

## EXHIBITS

EXHIBIT 1 – RESOLUTION OF SUBMITTAL

EXHIBIT 2 – CREEKS PRESERVATION PROGRAM REGULATIONS

EXHIBIT 3 – MAP OF CARPINTERIA CREEKS

EXHIBIT 4 – WATER QUALITY PROTECTION ORDINANCE

EXHIBIT 5 – ATTACHMENT 4 TO THE PHASE II PERMIT

EXHIBIT 6 – LUP POLICIES IMPLEMENTED BY THE PROPOSED AMENDMENT

RESOLUTION NO. 4755

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, APPROVING, FOR THE PURPOSES OF SUBMITTAL TO THE CALIFORNIA COASTAL COMMISSION, A RESOLUTION MODIFYING THE LOCAL COASTAL PLAN TO ESTABLISH REGULATIONS TO ADDRESS THE PRESERVATION AND RESTORATION OF FOUR CREEKS LOCATED WITHIN THE CITY OF CARPINTERIA, BY ADOPTING A CREEKS PRESERVATION PROGRAM

THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA RESOLVES AS FOLLOWS:

Section 1. The City Council of the City of Carpinteria finds, determines and declares:

a. A full and complete copy of the project materials (02-1033-LCPA) is on file with the City's Community Development Department, located at 5775 Carpinteria Avenue, Carpinteria, California.

b. Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., "CEQA"), the California Code of Regulations, Title 14, Section 15000 et seq. ("CEQA Guidelines") and the City of Carpinteria's Environmental Review Guidelines as applicable, the City's Environmental Review Committee determined that the project is not categorically exempt and prepared a Negative Declaration pursuant to the CEQA guidelines.

c. After action by the California Coastal Commission, the City desires and intends to use the Negative Declaration for formal adoption of the Project in accordance with CEQA.

d. At a duly noticed public hearing on June 17, 2002, the Planning Commission considered the Project and Negative Declaration and forwarded its recommendation to support the Local Coastal Plan Amendment to the City Council.

e. On July 22, 2002, after considering the Planning Commission's recommendation, receiving public comment, due consideration, and discussion among the Council and staff, a majority of the City Council approved, for submittal to the California Coastal Commission pursuant to Public Resources Code Section 30510 and the California Code of Regulations Section 13551(b)(2).

e. On July 22, 2002, the City Council adopted this resolution certifying that the proposed Local Coastal Plan Amendment is intended to carry out the policies of the City's Local Coastal Plan consistent with the California Coastal Act and directing that the proposed amendment be transmitted to the California Coastal Commission for filing in accordance with Section 13551(b)(2) of Title 14 of the California Code of Regulations.

f. The Amendment to the City's Local Coastal Plan has been presented to the City Council of the City of Carpinteria for its review and consideration prior to making any

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EXHIBIT NO. 1
APPLICATION NO.
CPN-MAJ-1-04
RESOLUTION



recommendations relating to the Project. The Council is aware that the City's General Plan/LCP update is presently before the Coastal Commission and should the creek policies change, the policies within the Creeks Program would also be changed to achieve consistency.

g. The proposed amendments approved for submittal to the California Coastal Commission by the City Council as set forth below and as attached hereto and incorporated herein by reference, reflect the recommendations of the Planning Commission and necessary modifications by the City Council.

h. Documents constituting the record of proceedings on the Project are located and under the custody of the City Manager, City of Carpinteria Community Development Department, 5775 Carpinteria Avenue, Carpinteria, California.

Section 2. NOW, THEREFORE, BE IT RESOLVED that pursuant to Public Resources Code Section 30510 and California Code of Regulations 13551 (b)(2), the City Council held a public hearing on the proposed amendment to the Municipal Code and is transmitting all proposed amendments to the California Coastal Commission for submittal and filing pursuant to California Code of Regulations, Title 14 Section 13551(b)(2).

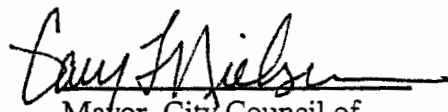
PASSED, APPROVED AND ADOPTED this 22<sup>nd</sup> day of July 2002, by the following called vote:

AYES: Councilmembers: Jordan, Weinberg, Ledbetter, Nielsen

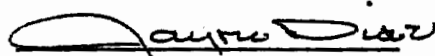
NOES: Councilmembers: None

ABSENT: Councilmembers: Stein

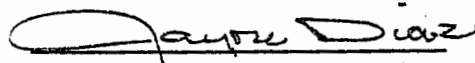
ABSTAIN: Councilmembers:

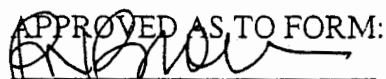
  
Mayor, City Council of  
City of Carpinteria

ATTEST:

  
City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 22<sup>nd</sup> day of July 2002.

  
City Clerk, City of Carpinteria

APPROVED AS TO FORM:  
  
City Attorney

### 3.2.2 Carpinteria Municipal Code

The Carpinteria Municipal Code establishes laws and regulations pertaining to all aspects of the local community. The Municipal Code is divided into a number of chapters that deal with particular issue areas. Those that pertain to actions affecting local creeks are the Zoning Ordinance, Environmentally Sensitive Habitat Overlay District (Title 14, Chapter 14.42), Excavation and Grading Ordinance (Title 8, Chapter 8.36), and the Flood Damage Protection Ordinance (Title 15, Chapter 15.50).

With the recent completion of the comprehensive update of the City's General Plan/Local Coastal Plan, the Municipal Code will require additional review and update to bring it into consistency with GP/LCP policies. This review and update process will begin once the California Coastal Commission has completed its approval process of the GP/LCP. Due to the current inconsistency between the GP/LCP policies and the Municipal Code, the ordinances relating to local creeks have not been included. This section will be updated once the Municipal Code update process is completed.

### 3.3 PROGRAM REGULATIONS

The following regulations are needed to ensure the attainment of Program Goals, specifically the protection and restoration of local creeks and compliance with Phase II NPDES stormwater requirements. The Program regulations provided below are intended to provide the additional scope and detail required to achieve Program Goals, building on the policies provided in the City's General Plan/Local Coastal Plan and Municipal Code regulations. In general, the Program regulations provide the following:

- Regulations to improve the quality of stormwater runoff, and guide the City towards compliance with Phase II NPDES storm water regulations.
- Environmental baseline information to be used for project environmental review.
- Specific standards for development within creek ESH areas and creek setback areas to minimize and mitigate impacts to creek resources.
- Provides thresholds of significance for use by the city during the environmental review process (CEQA).
- Identification of specific protection and restoration opportunities in local creeks, and ways in which the city will facilitate creek protection and restoration projects.
- Guidance on the philosophy and approach that should be taken in creek protection and restoration projects.
- Guidance on how partnerships with other local agencies should be developed to achieve watershed-based management of local creeks and stormwater quality.

Program regulations are provided below in the following subsections: Geomorphology, Hydrology and Water Quality, and Biological Resources.

EXHIBIT NO. 2
APPLICATION NO.
CPN-MAJ-1-04
PROGRAM REGULATIONS

### 3.3.1 Geomorphology, Hydrology and Water Quality

The Program regulations in this subsection provide the additional scope and detail necessary to ensure the preservation and restoration of natural creek geomorphology, hydrology, and water quality. These regulations are intended to build on the regulations provided in the General Plan/Local Coastal Plan and the Municipal Code.

**Objective 1** Preserve and restore natural geomorphology and hydrology in local creeks and their watersheds to the greatest degree possible, and improve water quality in local creeks such that applicable water quality standards and regulatory requirements are achieved.

**Policy 1.1** The City will adopt and implement the Storm Water Management Plan (SWMP). A draft of this SWMP is provided in Appendix B. This draft is intended to serve as a guide to the development of a final SWMP, which will be completed as a separate action. The SWMP will be updated as necessary to minimize the water quality impacts of runoff from development in the City limits, and to ensure compliance with federal Phase II NPDES storm water requirements for small municipalities, which will take effect in early 2003.

As will be required by the Phase II NPDES regulations, the SWMP establishes Best Management Practices (BMPs) that will be implemented to minimize water quality impacts. BMPs established in the SWMP are organized into the six minimum elements stipulated in the Phase II NPDES regulations, which are the following:

- Public Education and Outreach
- Public Participation and Involvement
- Illicit Discharge Detection and Elimination
- Construction Site Runoff Control
- Post-Construction Runoff Control
- Pollution Prevention and Good Housekeeping in Municipal Operations

In addition, the SWMP contains another optional element: Fostering Partnerships for Watershed Management. For potential inclusion in the City's final SWMP

### 3.3.2 Biological Resources

The Program regulations in this subsection provide the additional scope and detail necessary to ensure the preservation and restoration of natural biological habitats within and adjacent to local creeks, including aquatic, riparian and upland areas. These regulations are intended to build on the regulations provided in the General Plan/Local Coastal Plan and the Municipal Code.

**Objective 2** Preserve and restore aquatic, riparian and upland habitats occurring within and adjacent to local creeks, including sensitive communities and species. Sensitive communities and species are defined as those designated as endemic, rare, threatened, endangered, or of concern by the federal, state, and/or local governments.

**Policy 2.1** The City will not permit projects (whether public or private) that would result in the significant fragmentation of biological habitat within creek ESH areas and/or creek setback areas established by the General Plan/Local Coastal Plan and Zoning Ordinance-ESH Overlay District. Likewise, the City will not permit projects that would create significant barriers to the movement or migration of fish and wildlife through creeks and adjacent habitats (i.e., wildlife corridors will be maintained). Significant fragmentation or barriers are considered to be manmade feature, structure, or activity that would block or greatly reduce the movement of wildlife between recognized natural habitat areas or that would significant reduce the biological value or diversity of the habitat.

**Implementation Measure 2.1.1.** The City will work with the Santa Barbara County Flood Control District and others to facilitate and improve fish passage where feasible along the Carpinteria Creek. For example the design of detention basins, bridges, bike crossings, etc. will be approved only if they do not, by their design, inhibit fish passage.

**Policy 2.2** The City will consult and work with the appropriate resource agencies in the assessment of proposed projects that may impact creek, wetland, riparian, and adjacent upland habitats, and sensitive species including but not limited to steelhead trout, tidewater goby, Monarch butterfly, southwestern pond turtle, two-striped garter snake, and Cooper's hawk. Depending on the nature of resources that could be impacted by specific projects, resource agencies that may be consulted include the California Department of Fish and Game, Central Coast Regional Water Quality Control Board, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and National Marine Fisheries Service. All conditions recommended or required by the resource agencies to protect creeks, wetlands, riparian habitats, and sensitive species will be attached as conditions of the Development Permit for the project issued by the City. In addition, the City shall consider the recommendations of resource agencies when approving conditions of approval associated with a development permit.

**Policy 2.3** The City will inform the public of the importance and sensitivity of creek resources, and the regulations that have been established to preserve and restore them. This will be accomplished through the public education program of the City's SWMP.

**Policy 2.4** The City will impose additional development standards to protect biological resources within creek ESH areas and/or creek setback areas.

**Implementation Measure 2.4.1.** All Development Permit applications for projects within or immediately adjacent to creek ESH areas and/or creek setback areas must include a complete description of the proposed project, site plan, grading plan and other information required on the application form. The site plan and grading plan must be of a scale and contour interval to adequately depict the proposed work and delineate environmental features on the site. A biological study must be submitted with the application. The biological study must contain a topographic map at an appropriate scale and contour interval that adequately delineates the boundaries of creek beds and banks, wetlands, native riparian and upland vegetation, vegetation driplines, ESH areas, and creek setback boundaries, as defined in the General Plan/Local Coastal Plan and Zoning Ordinance-ESH Overlay District. In addition, the map must clearly show areas that would be directly impacted by project construction and development footprints. The biological study must also describe the flora and fauna known to occur or having the potential to occur on the site, including endemic, rare, threatened, endangered, and of concern species. Research and survey methodology used to complete the study must also be provided. The biological study must be prepared by a professional biologist approved by or working directly for the City. The City will review the submitted application materials and require additional information as necessary to assess the potential impacts of the project to the affected creek(s).

**Implementation Measure 2.4.2.** Development Permit applicants for project sites including ESH areas and/or creek setback areas will provide the City with a Construction Mitigation Plan. The Construction Mitigation Plan will describe protective measures that will be implemented to minimize the impacts of project construction activities on biological habitat. This includes impacts from direct ground disturbance, clearing, noise, dust generation, increased runoff, erosion, water pollution, application of herbicides, pesticides, and other harmful substances, and any other construction activities that may harm biological resources. Measures that will be required (where applicable) to minimize construction impacts include the following:

- The limits of the construction area will be clearly delineated (flagged, fenced etc), and construction activities will stay within these limits. Important resources (e.g., native vegetation) located within the construction area that is to be preserved will be clearly marked to avoid the accidental removal of such resources.
- Appropriate buffer and/or setback areas, as defined by a qualified biologist, will be clearly delineated and maintained between construction activities and sensitive biological receptors such as bird nests.
- Construction activities will be scheduled to avoid the breeding seasons of sensitive wildlife species whenever possible.

- Construction BMPs from the City's SWMP will be implemented to minimize impacts related to runoff, erosion, and water quality (see Appendix B, Attachment A);
- The use of herbicides will be minimized by using manual removal methods to eliminate undesired vegetation whenever possible.

The Construction Mitigation Plan will be prepared by a professional biologist, arborist or landscape architect whom the City approves as qualified to complete the work. The Construction Mitigation Plan will be reviewed and approved by the City prior to issuance of the Development Permit.

**Implementation Measure 2.4.3.** A qualified biological monitor approved by or working directly for the City will be provided during construction activities for projects within creek ESH areas and/or creek setback areas to ensure that protective measures provided in the Construction Mitigation Plan are fully implemented. The biological monitor will be responsible for conducting orientations for the work crew upon project commencement and subsequent orientations upon significant crew changes to educate work crews about the sensitivity of biological resources at the site, and to inform them of protective measures that must be complied with. The monitor will also be responsible for observing construction activities and directing construction crews as needed to ensure that protective measures are implemented. The biological monitoring must be supervised by a professional biologist approved by or working directly for the City and who is qualified to complete the specific nature of the work.

**Implementation Measure 2.4.4.** If, after project review and consideration of all ESH protection measures, a project is approved that will result in any destruction or degradation of natural habitat within creek ESH areas and/or creek setback areas, a Habitat Restoration Plan will be required. The plan will be prepared by a professional biologist whom the City approves as qualified to complete the work. The plan will incorporate the following minimum conditions and elements:

- A clear statement of the restoration project goals will be provided. Some restoration goals may be broad, but the plan must also provide qualitative and quantitative standards by which the progress of the restoration effort can be measured. Examples of specific restoration standards may relate to the re-establishment of a diverse benthic macroinvertebrate community, use of the site by a particular wildlife species, or the establishment of native vegetation over a specified percentage of the site. The goals of the restoration project are to be based on the stream restoration principles identified in Policy 2.10.
- The Habitat Restoration Plan will delineate all habitat areas that will be destroyed or degraded by the project, and those that will be restored. A minimum habitat area replacement ratio of 2:1 will be required for habitat that

is destroyed or degraded. Such restoration plans shall be approved by the City prior to implementation.

- On-site restoration (i.e., on the parcel or parcels the project is located on) will be conducted wherever possible. If on-site restoration is not feasible, restoration will occur at a suitable off-site location along the affected creek(s).
- The area to be restored will be acquired by the applicant (if it is not already under their ownership), and permanently protected in a conservation easement and/or open space designation.
- Restored habitat will be in-kind with the habitat lost or degraded, will realize equal or greater biological value, and will be self-sustaining and viable in the long-term. Restoration efforts will address physical features such as topography, soils, and creek bed and bank features (e.g., riffles, pools, large woody debris, boulders, etc.), vegetation and wildlife.
- A Grading and Site Preparation Plan will be provided that identifies finished topographic contours, and rock, soil and mulching materials that will be used. As part of site preparation, all debris and undesired non-native vegetation will be removed from restoration areas. The Grading and Site Preparation Plan will be prepared with the assistance and approval of a certified professional engineer.
- A Planting Plan will be provided that lists the plant species that will be replanted, the source of plant material, planting methods, and locations. An appropriate palette of plant species native to the restored habitat will be used for revegetation. Plant material used in restoration projects will be collected and propagated from local, naturally occurring plant stocks, preferably from the same watershed and habitat type.
- A Maintenance, Monitoring, and Corrective Action Plan will be provided that identifies measures that will be implemented to ensure that restored habitat becomes properly established. Maintenance measures that may be employed include erosion control, watering vegetation until it becomes established, weeding, and replacing plants and trees that do not survive. Monitoring of the restoration area will be conducted at regular intervals. A performance bond must be filed with the City to ensure compliance with the performance standards established in the Habitat Restoration Plan. This bond shall remain in effect for five years or until the City biologist has determined the restoration has been successfully completed. Monitoring reports will be submitted to the City on an annual basis at a minimum, and more frequently if deemed necessary. Monitoring reports must assess the progress of the restoration effort in relation to the project goals. If restoration project goals are not met, corrective measures will be devised and implemented to achieve the goals. The City must consent that the subject property has been properly restored before the project proponent is released



from maintenance, monitoring, and corrective action requirements. Monitoring must be conducted for a minimum of five years.

**Implementation Measure 2.4.5.** Development Permit applicants for project sites including ESH areas and/or creek setback areas will provide the City with a Post-Construction Mitigation Plan. The Post-Construction Mitigation Plan will describe protective measures that will be implemented to minimize impacts to biological resources due to effects such as noise, lighting, vehicular and pedestrian traffic, domestic pets, water pollution, erosion, landscape plantings, etc. At a minimum measures that will be required (as applicable) to minimize post-construction impacts include the following:

- Mechanisms to provide for the permanent protection of areas identified and approved on the Development Permit (or other project approvals) as natural areas will be included in property exchange documents, deeds, lease agreements, CC&Rs, etc.
- Permanent landscaping will be provided to developed area (e.g., parking lots, buildings, backyards, etc.). Landscaping will be planted with appropriate native plant species selected by a qualified landscape architect and/or biologist.
- Project proponents will provide informational materials (e.g., in lease agreements, CC&Rs, deed restrictions) to occupants of future developments that ensure protective standards/conditions of approval are recognized and complied with throughout the life of the project. Educational materials including interpretive signs will be installed near creeks and natural habitat areas. These educational materials and signs will discuss the importance and sensitivity of creek habitats, regulations that have been established to protect them, those standards/conditions of approval that affect the project, and penalties that may be imposed on violators of such regulations.
- The planting of any landscape plants that are on the California Exotic Pest Plant Council's Lists of Exotic Pest Plants of Greatest Ecological Concern in California is prohibited in any ESH or creek setback area. These lists are provided in Appendix C.
- Loud, stationary equipment (e.g., air conditioners, etc.) shall be located away from or provided with enclosures to minimize potential impacts to wildlife.
- Post-Construction BMPs from the City's SWMP will be implemented to minimize impacts related to runoff, erosion, and water quality (See Appendix B).

The Post-Construction Mitigation Plan will be prepared by a professional biologist whom the City agrees is qualified to complete the work. The Mitigation Plan will be reviewed and approved by the City prior to issuance of the Development Permit.

- Policy 2.5** Procedures for assessing penalties on violators of these regulations will also be provided. At a minimum, violators will be required to restore physical conditions and biological habitat that has been damaged as a direct result of their actions. This will entail the preparation and implementation of a Habitat Restoration Plan that meets the requirements described above in Implementation Measure 2.3.6. In addition, penalties in the form of fees may be assessed for violations. Fees that are collected from violators will be dedicated towards the acquisition, preservation, and restoration of local creeks.
- Policy 2.6** The City shall periodically review the ESH Overlay Map to ensure its accuracy relative to specific studies conducted for proposed projects or other related biological studies. The City will also revise the ESH Overlay Map periodically to account for changes in habitat boundaries resulting from approved habitat restoration projects.
- Policy 2.7** The City will ensure that sensitive creek habitats are not substantially impacted by recreational uses such as hiking, biking, and fishing, or due to habitation by transients.

**Implementation Measure 2.7-1.** The City will provide educational (interpretive) signs along creeks corridors at key viewpoints from streets, trails, and bike paths. The signs will briefly describe the importance and sensitivity of creek habitats, and the plant and wildlife species they support. Applicable Federal, State, and local regulations that prohibit the destruction of native vegetation, illegal dumping, and harassment or taking of wildlife (including protected species such as steelhead trout) will be discussed. Penalties for violations of such regulations will be summarized. In addition, a City phone number will be provided for public questions and concerns, including the reporting of unlawful activities.

**Implementation Measure 2.7-2.** Where new or expanded recreational trails are provided in creek ESH areas and/or creek setback areas, they will be constructed of alternative surface materials (i.e., not paved), a maximum of five feet wide, and will be designed and sited to minimize disturbance of sensitive creek resources including native vegetation, creek beds and banks. Creek crossings will be minimized.

**Implementation Measure 2.7-3.** The City will work with law enforcement agencies to eliminate unlawful transient encampments in local creeks and adjacent open space areas. In order to facilitate this, the City will note and document public complaints, and evidence of transients encountered during periodic creek surveys (see Implementation Measure 2.9-1). The City will contact the Santa Barbara County Sheriff and provide them with the information that is gathered, and request that the Sheriff enforce applicable laws.

**Policy 2.8** The City will identify and monitor activities associated with any proposed projects outside of its jurisdiction that may impact local creek resources. Examples include proposed projects in upstream areas (e.g., in unincorporated Santa Barbara County and the Los Padres National Forest) that could impact stream flow, sediment transport, water quality, etc., and downstream projects (e.g., at Carpinteria State Beach) that could cause habitat fragmentation or introduce barriers to fish and wildlife movement. The City will review such projects, and provide comments regarding potential impacts and appropriate mitigation measures to the lead agency.

**Policy 2.9** The City will develop a better understanding of the physical and biological conditions of local creeks, and fluctuations and trends in such conditions.

**Implementation Measure 2.9-1.** The City will coordinate with other agencies such as the County of Santa Barbara during any surveys of local creeks and riparian habitats. Creek surveys will involve walking the length creeks and noting observations including flora and fauna, condition of the creek bed, banks, and floodplains, creek discharge, and water clarity. In addition, when intensive surveys are proposed to be conducted in Carpinteria Creek, the City will cooperate and participate to extent feasible. Intensive surveys will include water quality testing, assessment of physical habitat, surveys of aquatic and terrestrial flora and fauna, and collection and identification of benthic macroinvertebrates. Creek survey methodology provided in Appendix A will be used as a guide for conducting surveys. In addition, detailed stream assessment guides such as the U.S. EPA's *Rapid Bioassessment Protocols for use in Wadeable Stream and Rivers* and CDFG's *California Stream Bioassessment Procedure* will be used as references for stream survey methodology.

Generally, creek surveys will be conducted in the spring (April or May) during periods of consistent creek flow. Survey dates may be adjusted from year to year depending on variations in rainfall and creek flow. However, in order to allow meaningful comparison of data collected from survey to survey, survey dates and methods will be kept as constant as possible. Whenever possible, creek monitoring surveys will be coordinated with water quality monitoring studies encouraged by BMP 3-4 of the City's SWMP.

**Policy 2.10** The City will actively encourage and pursue projects proposed to preserve and restore local creek habitats developing and supporting an appropriate network of agencies and stakeholders. The City will take a holistic, watershed-based approach to creek preservation and restoration, employing the following basic principles:

- The underlying purpose of each restoration project will be to form self-sustaining habitats that are equivalent or similar to what once naturally occurred at the subject site(s). Restoration goals for particular habitat

components (e.g., creek morphology, plant community composition, wildlife community composition, etc.) will be determined based on documented historical conditions at the restoration site, or documented conditions at a nearby reference site. Also, restoration goals will be realistic given the limitations imposed by existing development, flood control needs, water supply needs, etc.

- The full range of factors that shape the subject habitat will be considered in the design of creek restoration projects. This includes small-scale factors such as creek bed and bank materials, bank stability, stream gradient, riparian canopy cover, and local stream flow patterns, as well as large-scale factors such as watershed topography, geology, land use patterns, and sources of stream flow, sediments, nutrients, and pollutants.
- Restoration projects will eliminate sources of creek habitat degradation (i.e., creek flow alterations, increased erosion and sedimentation rates, water pollution, removal of vegetation, etc.), and allow the creek to restore itself through natural processes whenever possible. Physical alterations such as revegetation, bank stabilization (natural bank reconstruction), and the creation of instream habitat may also be pursued, but will be of a secondary priority. This approach will help create self-sustaining habitats with long-term viability, rather than short-term improvements that require continuous, long-term maintenance.
- Monitoring will be conducted for a minimum of five years to assess the progress of the project in relation to the restoration goals. Where restoration goals are not met, corrective measures will be devised and implemented to achieve the goals. Monitoring will allow project proponents to determine which restoration methods prove effective, and which do not. Thus, monitoring not only helps optimize the restoration efforts of a particular project, but also helps to guide future restoration projects.
- Restoration efforts will take a large-scale, watershed based approach whenever possible. In order to facilitate this, the City will communicate with other interested agencies, groups, and citizens. This will allow greater cooperation and pooling of resources to implement large-scale restoration projects.

**Implementation Measure 2.10-1.** The City will evaluate the need and feasibility of private property acquisition along the creeks for the purpose implementing habitat preservation and restoration projects. The City shall seek potential public and private funding sources include the State and Federal grants, City funds, environmental groups, and concerned local businesses and citizens.

**Implementation Measure 2.10-2.** The City will specifically target the aquatic and riparian habitats of Carpinteria Creek for restoration. Restoration actions that will be pursued by the City include the following:

- Implementing the SWMP to address watershed-scale issues related to water quality, erosion, and sedimentation.
- Removing riprap, pipe and wire revetment, concrete bank revetments, and other artificial elements in the creek. This includes features such as road crossing culverts and detention basins that hinder the movement and migration of aquatic organisms such as steelhead trout.
- Removing trash and debris from the creek.
- Stabilizing eroded and cleared creek banks and floodplains. Natural materials such as native soils, rocks, and heavy timber will be used to reconstruct eroded areas. Native vegetation will be replanted to bind soil.
- Eradicating highly invasive, non-native vegetation such as giant reed, German ivy, periwinkle, and ice plant from the creek and adjacent riparian/upland areas, and replacing it with native vegetation.
- Improving habitat quality and complexity for aquatic invertebrates, fish, amphibians, and reptiles by re-introducing large woody debris and overhanging riparian vegetation to the creek bed and banks in a manner that does not create flooding hazards.
- Widening the band of riparian and upland habitat along the creek by purchasing adjacent land, restoring it with native biological communities, and preserving it. Notable opportunities for this include agricultural areas near the northern city limits and at Salzgeber Meadow.

**Implementation Measure 2.10-3.** The City will specifically target Lagunitas Creek and adjacent riparian and coastal scrub habitats for restoration. Restoration activities that will be pursued by the City include the following:

- Implementing the SWMP to address watershed-scale issues related to water quality erosion, and sedimentation.
- Removing trash and debris from the creek, including abandoned sewer lines and several large concrete roadway dividers.
- Stabilizing and revegetating areas that have been eroded or cleared.
- Eradicating highly invasive, non-native vegetation such as German ivy, English ivy, and ice plant from the creek and adjacent riparian/upland areas, and replacing it with native vegetation.
- Acquiring land along the tributary drainage ditches north of U.S. 101, and restoring natural swales, creek channels, and native vegetation.

**Implementation Measure 2.10-4.** The feasibility of habitat restoration along Franklin and Santa Monica Creeks is limited by their highly altered condition, flood control considerations, and tightly encroaching urban and agricultural developments. However, it may be feasible to restore natural elements to these creeks, including earthen banks, natural creek beds with riffles and pools, and a narrow corridor of riparian vegetation, while still maintaining the interests of the flood control function. These elements would provide wildlife habitat, and increase the value of the creeks as migration corridors for terrestrial and aquatic wildlife. Franklin Creek Park (City-owned) could serve as a focal point for restoration efforts along Franklin Creek. Santa Monica Creek historically supported steelhead trout, and it may be possible to restore the lower portion of the creek to a condition that would allow steelhead passage into the mountain tributaries. The City shall consider conducting a study to explore restoration options for Franklin and Santa Monica Creeks.

**Implementation Measure 2.10-5.** In addition to City regulations for setback of development from creeks, the City will encourage landowners, businesses, and special interest groups to set aside lands along or in proximity to local creeks for the purposes of habitat preservation and restoration. The City will hold public outreach meetings to present the ideas of habitat preservation and restoration to targeted organizations and individuals, and the general public. The City will also explore incentives for private organizations and individuals to voluntarily form conservation easements and pursue restoration projects. The types of incentive programs that will be explored by the City include property tax breaks, official recognition and appreciation from the City in the form of publicly issued awards, and assistance with obtaining funding and resolving technical issues.

**Implementation Measure 2.10-6.** The City will offer technical assistance to private organizations and individuals in the planning and implementation of creek protection and restoration projects. Where it does not have the knowledge to assist with a particular issue, the City will suggest contacts with regulatory agencies and consulting professionals with expertise in habitat conservation and restoration.

**Policy 2.11** The City will pursue partnerships with other stakeholders to achieve a unified, watershed-based plan for the management, preservation, and restoration of local creeks.

**Implementation Measure 2.11-1.** The City will contact other agencies and groups that manage local creeks and their watersheds, and will hold meetings to discuss cooperative strategies for protecting and restoring local creeks. Potential partners that the City will contact include the County of Santa Barbara Flood Control Department, Central Coast Regional Water Quality Control Board, National Forest Service, County of Santa Barbara, Project Clean Water, University of California Reserve System, Carpinteria Valley Water District,

Carpinteria Unified School District, local environmental groups, Carpinteria Chamber of Commerce, and landowners. Cooperation in unified habitat management and restoration efforts will allow common goals to be set, and greater consistency, effectiveness, and efficiency in implementing management programs and restoration projects.



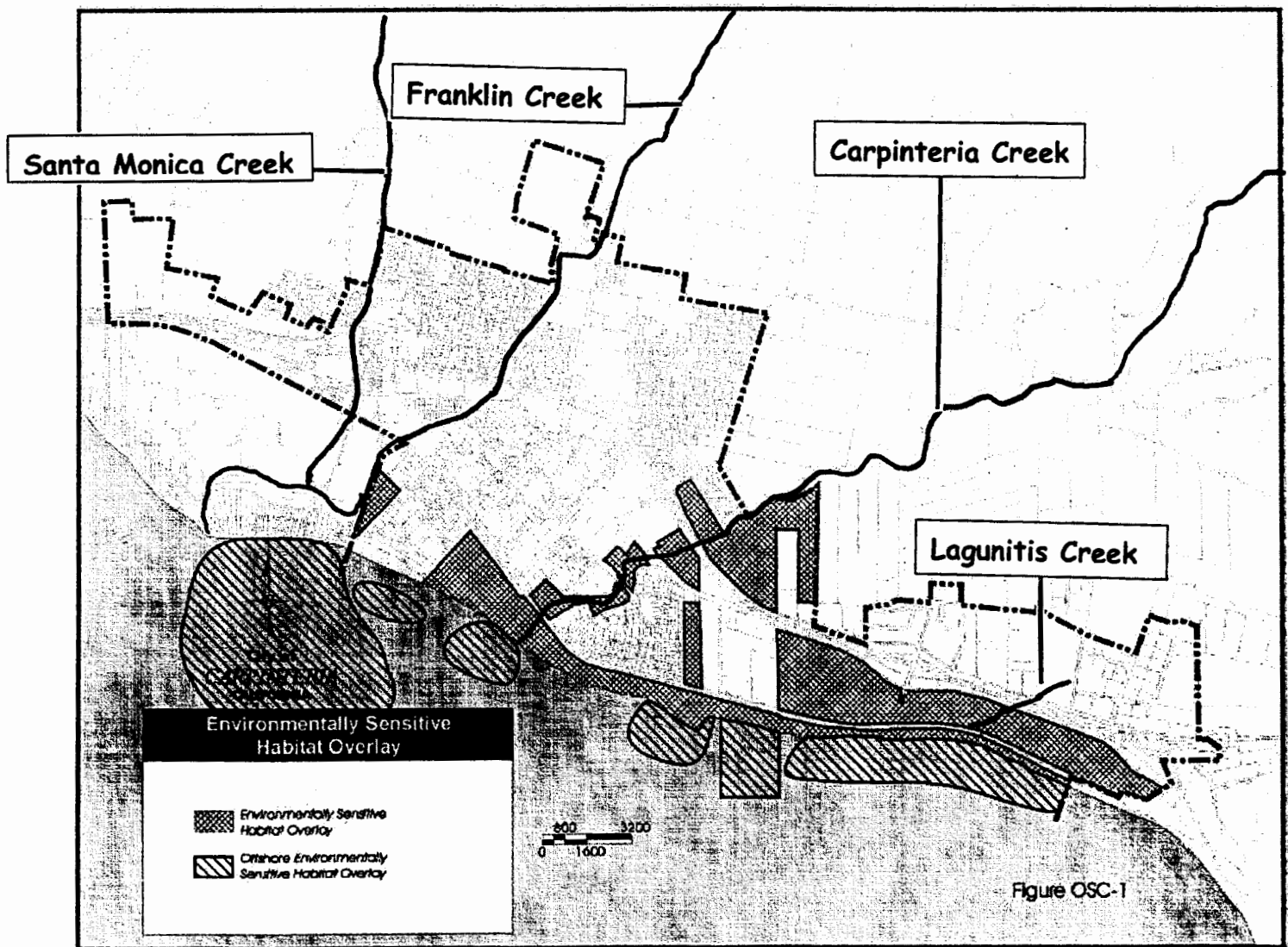


EXHIBIT NO. 3
APPLICATION NO.
CPN-MAJ-1-04
CREEKS MAP

# **CITY OF CARPINTERIA**

## **WATER QUALITY PROTECTION ORDINANCE**

### **1 PURPOSE AND INTENT**

The purpose of this Water Quality Protection Ordinance is to protect and enhance coastal waters within the City of Carpinteria in accordance with the policies of the City's Local Coastal Plan (OSC-1 IM 10, OSC-6e, OSC-6f, OSC-6 IM 31, OSC-6 IM 32, OSC-6 IM 33, OSC-10c, OSC-10 IM53, OSC-10 IM54) Sections 30230, 30231, 30232 and 30240 of the California Coastal Act, and the City's Phase II NPDES permit requirements. To implement the certified Land Use Plan (LUP), application submittal requirements, development standards, and other measures are provided to ensure that permitted development shall be sited and designed to conserve natural drainage features and vegetation, minimize the introduction of pollutants into coastal waters to the maximum extent practicable, limit the discharge of stormwater runoff, and protect the overall quality of coastal waters and resources.

The intent of this Water Quality Protection Ordinance is to address the following principles:

All development shall be evaluated by the Planning Director or his/her designee during the Coastal Development Permit (CDP) review process for potential adverse impacts to water quality and shall be designed to minimize the introduction of pollutants that may result in water quality impacts. Applicants shall incorporate Site Design, Source Control and, where required, Treatment Control Best Management Practices (BMPs) in order to minimize polluted runoff and water quality impacts resulting from the development. Site Design BMPs reduce the need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the amount of Treatment Control BMPs needed for a development. Therefore, BMPs should be incorporated into the project design in the following progression:

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

Projects should be designed to control post-development peak storm water runoff discharge rates so that they do not exceed the estimated pre-development rate, unless there is no potential for the increased peak storm water discharge rate to result in increased downstream erosion. This objective can be accomplished through the creation of a hydrologically functional project design that strives to mimic the existing natural hydrologic regime and by achieving the following goals:

- Maintain and use existing natural drainage courses and vegetation

EXHIBIT NO. <b>4</b>
APPLICATION NO.
<b>CDN-MAJ-1-04</b>
<b>WATER QUALITY ORDINANCE</b>

- Conserve natural resources and areas by clustering development on the least environmentally sensitive portions of a site while leaving the remaining land in a natural, undisturbed condition
- Minimize the amount of directly connected impervious surface and total area of impervious surface
- Incorporate or connect to existing on-site retention and infiltration measures
- Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces to reduce the amount of storm water leaving the site
- Minimize clearing and grading
- Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection
- Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants
- Promote natural vegetation by using parking lot islands and other landscaped areas
- Preserve riparian areas and wetlands

Incorporating these goals and principles into the project design will help to minimize the introduction of pollutants to the site and decrease the amount of polluted runoff leaving the site, resulting in the overall objective of water quality protection. Sections 3 and 4 of this Water Quality Protection Ordinance, an element of the Carpinteria Implementation Plan (IP), describe the requirements and process for implementing BMPs into development and provide examples of types of BMPs to incorporate.

## **2 APPLICABILITY**

All properties within the City of Carpinteria are located within the coastal zone as defined in the California Coastal Act and are subject to the policies, standards and provisions contained in the certified LCP that may apply. Where any standard provided in this Water Quality Protection Ordinance conflicts with any other policy or standard contained in the City's General Plan, Zoning Code or other City-adopted plan, resolution or ordinance not included in the certified Carpinteria LCP, and it is not possible for the development to comply with both the Carpinteria LCP and other plans, resolutions or ordinances, the policies, standards or provisions of the LCP shall take precedence.

## **3 APPLICATION SUBMITTAL REQUIREMENTS**

The following information shall be submitted with an application for a Coastal Development Permit for all projects requiring the development and implementation of an Erosion and Sediment Control Plan (Section 3.1), Site Design and Source Control Measures (Section 3.2), or a Water Quality Management Plan (Section 3.3), according to the requirements listed below.

### **3.1 Construction Phase Requirements: (eg. Erosion and Sediment Control Plan)**

An Erosion and Sediment Control Plan shall be required for all development that requires a grading or building permit.

The Erosion and Sediment Control plan shall include a site specific erosion control plan that includes controls on grading (i.e. timing and amounts), best management practices for staging, storage, and disposal of construction and excavated materials, design specifications for sedimentation basins, and landscaping/re-vegetation of graded or disturbed areas. The plans shall also include a site- specific polluted runoff control plan that demonstrates how runoff will be conveyed from impermeable surfaces into permeable areas of the property in a non-erosive manner, and demonstrate how development will treat or infiltrate stormwater prior to conveyance off site during construction.

### **3.2 Post Construction Phase Requirements: Site Design and Source Control Measures**

Site Design and Source Control Measures shall be required for all development and shall detail how stormwater and polluted runoff will be managed or mitigated. These measures shall require the implementation of appropriate Site Design and Source Control BMPs from Section 5 and Appendix A to minimize post-construction polluted runoff and impacts to water quality. The applicant shall also specify any Treatment Control or Structural BMPs that they elect to include in the development to minimize post-construction polluted runoff, and include the operation and maintenance plans for these BMPs.

The following information shall be included in the description of Site Design and Source Control Measures:

- Site design and source control BMPs that will be implemented to minimize post-construction polluted runoff (see Section 4.1)
- Drainage improvements (e.g., locations of infiltration basins)
- Potential flow paths where erosion may occur after construction
- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements
- Stormwater pollution prevention measures including all construction elements and Best Management Practices (BMPs) to address the following goals in connection with both construction and long-term operation of the site:
  - a. Maximize on-site retention and infiltration measures including directing rooftop runoff to permeable areas rather than driveways
  - b. Maximize, to the extent practicable, the percentage of permeable surfaces and limit directly connected impervious areas in order to allow more percolation of runoff into the ground

### **3.3 Post Construction Phase Requirements: Water Quality Management Plan**

A Water Quality Management Plan (WQMP) shall be required for all development that either fails to adequately address water quality impacts using Site Design and Source Control Measures or is in a category of development identified below. In addition to the Site Design and Source Control Measures required for all development, the WQMP shall include Treatment Control (or Structural) BMPs identified in Appendix A to minimize post-construction polluted runoff and impacts to water quality. The WQMP shall also include the operation and maintenance plans for these BMPs.

#### **3.3.1. Special Categories of Development**

A WQMP shall be required for projects that fall into one or more of the following categories of development:

- Hillside residential development
- Housing developments of ten units or more
- Industrial/commercial development
- Restaurants
- Retail gasoline outlets /Automotive service facilities
- Parking lots (5,000 square feet or more of impervious surface area or with 25 or more parking spaces)/ Outdoor storage areas
- Projects that discharge to an ESA or coastal water<sup>1</sup>
- Redevelopment projects that result in the creation or addition or replacement of 5,000 square feet or more of impervious surface on an already developed site

#### **3.3.2. Contents of a Water Quality Management Plan**

The WQMP shall be certified by a California Registered Civil Engineer and approved by the City's Department of Public Works, City Engineer. The following information shall be included in a WQMP:

- Site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff (see Section 4.1)
- Pre-development peak runoff rate and average volume
- Expected post-development peak runoff rate and average volume from the site with all proposed non-structural and structural BMPs
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)
- Potential flow paths where erosion may occur after construction

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<sup>1</sup> Environmentally Sensitive Areas: All development and redevelopment located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area). "Directly adjacent" means situated within 200 feet of the environmentally sensitive area. "Discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands

- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements
- Measures to treat, infiltrate, and/or filter runoff from impervious surfaces (e.g., roads, driveways, parking structures, building pads, roofs, patios, etc.) on the subject parcel(s) and to discharge the runoff in a manner that avoids erosion, gullyng on or downslope of the subject parcel, the need for upgrades to municipal stormdrain systems, discharge of pollutants (e.g., oil, heavy metals, toxics) to coastal waters, or other potentially adverse impacts. Such measures may include, but are not limited to, the use of structures (alone or in combination) such as biofilters and grasses waterways, on-site desilting basins, detention ponds, dry wells, etc.
- Information describing how the BMPs (or suites of BMPs) have been 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 85<sup>th</sup> 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 bio-swales, detention and retention ponds and adsorption media. The actual type of treatment should be linked to the pollutants generated by the development as indicated in Appendix B.
- A long-term plan and schedule for the monitoring and maintenance of all drainage-control devices. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices shall be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, shall be carried out prior to the next rainy season.

The Public Works Director, the City Engineer, or his/her designee, who reviews drainage plans shall determine if the post-development BMPs require efficacy monitoring and, if so, the applicant shall submit a monitoring program for review and approval by the Public Works Director, the City Engineer, or his/her designee.

### **3.4 CEQA**

Provisions of this section shall be complementary to, and shall not replace, any applicable requirements for storm water mitigation required under the California Environmental Quality Act.

### **3.5 Water Quality Checklist**

A water quality checklist or other type of review tool will be developed by the City and used to supplement the CEQA checklist in the permit review process to assess potential water quality impacts and appropriate mitigation measures.

## **4 DEVELOPMENT STANDARDS**

### **4.1 BMP Requirements and Implementation**

All development shall be evaluated for potential adverse impacts to water quality and the applicant shall incorporate Site Design, Source Control and, where required, Treatment Control BMPs, in order to minimize polluted runoff and water quality impacts resulting from the development. Site Design and Source Control Measures are required for all development, as specified in Section 3.2, and a WQMP requires the implementation of Site Design, Source Control and Treatment Control BMPs, as specified in Section 3.3. In order to maximize the reduction of water quality impacts, BMPs should be incorporated into the project design in the following progression: (1) Site Design BMPs, (2) Source Control BMPs, and (3) Treatment Control BMPs. Examples of these BMPs may be found in Section 5 and Appendix A.

#### **4.1.1. Types of BMPs**

Non-structural BMPs are preventative actions that involve management and source controls such as protecting and restoring sensitive areas such as wetlands and riparian corridors, maintaining and/or increasing open space, providing buffers along sensitive water bodies, minimizing impervious surfaces and directly connected impervious areas, and minimizing disturbance of soils and vegetation. Structural BMPs include: storage practices such as wet ponds and extended-detention outlet structures; filtration practices such as grassed swales, sand filters and filter strips; and infiltration practices such as infiltration basins and infiltration trenches. In many cases combinations of non-structural and structural measures will be required to reduce water quality impacts.

Additional guidance on best management practices is available from the State, the EPA and from other sources such as Bay Area Stormwater Management Agencies Association (BASMAA) "Starting at the Source". Stormwater technologies are constantly being improved, and staff and developers should be responsive to any changes, developments or improvements in control technologies.

#### **4.1.2. BMP Selection Process**

In selecting BMPs to incorporate into the project design, the applicant should first identify the pollutants of concern that are anticipated to be generated as a result of the development. Table 1 in Appendix B should be used as a guide in identifying these pollutants of concern. In addition, pollutants generated by the development that exhibit one or more of the following characteristics shall be considered primary pollutants of concern:

- The pollutant is anticipated to be generated by the project and is also listed as a pollutant causing impairment of a receiving water of the project
- Current loadings or historical deposits of the pollutant are impairing the beneficial uses of a receiving water



- Elevated levels of the pollutant are found in water or sediments of a receiving water and/or have the potential to be toxic to or bioaccumulate in organisms therein
- Inputs of the pollutant are at a level high enough to be considered potentially toxic

The City of Carpinteria has two waterbodies designated as impaired according to the 303(d) list adopted by USEPA in July 2003. Carpinteria Creek is listed as impaired for pathogens, and Carpinteria Marsh is listed as impaired for nutrients, organic enrichment/low dissolved oxygen, priority organics and sedimentation/siltation.

Applicants shall use these above designations of impairment and any future designations of impairment, as updated through the 303(d) listing process, to assess primary pollutants of concern for their project, as described above.

Site Design and Source Control BMPs are required based on pollutants commonly associated with the project type, as identified in Table 1. Table 2 in Appendix B should be used as guidance to determine the specific area for each project where Site Design and Source Control BMPs are required to be implemented. BMPs that minimize the identified pollutants of concern may be selected from the examples in Section 5 and Appendix A, targeting primary pollutants of concern first. In the event that the implementation of a BMP listed in Section 5 or Appendix A is determined to be infeasible at any site, the implementation of other BMPs that will achieve the equivalent reduction of pollutants shall be required.

Treatment Control BMPs should be selected using the matrix in Table 3 in Appendix B as guidance to determine the removal efficiency of the BMP for the pollutants of concern for that project. Treatment Control BMPs that maximize pollutant removal for the identified primary pollutants of concern should receive priority for BMP selection, followed by BMPs that maximize pollutant removal for all other pollutants of concern identified for the project. The most effective combination of BMPs for polluted runoff control that results in the most efficient reduction of pollutants shall be implemented. The applicant may select from the list of BMPs in Appendix A. In the event that the implementation of a BMP listed in Appendix A is determined to be infeasible at any site, the implementation of other BMPs that will achieve the equivalent reduction of pollutants shall be required.

#### 4.1.3. Sizing of Treatment Control BMPs

Where post-construction treatment controls are required, the 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 85<sup>th</sup> percentile, 24-hour storm event<sup>2</sup> 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.

<sup>2</sup> Considering the long-run records of local storm events in a 24-hour period, the 85<sup>th</sup> percentile event would be larger than or equal to 85% of the storms. The 85th percentile storm can be determined by reviewing local precipitation data or relying on estimates by other regulatory agencies. For example, the Los Angeles Regional Water Quality Control Board has determined that 0.75 inch is an adequate estimate of the 85th percentile, 24-hour storm event for typical municipal land uses within its jurisdiction.

The term "treatment" includes physical, biological and chemical processes such as filtration, the use of bio-swales, 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 Appendix B.

#### **4.1.4. BMP Maintenance and Conditions of Transfer**

All applicants shall provide binding maintenance requirements for Structural and Treatment Control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and conditional use permits. Verification at a minimum shall include:

- The developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either
  - A signed statement from the public entity assuming responsibility for Structural and Treatment Control BMP maintenance and that it meets all local agency design standards; or
  - Written conditions in the sales or lease agreement, which require the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year; or
  - Written text in project conditions, covenants, and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the Structural and Treatment Control BMPs; or
  - Any other legally enforceable agreement that assigns responsibility for the maintenance of post-construction Structural and Treatment Control BMPs

#### **4.2 Development on Hillsides**

Soils shall be stabilized and infiltration practices incorporated during the development of roads, bridges, culverts and outfalls to prevent stream bank or hillside erosion. For all development on or adjacent to hillsides, project plans shall include the following BMPs to decrease the potential of slopes and/or channels from eroding and impacting storm water runoff:

- Convey runoff safely from the tops of slopes and stabilize disturbed slopes
- Utilize existing natural drainage systems to the maximum extent feasible
- Control and minimize excess flow to natural drainage systems to the maximum extent feasible
- Stabilize permanent channel crossings using "soft engineering" practices when possible
- Vegetate slopes with native or drought tolerant vegetation
- Install energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion

Additional measures to prevent downstream erosion, such as cisterns, infiltration pits and/or contour drainage outlets that disperse water back to sheet flow, shall be implemented for projects discharging onto slopes greater than 10 percent.

New development on hillsides, on sites with low permeability soil conditions, or areas where saturated soils can lead to geologic instability should incorporate BMPs that do not rely on or increase infiltration.

#### **4.3 Cumulative Impacts**

Because of the city's designation under the Phase II NPDES regulations, all discretionary projects (except those that do not result in a physical change to the environment) within the urbanized area whose contributions are cumulatively considerable shall implement one or more best management practices to reduce their contribution to the cumulative impact.

### **5 DEVELOPMENT-SPECIFIC DESIGN STANDARDS**

#### **5.1 Commercial Development**

Commercial development shall be designed to control the runoff of pollutants from structures, parking and loading areas. The following measures shall be implemented to minimize the impacts of commercial development on water quality.

##### Properly Design Loading/Unloading Dock Areas

Loading/unloading dock areas have the potential for material spills to be quickly transported to the storm water conveyance system. To minimize this potential, the following design criteria are required:

- Cover loading dock areas or design drainage to minimize run-on and runoff of storm water.
- Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

##### Properly Design Repair/Maintenance Bays

Oil and grease, solvents, car battery acid, coolant, and gasoline from repair and maintenance bays can negatively impact storm water if allowed to come into contact with storm water runoff. Therefore, design plans for repair bays shall include the following:

- Repair/ maintenance bays shall be indoors or designed in such a way that doesn't allow storm water runoff or contact with storm water runoff.
- Design a repair/maintenance bay drainage system to capture all washwater, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain system is prohibited. Obtain an Industrial Waste Discharge Permit if required.

#### Properly Design Vehicle/Equipment Wash Areas

The activity of vehicle/equipment washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for washing/steam cleaning of vehicles and equipment. This area shall be:

- Self-contained and/or covered, equipped with a clarifier, or other pretreatment facility, and
- Properly connected to a sanitary sewer or other appropriately permitted disposal facility.

#### Properly Design Parking Areas

Parking lots contain pollutants such as heavy metals, oil and grease, and polycyclic aromatic hydrocarbons that are deposited on parking lot surfaces by motor vehicles. These pollutants are directly transported to surface waters. To minimize the offsite transport of pollutants, the following design criteria are required:

- Reduce impervious surface land coverage of parking areas.
- Infiltrate runoff before it reaches storm drain system.
- Treat runoff before it reaches storm drain system.

Parking lots may also accumulate oil, grease, and water insoluble hydrocarbons from vehicle drippings and engine system leaks. To minimize impacts to water quality, the following measures are required:

- Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used (e.g. lots with 25 or more parking spaces, performing arts parking lots, shopping malls, or grocery stores).
- Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal, and system fouling and plugging prevention control.

## **5.2 Restaurants**

Restaurants shall be designed to minimize runoff of oil and grease, solvents, phosphates, and suspended solids to the storm drain system. The following measures shall be implemented to minimize the impacts of restaurants on water quality.

#### Properly Design Equipment/Accessory Wash Areas

The activity of outdoor equipment/accessory washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for the washing/steam cleaning of equipment and accessories. This area shall be:

- Self-contained, equipped with a grease trap, and properly connected to a sanitary sewer.
- If the wash area is to be located outdoors, it shall be covered, paved, have secondary containment and be connected to the sanitary sewer or other appropriately permitted disposal facility.
- Any outdoor storage of solid or liquid waste (i.e., oil and grease) shall comply with the requirements of Sections 5.4 and 5.5.

### **5.3 Gasoline Stations, Car Washes and Automotive Repair Facilities**

Gasoline stations and automotive repair facilities shall be designed to minimize runoff of oil and grease, solvents, car battery acid, coolant and gasoline to stormwater system. The following measures shall be implemented to minimize the impacts of gasoline stations, and automotive repair facilities on water quality.

#### Properly Design Fueling Areas

Fueling areas have the potential to contribute oil and grease, solvents, car battery acid, coolant, and gasoline to the storm water conveyance system. Therefore, design plans for fueling areas shall include the following:

- The fuel dispensing area shall be covered with an overhanging roof structure or canopy. The canopy's minimum dimensions shall be equal to or greater than the area within the grade break. The canopy shall not drain onto the fuel dispensing area, and the canopy downspouts shall be routed to prevent drainage across the fueling area. As an alternative, the site shall be served by an oil/water separator or other source or treatment control BMP's that will achieve equivalent mitigation.
- The fuel dispensing area shall be paved with Portland cement concrete (or equivalent smooth impervious surface), and the use of asphalt concrete shall be prohibited.
- The fuel dispensing area shall have a 2% to 4% slope to prevent ponding, and shall be separated from the rest of the site by a grade break that prevents run-on of storm water to the extent practicable.
- At a minimum, the concrete fuel dispensing area shall extend 6.5 feet (2.0 meters) from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot (0.3 meter), whichever is less.

#### Properly Design Repair/Maintenance Bays

Oils and grease, solvents, car battery acid, coolant, and gasoline from the repair/maintenance bays can negatively impact storm water if allowed to come into contact with storm water runoff. Therefore, design plans for repair bays shall include the following:

- Repair/maintenance bays shall be indoors or designed in such a way that doesn't allow storm water run-on or contact with storm water runoff.
- Design a repair/maintenance bay drainage system to capture all wash-water, leaks, and spills. Connect drains to a sump for collection and disposal. Direct connection

of the repair/maintenance bays to the storm drain system is prohibited. Obtain an Industrial Waste Discharge Permit if required.

#### Properly Design Vehicle/Equipment Wash Areas

The activity of vehicle/equipment washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for washing/steam cleaning of vehicles and equipment. This area shall be:

- Self-contained and/or covered, equipped with a clarifier, or other pretreatment facility, and properly connected to a sanitary sewer or other appropriately permitted disposal facility.

#### Properly Design Loading/Unloading Dock Areas

Loading/unloading dock areas have the potential for material spills to be quickly transported to the storm water conveyance system. To minimize this potential, the following design criteria are required:

- Cover loading dock areas or design drainage to minimize run-on and runoff of storm water.
- Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

### **5.4 Outdoor Material Storage Areas**

Outdoor material storage areas refer to storage areas or storage facilities used solely for the storage of materials. Improper storage of materials outdoors may provide an opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to enter the storm water conveyance system. Outdoor material storage areas shall be designed to prevent stormwater contamination from stored materials. Where proposed project plans include outdoor areas for storage of materials that may contribute pollutants to the storm water conveyance system, the following measures are required:

- Materials with the potential to contaminate storm water shall be: (1) placed in an enclosure such as a cabinet, shed or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs.
- The storage areas shall be paved and sufficiently impervious to contain leaks and spills.
- The storage area shall have a roof or awning to minimize collection of storm water within the secondary containment area.

### **5.5 Trash Storage Areas**

A trash storage area refers to an area where a trash receptacle or receptacles are located for use as a repository for solid wastes. Loose trash and debris can be easily transported

by the forces of water or wind into nearby storm drain inlets, channels, and/or creeks. Trash storage areas shall be designed to prevent stormwater contamination by loose trash and debris. All trash container areas shall meet the following requirements (individual family residences are exempt from these requirements):

- Trash container areas shall have drainage from adjoining roofs and pavement diverted around the area(s).
- Trash container areas shall be screened or walled to prevent off-site transport of trash.

## **5.6 Single Family Residential**

To mitigate the increased runoff rates from Single Family Residences due to new impervious surfaces, new residential projects and additions, as well as remodel projects that need an Erosion and Sediment Control Plan, shall include design elements that accommodate onsite percolation, retention or collection of storm water runoff such that the peak runoff rate after development either meets the 85<sup>th</sup> percentile storm event criterion or does not exceed predevelopment runoff levels to the maximum extent practicable. BMPs (including those outlined in the California Storm Water Best Management Practice Handbooks) that may achieve this objective fit into these categories:

- Minimizing Impervious Areas
- Increase Rainfall Infiltration
- Minimize Directly Connected Impervious Areas (DCIAs)



## **Appendix A**

### **STORM WATER BEST MANAGEMENT PRACTICES**

The following are a list of BMPs that may be used to minimize or prevent the introduction of pollutants of concern that may result in significant impacts to receiving waters. Other BMPs approved by the City as being equally or more effective in pollutant reduction than comparable BMPs identified below are acceptable. All BMPs shall comply with local zoning and building codes and other applicable regulations.

#### **Site Design BMPs**

##### **Minimizing Impervious Areas**

- Reduce sidewalk widths where it is practicable
- Incorporate landscaped buffer areas between sidewalks and streets.
- Design residential streets for the minimum required pavement widths
- Minimize the number of residential street cul-de-sacs and incorporate landscaped areas to reduce their impervious cover.
- Use open space development that incorporates smaller lot sizes
- Increase building density while decreasing the building footprint
- Reduce overall lot imperviousness by promoting alternative driveway surfaces and shared driveways that connect two or more homes together
- Reduce overall imperviousness associated with parking lots by providing compact car spaces, minimizing stall dimensions, incorporating efficient parking lanes, and using pervious materials in spillover parking areas

##### **Increase Rainfall Infiltration**

- Use permeable materials for private sidewalks, driveways, parking lots, and interior roadway surfaces (examples: hybrid lots, parking groves, permeable overflow parking, etc.)
- Direct rooftop runoff to pervious areas such as yards, open channels, or vegetated areas, and avoid routing rooftop runoff to the roadway or the urban runoff conveyance system

##### **Maximize Rainfall Interception**

- Maximizing canopy interception and water conservation by preserving existing native trees and shrubs, and planting additional native or drought tolerant trees and large shrubs

### Minimize Directly Connected Impervious Areas (DCIAs)

- Draining rooftops into adjacent landscaping prior to discharging to the storm drain
- Draining parking lots into landscape areas co-designed as biofiltration areas
- Draining roads, sidewalks, and impervious trails into adjacent landscaping

### Slope and Channel Protection

- Use of existing natural drainage systems to the maximum extent feasible
- Stabilized permanent channel crossings
- Planting native or drought tolerant vegetation on slopes
- Energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels

### Maximize Rainfall Interception

- Cisterns
- Foundation planting

### Increase Rainfall Infiltration

- Dry wells

## Source Control BMPs

- Storm drain system stenciling and signage
- Regular street and parking lot sweeping
- Outdoor material and trash storage area designed to reduce or control rainfall runoff
- Efficient irrigation system

## Treatment Control BMPs

### Biofilters

- Grass swale
- Grass strip
- Wetland vegetation swale
- Bioretention

### Detention Basins

- Extended/dry detention basin with grass lining
- Extended/dry detention basin with impervious lining

### Infiltration Basins

- Infiltration basin
- Infiltration trench
- Porous asphalt
- Porous concrete
- Porous modular concrete block

#### Wet Ponds and Wetlands

- Wet pond (permanent pool)
- Constructed wetland

#### Drainage Inserts

- Oil/Water separator
- Catch basin insert
- Storm drain inserts
- Catch basin screens

#### Filtration Systems

- Media filtration
- Sand filtration

#### Hydrodynamic Separation Systems

- Swirl Concentrator
- Cyclone Separator

## Appendix B

### BMP IMPLEMENTATION TABLES

Table 1. Anticipated and Potential Pollutants Generated by Land Use Type

<i>Priority Project Categories</i>	<i>General Pollutant Categories</i>								
	Sediments	Nutrients	Heavy Metals	Organic Compounds	Trash & Debris	Oxygen Demanding Substances	Oil & Grease	Bacteria & Viruses	Pesticides
Detached Residential Development	X	X			X	X	X	X	X
Attached Residential Development	X	X			X	p <sup>(1)</sup>	p <sup>(2)</sup>	P	X
Commercial Development >100,000 ft <sup>2</sup>	p <sup>(1)</sup>	p <sup>(1)</sup>		p <sup>(2)</sup>	X	p <sup>(5)</sup>	X	p <sup>(3)</sup>	p <sup>(5)</sup>
Automotive service facilities			X	X <sup>(4)(5)</sup>	X		X		
Retail Gasoline Outlets			X	X <sup>(4)(5)</sup>	X		X		
Restaurants					X	X	X	X	
Hillside development	X	X			X	X	X		X
Parking Lots	p <sup>(1)</sup>	p <sup>(1)</sup>	X		X	p <sup>(1)</sup>	X		p <sup>(1)</sup>
Streets, Highways & Freeways	X	p <sup>(1)</sup>	X	X <sup>(4)</sup>	X	p <sup>(5)</sup>	X		
X = anticipated P = potential (1) A potential pollutant if landscaping exists on-site (2) A potential pollutant if the project includes uncovered parking areas (3) A potential pollutant if land use involves food or animal waste products (4) Including petroleum hydrocarbons (5) Including solvents									

**Table 2. Site Design and Source Control BMP Selection Matrix**

	Specific Areas for Implementation of Site Design and Source Control BMPs													
Priority Project Categories	Private Roads	Residential Driveways & Guest Parking	Loading/Unloading Dock Areas	Repair/Maintenance Bays	Vehicle Wash Areas	Outdoor Processing Areas	Equipment Wash Areas	Parking Areas	Roadways	Fueling Areas	Hillside Landscaping	Outdoor Material Storage Areas	Trash Storage Areas	Pools and Spas
Detached Residential Development	R	R									R			R
Attached Residential Development	R												R	R
Commercial Development >100,000 ft <sup>2</sup>			R	R	R	R						R	R	
Automotive service facilities			R	R	R		R			R		R	R	
Retail Gasoline Outlets			R	R	R		R			R		R	R	
Restaurants			R				R					R	R	
Hillside development	R										R			
Parking Lots								R					R	
Streets, Highways & Freeways									R					
R = Required – minimize pollutants of concern by selecting appropriate Site Design and Source Control BMPs														

Table 3. Treatment Control BMP Selection Matrix<sup>(1)</sup>

<i>Pollutant of Concern</i>	<i>Treatment Control BMP Categories</i>						
	Biofilters	Detention Basins	Infiltration Basins <sup>(2)</sup>	Wet Ponds or Wetlands	Drainage Inserts	Filtration	Hydrodynamic Separator Systems <sup>(3)</sup>
Sediment	M	H	H	H	L	H	M
Nutrients	L	M	M	M	L	M	L
Heavy Metals	M	M	M	H	L	H	L
Organic Compounds	U	U	U	U	L	M	L
Trash & Debris	L	H	U	U	M	H	M
Oxygen Demanding Substances	L	M	M	M	L	M	L
Bacteria	U	U	H	U	L	M	L
Oil & Grease	M	M	U	U	L	H	L
Pesticides	U	U	U	U	L	U	L
<p>(1) The City is encouraged to periodically assess the performance characteristics of many of these BMPs to update this table.</p> <p>(2) Including trenches and porous pavement</p> <p>(3) Also known as hydrodynamic devices and baffle boxes</p> <p>L: Low removal efficiency  M: Medium removal efficiency  H: High removal efficiency  U: Unknown removal efficiency</p> <p>Sources: <i>Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters</i> (1993), <i>National Stormwater Best Management Practices Database</i> (2001), and <i>Guide for BMP Selection in Urban Developed Areas</i> (2001).</p>							

Areas subject to high growth or serving a population of at least 50,000 must comply with the following provisions (for counties this threshold population applies to the population within the permit area).

**A. RECEIVING WATER LIMITATIONS**

1. Discharges shall not cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule (CTR), or in the applicable RWQCB Basin Plan.
2. The permittees shall comply with Receiving Water Limitations A.1 through timely implementation of control measures and other actions to reduce pollutants in the discharges in accordance with the SWMP and other requirements of this permit including any modifications. The SWMP shall be designed to achieve compliance with Receiving Water Limitations A.1. If exceedance(s) of water quality objectives or water quality standards (collectively, WQS) persist notwithstanding implementation of the SWMP and other requirements of this permit, the permittees shall assure compliance with Receiving Water Limitations A.1 by complying with the following procedure:
  - a. Upon a determination by either the permittees or the RWQCB that discharges are causing or contributing to an exceedance of an applicable WQS, the permittees shall promptly notify and thereafter submit a report to the RWQCB that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of WQSs. The report may be incorporated in the annual update to the SWMP unless the RWQCB directs an earlier submittal. The report shall include an implementation schedule. The RWQCB may require modifications to the report.
  - b. Submit any modifications to the report required by the RWQCB within 30 days of notification.
  - c. Within 30 days following approval of the report described above by the RWQCB, the permittees shall revise the SWMP and monitoring program to incorporate the approved modified BMPs that have been and will be implemented, implementation schedule, and any additional monitoring required.
  - d. Implement the revised SWMP and monitoring program in accordance with the approved schedule.

So long as the permittees have complied with the procedures set forth above and are implementing the revised SWMP, the permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the RWQCB to develop additional BMPs.

**B. DESIGN STANDARDS**

EXHIBIT NO. <b>5</b>
APPLICATION NO.
<b>CPN-MAJ-1-04</b>
<b>ATTACHMENT 4 OF</b>
<b>PHASE II PERMIT</b>



Regulated Small MS4s subject to this requirement must adopt an ordinance or other document to ensure implementation of the Design Standards included herein or a functionally equivalent program that is acceptable to the appropriate RWQCB. The ordinance or other document must be adopted and effective prior to the expiration of this General Permit or, for Small MS4s designated subsequent to the Permit adoption, within five years of designation as a regulated Small MS4.

All discretionary development and redevelopment projects that fall into one of the following categories are subject to these Design Standards. These categories are:

- Single-Family Hillside Residences
- 100,000 Square Foot Commercial Developments
- Automotive Repair Shops
- Retail Gasoline Outlets
- Restaurants
- Home Subdivisions with 10 or more housing units
- Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to storm water runoff

1. Conflicts With Local Practices

Where provisions of the Design Standards conflict with established local codes or other regulatory mechanism, (e.g., specific language of signage used on storm drain stenciling), the Permittee may continue the local practice and modify the Design Standards to be consistent with the code or other regulatory mechanism, except that to the extent that the standards in the Design Standards are more stringent than those under local codes or other regulatory mechanism, such more stringent standards shall apply.

2. Design Standards Applicable to All Categories

a. Peak Storm Water Runoff Discharge Rates

Post-development peak storm water runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak storm water discharge rate will result in increased potential for downstream erosion.

b. Conserve Natural Areas

If applicable, the following items are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:

- 1) Concentrate or cluster Development on portions of a site while leaving the remaining land in a natural undisturbed condition.
- 2) Limit clearing and grading of native vegetation at a site to the minimum amount needed to build lots, allow access, and provide fire protection.
- 3) Maximize trees and other vegetation at each site by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.

- 4) Promote natural vegetation by using parking lot islands and other landscaped areas.
- 5) Preserve riparian areas and wetlands.

c. Minimize Storm Water Pollutants of Concern

Storm water runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the storm water conveyance system. The development must be designed so as to minimize, to the maximum extent practicable, the introduction of pollutants of concern that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the storm water conveyance system as approved by the building official. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water, elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or the detectable inputs of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

In meeting this specific requirement, "minimization of the pollutants of concern" will require the incorporation of a BMP or combination of BMPs best suited to maximize the reduction of pollutant loadings in that runoff to the Maximum Extent Practicable. Those BMPs best suited for that purpose are those listed in the *California Storm Water Best Management Practices Handbooks*; *Caltrans Storm Water Quality Handbook: Planning and Design Staff Guide*; *Manual for Storm Water Management in Washington State*; *The Maryland Stormwater Design Manual*; *Florida Development Manual: A Guide to Sound Land and Water Management*; *Denver Urban Storm Drainage Criteria Manual, Volume 3 – Best Management Practices and Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*, USEPA Report No. EPA-840-B-92-002, as "likely to have significant impact" beneficial to water quality for targeted pollutants that are of concern at the site in question. However, it is possible that a combination of BMPs not so designated, may in a particular circumstance, be better suited to maximize the reduction of the pollutants.

d. Protect Slopes and Channels

Project plans must include BMPs consistent with local codes, ordinances, or other regulatory mechanism and the Design Standards to decrease the potential of slopes and/or channels from eroding and impacting storm water runoff:

- 1) Convey runoff safely from the tops of slopes and stabilize disturbed slopes.
- 2) Utilize natural drainage systems to the maximum extent practicable.
- 3) Stabilize permanent channel crossings.
- 4) Vegetate slopes with native or drought tolerant vegetation, as appropriate.
- 5) Install energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion, with the approval of all agencies

with jurisdiction, e.g., the U.S. Army Corps of Engineers and the California Department of Fish and Game.

- e. **Provide Storm Drain System Stenciling and Signage**  
Storm drain stencils are highly visible source controls that are typically placed directly adjacent to storm drain inlets. The stencil contains a brief statement that prohibits the dumping of improper materials into the storm water conveyance system. Graphical icons, either illustrating anti-dumping symbols or images of receiving water fauna, are effective supplements to the anti-dumping message. All storm drain inlets and catch basins within the project area must be stenciled with prohibitive language (such as: "NO DUMPING – DRAINS TO OCEAN") and/or graphical icons to discourage illegal dumping. Signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, must be posted at public access points along channels and creeks within the project area. Legibility of stencils and signs must be maintained.
- f. **Properly Design Outdoor Material Storage Areas**  
Outdoor material storage areas refer to storage areas or storage facilities solely for the storage of materials. Improper storage of materials outdoors may provide an opportunity for toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to enter the storm water conveyance system. Where proposed project plans include outdoor areas for storage of materials that may contribute pollutants to the storm water conveyance system, the following Structural or Treatment BMPs are required:
  - 1) Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes, or curbs.
  - 2) The storage area must be paved and sufficiently impervious to contain leaks and spills.
  - 3) The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.
- g. **Properly Design Trash Storage Areas**  
A trash storage area refers to an area where a trash receptacle or receptacles (dumpsters) are located for use as a repository for solid wastes. Loose trash and debris can be easily transported by the forces of water or wind into nearby storm drain inlets, channels, and/or creeks. All trash container areas must meet the following Structural or Treatment Control BMP requirements (individual single family residences are exempt from these requirements):
  - 1) Trash container areas must have drainage from adjoining roofs and pavement diverted around the area(s).
  - 2) Trash container areas must be screened or walled to prevent off-site transport of trash.
- h. **Provide Proof of Ongoing BMP Maintenance**

Improper maintenance is one of the most common reasons why water quality controls will not function as designed or which may cause the system to fail entirely. It is important to consider who will be responsible for maintenance of a permanent BMP, and what equipment is required to perform the maintenance properly. As part of project review, if a project applicant has included or is required to include, Structural or Treatment Control BMPs in project plans, the Permittee shall require that the applicant provide verification of maintenance provisions through such means as may be appropriate, including, but not limited to legal agreements, covenants, CEQA mitigation requirements and/or Conditional Use Permits.

For all properties, the verification will include the developer's signed statement, as part of the project application, accepting responsibility for all structural and treatment control BMP maintenance until the time the property is transferred and, where applicable, a signed agreement from the public entity assuming responsibility for Structural or Treatment Control BMP maintenance. The transfer of property to a private or public owner must have conditions requiring the recipient to assume responsibility for maintenance of any Structural or Treatment Control BMP to be included in the sales or lease agreement for that property, and will be the owner's responsibility. The condition of transfer shall include a provision that the property owners conduct maintenance inspection of all Structural or Treatment Control BMPs at least once a year and retain proof of inspection. For residential properties where the Structural or Treatment Control BMPs are located within a common area which will be maintained by a homeowner's association, language regarding the responsibility for maintenance must be included in the project's conditions, covenants and restrictions (CC&Rs). Printed educational materials will be required to accompany the first deed transfer to highlight the existence of the requirement and to provide information on what storm water management facilities are present, signs that maintenance is needed, how the necessary maintenance can be performed, and assistance that the Permittee can provide. The transfer of this information shall also be required with any subsequent sale of the property.

If Structural or Treatment Control BMPs are located within a public area proposed for transfer, they will be the responsibility of the developer until they are accepted for transfer by the County or other appropriate public agency. Structural or Treatment Control BMPs proposed for transfer must meet design standards adopted by the public entity for the BMP installed and should be approved by the County or other appropriate public agency prior to its installation.

- i. **Design Standards for Structural or Treatment Control BMPs**  
The Permittees shall require that post-construction treatment control BMPs incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) storm water runoff:
  - 1) **Volumetric Treatment Control BMP**

- a) The 85<sup>th</sup> percentile 24-hour runoff event determined as the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998); or
  - b) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or
  - c) The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for “treatment” that achieves approximately the same reduction in pollutant loads achieved by the 85<sup>th</sup> percentile 24-hour runoff event.
- 2) Flow Based Treatment Control BMP
- a) The flow of runoff produced from a rain event equal to at least two times the 85<sup>th</sup> percentile hourly rainfall intensity for the area; or
  - b) The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

**Limited Exclusion**

Restaurants and Retail Gasoline Outlets, where the land area for development or redevelopment is less than 5,000 square feet, are excluded from the numerical Structural or Treatment Control BMP design standard requirement only.

**3. Provisions Applicable to Individual Priority Project Categories**

**a. 100,000 Square Foot Commercial Developments**

**1) Properly Design Loading/Unloading Dock Areas**

Loading/unloading dock areas have the potential for material spills to be quickly transported to the storm water conveyance system. To minimize this potential, the following design criteria are required:

- a) Cover loading dock areas or design drainage to minimize run-on and runoff of storm water.
- b) Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

**2) Properly Design Repair/Maintenance Bays**

Oil and grease, solvents, car battery acid, coolant and gasoline from the repair/maintenance bays can negatively impact storm water if allowed to come into contact with storm water runoff. Therefore, design plans for repair bays must include the following:

- a) Repair/maintenance bays must be indoors or designed in such a way that doesn't allow storm water runoff or contact with storm water runoff.
  - b) Design a repair/maintenance bay drainage system to capture all washwater, leaks and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain system is prohibited. If required by local jurisdiction, obtain an Industrial Waste Discharge Permit.
- 3) Properly Design Vehicle/Equipment Wash Areas
- The activity of vehicle/equipment washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for washing/steam cleaning of vehicles and equipment. The area in the site design must be:
- a) Self-contained and/ or covered, equipped with a clarifier, or other pretreatment facility, and
  - b) Properly connected to a sanitary sewer or other appropriately permitted disposal facility.
- b. Restaurants
- 1) Properly Design Equipment/Accessory Wash Areas
- The activity of outdoor equipment/accessory washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for the washing/steam cleaning of equipment and accessories. This area must be:
- a) Self-contained, equipped with a grease trap, and properly connected to a sanitary sewer.
  - b) If the wash area is to be located outdoors, it must be covered, paved, have secondary containment, and be connected to the sanitary sewer or other appropriately permitted disposal facility.
- c. Retail Gasoline Outlets
- 1) Properly Design Fueling Area
- Fueling areas have the potential to contribute oil and grease, solvents, car battery acid, coolant and gasoline to the storm water conveyance system. The project plans must include the following BMPs:
- a) The fuel dispensing area must be covered with an overhanging roof structure or canopy. The canopy's minimum dimensions must be equal to or greater than the area within the grade break. The canopy must not drain onto the fuel dispensing area, and the canopy downspouts must be routed to prevent drainage across the fueling area.

- b) The fuel dispensing area must be paved with Portland cement concrete (or equivalent smooth impervious surface), and the use of asphalt concrete shall be prohibited.
- c) The fuel dispensing area must have a 2% to 4% slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of storm water to the extent practicable.
- d) At a minimum, the concrete fuel dispensing area must extend 6.5 feet (2.0 meters) from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot (0.3 meter), whichever is less.

d. Automotive Repair Shops

1) Properly Design Fueling Area

Fueling areas have the potential to contribute oil and grease, solvents, car battery acid, coolant and gasoline to the storm water conveyance system. Therefore, design plans, which include fueling areas, must contain the following BMPs:

- a. The fuel dispensing area must be covered with an overhanging roof structure or canopy. The canopy's minimum dimensions must be equal to or greater than the area within the grade break. The canopy must not drain onto the fuel dispensing area, and the canopy downspouts must be routed to prevent drainage across the fueling area.
- b. The fuel dispensing area must be paved with Portland cement concrete (or equivalent smooth impervious surface), and the use of asphalt concrete shall be prohibited.
- c. The fuel dispensing area must have a 2% to 4% slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of storm water to the extent practicable.
- d. At a minimum, the concrete fuel dispensing area must extend 6.5 feet (2.0 meters) from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot (0.3 meter), whichever is less.

2) Properly Design Repair/Maintenance Bays

Oil and grease, solvents, car battery acid, coolant and gasoline from the repair/maintenance bays can negatively impact storm water if allowed to come into contact with storm water runoff. Therefore, design plans for repair bays must include the following:

- a) Repair/maintenance bays must be indoors or designed in such a way that doesn't allow storm water run-on or contact with storm water runoff.
- b) Design a repair/maintenance bay drainage system to capture all wash-water, leaks and spills. Connect drains to a sump for collection and disposal. Direct connection of the repair/maintenance bays to the storm drain system is



prohibited. If required by local jurisdiction, obtain an Industrial Waste Discharge Permit.

3) Properly Design Vehicle/Equipment Wash Areas

The activity of vehicle/equipment washing/steam cleaning has the potential to contribute metals, oil and grease, solvents, phosphates, and suspended solids to the storm water conveyance system. Include in the project plans an area for washing/steam cleaning of vehicles and equipment. This area must be:

- a) Self-contained and/or covered, equipped with a clarifier, or other pretreatment facility, and properly connected to a sanitary sewer or other appropriately permitted disposal facility.

4) Properly Design Loading/Unloading Dock Areas

Loading/unloading dock areas have the potential for material spills to be quickly transported to the storm water conveyance system. To minimize this potential, the following design criteria are required:

- a) Cover loading dock areas or design drainage to minimize run-on and runoff of storm water.
- b) Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

e. Parking Lots

1) Properly Design Parking Area

Parking lots contain pollutants such as heavy metals, oil and grease, and polycyclic aromatic hydrocarbons that are deposited on parking lot surfaces by motor-vehicles. These pollutants are directly transported to surface waters. To minimize the offsite transport of pollutants, the following design criteria are required:

- a) Reduce impervious land coverage of parking areas.
- b) Infiltrate or treat runoff.

2) Properly Design To Limit Oil Contamination and Perform Maintenance

Parking lots may accumulate oil, grease, and water insoluble hydrocarbons from vehicle drippings and engine system leaks:

- a) Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used (e.g. fast food outlets, lots with 25 or more parking spaces, sports event parking lots, shopping malls, grocery stores, discount warehouse stores).
- b) Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal, and system fouling and plugging prevention control.

4. Waiver

A Permittee may, through adoption of an ordinance, code, or other regulatory mechanism incorporating the treatment requirements of the Design Standards, provide for a waiver from the requirement if impracticability for a specific property can be established. A waiver of impracticability shall be granted only when all other Structural or Treatment Control BMPs have been considered and rejected as infeasible. Recognized situations of impracticability include, (i) extreme limitations of space for treatment on a redevelopment project, (ii) unfavorable or unstable soil conditions at a site to attempt infiltration, and (iii) risk of ground water contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than 10 feet from the soil surface. Any other justification for impracticability must be separately petitioned by the Permittee and submitted to the appropriate RWQCB for consideration. The RWQCB may consider approval of the waiver justification or may delegate the authority to approve a class of waiver justifications to the RWQCB EO. The supplementary waiver justification becomes recognized and effective only after approval by the RWQCB or the RWQCB EO. A waiver granted by a Permittee to any development or redevelopment project may be revoked by the RWQCB EO for cause and with proper notice upon petition.

5. Limitation on Use of Infiltration BMPs

Three factors significantly influence the potential for storm water to contaminate ground water. They are (i) pollutant mobility, (ii) pollutant abundance in storm water, (iii) and soluble fraction of pollutant. The risk of contamination of groundwater may be reduced by pretreatment of storm water. A discussion of limitations and guidance for infiltration practices is contained in, *Potential Groundwater Contamination from Intentional and Non-Intentional Stormwater Infiltration, Report No. EPA/600/R-94/051, USEPA (1994)*.

In addition, the distance of the groundwater table from the infiltration BMP may also be a factor determining the risk of contamination. A water table distance separation of ten feet depth in California presumptively poses negligible risk for storm water not associated with industrial activity or high vehicular traffic.

Site specific conditions must be evaluated when determining the most appropriate BMP. Additionally, monitoring and maintenance must be provided to ensure groundwater is protected and the infiltration BMP is not rendered ineffective by overload. This is especially important for infiltration BMPs for areas of industrial activity or areas subject to high vehicular traffic [25,000 or greater average daily traffic (ADT) on main roadway or 15,000 or more ADT on any intersecting roadway]. In some cases pretreatment may be necessary.

6. Alternative Certification for Storm Water Treatment Mitigation

In lieu of conducting detailed BMP review to verify Structural or Treatment Control BMP adequacy, a Permittee may elect to accept a signed certification from a Civil Engineer or a Licensed Architect registered in the State of California, that the plan meets

**Attachment 4**  
**To WQO 2003-0005-DWQ**

the criteria established herein. The Permittee is encouraged to verify that certifying person(s) have been trained on BMP design for water quality, not more than two years prior to the signature date. Training conducted by an organization with storm water BMP design expertise (e.g., a University, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association) may be considered qualifying.

**Exhibit 6**  
**LUP Policies Implemented by Proposed Amendment (as Modified)**  
**Page E6-1**

Implementation Measure	Mod #	LUP Policy Implemented	LUP Policy Implemented for creeks only
Implementation Measure 1.1.1	4	OSC-6e OSC-6f OSC-6, IP 31 OSC-6, IP 32 OSC-6, IP 33 OSC-10c OSC-10, IP53 OSC-10, IP54	OSC-1, IP 10
Implementation Measure 2.1.1		OSC-6a	OSC-8, IP 38
Implementation Measure 2.1.2	5	OSC-6, IP 25	OSC-1a
Implementation Measure 2.1.3	6	OSC-6a OSC-6c OSC-6d OSC-6e OSC-6, IP 25 OSC-6, IP 28 OSC-6, IP 29 OSC-6, IP30	OSC-1a OSC-1, IP 6 OSC-7a OSC-7b
Implementation Measure 2.1.4	7		OSC-1, IP 8
Implementation Measure 2.1.5	8		OSC-1a OSC-1f OSC-8, IP 38 OSC-8, IP 39 OSC-8, IP 40
Implementation Measure 2.1.6	9		OSC-1a OSC-1b
Implementation Measure 2.3.1	10		OSC-1, IP 6
Implementation Measure 2.4.1	11		OSC-1b OSC-1d OSC-1, IP 4 OSC-1, IP 8 OSC-1, IP 10

<b>EXHIBIT NO. 6</b>
<b>APPLICATION NO.</b>
<b>CPN-MAJ-1-04</b>
<b>IMPLEMENTED POLICIES</b>

**Exhibit 6**  
**LUP Policies Implemented by Proposed Amendment (as Modified)**  
**Page E6-2**

Implementation Measure	Mod #	LUP Policy Implemented	LUP Policy Implemented for creeks only
Implementation Measure 2.4.2	12	OSC-6, IP 32 OSC-10c	OSC-7a OSC-7b OSC-10, IP52
Implementation Measure 2.4.3	13		OSC-1, IP 6 OSC-1, IP 11
Implementation Measure 2.4.4	14	OSC-6a OSC-6, IP 28 OSC-6, IP 29	OSC-1c
Implementation Measure 2.4.5	15	OSC-10c	OSC-1, IP 8
Implementation Measure 2.5.1	16	OSC-6a	
Implementation Measure 2.6.1	17		OSC-1, IP4 OSC-1, IP5
Implementation Measure 2.7.1		OSC-6a OSC-6, IP31	
Implementation Measure 2.7.2	18	OSC-6, IP29	
Implementation Measure 2.7.3		OSC-6a	
Implementation Measure 2.9.1	19	OSC-6a	
Implementation Measure 2.10.1		OSC-6a OSC-6b	OSC-1, IP7
Implementation Measure 2.10.2	21	OSC-6a OSC-6b	OSC-1c
Implementation Measure 2.10.3	22	OSC-6a OSC-6b	OSC-1c OSC-1, IP7
Implementation Measure 2.10.4	23	OSC-6a OSC-6b	OSC-1c

**Exhibit 6**  
**LUP Policies Implemented by Proposed Amendment (as Modified)**  
**Page E6-3**

Implementation Measure	Mod #	LUP Policy Implemented	LUP Policy Implemented for creeks only
Implementation Measure 2.10.5			OSC-1, IP7
Implementation Measure 2.10.6		OSC-6a	
Implementation Measure 2.10.7	20	OSC-6a OSC-6b	OSC-1c
Implementation Measure 2.11.1		OSC-6, IP 27	

