

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Carpinteria
LOCAL DECISION: Approval with Conditions
APPEAL NO.: A-4-CPN-06-136
APPLICANT: Carpinteria Business Park Investors, LLC
APPELLANT: Commissioners Caldwell and Wan; Carpinteria Valley Association
PROJECT LOCATION: 6380 Via Real, City of Carpinteria, Santa Barbara County

PROJECT DESCRIPTION: Development of a mixed-use industrial research park and residential project, including the subdivision of a 25.3 acre parcel into four parcels (2.69 acres, 3.00 acres, 6.56 acres, and 13.11 acres in size), and further subdivision of the northernmost of the four parcels (13.11 acres) into 40 lots: 38 single family residential lots, one lot for the 36 condominium units, and one lot for common areas; construction of a 145,425 square foot industrial office park, 509-space, approximately 4.5-acre parking lot, and 0.37-acre detention basin in the southern part of the project site; construction of 38 single family residences, 36 condominium units, and 1.7-acre detention basin in the northern part of the project site; approximately 80,000 cu. yds. of grading (balanced cut and fill); restoration of native riparian vegetation within a 50 foot wide buffer on either side of Lagunitas Creek; construction of a pedestrian trail, two footbridges, benches, bicycle racks, and light bollards within the creek buffer; and construction of an approximately 2,750 foot long T-shaped private road to provide access to the residential development, including a culverted crossing of Lagunitas Creek. The parcel is zoned Industrial Research Park (M-RP), but is subject to a mixed-use overlay that allows residential use to be developed in conjunction with a use allowed in the M-RP zone.

SUBSTANTIVE FILE DOCUMENTS: City of Carpinteria Local Coastal Program; City of Carpinteria Final Action on Project No. 01-976 DP/CDP/TM/PM/P-Mod/DA (City Council approval dated October 23, 2006); Jurisdictional Wetland Delineation, Lagunitas Mixed Use Development, by LSA Associates, Inc., dated September 16, 2005; Final Subsequent Environmental Impact Report (EIR), October 2006.

SUMMARY OF STAFF RECOMMENDATION
SUBSTANTIAL ISSUE EXISTS

Staff recommends that the Commission determine that **substantial issue** exists with respect to its consistency with the grounds on which the appeal has been filed. The **motion** and **resolution** for substantial issue are found on **pages 3 - 4**.

I. APPEAL JURISDICTION

The project site is an approximately 25.3 acre parcel located at 6380 Via Real in the City of Carpinteria, Santa Barbara County. Section 30603(a)(2) of the Coastal Act states, in part, that an action taken by a local government on a coastal development permit (CDP) application may be appealed to the Commission if the development approved is located within 100 feet of any wetland, estuary, or stream. In this case, the City's local action is appealable to the Commission pursuant to 30603(a)(2) of the Coastal Act for two reasons. First, the City's local action is appealable to the Commission pursuant to Section 30603(a)(2) because the City approved a CDP for development, including a subdivision, within the 100-foot wide corridor on either side of Lagunitas Creek, a stream specifically identified in the City's Local Coastal Program (LCP). The City's action is also independently appealable to the Commission pursuant to Section 30603(a)(2) because it approved development, including the proposed subdivision, within 100 feet of a wetland.

In this situation, the approval of the local CDP is appealable, but the grounds of appeal are limited to allegations that the "appealable development" (which is the development located within the Commission's appeal jurisdiction) is not consistent with the standards in the certified LCP. If those grounds are asserted and the Commission finds that the appeal raises a substantial issue, the Commission will consider the proposed project de novo. In the de novo hearing, the Commission will review the entire development for consistency with the policies and provisions of the certified LCP. Thus, the commission's review at the de novo hearing is *not* limited to the appealable development.

A. Appeal Procedures

The Coastal Act provides that after certification of Local Coastal Programs, a local government's actions on Coastal Development Permits in certain areas and for certain types of development may be appealed to the Coastal Commission. Local governments must provide notice to the Commission of its coastal permit actions. During a period of 10 working days following Commission receipt of a notice of local permit action for an appealable development, an appeal of the action may be filed with the Commission.

Appeal Areas

Under Section 30603 of the Coastal Act, development approved by a local government may be appealed to the Commission if they are located within the appealable areas, such as those located between the sea and the first public road paralleling the sea, within 300 feet of the inland extent of any beach or of the mean high-tide line of the sea where there is no beach,

whichever is greater, on state tidelands, or along or within 100 feet of any wetland, estuary, or stream. Further, any development approved by a local County government that is not designated as a principal permitted use within a zoning district may also be appealed to the Commission, irrespective of its geographic location within the coastal zone. Finally, development that constitutes major public works or major energy facilities may also be appealed to the Commission.

Grounds for Appeal

The grounds for appeal of development approved by the local government and subject to appeal to the Commission shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program (Section 30603[b][1] of the Coastal Act).

Substantial Issue Determination

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to its consistency with the grounds on which the appeal was filed. When Commission staff recommends that a substantial issue exists with respect to its consistency with the grounds of the appeal, substantial issue is deemed to exist unless three or more Commissioners wish to hear arguments and vote on substantial issue. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicant, persons who opposed the application before the local government (or its representatives), and the local government. Testimony from other persons must be submitted in writing. It takes a majority of Commissioners present to find that substantial issue is raised by the appeal.

De Novo Review Hearing

If a substantial issue is found to exist, the Commission will consider the City's action de novo. The Commission may consider the de novo permit at the same time as the substantial issue hearing, or at a later time. The applicable test for the Commission to consider in a de novo review of the project is whether the proposed development is in conformity with the certified Local Coastal Program. If a de novo hearing is held, testimony may be taken from all interested persons.

In this case, if the Commission finds substantial issue, staff anticipates de novo permit consideration by the Commission at a future Commission hearing.

B. Local Government Action and Filing of Appeal

Commission staff received a Notice of Final Action for a Coastal Development Permit (Case No. 01-976 DP/CDP/TM/PM/P-Mod/DA) issued by the City for the development on October 27, 2006. The Notice of Final Action stated that the approved project is appealable to the Coastal Commission. Following receipt of the Notice of Final Action, a 10 working day appeal period was set and notice provided beginning October 30, 2006 and extending to November 13, 2006.

An appeal of the City's action was filed by the Carpinteria Valley Association, within the appeal period, on November 2, 2006. An appeal was subsequently filed by Commissioners Caldwell and Wan, within the appeal period, on November 13, 2006. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeal forms.

II. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-4-CPN-06-136 raises **NO** substantial issue with respect to its consistency with the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of no substantial issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-4-CPN-06-136 raises a **substantial issue** with respect to its consistency with the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified LCP.

III. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The final action undertaken by the City on Project No. 01-976 DP/CDP/TM/PM/P-Mod/DA is the approval, with conditions, of a development permit, coastal development permit, tentative tract map, tentative parcel map, parking modification, and development agreement for subdivision of a 25.3 acre parcel into four parcels (2.69 acres, 3.00 acres, 6.56 acres, and 13.11 acres in size), and further subdivision of the northernmost of the four parcels (13.11 acres) into 40 lots: 38 single family residential lots, one lot for the 36 condominium units, and one lot for common areas; construction of a 145,425 square foot industrial office park, 509-space, approximately 4.5-acre parking lot, and 0.37-acre detention basin in the southern part of the project site; construction of 38 single family residences, 36 condominium units, and 1.7-acre detention basin in the northern part of the project site; approximately 80,000 cu. yds. of grading (balanced cut and fill); restoration of native riparian vegetation within a 50 foot wide buffer on either side of Lagunitas Creek; construction of a pedestrian trail, two footbridges, benches, bicycle racks, and light bollards within the creek buffer; and construction of an approximately 2,750 foot long T-shaped private road to provide access to the residential development, including a culverted crossing of Lagunitas Creek. The parcel, which is zoned Industrial Research Park (M-RP) but is

subject to a mixed-use overlay that allows residential use in conjunction with an industrial research use, is located at 6380 Via Real in the City of Carpinteria.

The approved project includes, at a minimum, the following development within 100 feet of Lagunitas Creek:

- Subdivision of the existing 25.3 acre parcel into four parcels;
- Further subdivision of the northernmost of the four newly created parcels (13.11 acres) into 40 lots: 38 single family residential lots, one lot for the 36 condominium units, and one lot for common areas;
- Restoration of native riparian vegetation within a 50 foot wide buffer on either side of Lagunitas Creek, and construction of a pedestrian trail, two footbridges, benches, bicycle racks, and light bollards within the creek buffer;
- Construction of an approximately 625 foot long portion of the approximately 2,750 foot long T-shaped private road that provides access to the residential development, including the road's culverted crossing of Lagunitas Creek.
- In the southern part of the site: Construction of part of Building "A" and Building "C"; approximately 10,000 sq. ft. of the approximately 4.5-acre parking lot; approximately 20% of the approximately 0.37-acre detention basin; and approximately 60% of an turf block fire lane and turnaround adjacent to the detention basin; portions of a pedestrian trail located outside of the Lagunitas Creek buffer; and landscaped/open space areas adjacent to Buildings "A" and "C".
- In the northern part of the site: Construction of part of five single family residences, on Lots 20, 21, 31, 37, and 38; an approximately 3,000 sq. ft. paved cul-de-sac; approximately 25% of the approximately 1.7-acre detention basin; portions of a pedestrian trail located outside of the Lagunitas Creek buffer; and landscaped/open space areas adjacent to the residences.
- Other development shown within 100 feet of Lagunitas Creek in the project plans.

The approved project includes, at a minimum, the following development within 100 feet of a wetland:

- Subdivision of the existing 25.3 acre parcel into four parcels;
- Further subdivision of the northernmost of the four newly created parcels (13.11 acres) into 40 lots: 38 single family residential lots, one lot for the 36 condominium units, and one lot for common areas;
- Restoration of native riparian vegetation within segment of the 50 foot wide buffer on north side of Lagunitas Creek, and construction of a pedestrian trail and a footbridge within the creek buffer;

- Construction of an approximately 100-300 foot long portion of the approximately 2,750 foot long T-shaped private road that provides access to the residential development.
- In the northern part of the site: Construction of all or part of five single family residences, on Lots 16, 17, 18, 19, and 20; approximately 40% - 80% of the approximately 1.7-acre detention basin; and landscaped/open space areas adjacent to the residences.
- Other development shown within 100 feet of the wetland area on the project plans.

As shown on the project plans, Lagunitas Creek and the natural topographic depression containing the wetland are in close proximity, therefore overlap exists between appealable development within 100 feet of the stream and 100 feet of the wetland. Project plans are attached to this report as **Exhibit 5**.

B. Background

The subject parcel is an approximately 25.3 acre parcel located in the Northeast sub-area of the City of Carpinteria. This area is located north of Highway 101 and the Carpinteria Bluffs, and south of agricultural lands that extend south from the Santa Ynez foothills. The Northeast sub-area contains both light industrial/office complexes and residential developments. The subject site is located immediately west of an industrial park, south of a rural residential neighborhood, east of a self-storage facility and light industrial facility, and north of Via Real, which runs immediately parallel to Highway 101.

The property is roughly bisected by Lagunitas Creek, which flows in an s-shape and in a southwesterly direction through the center of the property. Lagunitas Creek drains a small (approximately 300 acre) area of coastal terrace and foothills in the eastern part of the City and adjacent unincorporated lands. The creek enters the property from a culvert on the property to the east, traverses the site in an earthen channel, re-enters a culvert system to cross Via Real and Highway 101, and then daylights again on the Carpinteria Bluffs south of Highway 101 and Carpinteria Avenue. The section of the creek on the Carpinteria Bluffs occupies a natural channel and supports dense southern arroyo willow riparian forest that is considered an ESHA in the City's LCP. Lagunitas Creek enters the Pacific Ocean south of the Carpinteria Bluffs Area II.

Until recently, the subject parcel contained agricultural uses, including greenhouse production and general wholesale and retail nursery operations. Existing structures on the site include several small metal sheds and remnant nursery infrastructure. There is no current agricultural use on the site. Although the parcel has been used for agriculture, since the early 1980's it has been designated for industrial park use in the City's certified Land Use Plan (LUP). The parcel is zoned Industrial Research Park (M-RP) which allows a variety of uses, including research, development, testing laboratories, and professional offices. Pursuant to LUP Policy LU-6a and Zoning Code Section 14.26.120, residential uses can also be allowed in a "mixed-use" development on parcels designated for industrial use. The maximum allowed residential density on industrial parcels is 20 dwelling units per acre, although, under Section 14.26.120, the appropriate density must be determined by the City based on a variety of factors regarding site

resources and anticipated impacts; the approved residential density is approximately 5.6 dwelling units per acre.

The site is also subject to several provisions of the City's certified Creeks Preservation Program, which implements creek protection and water quality policies of the City's updated LUP. These provisions include a minimum development setback of 50 feet from the top of creek banks or the outer edge of riparian vegetation, whichever is greater, limited exceptions to the setback for resource-dependent development, development application requirements, post-construction mitigation, and a comprehensive water quality ordinance consistent with the Phase II Permit requirements administered by the Central Coast Regional Water Quality Control Board (RWQCB).

C. City Approval

In 1999 the applicant submitted an application to the City to construct a 360,000 sq. ft. office park on the subject site. The proposed project was evaluated in an EIR, which was certified by the Planning Commission in June 2000. The application was subsequently withdrawn following the City Council's endorsement, during the City's General Plan/ LUP update process, of a policy to allow mixed residential and industrial uses on industrial zoned parcels. In April 2001, the applicant submitted a revised application to the City for a mixed use development essentially similar to the approved project. A Subsequent EIR was prepared for the project in October 2002, and in April 2003 the Planning Commission recommended approval of the new EIR and the project to the City Council. In July 2003, the City Council approved the project conceptually and continued their final action to allow time for the necessary LCP amendment to be processed and to allow CalTrans to complete its Project Study Report analyzing proposed Route 150 interchange improvements. These actions were not completed until July 2005. The City subsequently updated the environmental documents for the project, releasing a Draft Revised SEIR in July 2006 and a Final Revised SEIR in October 2006. The Final Revised SEIR and the project were approved by the City Council via Ordinance No. 617 on September 25, 2006, and Resolution No. 5024 on October 23, 2006. The resolution and conditions of approval are attached as **Exhibit 3**.

D. Appellants' Contentions

The City's action was appealed to the Commission by (1) Commissioners Caldwell and Wan; and (2) the Carpinteria Valley Association.

The appeal filed by Commissioners Caldwell and Wan is attached as **Exhibit 1**. The appeal contends that the approved project raises issues in regards to consistency with the creek protection, water quality, landform alteration, air quality, and wetland protection policies of the certified LUP. Specifically, the Commissioners' appeal argues that the approved project, which includes construction of a culvert and placement of riprap in Lagunitas Creek, raises issues of consistency with LUP Policy OSC-6, IP 28, which prohibits development within stream corridors except for improvements to fish and wildlife habitat, development necessary for flood control, and bridges and trails subject to specific criteria. The appeal further contends that culverting the creek instead of constructing a bridge for the approved road crossing raises issues as to consistency with Policy 2.1.3 of the City's certified Creeks Preservation Program, which

implements LUP Policy OSC-6, IP 28 and requires creek crossings to be accomplished with bridging whenever possible. The Commissioners' appeal further contends that the approved project, which includes approximately 80,000 cu. yds. of grading, filling of a natural detention basin, and extensive impermeable surfacing, raises issues in regards to its consistency with LUP Policies OSC-6e and OSC-13i, which require natural drainage patterns and runoff rates and volumes to be preserved to the greatest extent feasible, and grading, impermeable surfaces, and changes to site topography and hydrology to be minimized. In addition, the Commissioners' appeal states that the approved project raises issues regarding its consistency with LUP Policy OSC-11 which requires the City to "conduct its planning...activities so as to maintain the best possible air quality," because the approved project involves a Class I (significant and unmitigable) impact to air quality and alternatives exist that would reduce air quality impacts to significant but mitigable levels. Lastly, the Commissioners' appeal contends that the approved project raises issues as to its consistency with several wetland protection policies of the LUP (OSC-3, OSC-3a, and OSC-3, IP 12) in that it involves filling of a natural detention basin that has been found to contain facultative wetland plant species.

The appeal filed by the Carpinteria Valley Association (CVA) is attached as **Exhibit 2**. The appeal contends that the approved project is inconsistent with several General Plan/LUP policies regarding land use, air quality, water quality, traffic circulation, protection of agriculture, habitat protection, and visual resources, including the following policies: LU-2, LU-2b, LU-3c, LU-3h, C-1d, Implementation Policy No. 1 for policies C-3a through C-4b, OSC-1b, OSC-1f, OSC-6e, OSC-9, OSC-10-IP 52, OSC-11, OSC-11a through OSC-11e, OSC-13h, OSC-13i, and OSC-13j. The Commission notes that some of the policies cited in the appeal, including the traffic circulation policies (C-1d, and Implementation Policy No. 1 for LUP policies C-3a through C-4b) and LUP Policy OSC-11e regarding air quality, are only included in the General Plan, as evidenced by the "GP" symbol next to each of the policies. These policies are not a part of the LUP; therefore they cannot be used as bases for an appeal of the project to the Commission and will not be evaluated in this report.

Specifically, the CVA's appeal alleges that the approved project raises issues as to its consistency with LUP policies LU-2, LU-2b, LU-3c, and LU-3h, which call for protection of the natural environment in and around the City, regulation of development to avoid adverse impacts on habitat resources, preservation of the City's "small beach town character," and the development of land uses that encourage alternative transportation and the "thoughtful layout of transportation networks", and minimize the impacts of vehicles in the community. In addition, CVA's appeal further contends that the approved project, would involve removal of riparian habitat and modification of approximately 12 acres of foraging habitat for the white-tailed kite, and raises issues as to its consistency with LUP Policy OSC-1b and OSC-1f, which prohibit activities that could damage or destroy ESHA, and require protection and restoration of degraded habitat on City-owned land. CVA's appeal further contends that the approved project, which converts 25.3 acres of land previously used for agriculture to urban uses, raises issues as to its consistency with LUP Policy OSC-9, which requires the City to encourage and promote open-field agriculture. CVA's appeal also alleges that the proposed project raises issues as to its consistency with LUP Policies OSC-13j, which requires the City to establish a "night-sky" ordinance. In addition, CVA's appeal echoes the concerns raised in the Commissioner's appeal regarding the approved project's consistency with LUP Policies OSC-6e and OSC-13i, which require preservation of natural drainage patterns and runoff rates and volumes, and minimization of grading, impermeable surfaces, and changes to site topography and hydrology, and adds that the approved project also raises issues of its consistency with LUP Policy OSC-13h, which requires cut and fill operations to be minimized, and projects with excessive cut and fill to be denied. Similarly, CVA's reiterates the concern raised in the Commissioners' appeal

regarding the project's consistency with LUP Policy OSC-11a, which addresses air quality, and adds that the project raises issues regarding its consistency with several other air quality policies, including LUP Policy OSC-11b, 11c, and 11d.

E. Analysis of Substantial Issue

Pursuant to Sections 30603 and 30625 of the Coastal Act, the appropriate standard of review for the subject appeal is whether a substantial issue exists with respect to its consistency with the grounds raised by the appellants.

Section 30603 provides:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division. (Section 30603(b)(1)).

Section 30625 (b) provides:

The commission shall hear an appeal unless it determines the following:

....

(2) With respect to its consistency with appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to its consistency with the grounds on which an appeal has been filed pursuant to Section 30603. (Section 30625(b)(2)).

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Title 14, Section 13115(b), California Code of Regulations.) In previous decisions on appeals, the Commission has been guided by the following factors:

- The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
- The extent and scope of the development as approved or denied by the local government;
- The significance of the coastal resources affected by the decision;
- The precedential value of the local government's decision for future interpretations of its LCP; and
- Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure Section 1094.5.

Therefore, the grounds for an appeal of the CDP are limited to an allegation that the development approved under CDP No. 01-976 DP/CDP/TM/PM/P-Mod/DA does not conform to the policies or provisions of the City of Carpinteria's certified LCP. In this case, the approved project is not located between the sea and the first public road, so consistency with the public access policies of the Coastal Act is not an applicable ground for appeal. On August 6, 2002 the Commission approved an amendment for an updated Land Use Plan for the City of Carpinteria LCP. The amendment was adopted by resolution of the City of Carpinteria City Council on January 27, 2003, and received final certification from the Commission on April 10, 2003. Although many of the LUP policies became effective upon certification, many others will only become effective once necessary amendments are made to the City's Implementation Program (IP). These policies are listed in Appendix J of the updated LUP. Thus, the LUP consists of policies that were certified on January 22, 1980 along with many, but not all of the amendments that were certified in 2002. The certified LIP remains in place, but has been recently supplemented by the addition of the City's Creeks Preservation Program, which was certified in October 2004. Thus, the standard of review for this appeal includes the certified LUP and LIP.

A substantial issue does exist with respect to its consistency with the grounds on which the appeal has been filed. The appeals raise significant questions about whether the approved project is inconsistent with policies of the City of Carpinteria LCP for the specific reasons discussed below.

1. Creek Protection

The Commissioners' appeal asserts that the project, as approved by the City, raises issues with respect to its consistency with the following policies of the City of Carpinteria LCP:

LUP Policy OSC-6, IP 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 2.1.3 of the Creeks Preservation Program (in pertinent part):

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.**

....

- **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.**

The subject parcel is an approximately 25.3 acre parcel located in the Northeast sub-area of the City of Carpinteria. The property is roughly bisected by Lagunitas Creek, which flows in an s-shape and in a southwesterly direction through the center of the property. Lagunitas Creek drains a small (approximately 300 acre) area of coastal terrace and foothills in the eastern part of the City and adjacent unincorporated lands. The creek enters the property from a culvert on the property to the east, traverses the site in an earthen channel, re-enters a culvert system to cross Via Real and Highway 101, and then daylights again on the Carpinteria Bluffs south of Highway 101 and Carpinteria Avenue. The section of the creek on the Carpinteria Bluffs occupies a natural channel and supports dense southern arroyo willow riparian forest that is considered an ESHA in the City's LCP. Lagunitas Creek enters the Pacific Ocean south of the Carpinteria Bluffs Area II.

Policy 2.1.3 of the City's certified Creeks Preservation Program, which implements Policy OSC-6, IP 28 of the certified LUP, allows bridges within stream corridors where no alternative route is feasible, and requires new stream crossings to be accomplished by bridging wherever possible. The approved project includes construction of a road over Lagunitas Creek, and culverting of the creek for approximately 75 feet under the road. The culverting of the creek, as approved by the City, entails installation of a four foot wide, foot deep box culvert, head and endwalls, and rock rip-rap up and downstream. The total area of disturbance from the road crossing is 640 sq. ft., assuming 10 feet of disturbance upstream and downstream from the rip-rap sections. While a stream crossing of the creek appears to be necessary in order to provide access to the approved residential development, in order to be consistent with Policy 2.1.3, the crossing must be accomplished by bridging. There are no indications that bridging of the creek is impossible; in fact two pedestrian footbridges are included in the approved project.

Therefore, the appeal does raise a substantial issue as to the consistency of the approved project with Policy 2.1.3 of the certified Creeks Preservation Program and Policy OSC-6, IP 28 of the certified LUP.

2. Landform Alteration and Water Quality

The appellants assert that the project, as approved by the City, raises issues with respect to its consistency with the following policies of the City of Carpinteria LCP:

LUP 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.

LUP Policy OSC-10-IP-52:

Ensure that soil erosion and the off-site deposition of soils is not exacerbated through development.

LUP Policy OSC-13h:

Plans for development shall minimize cut and fill operations. Plans that do not minimize cut and fill shall be denied.

[Appendix J of the certified LUP notes that LUP Policy OSC-13h shall not become effective until the Commission certifies amendments to the Implementation Program that are adequate to carry out and implement the policy. Therefore, the parallel policy in the previous LUP, which was certified in 1980, is still in effect, and should be used as the basis for evaluating the consistency of the approved project with the certified LUP. That policy (Policy 3-13) reads as follows:

Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.

LUP Policy OSC-13i:

Design all new development to fit the site topography, soils, geology, hydrology, and other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Preserve all natural landforms, natural drainage systems, and native vegetation. Require all areas on the site not suited to development, as evidenced by competent soils, geology, and hydrology investigation and reports remain as open space.

[Appendix J of the certified LUP notes that LUP Policy OSC-13i shall not become effective until the Commission certifies amendments to the Implementation Program that are adequate to carry out and implement the policy. Therefore, the parallel policy (Policy 3-14) in the previous LUP is still in effect, and should be used as the basis for evaluating the consistency of the approved project with the certified LUP.]

Policy 3-14 reads as follows:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural landforms and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development as evidenced by competent soils, geology, and hydrology investigation and reports shall remain in open space.

Policy OSC-6e requires natural drainage patterns and runoff rates and volumes to be preserved to the greatest degree feasible by minimizing changes to natural topography, and minimizing the areas of impervious surfaces created by new development. Similarly, LUP Policy OSC-13i (and Policy 3-14 of the 1980 LUP) requires all new development to be designed to fit the site topography, soils, geology, hydrology, and other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. It also requires new development to preserve all natural landforms, natural drainage systems, and native vegetation. It further requires that all areas on the site not suited to development (as evidenced by competent soils, geology and hydrology investigation and reports) to remain as open space. In addition, LUP Policy OSC-13hi (and Policy 3-13 of the 1980 LUP) requires projects to minimize cut and fill operations, and LUP Policy OSC-10-IP-52 requires the City to ensure that development does not increase soil erosion and off-site deposition of soils.

The approved project includes 80,000 cu. yds. of grading (balanced cut and fill) in order to create 50 level building pads for the proposed residences in the northern part of the property, level pad areas and a uniformly sloping parking lot area in the southern part of the property, and two stormwater detention basins, one in the southern area of the property and one in the north. Although the site is relatively level and the amount of grading is distributed over the 25.3-acre site, components of the approved project significantly alter site topography, including natural drainage patterns.

For instance, a natural topographic depression that serves as a stormwater basin (and that appears to meet the definition of a wetland, as discussed below) exists in the northern portion of the property. This depression is located in the area of a "lagunita," (seasonal lake) that appears on the 1867 U.S. Coast Survey Map. The approved project, however, fills in most of this depression and excavates a new detention basin south of the existing basin in order to accommodate the desired layout of the residential tract. Alternative designs for the proposed project could accommodate retention of the existing depression and reduce required grading, thus preserving a natural landform and drainage feature.

In addition, alternative designs could reduce impervious surface area by incorporating more permeable pavement into the project, including the proposed approximately 5-acre parking lot for the industrial park, and by reducing the number of residences and industrial building space. In this regard, the final EIR prepared for the project includes an alternative that reduces the number of residences by three and the amount of industrial space by 19%. This alternative was considered the environmentally preferable alternative but was rejected because the approved project provided social and economic benefits, including provision of affordable housing and a greater number of jobs, that were felt to outweigh the incremental environmental benefits of the environmentally preferable alternative. Thus it appears that the approved project does not minimize impervious surfaces and changes to natural topography and drainage systems, and does not reduce grading to the absolute minimum. Therefore, the appeals raise issues in

regards to the consistency of the proposed project with Policies OSC-6e and Policy 3-14 of the 1980 LUP.

Therefore, for all the reasons stated above, the appeal does raise a substantial issue regarding the landform alteration and water quality policies of City's certified LUP, as cited above.

3. Air Quality

The appellants assert that the approved does not conform to the following policies of the City of Carpinteria LCP:

LUP Policy OSC-11, which states:

Carpinteria will conduct its planning and administrative activities so as to maintain the best possible air quality.

LUP Policy OSC-11a, which states:

Carefully review development that will significantly impact air quality.

LUP Policy OSC-11b, which states:

Promote the reduction of mobile source emissions related to vehicular traffic (e.g. promote alternative transportation, vanshare, buses).

LUP Policy OSC-11c, which states:

Promote the use of solar heating and energy efficient building design to reduce stationary source emissions.

LUP Policy OSC-11d, which states:

Encourage the improvement of air quality in the Carpinteria Valley by implementing measures in the South Coast Air Quality Attainment Plan. For air quality enhancement, measures will include but not be limited to, measures to reduce dependence on the automobile and encourage the use of alternative modes of transportation such as buses, bicycles and walking.

LUP Policy OSC-11 requires the City to conduct its planning and administrative activities so as to maintain the best possible air quality. Due to the projected number of vehicle trips generated by the approved project, the approved project will produce emissions of ozone precursors, such as nitrogen oxide (NOx), in excess of the attainment levels set by the local Santa Barbara Air Pollution Control District (SBAPCD). Because the projected number of vehicle trips cannot be reduced without reducing the size of the project, the impact of the approved project on air quality is considered a Class I unmitigable impact in the Final SEIR. As noted above, the SEIR includes an alternative that would reduce the number of residences by three and the amount of industrial space by 19%. This alternative, which would generate about 13% less traffic, would

also reduce air quality impacts to significant but mitigable levels. Thus the approved project raises issues in regards to its consistency with Policy OSC-11 of the LUP, which requires the City to conduct its planning activities so as to maintain the best possible air quality.

As noted above, the City rejected the alternative that would have resulted in improved air quality because the approved project provided social and economic benefits, including provision of affordable housing and a greater number of jobs, that were felt to outweigh the incremental environmental benefits of the environmentally preferable alternative. In addition, the City has undertaken considerable planning and environmental review of the project over the past five years. Thus although the approved project does not minimize impacts to air quality, it appears that the City did carefully review the project and consciously chose the project alternative that best addressed other City priorities. Thus the approved project does not raise issues with respect to LUP Policy OSC-11a, which requires the City to carefully review development that will significantly affect air quality.

In addition, the approved project, as conditioned by the City, incorporates several alternative transportation and vehicle trip reduction measures, as well as energy efficiency measures such as installation of photovoltaic roof tiles, on-demand water heaters, and 100% recycled content insulation, and installation of an electric vehicle charging station. These alternative transportation and energy efficiency measures incorporated into the approved project are typical of those included in the South Coast Air Quality Attainment Plan. Thus the appeal does not raise a substantial issue with respect to LUP Policies OSC-11b, OSC-11c, and OSC-11d.

4. Wetland Protection

The appeal by Commissioners Caldwell and Wan asserts that the approved project raises issues with respect to its consistency with the following policies of the City of Carpinteria LCP:

LUP Policy OSC-3, which states:

Preserve and restore wetlands such as the Carpinteria Salt Marsh.

LUP Policy OSC-3a, which states:

Wetland delineations shall be based on the definitions contained in Section 13577 (b) of Title 14 of the California Code of Regulations.

LUP Policy OSC-3-IP12, which states:

Maintain a minimum 100-foot setback/buffer strip in a natural condition along the upland limits of all wetlands. No structures other than those required to support light recreational, scientific and educational uses shall be permitted within the setback, where such structures are consistent with all other wetland development policies and where all feasible measures have been taken to prevent adverse impacts. The minimum setback may be adjusted upward to account for site-specific conditions affecting avoidance of adverse impacts.

Section 13577(b) defines a wetland as follows:

(b) Wetlands.

- (1) ***Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats. For purposes of this section, the upland limit of a wetland shall be defined as:***
- (A) ***the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;***
 - (B) ***the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or***
 - (C) ***in the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation, and land that is not.***
- (2) ***For the purposes of this section, the term "wetland" shall not include wetland habitat created by the presence of and associated with agricultural ponds and reservoirs where:***
- (A) ***the pond or reservoir was in fact constructed by a farmer or rancher for agricultural purposes; and***
 - (B) ***there is no evidence (e.g., aerial photographs, historical survey, etc.) showing that wetland habitat pre-dated the existence of the pond or reservoir. Areas with drained hydric soils that are no longer capable of supporting hydrophytes shall not be considered wetlands.***

As noted above, a natural topographic depression exists in the northern portion of the property. This depression ponds water following storms and is located in an area that historically was a "lagunita" (seasonal lake). A wetland delineation report was prepared for the site ("Jurisdictional Wetland Delineation, Lagunitas Mixed Use Development, LSA Associates, Inc., September 16, 2005) and concluded that wetland soils and hydrology did not exist in the area of the depression, and that, although facultative and facultative wetland plant species were found in the depression, due to the absence of wetland soils and hydrology, those plants were not indicative of a wetland.

Various state and federal agencies are charged with regulating the use of wetlands within the Coastal Zone including the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the California Department of Fish and Game, the California Coastal Commission, and local jurisdictions with a certified LCP, among others. While each of these agencies regulates wetlands under a different statutory authority, they all define "wetland" based on three basic parameters: hydrology, soil type, and vegetation. The differences in how these agencies determine whether a particular area qualifies as a wetland lie in the way that these three parameters are treated. Generally speaking, the Corps uses the narrowest definition, requiring evidence of each of the three wetland parameters. USFWS, CDFG, the Commission and local governments with a certified LCP generally accept evidence of positive field indicators of any

one of the three parameters to demonstrate that an area is a wetland, i.e. areas wet long enough to bring about the formation of hydric soils or to support the growth of wetland plants. This difference is often expressed as a “three parameter” versus a “one parameter approach”. Accordingly, under the City’s and the Commission’s definition of wetland, substantial evidence that one of the three parameters of hydrophytes, soil, or hydrology exist on the property renders unnecessary any additional evidence of the other two parameters.

Commission Biologist Jonna Engel reviewed the wetland delineation report prepared by LSA Associates, Inc., including the data sheets prepared during site visits on March 22, 2000, December 6, 2000 and September 11, 2005. The data sheets indicate that the matrix color of soils on the site, according to the Munsell Soil Color Chart, was 10YR/3/2, with “2” representing the chroma factor. A chroma factor of 1 or 2 is indicative of gleyed or low-chroma color, which is a hydric soil indicator. In addition, the report and data sheets indicate that on March 22, 2000, the basin was dominated by a facultative wetland plant (*Poa annua* or annual bluegrass) and on September 11, 2005 the basin contained 90% coverage of a facultative species (*Lolium multiflorum* or annual ryegrass). Thus the data sheets document field indicators of hydric soils and wetland vegetation, either of which is supporting evidence that the area is a wetland as defined in Section 13577 of the Commission’s regulations. Absent evidence to the contrary, such supporting evidence establishes a presumption of wetlands on site.

Regarding hydrology, the report notes that evidence of ponding was found in the basin in March 2000, including algal mats, sediment deposits, and watermarks left on stones and debris. However, field testing on March 22, 2000 indicated that the water table was more than 24 inches below the surface, at a time when seasonal wetlands at other LSA project sites were fully charged. In addition, LSA found no evidence of ponding during their September 2005 site visit. The report concludes that although some ponding occurs in the area, it is too brief to produce wetland hydrology. This conclusion, however, is based on only one observation of the site during the rainy season. That observation concluded that ponding had recently occurred. The second site visit occurred in September, at a time when evidence of ponding in the previous Spring may have well been erased. Thus it is possible that ponding or subsurface saturation occurs in the basin on a yearly basis for a duration indicative of wetland hydrology. However, additional testing and observation is necessary to assess the evidence of wetland hydrology. The Commission notes that additional photographic and anecdotal evidence exists of ponding in the area, but this evidence does not document the duration of ponding or the existence of subsurface saturation.

Based on the above information, and regardless of the need for further evaluation of wetland hydrology, the topographic depression on the site contains hydric soils and facultative wetland vegetation, and thus should be considered a wetland as defined by Section 13577 of the Commission regulations, which is the definition adopted in the City’s LUP. In addition, as discussed above, the basin may also contain wetland hydrology although insufficient evidence now exists to make this determination.

Furthermore, the approved project entails filling of the basin and construction of residences on top of the filled area. LUP Policy OSC-3 requires protection of wetlands, and LUP Policy OSC-3-IP12 requires maintenance of a minimum 100-foot setback/buffer strip in a natural condition along the upland limits of all wetlands. Thus the appeal raises issues regarding the consistency of the approved project with the LUP Policies OSC-3 and OSC-3-IP12.

Therefore, for all the reasons stated above, the appeal does raise a substantial issue regarding the wetland protection policies of City’s certified LUP, as cited above.

5. Environmentally Sensitive Habitat Areas (ESHA)

The appeal by the Carpinteria Valley Association asserts that the approved project raises issues with respect to its consistency with the following policies of the City of Carpinteria LCP:

LUP Policy OSC-1b, which states:

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

LUP Policy OSC-1f, which states:

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.

The appeal contends that the approved project would remove riparian habitat, and would modify 12 acres of potential foraging habitat for the white-tailed kite. Table OSC-1 of the certified LUP includes “creeks and riparian habitat” in Lagunitas Creek, and “sensitive, rare, threatened, or endangered species habitat” in the Carpinteria Bluffs and other locations throughout the City as environmentally sensitive habitat areas (ESHA). “Sensitive, rare, threatened, and endangered species” are defined by LUP Policy OSC-8, IP 39 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.

According to the Final SEIR, grading and road construction for the approved project would involve impacts to a small area of riparian southern arroyo willow habitat in the southwest corner of the project site. In addition, the approved culverting of the creek would result in removal of native freshwater marsh vegetation that exists as riparian habitat within the stream corridor. The Final SEIR notes that the proposed planting of approximately 2.6 acres of riparian habitat likely mitigates these impacts; however, alternatives may exist, such as construction of a bridge instead of a culvert, that would avoid these impacts entirely.

In addition, the approved project would eliminate most of the open-field ruderal habitat that exists in the northern 12 acres of the site. This area provides potential foraging habitat for the white-tailed kite, a “Fully Protected Species” under Fish and Game Code Section 3511 (and thus a “sensitive, rare, threatened, or endangered species” as defined by the LUP. The presence of white tailed kites on the site has been documented by the Carpinteria Valley Association, and the Final SEIR for the project notes that the birds would be expected to occasionally forage on site, although suitable nesting or communal roosting habitat is not present on the subject parcel. Although raptor nesting and roosting habitat is given special attention in the LUP policies regarding sensitive species habitat protection, the requirement for protecting habitat used by sensitive species does not specify that only nesting and roosting habitat be protected. Furthermore, foraging habitat is specifically addressed by LUP Policy OSC-8-IP 40, which requires that “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.” Thus it can be reasonably assumed that foraging habitat is considered “sensitive, rare, threatened, or endangered species habitat” under the LUP.

Therefore, for the reasons stated above, the approved project does raise a substantial issue regarding whether the foraging habitat on the subject site qualifies as ESHA, and thus whether the approved project is consistent with LUP Policy OSC-1b. The approved project does not raise a substantial issue with respect to its consistency with LUP Policy OSC-1f, as that policy only applies to City-owned lands.

6. Agriculture

The appeal by the Carpinteria Valley Association asserts that the approved project raises issues with respect to its consistency with the following policy of the City of Carpinteria LCP:

LUP Policy OSC-9, which states:

Encourage and promote open-field agriculture as an independent, viable industry to meet the needs of present and future populations and to preserve the Carpinteria Valley’s rural, open space character.

The appeal contends that the approved project converts 25.3 acres of agricultural land to urban use and thus results in the loss of agricultural land. Until recently, the subject parcel did contain agricultural uses, including greenhouse production and general wholesale and retail nursery operations, but there is no current agricultural use on the site. In addition, although the parcel has been used for agriculture throughout its history, since the early 1980’s it has been designated for industrial park use in the City’s certified Land Use Plan (LUP), and zoned Industrial Research Park (M-RP) in the City’s certified Zoning Code/Implementation Program (IP). Pursuant to LUP Policy LU-6a and Zoning Code Section 14.26.120, residential uses can also be allowed on parcels designated for industrial use. The approved project is thus consistent with the land uses prescribed for the parcel in the certified LCP, which do not include agriculture. LUP Policy OSC-9 must be interpreted to apply only to parcels which have been designated for agricultural use. Therefore, the appeal does not raise a substantial issue regarding the agriculture protection policy cited above.

7. Visual Resources

The appeal by the Carpinteria Valley Association asserts that the approved project raises issues with respect to its consistency with the following policy of the City of Carpinteria LCP:

LUP Policy OSC-13j:

Establish a “night-sky” ordinance that provides standards for the reduction of direct and ambient light in the night sky.

LUP Policy OSC-13j requires the City to establish a “night-sky” ordinance that provides standards to reduce direct and ambient night-time lighting. However, the policy does not, in itself, provide standards for night lighting in new development projects. The approved project

does not affect the City's ability to prepare a "night-sky" ordinance. Therefore, the appeal does not raise a substantial issue regarding LUP Policy OSC-13j.

8. Land Use

CVA asserts in their appeal that the approved project raises issues with respect to its consistency with the following policies of the certified LCP:

LUP Policy LU-2, which states:

Protect the natural environment within and surrounding Carpinteria.

LUP Policy LU-2b, which states:

Regulate all development, including agriculture, to avoid adverse impacts on habitat resources. Standards for habitat protection are established in the Open Space, Recreation & Conservation Element policies.

LUP Policy LU-3, which states:

Preserve the small beach town character of the built environment of Carpinteria, encouraging compatible revitalization and avoiding sprawl development at the city's edge.

LUP Policy LU-3h, which states:

Develop land uses that encourage the thoughtful layout of transportation networks, minimize the impacts of vehicles in the community, and encourage alternative means of transportation.

LUP Policies LU-2 and LU-2b require protection of the natural environment and regulation of development to avoid adverse impacts on habitat resources. As discussed in Subsections E.(1) through E.(5) above, the approved project does raise significant issues in regards to protection of the natural environment and regulation of development to avoid adverse impacts on habitat resources. Thus the approved project does raise a substantial issue regarding its consistency with LUP Policies LU-2 and LU-2b.

Regarding LUP Policy LU-3, the approved project does entail construction of large industrial buildings that would front the property and be visible from surrounding areas. However, these buildings would be located adjacent to similar existing buildings, on a parcel that has been designated for industrial park use. The subject parcel is located between existing development parcels containing industrial and residential uses and thus would not contribute to urban sprawl. Therefore, the approved project does not raise a substantial issue regarding its consistency with LUP Policy LU-3.

Regarding LUP Policy LU-3h, the approved project will generate a projected number of vehicle trips that will produce emissions of ozone precursors such as nitrogen oxide (NO_x), in excess of the attainment levels set by the local Santa Barbara Air Pollution Control District (SBAPCD). Because the project number of vehicle trips cannot be reduced without reducing the size of the project, the impact of the approved project on air quality is considered a Class I unmitigable impact in the Final SEIR. As noted above, the SEIR includes an alternative that would reduce

the number of residences by three and the amount of industrial space by 19%. This alternative, which would generate about 13% less traffic, would also reduce air quality impacts to significant but mitigable levels. Thus, although the approved project, as conditioned, includes mitigation measures supporting alternative transportation, the approved project does not minimize air quality impacts from vehicle use and therefore the appeal does raise a substantial issue in regards to its consistency with Policy LU-3h of the LUP.

F. Conclusion

For the reasons discussed above, the appeals raise substantial issue with respect to the consistency of the project with several policies of the City of Carpinteria LCP, including policies concerning creek protection, landform alteration, air quality, wetland protection, environmentally sensitive habitat area (ESHA), and land use. Therefore, the Commission finds that the appeals filed by Commissioners Caldwell and Wan and the Carpinteria Valley Association raise a substantial issue as to the City's application of the policies of the LCP in approving Permit No. 01-976 DP/CDP/TM/PM/P-Mod/DA.

G. Information Needed for De Novo Review of Application

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent date. The *de novo* portion of the appeal hearing must be continued because the Commission does not have sufficient information to determine how development can be approved consistent with the certified LCP.

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. However, additional information is needed in this case to determine the extent of the wetland on the site, and whether or not wetland hydrology exists. In addition, more information is needed regarding use of the site by white-tailed kite and other special-status species. Other information may also be found to be necessary once the administrative record for the project is received and reviewed.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
 89 SOUTH CALIFORNIA STREET, SUITE 200
 VENTURA, CA 93001-4508
 VOICE (805) 585-1800 FAX (805) 641-1732

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CALIFORNIA
 COASTAL COMMISSION
 SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: Commissioner Meg Caldwell and Commissioner Sara Wan

Mailing Address: c/o California Coastal Commission, 89 S. California Street, Suite 200

City: Ventura

Zip Code: 93001

Phone: 805-585-1800

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Carpinteria

2. Brief description of development being appealed:

Subdivision of a 25.3 acre parcel into three large parcels and 40 residential lots; and construction of a 145,425 square foot industrial office park, 38 single family residences, and 36 condominium units. The parcel is zoned Industrial Research Park (M-RP) but is subject to a mixed-use overlay that allows residential use.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

6380 Via Real, Carpinteria
 Assessor's Parcel No. 001-190-017

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-CPN-06-136

DATE FILED: 11/13/06

DISTRICT: So. Central Coast

Exhibit 1
 A-4-CPN-06-136
 Commissioners' Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: October 23, 2006

7. Local government's file number (if any): 01-976 DP/CDP/TM/PM/P-Mod/DA

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Carpinteria Business Park Investors, LLC
attn: Charlie Eckberg, Investec Real Estate
c/o City of Carpinteria
5775 Carpinteria Avenue, Carpinteria, CA 93013

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Please see attached list

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The approved project raises issues in regards to consistency with creek protection, water quality, landform alteration, air quality, and wetland protection policies of the certified City of Carpinteria Land Use Plan (LUP). The approved project consists of the subdivision and development of a 25.3 acre parcel that currently contains low-intensity agricultural uses. The parcel is zoned Industrial Research Park (M-RP) but is subject to a mixed-use overlay that allows residential use. The proposed subdivision involves dividing the 25.3-acre parcel into three large parcels and 40 residential lots; and construction of a 145,425 square foot industrial office park, 38 single family residences, and 36 condominium units. The parcel is a roughly rectangular parcel that is bisected by Lagunitas Creek, an earthen channel that flows in an s-shape and in a southwesterly direction through the middle of the property.

Policy 2.1.3 of the City's certified Creeks Preservation Program, which implements Policy OSC-6, IP 28 of the certified LUP, allows bridges within stream corridors where no alternative route is feasible, and requires new stream crossings to be accomplished by bridging wherever possible. The approved project includes construction of a road over Lagunitas Creek, and culverting of the creek for approximately 75 feet under the road. While a stream crossing of the creek appears to be necessary in order to provide access to the approved residential development, in order to be consistent with Policy 2.1.3, the crossing must be accomplished by bridging. There are no indications that bridging of the creek is impossible; in fact two pedestrian footbridges are included in the approved project. Therefore, the approved project raises issues as to its consistency with Policy 2.1.3 of the certified Creeks Preservation Program and Policy OSC-6, IP 28 of the certified LUP.

Policy OSC-6e of the certified LUP requires natural drainage patterns and runoff rates and volumes to be preserved to the greatest degree feasible by minimizing changes to natural topography, and minimizing the areas of impervious surfaces created by new development. Similarly, Policy OSC-13i of the LUP requires all new development to be designed to fit the site topography, soils, geology, hydrology, and other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. It also requires new development to preserve all natural landforms, natural drainage systems, and native vegetation. It further requires that all areas on the site not suited to development (as evidenced by competent soils, geology and hydrology investigation and reports) to remain as open space. The approved project includes 80,000 cu. yds. of grading (balanced cut and fill) in order to create 50 level building pads for the proposed residences in the northern part of the property, level pad areas and a uniformly sloping parking lot area in the southern part of the property, and two stormwater detention basins, one in the southern area of the property and one in the north.

A natural topographic depression that serves as a stormwater detention basin (and may meet the definition of a wetland, as discussed below) already exists in the northern portion of the property. This depression is located in the area of a "lagunita," (seasonal lake) that appears on the 1867 U.S. Coast Survey Map. The approved project, however, fills in most of this depression and excavates a new detention basin south of the existing basin in order to accommodate the desired layout of the residential tract.

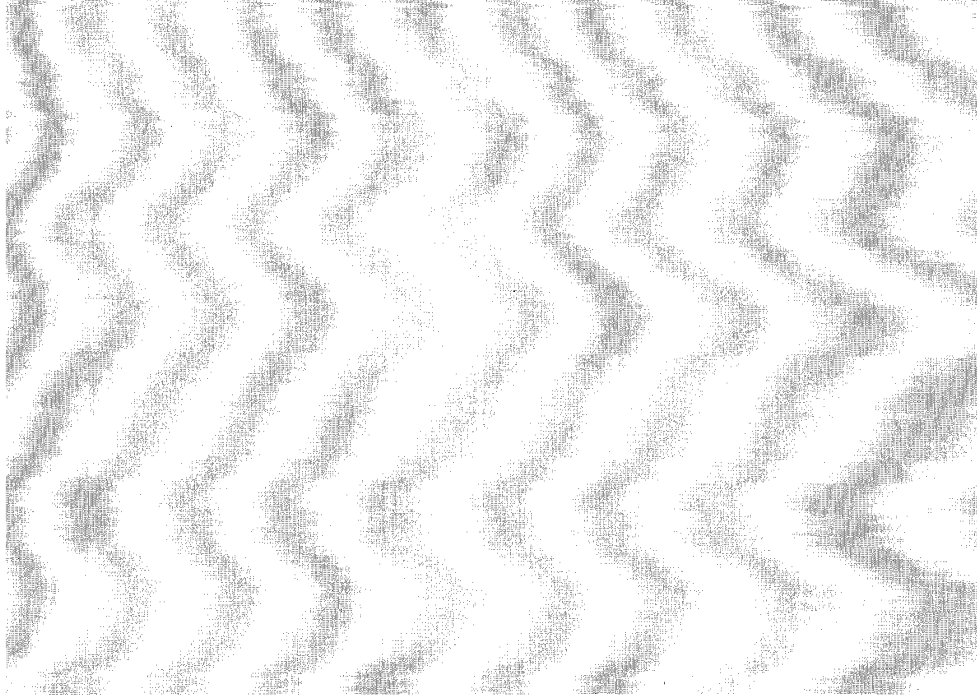
Alternative designs for the proposed project could accommodate retention of the existing depression and reduce required grading, thus preserving a natural landform and drainage feature. In addition, alternative designs could reduce impervious surface area by incorporating permeable pavement into the project, including the proposed approximately 5-acre parking lot for the industrial park, and by reducing the number of residences and industrial building space. In this regard, the final EIR prepared for the project includes an alternative that reduces the number of residences by three and the amount of industrial space by 19%. This alternative was considered the environmentally preferable alternative but was rejected because the approved project provided social and economic benefits, including provision of affordable housing and a greater number of jobs, that were felt to outweigh the incremental environmental benefits of the environmentally preferable alternative. Thus it appears that the approved project does not minimize impervious surfaces and changes to natural topography and drainage systems, and does not reduce grading to the absolute minimum. Therefore, the proposed project raises issues in regards to its consistency with Policies OSC-6e and OSC-13i of the LUP.

Policy OSC-11 of the LUP requires the City to conduct its planning and administrative activities so as to maintain the best possible air quality. The impact of the approved project to air quality is considered a Class I unmitigable impact in the final EIR prepared for the project. As noted above, the EIR includes an alternative that would reduce the number of residences by three and the amount of industrial space by 19%. This alternative, which would generate about 13% less traffic, would also reduce air quality impacts to significant but mitigable levels. Thus the approved project raises issues in regards to its consistency with Policy OSC-11 of the LUP.

Policy OSC-3 of the LUP mandates the preservation and restoration of wetlands and Policy OSC-3a requires wetland delineations to be based on the definition of wetlands provided in Section 13577(b) of the Commission's regulations. Section 13577 defines a wetland as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent due to a variety of environmental conditions. Such wetlands are to be recognized by the presence of surface water or saturated substrate at some time during each year and their location within or adjacent to vegetated wetlands or deep water habitats. Policy OSC-3, IP 12 requires a minimum setback of 100 feet from the upland limit of a wetland.

As noted above, a natural topographic depression exists in the northern portion of the property. This depression ponds water following storms and is located in an area that historically was a "lagunita" (seasonal lake). A wetland delineation report was prepared for the site ("Jurisdictional Wetland Delineation, Lagunitas Mixed Use Development, LSA Associates, Inc., September 16, 2005) and found that wetland soils and hydrology did not exist in the area of the depression, and that, although facultative and facultative wetland plant species were found in the depression, due to the absence of wetland soils and hydrology, those plants were not indicative of a wetland. However, because facultative and facultative wetland plant species were found at the site, including 90% coverage by a facultative species, annual ryegrass (*Lolium multiflorum*), in the most recent survey, it is possible that the site would meet

the definition of a wetland included in the LUP. Furthermore, the approved project entails filling of the low area and construction of residences on top of the filled area. Thus the approved project raises issues regarding its consistency with the wetland protection policies of the LUP.



State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Meg Caldwell
Appellant or Agent

Date: Nov. 9, 2006

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Sara J. Van
Appellant or Agent

Date: Nov. 9, 2006

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) GARY CAMPOPIANO
5345 8th STREET
CARPINTERIA, CA 93013

(2) BOB HAMER
6180 VIA REAL #115
CARPINTERIA, CA 93013

(3) VERA BENSEN
PO BOX 297
CARPINTERIA, CA 93014

(4) SUSAN ALLEN
790 ARBOL VERDE
CARPINTERIA, CA 93013

GEORGE JOHNSON
729 OLIVE AVE.
CARPINTERIA, CA 93013

PAUL + CAROL LEDIG
6701 RINCON RD.
CARPINTERIA, CA 93013

JAY PARKER
P.O. BOX 771
SUMMERLAND, CA 93067

DAVE + LOUISE MOORE
532 ARBOL VERDE
CARPINTERIA, CA 93013

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10/02/2006

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

PEGGY OKI
5966 VIA REAL #3
CARPINTERIA, CA 93013

JANICE + WALLY SCHILLING
5545 CANALINO DR.
CARPINTERIA, CA 93013

BETTY SONGER
5641 CALLE PACIFIC
CARPINTERIA, CA 93013

MIKE + DIANE WONDOLOWSKI
4264 VIA MARCINA
CARPINTERIA, CA 93013

ANNA + GARY CARRILLO
258 TORO CANYON RD.
CARPINTERIA, CA 93013

POKIE + ANDREW LAPIDUS
1975 CRAVENS LANE
CARPINTERIA, CA 93013

ROYCE + MILDRED STAUFFER
234 TORO CANYON RD.
CARPINTERIA, CA 93013

A-4-CPN-06-136

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1800 FAX (805) 641-1732

RECEIVED
NOV 02 2006



CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: CARPINTERIA VALLEY ASSOCIATION

Mailing Address: PO BOX 27

City: CARPINTERIA

Zip Code: 93014

Phone: 805 684 5275

SECTION II. Decision Being Appealed

1. Name of local/port government:

CITY OF CARPINTERIA

2. Brief description of development being appealed:

DEVELOPMENT IS A MIXED USE PROJECT ON
25 ACRES OF OPEN SPACE IN EASTERN CARPINTERIA
ON VIA REAL

3. Development's location (street address, assessor's parcel no., cross street, etc.):

6380 VIA REAL

APN 01-190-017

4. Description of decision being appealed (check one.):

Approval; no special conditions

Approval with special conditions:

Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-CPN-06-136

DATE FILED: 11/2/06

DISTRICT: So. Central Coast

Exhibit 2
A-4-CPN-06-136
Carpinteria Valley Association Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
 City Council/Board of Supervisors
 Planning Commission
 Other

6. Date of local government's decision: OCTOBER 23, 2006

7. Local government's file number (if any): NO. 01-976 DP/CDP/TM/PW/D-MOD/DA

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CITY OF CARPINTERIA
5775 CARPINTERIA AVENUE
CARPINTERIA, CA 93013-2697

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) GARY CAMPOPIANO
5345 8th STREET
CARPINTERIA, CA 93013
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CARPINTERIA, CA 93013
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PO BOX 297
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- (4) SUSAN ALLEN
790 ARBOL VERDE
CARPINTERIA, CA 93013
- GEORGE JOHNSON
729 OLIVE AVE.
CARPINTERIA, CA 93013
-

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. AIR QUALITY
2. GRADING
3. HABITAT LOSSES
4. TRAFFIC
5. ETC. - WILL SUPPLY ADDITIONAL INFORMATION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Tara Bensen
Signature of Appellant(s) or Authorized Agent

Date: _____

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Tara Bensen
Signature of Appellant(s)

Date: _____



PAUL & CAROL LEDIG
6701 RINCON RD.
CARPINTERIA, CA 93013

JAY PARKER
P.O. BOX 771
SUMMERLAND, CA 93067

DAVE & LOUISE MOORE
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ROYCE & MILDRED STAUFFER
234 TORO CANYON RD.
CARPINTERIA, CA 93013

A-4-CPN-06-136

Lagunitas Mixed-Use Development EIR

The proposed project would generate emissions of ozone precursors exceeding SBCAPCD significant thresholds.

The project would increase impervious surfaces and runoff. It would reduce the quality of surface water.

The project would remove riparian habitat

The project would add an estimated 2,024 daily trips to our hwy, streets and roads. Cumulative traffic would result in significant impacts to 3 of 9 study area intersections. The project would adversely affect accessibility to and from the site on Via Real. A roundabout would improve some LOC's but it would not achieve LOS C at Bailard during the PM peak hour.

The project would generate an estimated 401 tons of waste annually.

Conversion of 25.3 acres of agricultural land to urban use would cause a loss of agricultural land.

Project build out would modify 12 acres of potential foraging habitat for the white tailed kite.

The development has the potential to adversely affect visual conditions by converting agricultural land to urban use.

2-8 An additional 51 surface parking spaces would be provided along the two main streets of the residential area.

2-17 Grading for the project would be balanced onsite. Total earth movement (combined cut and fill) is estimated at 80,000 cubic yards. This total includes about 5,000 cubic yards of earth that would create landscape berms throughout the site. The most substantial cuts (about eight feet in depth) would occur along Via Real, near the southern end of the southernmost business park structure. Areas of substantial fill include the northern end of the southernmost business park structure near Lagunitas Creek (about 10 feet of fill) and the residential pads in the northern portion of the site, along the southern edge of the proposed 30-foot wide landscape buffer. Five of the 12 lots along the south side of the 30-foot buffer area would be at higher elevation than existing grade, with a maximum of about six feet of fill. A retaining wall would be constructed along the western edge of the project site, north of Lagunitas Creek.

4.1-1 LAND USE AND AGRICULTURE

4.1-2 The "3" designation for the Milpitas-Positas soil indicates that there is a problem or limitation from low or very low permeability in the subsoil or substratum. Approximately 8 acres are designated as "P" and approximately 17 acres are designated as "U". (Prime and Unique)

4.1-3 "Agricultural uses in this area are sufficiently distant to ensure that conflicts with agricultural activity do not occur. This is not a true statement. Agriculture is adjacent to this development. In fact, these 25 acres could join another 33 acres and become eligible for the Williamson Act.

4.1-5 Structures would have an adverse effect to the residents to the north

-
- 4.1-6 *Development proposed on any property five acres or greater in size with Prime Agriculture soils designation may represent a significant environmental impact. Development proposed on any property which in the last five years has been in agricultural production and which is agriculturally zoned may represent a significant environmental impact.*

The project site has been in agriculture use for many decades and is in an area of historical agricultural activity.

4.3-1 HYDROLOGY AND WATER QUALITY

This is the lower end of a 290-acre watershed. The principle facility is a natural earth drainage channel known locally as Lagunitas Creek that traverses the project site from the northeast corner to the southwest corner. It currently conveys drainage from 38.3 acres of low-density residential area north of the site and a 10-acre commercial area to the northeast. This channel (Lagunitas Creek) has a capacity of approximately 65 cubic feet per second. A 42-inch diameter reinforced concrete pipe (RCP) that conveys runoff from a 64-acre commercial and a 114-acre open area both to the east of the project site. The remaining 18.8 acres of commercial land to the west of the project site drain to a large open channel at the entrance of a 66-inch diameter RCP culvert under highway 101. The 66-inch diameter RCP conveys the drainage under Highway 101 and discharges into a natural open channel on the Carpinteria Bluffs side of the freeway. This channel has historically experienced heavy flows, and has previously washed out an underground sewer line that crosses it south of the freeway (Carpinteria Bluffs EIR, June 1994). Storm flows from this channel cross under the railroad tracks and enter a pipe suspended on the bluff face, which discharges to the beach. While low flows are accommodated by this piping arrangement, high flows create erosion and sedimentation problems and are eroding both the bluff face and the railroad embankment.

- 4.3-2 Surface runoff is rapid and the erosion hazard is high on the steep northern portion of the drainage area.

- 4.3-16 The proposed project, in combination with other planned and pending development in the Carpinteria Valley, would cumulatively increase peak storm water flows by adding impervious surface area.

4.4-1 BIOLOGICAL RESOURCES

The delineation revealed that all three sites tested, typical of low lying area onsite, lacked positive indicators for all three wetland parameters, which include hydric soils, hydrophytes vegetation, and wetland hydrology.

- 4.4-4 The southern arroyo willow is listed as a facultative wetland species. also, the national list of wetland plants (reed, 1988) lists bulrush as an obligate (obl) wetland species and umbrella sedge and willow herb as facultative (facw) wetland species.

- 4.4-10 Sufficient habitat does not exist on site for arroyo toads as the site contains limited willows with sparse to no understory beneath the willows. (All the willows are cut down every year.)

White-tailed kite would be expected to occasionally forage onsite, but suitable nesting habitat (trees) is lacking. (There are trees all around and kites are nesting in them.)

- 4.4-13 The Creeks Preservation Program identifies specific policies for preservation of natural resources, specifically wetlands, such as the Carpinteria Salt Marsh, and creekways/riparian habitat such as Lagunitas Creek is a natural creek section with dense southern arroyo willow riparian forest located south of Carpinteria Avenue, approximately 1,000 feet downstream. (The willows have been cut down in the upper portion)
-

The project would involve grading within the channel near the western site boundary. Development of the private road at the western end of the site would involve the placement of a four-by-four foot box culvert, associated head and end walls, rock rip rap up and downstream, and grading to place these structures in the creek.

- 4.4-14 The landscape plan appears to adequately compensate for waters of the U>S> removed by fill activities, but may not include all of the vegetation necessary for the replacement of riparian habitat and does not include elements of success (success criteria) necessary for an adequate revegetation plan.
- 4.4-17 Development of the site would result in the loss of riparian habitat and waters of the U.S. that would require a permit from the USACE and a Streambed Alteration Agreement from the CDFG.
- 4.4-18 Disturbances within the riparian areas could cause species to flee the area, including abandoning breeding efforts.

4.5 TRAFFIC AND PARKING

There seems to be two studies on Traffic and Parking – one by Associated Transportation Engineers (ATE) and one by Kimley-Horn (located in Appendix E) who did the traffic impact analysis for the City of Carpinteria. I will be referring to the latter.

- 1 Each TIA identified significant project traffic impacts at three Bailard interchange ramps. The first recommended installation of traffic signals at the four Bailard intersections to mitigate the traffic impacts. (plus new turn lanes, widening and raising the bridge) Through the environmental documentation process, the community objected to installing traffic signals at these locations. And they were concerned about bicyclists and pedestrians being able to cross the roundabouts, and therefore, they have not been considered feasible.
A roundabout at northbound US-101/SR-150 interchange ramp was identified as an improvement that would divert dome traffic.
Although there is an approved PSR for the SR-150 interchange roundabout improvement, questions remain as to whether this improvement is the best long-term solution to reduce future traffic congestion, particularly at the Bailard interchange. (Caltrans told me the same thing. They said in eight years the Bailard interchange would have to completely redone. And it takes 7 years to complete the Lagunitas development.)
- 28 Some existing traffic from the adjacent residential mobile home park to the west of the Lagunitas project site would also be diverted to the SR-150 interchange due to the realignment of Via Real. There are approximately 125 units located there, and the trip generation was calculated using the ITE *Trip Generation Handbook* based upon these 125 mobile home units.
- 29 The table shows that the realignment of Via Real closer to the SR-150 interchange would not fully mitigate the significant project traffic impact in the PM peak for intersection number 5 in the Existing (2005) with project senerio. And it would not fully mitigate the cumulative traffic impacts in the PM peak hour for intersection 4 and 5 in the Existing (2005) with Cumulative with Project scenario.
- 44 The table shows that the Lagunitas project would not provide enough parking spaces to satisfy the City requirement. The project is deficient by 174 parking spaces. A reduced project would meet parking requirements.

4.6 AIR QUALITY

The project's impact to regional air quality is considered Class I, unavoidably significant.

-
- 4.7 NOISE
- 4-7.3 Noise levels at nearby residential neighborhoods along Via real are significantly affected by traffic noise. The residences along this segment of Via Real are experiencing noise levels above the City's thresholds.
- 4.8 AESTHETICS
- 4.8-3 Based on criteria contained in the City's *Guidelines*:
The project would cause substantial view impairment of a public resource (such as the ocean) that is considered significant by the applicable community plan.
The project exceeds the allowed height or bulk regulations, and this excess caused unnecessary view impairment
The project would have a cumulative effect by opening up a new area for development.
The project exceeds the allowed height or bulk regulations and exceeds patterns of development in the surrounding area by a significant margin.
- 4.8-14 The proposed development would introduce new sources of light and glare to the project site that would be visible from U.S. Highway 101, Via Real, and the residential neighborhood north of the site.
A lighting plan is not available for evaluation
The introduction of a new lighting would extend the existing urban light glow in the nighttime sky.
- 4.9 SOLID WASTE
- 4.10-3 The project would generate an estimated 1,401.4 tons of solid waste per year.
- 5.2 SIGNIFICANT IRREVERSIBLE EFECTS
- 5-2 Development of the project would result in a change in use from open space and agriculture to a mixed residential and industrial park use. This would be a long-term commitment of the site, increase local demand for finite resources, such as petroleum and natural gas. And, the additional employees that would be generated by implementation of the proposed project would cause an irreversible increase in localized vehicle trips, resulting from generation of additional air pollutants and further degrade the air quality.
-

GOAL OF CARPINTERIA'S GENERAL PLAN:

...to, preserve the essential character of our small beach town, its family-oriented residential neighborhoods, its unique visual and natural resources and its open, rural surroundings while enhancing recreational, cultural, and economic opportunities for our citizens.

LU 2 Protect the natural environment within and surrounding Carpinteria.

LU-2b Regulate all development, including agriculture, to avoid adverse impacts on habitat resources.

LU-3c Preserve the small beach town character of the built environment of Carpinteria, encouraging compatible revitalization and avoiding sprawl development at the city's edge.

LU-3h: Develop land uses that encourage the thoughtful layout of transportation networks and support minimizing the impacts of vehicles in the community, and encourage alternative transportation.

C-1d The City shall work closely with Caltrans to assure improvements to freeway interchanges and overpasses compliment the small town quality and charm of the city. Conventional methods for improving level of service such as widening of overpasses for independent turning lanes and signalization of intersections should be avoided if possible in favor of improvements consistent with the existing small town character and charm. Improvements required as a result of a development project shall also be consistent with this policy.

C-3a through C-4b:

1. Projects contributing PHT's to intersections that operate at an estimated future level of service that is better than LOS C shall be found consistent. Otherwise the intersection has to meet certain criteria. (a., b., c., d.)

Truck Routes Truck trips generated from the east industrial park area conflict with residential uses on Via Real.

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.

OSC-1b Prohibit activities, including development, that could damage or destroy ESHA.

Wetlands are areas of land which may be covered periodically or permanently with shallow water.

OSC-6e Natural drainage patterns and runoff rates and volumes shall be preserved to the greatest degree feasible by minimizing changes in topography, and minimizing the areas of impervious surfaces created by new development.

In order to protect watersheds, all construction and development shall minimize water quality impacts.

OSC-9 Encourage and promote open-field agriculture as an independent, viable industry to meet the needs of present and future populations and to preserve the Carpinteria Valley's rural, open character.

52 Ensure that soil erosion and the off-site deposition of soils is not exacerbated through development.

OSC-11a Carefully review development that will significantly impact air quality.

OSC-13j Establish a “night-sky ordinance that provides standards for the reduction of direct and ambient light in the night sky.

OSC-13h Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration to the natural terrain.

OSC-13i Design all new development to fit the site topography, soils, geology, hydrology, and other existing conditions and be oriented so that grading and other site preparations is kept to an absolute minimum. Preserve all natural landforms and native vegetation, such as trees. Require all areas on the site not suited to development as evidenced by competent soils, geology, and hydrology investigation and reports remain as open space.

Objectives OSC-11 states that Carpinteria will conduct its planning and administrative activities so as to maintain the best possible air quality.

Policies OSC-11a through OSC 11e discourage development that would adversely affect air quality, promote the reduction of motor vehicle traffic and associated emissions, promote the use of solar heating and energy efficient building design, encourage implementation of local Air Quality Attainment Plan control measures, and encourage agriculture users to minimize air pollutants emissions.

....25 YEARS FOR 25 ACRES

The Arnesen Property

July 15, 1992

(Plus additions in 2001)

These 25 acres were not always called the "Arnesen Property". In 1957 the east coastal facing part of the Carpinteria Valley was a lovely spot. There were two large, successful lemon ranches rolling down to Highway 101. the larger of the two was the Knapp Atkinson Ranch (sold to Ralph Brown in _____) and the second was the 45 acre Ranch to the west that owned by Herbert Hirsch. Since he was only ranching the front 25 acres, he sold the back portion to Cathrine and Herbert Ricketts. They in turn subdivided it and sold individual parcels. Shortly, Ralph Brown, owner of the Knapp Atkinson Ranch and real estate agent in some of the Ricketts sales, warned the now present owner of parcel that they should sell because he was planning an industrial park for the Knapp Ranch. In 1960 he surprised us with a 12 ft. fill on the Knapp Ranch that was cut from the Rincon for the new Hwy 101. In 1966 Mr. Hirsch sold the lower 25 acres to Omar Arnesen. Mr. Brown suggested that Mr. Arnesen join the industrial park and get some of the fill to level his property off. Mr. Arnesen declined because he wanted to keep his tax base in the agricultural category. But Arnesen's land values did appreciate because of the industrial zoning next door.

In 1972, after abandoning the orchard, he had a soils report done by the U.S. Department of Agriculture. They stated that it was a claypan soil, was erosion prone, and had low fertility. They also stated that it had poor internal drainage. There is a stream bed through the property that Mr. Arnesen said that the neighbors were silting-up. (Actually, the new Highway 101 now acted like as dike to the property and did not have a sufficiently large culvert to drain of the storm waters in 1969.) The U.S. Department of Agriculture recommended that he keep the avocados in the northern Baywood soil part because they were doing well and plant the front part in an annual crop of some kind - maybe flowers. At this time the Citizens' Advisory Board recommended that the agricultural zoning be retained because that was it's present use and it was producing. 1977 began the rezoning efforts for the Arnesen Property. The Omar Arnesen Industrial Park was introduced to the County of Santa Barbara. He ceased all agricultural pursuits on the property. The trees were dying and were overgrown with weeds. And he did not renew the lease to the flower growers who were doing well. He said that they were over watering and ruining the existing avocados.

August '77 - Arnesen sent a letter to the northern neighbors stating that he would like to rezone the front 11 acres to an industrial zoning and leave the good avocado trees on the back 14 acres in agricultural zoning. He also stated that he intended to renew the lease to the flower growers.

September '77 - Ynez Hasse prepared an EIR for Arnesen Industrial Park. He wanted to rezone the front 11.182 to industrial. The residences responded negatively to this new zoning.

October '77 - The EIR was up for certification. This was challenged by the homeowners who wanted to keep this property in agriculture.

March '78 - The Carpinteria/Summerland Advisory Committee suggested that the front half be 20 U/A and the back half be 1.8 U/A. The joint staff and the owner recommended an industrial zoning.

October '78 - The neighbors received a letter from Arnesen through his attorney James Pattillo that he did not want to develop the property he just wanted to sell it with developer's permits. He wanted the neighbors to abandon their road easement so he could put a road up the middle of the property.

'78 thru '79 - Under development pressures the Citizens' Advisory Board changed their zoning recommendation from agriculture to 1 acre residential to conform with the neighbors to the north. After more pressures the supervisors' compromised and recommended a very dense residential for the front half. At this time the City of Carpinteria, thinking annexation, suggested industrial on the front half and 1 acre residential in the rear 14 acres. The regional staff and the home owners to the north agreed.

December 15, '79 - On this day the South Coast Regional Commission suddenly recommended changing the whole 25 acres to an industrial zoning by a 6 to 5 vote.

December 28, '79 - The home owners to the north received a letter from William D. Wright that since the state regional commission has recommend an industrial zoning on the 25 acres, he would like to develop a "business/industrial park" that is in "the best interest of everyone."

March 28, 1980 - First public hearings on the Santa Barbara County Coastal Land Use Plan. The neighbors to the north said that they would agree to the industrial zoning if it were an "Industrial Park" designation. This meant adding 13 conditions that made an industrial complex into a park. At this time all parties involved agreed to these 13 conditions on the property with the industrial zoning. Actually they were hoping for a new land use designation.

June 1980 - County noted that the planning commission public hearings for amended parcels of the adopted LCP should begin.

July 16, 1980. The 13 conditions are recommended to be adopted by the LCP staff. These were later adopted also by the Board of Supervisors and the Regional Coastal Commission.

July 1985 - The Arnesen/Blakeslee annexation was completed by the City of Carpinteria. The Resource Management Dept. sent a memo that stated the city should retain the 13 policies due to the sensitive interface between the residence to the north. They recommended that LAFCO recommend to the city to adopt similar policies governing the site.

November '85 - Lincoln Property Co. ask for a zone change from "Manufacturing Research Park" to "Planned Residential Development." They want 380 units. Around the same time there are rumors of a plan for a 400 unit trailer park.

January '86 - A report to the City Planning Commission from the Community Development Director recommended that a EIR be required for the zone change.

September '86 - Draft EIR for Lincoln Properties zone change was completed.

October '86 - Notification of EIR availability to the public. Project would allow for 379 apartments.

Dec 5, '86 - CVA opposed change.

Dec 5, '87 - CVA notified the Carpinteria City Council that they should not accept \$5,000 from Lincoln Properties Developers to revise its water allocation program. (Lincoln is still trying to get rezoning.)

1989 - TOLD Corporation held several meetings with the Loma Alta Homeowners, CVA, and the city to introduce their "Pacific Crest Business Center". Representatives were Andrew Gedo and Trent Lyon. They did not find the 13 conditions attached to the property in the city's files.

October, '91 - COSCO has meetings with the Loma Alta Homeowners, the community and the city to see if they were wanted in the community. TOLD is working with COSCO on this venture. We received a letter from Trent Lyon that he would work with COSCO to see if it were true that retail/commercial zone verses a business park was 1. the right use for the property and 2. "the highest-and- best development for the City" and 3. was "the will of the people." Mr. Lyon said that he would be personally disappointed and surprised if the city and the residence preferred the commercial COSCO over his Business Park but he would go along with the trend because he feels the city has changed their views and is quite receptive to COSCO now. COSCO would have to go through a Zone Change, a LCP amendment and a full blown EIR. Representatives were Charles Hoey, Gene Sword, and Trent Lyon.

February 20, '92 - CVA asked Carpinteria City Council to reinstate the 13 conditions. COSCO presented desires to the council.

March, '92 - COSCO held a public workshop meeting to get feedback from the community.

April, '92 - COSCO had a meeting with the Loma Alta Homeowners group.

June, '92 - COSCO had meetings with CVA, neighbors, and the Chamber of Commerce. They were also surveying the property.

CVA believes that the COSCO development would be very detrimental to the residence of our city. It would reduce the quality of life, the small town atmosphere, and the agricultural significance. The traffic and the air pollution would be unmitigatable. The development is scaled too large for the valley and we don't need more cement and asphalt jungles.

We think it behooves the city to take a look at Linden Avenue. For many years the city and its citizens have suggested ways to make the street attractive and entice shoppers. All of a sudden dramatic changes have been made. The merchants have spent many dollars to build quality new buildings and make their old buildings attractive. This should bring encouragement from us all, and not the threat of a discount, membership, wholesale, ugly development looming on the horizon.

1997 – Parkstone Companies approached the city and the neighbors with a new development. It consists of 400 sq. ft. of industrial and warehouse development.

1998 – Parkstone's representative, Mike Penrod, revealed to the neighbors that the square footage would be reduced to 360 sq. ft. and that Barton Meyers would be the architect.

Jan. 2000 – The draft EIR was distributed.

Sept. 2000 – Square footage was reduced to 320. One building was depressed 8 ft.. Traffic is still the big problem. Plan located northern part of neighbor's road to their property for a emergency exit and landscaped our entrance road. One

neighbor asked for a horse ring and although it wasn't incorporated, it was not denied.

Dec. 2000 – The City of Carpinteria told the developers that their development would probably not be accepted by the council unless it had a residential component. Parkstone withdrew its application and Mike Penrod asked his partner Ken Scrott come up with a residential plan. Charlie Eckberg presented a concept with 97 units on the 13 acres before the city.

Jan. 2001 - Eckberg reduced his units to 83. The council didn't change the zoning, but put a residential overlay on this industrial property. They want an affordable component also.

VERNAL POOL 2001



STANDING WATER SPRING 2006



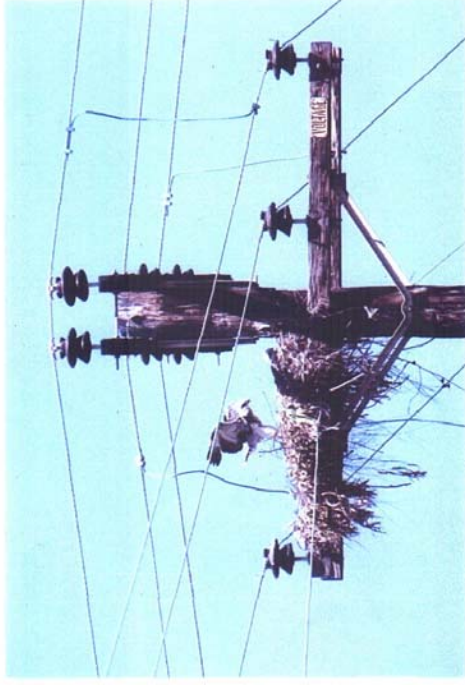
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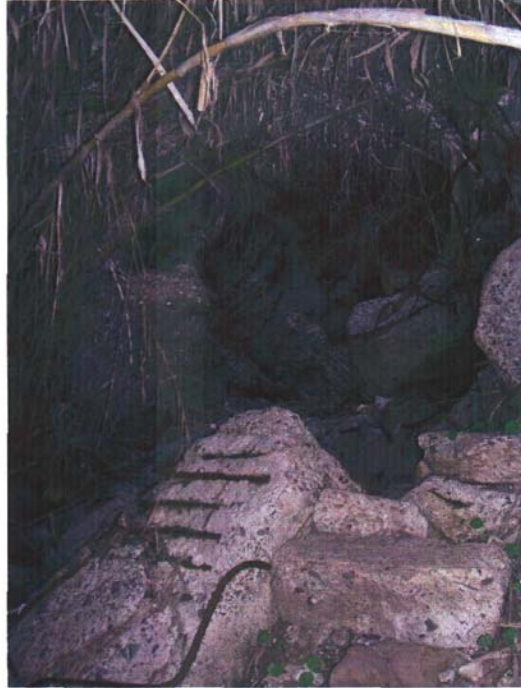
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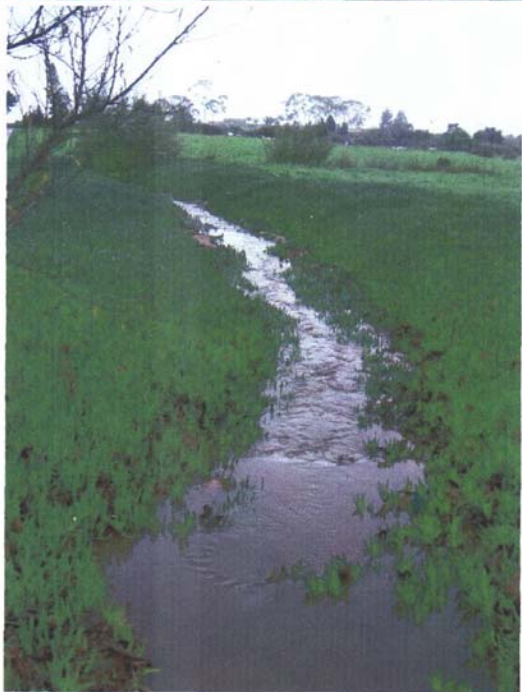
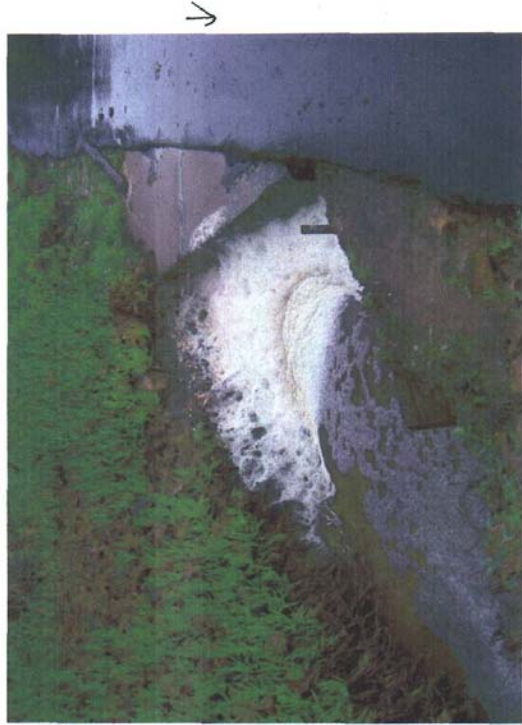
GREAT BLUE HERON SPRING 2006



RED TAILED HAWK JUVENILES 2004



WHERE LAGUNITAS CREEK EMPTIES ON BEACH



→

CREEK FEEDING LAGUNITAS CREEK FROM NORTH

↓



VERNAL POOLS 2004



HERON 2006 (FALL)



RECEIVED
JUL 27 2006

RESOLUTION NO. 5024
A RESOLUTION OF THE CITY OF CARPINTERIA CITY COUNCIL CERTIFYING A
SUBSEQUENT ENVIRONMENTAL IMPACT REPORT AND APPROVING A
DEVELOPMENT PLAN PERMIT, COASTAL DEVELOPMENT PERMIT,
TENTATIVE TRACT MAP, TENTATIVE PARCEL MAP, PARKING MODIFICATION
AND DEVELOPMENT AGREEMENT (CASE NO. 01-976-DP/CDP/TM/PM/P-MOD/DA)
TO DEVELOP A 25-ACRE PARCEL WITH 38 SINGLE-FAMILY DETACHED
HOMES, 36 CONDOMINIUM UNITS, AND 145,425 SQUARE FEET OF
OFFICE/RESEARCH AND DEVELOPMENT SPACE IN TWO BUILDINGS
LOCATED AT 6380 VIA REAL

CARPINTERIA BUSINESS PARK INVESTORS, LLC
APN 001-190-017

WHEREAS, the City of Carpinteria received an application for a Development Plan Permit, Coastal Development Permit, Tentative Tract Map, Tentative Parcel Map, Parking Modification and Development Agreement filed by Carpinteria Business Park Investors, LLC, on April 30, 2001; and

WHEREAS, said application was subsequently deemed complete and accepted by the City as being consistent with the applicable submittal requirements; and

WHEREAS, the Planning Commission conducted several public hearings and received oral and written testimony regarding the application for Development Plan Permit, Coastal Development Permit, Tentative Tract Map, Tentative Parcel Map, Parking Modification and Development Agreement; and

WHEREAS, in accordance with the California Environmental Quality Act, a Subsequent Environmental Impact Report (EIR) dated October 2006 (State Clearinghouse No. 1999081019) has been prepared for the project; and

WHEREAS, the Planning Commission reviewed the project in light of the relevant policies of the General Plan and Coastal Plan and the Zoning Code standards and recommended certification of the EIR and approval of the project; and

WHEREAS, the City Council conducted public hearings on September 25, 2006 and October 23, 2006 and reviewed the Planning Commission's recommendation.

NOW THEREFORE, THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

The Development Plan Permit, Coastal Development Permit, Tentative Tract Map, Tentative Parcel Map, Parking Modification (Exhibit A) are approved based upon the Findings (Exhibit B) and subject to the conditions of approval (Exhibit C) herein.

The EIR dated October 2006 (State Clearinghouse No. 1999081019) is hereby certified, along with the Mitigation Monitoring and Reporting Program. The Mitigation Monitoring Program

Exhibit 3
A-4-CPN-06-136
Resolution No. 5024 and Conditions

shall be referenced for necessary implementation at each phase of the project including but not limited to project approval and conditioning, final plan development and review, development and approval of CC&Rs and HOA Articles of Incorporation, project construction and project maintenance.

All project approvals are subject to and contingent upon the City Council's approval and execution of the Development Agreement.

PASSED, APPROVED AND ADOPTED this 23rd day of October 2006, by the following called vote:

AYES: COUNCILMEMBERS: Gandrud, Armendariz, Ledbetter, Jordan, Stein

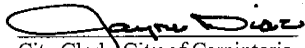
NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



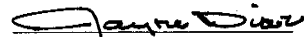
Mayor, City of Carpinteria

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 23rd day of October 2006.



City Clerk, City of Carpinteria

APPROVED AS TO FORM:

City Attorney

EXHIBIT C
CONDITIONS OF APPROVAL

CARPINTERIA BUSINESS PARK INVESTORS, LLC
LAGUNITAS - 6380 VIA REAL
File No. 01-976-DP/CD/TM/PM/P-MOD/DA

CITY COUNCIL MEETING OF OCTOBER 23, 2006

The Conditions set forth in this permit affect the title and possession of the real property which is the subject of this permit and shall run with the real property or any portion thereof. All the terms, covenants, conditions, and restrictions herein imposed shall be binding upon and inure to the benefit of the owner (applicant, developer), his or her heirs, administrators, executors, successors and assigns. Upon any sale, division or lease of real property, all the conditions of this permit shall apply separately to each portion of the real property and the owner (applicant, developer) and/or possessor of any such portion shall succeed to and be bound by the obligations imposed on the owner (applicant, developer) by this permit.

1. This Development Plan Permit, Coastal Development Permit, Tentative Tract Map, Tentative Parcel Map, Parking Modification and Development Agreement approval is restricted to APN 001-190-017, located at 6380 Via Real and is for the construction of 38 single-family detached residences, 36 condominium units and 145,425 square feet of office and research/development space divided into two buildings.
 2. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitations period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
 3. If, at any time, the City determines that there has been, or may be, a violation of the findings or conditions of this Development Plan, Coastal Development Permit, Tentative Tract Map, Tentative Parcel Map, Parking Modification and Development Agreement, or of the Municipal Code regulations, a public hearing may be held before the City Council to review this permit. At said hearing, the City Council may add conditions, recommend enforcement actions or revoke the permit entirely as necessary to ensure compliance with the Municipal Code and to provide for the health, safety and general welfare of the City.
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4. In accordance with the Development Agreement, the applicant shall pay a development impact fee to the City prior to issuance of a Building Permit. The amount of the fee will be determined at the time permits are issued, consistent with the provisions of the Development Agreement. The current level of fees attributable to the project would be approximately \$5,019,649.12. A protest to the fees may be filed at the time of project approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations or other exactions to be imposed on the development project.
5. In addition to the conditions within the City Council's Resolution to approve the project, the project shall conform to the provisions of the Development Agreement attached to the Resolution as Exhibit D. The Development Agreement shall be approved by Ordinance pursuant to Government Code §65867.5, and shall be deemed in full force and effect on the effective date. The term of the Development Agreement shall commence upon the effective date and shall extend until the seventh anniversary of the effective date.

DEVELOPMENT PLAN/COASTAL DEVELOPMENT PERMIT

6. Water conserving fixtures shall be utilized on all faucets, sinks, water closets and other water outlets throughout the project to reduce water demands. (Community Development)
 7. Any and all damage or injury to public property resulting from this development, including without limitation, City streets, shall be corrected or result in being repaired and restored to its original or better condition. (Community Development)
 8. All requirements of the City of Carpinteria (including but not limited to public improvements as defined in the City of Carpinteria Municipal Code Section 15.16.110) and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. (Community Development)
 9. The conditions of this approval supercede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans. (Community Development)
 10. All buildings, roadways, parking areas, landscaping and other features shall be located substantially as shown on the attached exhibits. (Community Development)
 11. The applicant shall comply with the attached environmental documents/mitigation measures, which are incorporated herein as conditions of approval. (Community Development)
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12. The applicant agrees to pay any and all City costs, permits, attorneys' fees, engineering fees, license fees and taxes arising out of or concerning the proposed project, whether incurred prior to or subsequent to the date of approval and that the City's costs shall be reimbursed prior to this approval becoming valid. In addition, the applicant agrees to indemnify the City for any and all legal costs in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project. (Community Development)
 13. The standards defined within the City's adopted model Building Codes (UBC; NEC; UMC; UFC; UPC; UHC) relative to the building and occupancy shall apply to this project.
 14. Any minor changes may be approved by the City Manager or Community Development Director. Any major changes will require the filing of a modification application to be considered by the City Council. (Community Development)
 15. The commencement and timing of construction shall be consistent with the provisions of the Development Agreement. (Community Development)
 16. When not specified herein, all conditions shall be satisfied prior to the issuance of building permits or prior to occupancy when allowed by the Director of Community Development. (Community Development)
 17. An approval granted by the City Council does not constitute a Building Permit or authorization to begin any construction. An appropriate permit issued by the Building Division must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City. (Community Development)
 18. The only signs approved as a part of this action are one 8' x 8' temporary real estate and construction sign and signs required to be posted during the construction period to provide notice to neighbors and construction employees of hours of construction. (Community Development)
 19. Upon completion of construction, no outside storage of any materials shall be permitted unless screened by a solid six-foot high fence/wall and that no stored materials shall be stacked to a height greater than six feet. (Community Development)
 20. During any phase of grading or construction, if cultural material suggestive of prehistoric or historic origin is encountered, work in the vicinity of the find shall be stopped and the City shall be notified. Grading or construction shall not be resumed until the find is evaluated and the City determines whether mitigation is necessary. (Community Development)
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21. If the construction site is graded and left undeveloped for over three weeks, the following methods shall be employed immediately to inhibit dust generation:
 - seeding and watering to revegetate graded areas;
 - spreading of soil binders; and/or
 - any other methods deemed appropriate by the City or County Air Pollution Control Board (APCD). (Community Development)

 22. No construction-related debris (mud, dust, paint, lumber, rebar, etc.) shall leave the project site unless transported to an approved disposal site. During the construction period, washing of concrete, paint, and/or equipment shall be allowed only in areas where polluted water and materials can be contained for subsequent removal from the site.

Washing of equipment shall not be allowed near sensitive biological resources. The applicant shall designate a "wash-off area" on the construction plans and install such an area prior to the commencement of any construction activities. (Community Development)

 23. Sedimentation, silt and grease traps shall be installed in paved areas to act as filters to minimize pollution reaching downstream habitats. These filters will address short-term construction impacts. (Community Development)

 24. The applicant is required to complete a School District sign-off form, which may include payment of applicable School Mitigation Fees, prior to issuance of building permit. (Community Development)

 25. Prior to the issuance of any Building Permits, the applicant shall submit final plans to the City for review by the Architectural Review Board. Final plans shall include but not limited to complete construction drawings and details concerning signing, lighting, fencing, colors and exterior materials, landscaping and irrigation. (Architectural Review)

 26. Prior to the issuance of any Building Permits, the applicant shall post a financial security to guarantee installation and three years of maintenance of landscaping. The amount of the security shall be determined by a licensed landscape architect and shall be reviewed and approved by the Community Development Department. Landscaping shall be subject to the following requirements:
 - a. The landscaping shall be maintained in good condition for three years, at which time the security will be released;
 - b. Landscaping shall be drought resistant, low water-use species;
 - c. Where feasible, locally adapted native plants shall be used;
 - d. Prior to occupancy, all landscaping and plantings shall be installed.
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- e. A raised six-inch curb shall protect all landscaped areas located within parking areas;
 - f. Any curb carrying water along its face shall be curb and gutter;
 - g. Specimen trees shall be appropriate to the site and shall be maintained in good condition so as to attain a full and healthy mature appearance.
 - h. The removal, topping of or otherwise interference with the specimen tree's ability to continue its growth and attain full maturity shall be a violation of these conditions of approval and shall require replacement of the damaged tree.
 - i. If applicable, the project shall comply with the requirements of the City's Water Efficient Landscape Ordinance (Chapter 15.90, Carpinteria Municipal Code). (Architectural Review)
27. Screened trash enclosure(s) shall be required and plans shall be subject to the review by the Architectural Review Board prior to the issuance of any Building Permits. (Architectural Review)
28. All mechanical equipment, including roof-mounted (i.e., air conditioning fans, blowers, and vent stacks, etc.) shall be visually screened from all views. Screening shall be compatible with the style and color of the main structures and shall be reviewed by the Architectural Review Board for compatibility with the approved building design. (Architectural Review)
29. Detailed plot plan, elevation plans, sign plans, and landscape/irrigation plans shall be submitted to the Architectural Review Board for review prior to any permits or clearances being granted. All required plans shall be submitted as a part of a single application. (Architectural Review)
30. Final plans shall include the location of all above ground and vaulted appurtenances including but not limited to electrical vaults, gas meters, fire backflow prevention system, check valves, etc. The location of such appurtenances shall be approved by Community Development and may be required to be located so as to minimize aesthetic impacts. (Community Development)
31. All landscaping and irrigation plans submitted to the Architectural Review Board shall be prepared by a State licensed landscape architect or similar professional as determined appropriate by the ARB. (Architectural Review)
32. All materials and colors used in construction and all landscape materials shall be as represented to or as specified by the Architectural Review Board and any deviation will require review by the Board. (Architectural Review)
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33. A detailed sign program for the project herein approved shall be submitted in conjunction with the submittal of building elevation plans. Said sign program shall indicate the type, area, height, location, and colors of all signs for the entire project. No roof or pole signs shall be permitted. The Architectural Review Board shall review the sign program prior to issuance of occupancy clearance. (Architectural Review)
 34. Exterior lighting for the site shall be low level and designed (through appropriate fixture type, location, etc.) in such a manner that direct lighting or glare will affect neither adjacent properties nor public streets or walkways. (Architectural Review)
 35. Occupancy clearance for the last six market-rate condominium units shall not be granted until occupancy clearance has been granted for all 16 affordable units. (Community Development)
 36. Prior to site development, a seismic study shall be prepared by a registered engineering geologist/seismologist or geotechnical engineer for the project site. This report shall include a detailed analysis of the most likely seismic sources to affect the project (including a determination of the distance to the Red Mountain Fault if deemed necessary). The most recently published maximum credible earthquake, recurrence interval, and distance to the site for each of these sources will be used to determine a probabilistic and/or deterministic peak ground acceleration for the site. Using this data, a design ground acceleration shall be chosen for the site structures. This data, along with the geotechnical data, shall be used to determine proper grading and structural design as it relates to the effects of seismic ground shaking at the site. (GEO-1a)
 37. Design and construction of any buildings shall be structurally engineered to withstand the expected ground acceleration that may occur at that site. The design shall take into consideration the soil type, potential for liquefaction, and the most current and applicable seismic attenuation methods that are available. All onsite structures shall comply with applicable methods of the Uniform Building Code and recommendations of the geotechnical study. (GEO-1b)
 38. During grading/construction activities at the site, a geotechnical or engineering professional shall be present to ensure adherence to the final design recommendations pertaining to seismic safety. (GEO-1c)
 39. All grading recommendations listed in the 1999 Padre Geotechnical Report for foundation and slab-on-grade locations shall be followed. In addition, requirements for moderately expansive soils and the proposed building types as defined by the Uniform Building Code shall be considered as minimum requirements for foundation and slab-on-grade design. (GEO-2a)
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40. During grading activities at the site, a geotechnical or engineering professional shall be present to observe that the recommendations set forth by the Geotechnical Report (Padre, 1999) are adhered to. (GEO-2b)
41. All foundations and slab-on-grade locations shall be designed by a civil/structural engineer to withstand the expected settlement or the site shall be graded in such a manner as to address the condition. (GEO-3a)
42. During grading activities at the site, a geotechnical or engineering professional shall be present to ensure adherence to the recommendations regarding soil settlement set forth by the civil/structural engineer. (GEO-3b)
43. Prior to final site plan approval, the final design calculations of the outlet structure shall be submitted to the City's Public Works Department for review and approval. The outlet structure shall be modified by increasing the orifice size or increasing the weir length of the five-year discharge outlet chamber such that the water surface elevation is below that associated with 25-year and 100-year flow frequencies. (H-1a)
44. The final site plans shall reflect that all surface and subsurface storm water flows from the adjacent 10-acre commercial site are intercepted and directed to the commercial basin. Installing pipelines to the existing catch basins and or grading the outlets such that the discharge is directed into the detention basin may intercept the subsurface flows. In addition, the approved grading plan shall be contoured such that if storm water flows exceed the capacity of the catch basins or if the catch basins should become blocked by debris, the overflow will enter the commercial basin prior to reaching that natural channel. (H-1b)
45. A plan that incorporates BMPs for the long-term operation of the site shall be developed and implemented by the applicant to minimize the amount of pollutants that are washed from the site. The plan shall be developed in cooperation with the City of Carpinteria, the County of Santa Barbara and the Central Coast Regional Water Quality Control Board. Examples of BMPs listed below which apply to the development of the site may be included in the plan:

Education

- Stencil all storm drains inlets and post signs along channels to discourage dumping by informing the public that water flows to the ocean.
 - Provide educational flyers to each new building unit regarding toxic chemicals and alternatives for fertilizers, pesticides, cleaning solutions and automotive and paint products.
 - Provide educational flyers to each new building unit regarding proper disposal of hazardous waste and automotive waste.
-

Source Reduction/Recycling

- Development of an integrated pest management program for landscaped areas of the project. These areas would include slope-stabilization landscaping, and commercial area landscaping. Integrated pest management emphasizes the use of biological, physical, and cultural controls rather than chemical controls. Examples include use of insect resistant cultivars, manual weed control, use of established thresholds for pesticide and herbicide application, use of chemical controls that begin preferentially with dehydrating dusts, insecticidal soaps, boric acid powder, horticultural oils, and pyrethrin-based insecticides.

Cleaning/Maintenance

- Routine cleaning of streets, parking lots and storm drains. Regular maintenance and cleaning of catch basins, and detention basins.

Structural Treatment Methods

- The proposed detention basins shall be designed as an extended basin for storm water quality control purposes in accordance with the California BMPs Handbook. The catch basins shall be designed to incorporate the latest stormwater protection BMPs to minimize the discharge of pollutants offsite. Said catch basin BMPs shall be reviewed and approved by the City prior to issuance of a Building Permit. Maintenance of the catch basins shall be required to eliminate the potential for odor problems, provision of mosquito habitat, and to prevent clogging and such maintenance would be the responsibility of the owner. Incorporation of appropriate BMPs along with a maintenance plan would reduce the amount of current and potential future pollutants discharged into the creek.
- Trash storage areas and storage areas for materials that may contribute pollutants to storm water shall be covered by a roof and protected from surface runoff. (H-3)

46. **Revegetation Plan.** The applicant shall submit a Mitigation Plan for areas of disturbance to the City of Carpinteria for review and approval by the City biologist. Restoration and mitigation shall be with locally occurring native wetland and riparian species at a ratio of 3:1. The plan shall include, but not be limited to the following:

- 1) Performance criteria: All planting shall have a minimum of 80% survival, by species, the first year and 100% survival thereafter and/or shall attain 75% cover after three years and 90% cover after five years for the life of the project. Prior to the restoration effort being determined successful, all plants shall be entirely without supplemental irrigation for a minimum of two years. In addition, no single species shall constitute more than 50% of the vegetative cover, no woody invasive species shall be present, and herbaceous invasive species shall not exceed 5% cover. If the survival and
-

- cover requirements have not been met, the operator is responsible for replacement planting to achieve these requirements. Plantings shall be monitored with the same survival and growth requirements for five years after planting.
- 2) **Monitoring:** Monitoring shall be carried out by a qualified monitor acceptable to the Community Development Department, and shall report annually on the progress of the restoration effort in the context of the plan as well as the performance criteria above.
 - 3) **Irrigation method/schedule:** The operator shall provide irrigation when natural moisture conditions are inadequate to ensure survival of plants. Irrigation shall be provided for a period of at least two years from planting. Irrigation shall be phased out during the fall/winter of the second year unless unusually severe conditions threaten survival of plantings. All plants must survive and grow for at least three years without supplemental water for the restoration phase of the project to be eligible for acceptance by the Department.
 - 4) **Provisions for the removal of non-native and invasive species (including details regarding the type and use of herbicides in and near aquatic habitat and sensitive species).** (BIO-1a)
47. **Final Landscape Plan.** Prior to issuance of a Grading or Building Permit, a final landscape plan shall be reviewed and approved by the City biologist to ensure that all invasive species as listed by the Channel Islands Chapter of the California Native Plant Society and CalEPPC are deleted from the landscape plan, consistent with General Plan Policy CD-11f and the Creeks Preservation Program. All approved landscaping within the 100-foot creek corridor shall be installed prior to Certificate of Occupancy of the first commercial building. Once installed, the applicant shall install temporary fencing to adequately protect the landscaping from site construction disturbance. The temporary fencing shall remain until such time as the Community Development Director determines it is appropriate for removal. (BIO-1b)
48. **Lighting Plan.** Consistent with General Plan lighting policies, no spotlights or floodlights shall be located in or adjacent to the Lagunitas Creek restoration area, and lighting adjacent to the restoration area and along the proposed walking path, if any, shall be shielded, directed downward, and shall not exceed 0.01 foot-candles five feet inside of the 50-foot setback from each top of bank. (BIO-1c)
49. **Final Drainage Plan.** The final drainage plan shall be designed, installed and maintained to provide for sufficient flow to support riparian habitat on and off site. The final drainage plan shall be reviewed and approved by Community Development prior to issuance of a Grading Permit. (BIO-1d)
-

50. **Proof of State and Federal Compliance.** Prior to issuance of a Grading Permit, the applicant shall provide proof that all required permits/agreements have been obtained for the project from the USACE and CDFG. (BIO-1e)
51. **Tree Replacement.** The applicant shall replace the cross-sectional area of any native tree species with native riparian trees species at a minimum ratio of 3:1. Any unanticipated damage that occurs to trees or sensitive habitats during construction activities shall be mitigated by either tree replacement (or financial security for tree replacement) or hiring (at applicant expense) a qualified biologist or botanist to assess the damage and recommend mitigation. (BIO-2)
52. **SR 150/Highway 101 Roundabout.** The applicant shall construct a five-legged roundabout at the intersection of State Route 150 and the Highway 101 Northbound Ramps. This measure would realign Via Real to intersect SR 150 at the SR 150/U.S. 101 Northbound Ramps. Figure 4.5-7 in the Final Subsequent EIR dated October 2006 illustrates this mitigation improvement. In addition to the realignment of Via Real, the following would be implemented under this mitigation scenario:
- Lane configuration modification (addition of an eastbound left-turn lane) at U.S. 101 Southbound Ramps/Bailard Avenue intersection; and
 - Lane configuration modification (westbound approach to include one left-turn lane and one shared through/right-turn lane) at U.S. 101 Northbound Ramps/Bailard Avenue intersection. (T-1b)
- If permits for this interchange improvement are not approved, then the project shall be returned to the City Council for consideration of alternative mitigation.
53. **Via Real Widening.** Via Real shall be widened along the project frontage and re-striped to provide an eastbound left turn lane in accordance with City standards. (T-2a)
54. **Flexible Schedules.** The applicant shall require onsite employers to implement flexible employee schedules. (T-2b)
55. **Construction Traffic Routing.** During project construction, large trucks such as cement trucks and dump trucks, as well as heavy equipment and trucks carrying heavy equipment, and all traffic making deliveries or providing services to the project and construction employees who are not traveling directly to locations off Via Real west of the site, shall access and leave the site from the east, i.e., using Via Real east of the site to and from Highway 101, Route 150 and Carpinteria Avenue. This routing shall be used unless the Highway 101/Route 150 interchange construction completely blocks the flow of traffic from that direction. (T-2c)
-

56. **Traffic Control.** During project grading and construction, traffic control personnel shall direct traffic as required to ensure the safe and efficient movement of bicycles, pedestrians and vehicles during roadway and site improvements. Traffic control shall occur throughout all grading and construction activities that affect the normal flow of traffic and shall be monitored by Public Works staff.
57. **Construction Parking and Staging.** Construction equipment staging and storage areas and construction worker parking areas shall be located on the project site and shall be depicted on project plans submitted for Grading and Building Permits. (T-2d)
58. **Fugitive Dust Emissions.**
- During construction, water trucks and/or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent fugitive dust from leaving the site. At a minimum, this shall include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency shall be required whenever the wind speed exceeds 15 miles per hour. Reclaimed water shall be used whenever possible;
 - Onsite vehicle speeds shall be reduced to 15 miles per hour or less;
 - Gravel pads shall be installed at all access points to prevent tracking of mud onto public roads, most notably Via Real;
 - Streets adjacent to the project site shall be swept as needed to remove silt that may have accumulated from construction activities so as to prevent excessive amounts of dust;
 - When importation, exportation, and/or stockpiling of fill material is involved, soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation. Trucks transporting soil, sand, cut or fill material to or from the site shall be covered with a tarp from the point of origin;
 - The area disturbed by clearing, grading earth moving, or excavation operations shall be minimized so as to prevent excessive amounts of dust;
 - After clearing, grading, earth moving or excavation is completed, the disturbed area shall be treated by watering or revegetating or spreading soil binders until the area is paved or otherwise developed so that dust generation will not occur;
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- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off-site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and phone number of such persons shall be provided to the APCD and the City prior to issuance of a Grading Permit; and
- All dust control requirements shall be shown on the applicable grading and building plans. (AQ-1a)

59. **Equipment Emission Control Measures.** The following shall be adhered to during project grading and construction to reduce NOx emissions from construction equipment and shall be printed on grading plans prior to issuance of a Grading Permit:

- Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated "clean" diesel engines) shall be used whenever feasible.
- The engine size of construction equipment shall be the minimum practical size.
- The number of pieces of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure the smallest practical number is operating at any one time.
- Construction equipment shall be maintained in tune per the manufacturer's specifications.
- Construction equipment operating onsite shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines.
- Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- Diesel catalytic converters shall be installed, if available.
- Diesel powered equipment shall be replaced by electric equipment whenever feasible.
- Construction employee trips should be minimized by encouraging carpooling and providing for lunch onsite. (AQ-1b)

60. **ROC Control.** Low volatile organic compound (VOC) architectural and asphalt coatings shall be used onsite. (AQ-1c)

61. **Vehicle Trip Reduction Measures.** The project shall incorporate the following to minimize vehicle trips associated with the project:

- The applicant shall coordinate with Santa Barbara MTD regarding bus routes and scheduling to adequately serve the project.
- Project design shall include a postal machine and an automated bank teller to minimize the need to travel offsite for these services. (AQ-3a)

62. **Potential Air Pollutant Emission Offset Program Fees.** In the event that either the City of Carpinteria or Santa Barbara County Air Pollution Control District adopts an air pollutant emission offset program prior to issuance of building permits for any component of the project, the applicant shall pay fees for that component that are in place at the time of issuance of Building Permits. (AQ-3b)
 63. **Free Transit Passes.** The applicant shall include in the lease agreement for all future tenants a requirement that all employees be provided free transit passes upon request. The lease agreement language shall be reviewed and approved by the City prior to issuance of occupancy clearance for the office buildings. (AQ-3c)
 64. **Energy Efficiency Measures.** Project design shall incorporate the following to minimize energy use and associated air pollutant emissions:
 - Photovoltaic roof tiles or other means to harness photovoltaic power;
 - Use of concrete or other non-polluting materials for parking lots;
 - Mechanical air conditioners and refrigeration units that use non ozone depleting chemicals;
 - Use of insulation with 100% recycled content;
 - Use of on-demand home water heaters;
 - Site preparation for installation of an electric vehicle charging station; and
 - A display kiosk with air quality and alternative transportation educational materials. (AQ-3d)
 65. **Innovative Building Review.** The project applicant shall work with the Innovative Building Review Committee (IBRC) to identify additional energy efficiency or alternative energy measures that can be incorporated into project design. Such measures may include, but are not limited to, incorporation of solar panels on site structures. Comments from the IBRC shall be provided to the City prior to issuance of a Building Permit. (AQ-3e)
 66. **Acoustical Blankets.** Noise-generating construction equipment operating within 300 feet of a residence shall be fitted with acoustical blankets to reduce noise transmission. Blankets shall be used throughout all grading and construction activities. (N-1a)
 67. **Mufflers.** All diesel equipment shall be operated with closed engine doors and shall be equipped with factory-recommended mufflers. This measure shall be printed on the project plans prior to issuance of a Grading Permit. (N-1b)
 68. **Electric Power.** Whenever feasible, electrical power shall be used to run air compressors and similar power tools. This measure shall be included on project plans prior to issuance of a Building Permit. (N-1c)
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69. **Construction Hours of Operation.** Construction activities at the site shall be limited to the daytime hours between 7:00 a.m. to 4:00 p.m., Monday through Friday, with no construction on State recognized holidays. Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. Two signs indicating this restriction shall be posted on the site prior to the commencement of grading and shall remain in place throughout the construction phase. The contractor or builder shall designate a person to monitor the construction hours and associated noise impacts. The name and phone number of the contact person shall be provided to the Community Development Department prior to issuance of a Grading Permit. (N-1d)
 70. **Equipment Shielding.** Stationary construction equipment that generates noise which exceeds 65 dBA at the project boundaries shall be shielded to the City's satisfaction and shall be located as far as possible from nearby residences. The equipment area with appropriate acoustic shielding shall be designated on building and grading plans and shall remain in the designated location throughout construction activities. (N-1e)
 71. **Construction Complaints.** The applicant shall provide a contact person's name and telephone number for local residents to call to submit complaints associated with construction. The name and phone number shall be posted on the project site throughout all construction periods and shall be easily viewed from adjacent public areas. (N-1f)
 72. **Truck Operations.** Onsite trash pickup services, street and parking lot sweeping, and truck deliveries shall be restricted to the hours of 7:00 am to 6:00 pm. (N-2a)
 73. **Warehousing and Distribution Prohibition.** High truck traffic generating uses such as warehousing and distribution shall be prohibited onsite. (N-2b)
 74. **Frontage Tree Height.** Landscaping trees incorporated into the Via Real landscaped frontage shall be of a species that naturally grows to a common maximum of 30 feet in height upon maturity, or shall be pruned and shaped so that a 30-foot profile is maintained. Landscape trees shall be a minimum 15-gallon box size. These requirements shall be incorporated into the landscape plan prior to issuance of a Building Permit. (AES-2a)
 75. **Parking Lot Landscaping.** The commercial parking lot that is adjacent to the southern boundary of the project site shall be adequately screened from public view along Via Real by incorporating design elements such as, but not limited to: earthen berms, a three-foot tall wall or fence that includes landscape pockets, and/or additional landscape screen trees and shrubs. These features shall be included on the landscape plan prior to issuance of a Building Permit. (AES-2b)
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76. **Lighting Standards.** All exterior lighting shall be designed so that light does not exceed one foot-candle at the property line, considering weather conditions. No unobstructed exterior beam of lighting shall be directed toward the residential neighborhood north of the site. Non-glare lighting shall be used on all site development. (AES-3a)
 77. **Illuminated Signage.** Any wall mounted illuminated signs shall be restricted to metal channel-style letters that are back-splashed with lighting. (AES-3b)
 78. **Tinted Office Windows.** Office building windows shall be tinted in order to minimize glare from interior office lighting. (AES-3c)
 79. **Low-glare Fenestration.** All fenestration shall be of a low-glare specification. Paint used for exterior facades shall be of low reflectivity. Metal surfaces shall be brush-polished and not highly reflective. (AES-3d)
 80. **Low-reflective Roofing.** All roofing material and any roof-mounted mechanical equipment shall be of low reflectivity. (AES-3e)
 81. **Second Floor Sector Lighting.** Lighting on the second floor of the commercial buildings shall be controlled by work areas rather than for entire floors or larger units. Lighting sectors shall be a maximum of $\frac{1}{4}$ the size of each building's second floor area and shall illuminate a maximum of $\frac{1}{2}$ of each building's second floor as viewed from off site. (AES-3f)
 82. **Automatic Shut-Off of Interior Lights.** Occupancy sensors or timers for automatic shut-off of interior lights shall be incorporated into building design. (AES-3g)
 83. **Solid Waste Management Program.** Prior to issuance of grading permits, the applicant shall develop and implement a Solid Waste Management Program that shall identify the amount of waste generation projected during processing of the project. The program shall include, but is not limited to, the following:
 - Provision of space and/or bins for storage of recyclable materials within the project site.
 - Implementation of a green waste source reduction program, including the creation of lot or common composting areas, and the use of mulching mowers in all common open space lawns.
 - Development of a plan for accessible collection of materials on a regular basis.
 - Provision of recycling bins at the construction site to minimize construction-generated waste that goes to the landfill.
 - Development of a City-approved waste diversion plan by the construction contractor.
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- Participation in the construction/demolition-recycling program provided by Harrison and Sons, Inc. If the program is not applicable to project construction plans, then demolition and/or excess construction materials shall be separated onsite for reuse/recycling or proper disposal (e.g., concrete and asphalt). (SW-1)

Engineering Conditions

84. Any improvements necessary to implement the required Transportation Demand Management Program shall be submitted to the Architectural Review Board as part of the final review. (Engineering)
 85. The applicant shall submit grading, drainage and street improvement plans prepared by a California Registered Civil Engineer. Said plans shall include but not be limited to street, utility, and storm drain improvements and shall be submitted to the Community Development Department for review and approval prior to recordation of the Final Map, and prior to issuance of a Grading Permit. (Engineering)
 86. Prior to issuance of Engineering Permits, an Engineering Cost Estimate shall be submitted with the Grading and Improvement Plans. Each page of the Cost Estimate shall be signed and stamped by the applicant's engineer. (Engineering)
 87. Prior to or issuance of building permits, faithful performance and labor and material bonds (each to be 100% of the City Engineer's estimate) shall be filed with the City to cover all public improvements and any on-site grading and retaining walls. A cash deposit in the amount of 10% of the bond amount shall be submitted with each bond. (Engineering)
 88. Development shall be undertaken in accordance with conditions and requirements of the State of California Regional Water Quality Control Board. Project Grading and Storm Drain Improvement Plans shall identify and incorporate Best Management Practices (BMP's) appropriate to the uses conducted on-site and during construction to effectively mitigate storm water pollution. (Engineering)
 89. At the time of acceptance of public improvements, the applicant shall submit a set of "Record Drawings" showing any and all changes made to the design plans during the construction period. The "Record Drawings" shall be permanent mylar copies of a quality acceptable to the City Engineer. (Engineering)
 90. Prior to occupancy of the project, all new and existing utility services and vaults shall be placed underground and completed prior to any paving required for the project. No new utility poles shall be installed. (Engineering)
 91. Existing overhead transmission and distribution lines located along the edges of the property shall be placed underground. The undergrounding shall extend along
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the project street frontage to the nearest utility pole(s) outside of the project limits. Feed points shall be as approved by the City Engineer. All costs of undergrounding existing utility lines and service laterals shall be borne by the applicant. It is the intent of this condition to underground utilities to the greatest extent possible. (Engineering)

92. Existing and proposed easements for all utilities shall be located and described on the engineering plans or the architectural drawings prior to issuance of Building Permits. (Engineering)
 93. Separate electric meters shall be installed for each unit unless a 'gang' meter is approved by Southern California Edison. Electric meters shall be shown on plans submitted for building permit to be checked by the City Building Permit plan checker. (Engineering)
 94. Plans shall be submitted for frontage improvements along Via Real prior to issuance of Grading Permits for review by the City Engineer. Frontage improvements, including, but not limited to, curb, gutter, sidewalk, paving, street lights, fire hydrants, street signs, street trees, bus shelter and associated improvements are to be installed in conformance with the standards, specifications and policies of the City. Unless otherwise specified, the City utilizes the County of Santa Barbara Engineering Standards. (Engineering)
 95. Paving and curbs and gutters shall transition into existing public improvements as required by the City Engineer. Plans shall be submitted prior to issuance of building permits for review by the City Engineer. Construction shall be completed prior to issuance of Certificate of Occupancy. (Engineering)
 96. All streetlights shall be installed in conformance with City Standards. Plans shall be submitted prior to issuance of building permits for review by the City Engineer. Construction shall be completed prior to issuance of Certificate of Occupancy. (Engineering)
 97. A Street Construction and/or Excavation Permit shall be obtained from the City Engineer prior to any construction within the street right-of-way. (Engineering)
 98. All street improvements shall be completed to the satisfaction of the City Engineer prior to the issuance of a Certificate of Occupancy by the Community Development Department. (Engineering)
 99. Prior to the release of any securities, a Notice of Completion for all public improvements shall be presented to and accepted by the City Council. (Engineering)
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100. At the time that Street Improvement Plans and Grading and Drainage Plans are submitted for review and approval by the City Engineer, two copies of a Soils Report, prepared by a California Registered Geologist or Soils Engineer, shall be submitted to the Community Development Department. The Report shall address soils engineering and compaction requirements, R-values, and other soils and geology related issues (including liquefaction) and shall contain recommendations as to foundation design, retaining wall design, and paving sections where applicable for the project. (Engineering)
101. At the time that Street Improvement and Grading and Drainage Plans are submitted for review and approval by the City Engineer, hydrology/hydraulic calculations shall be submitted by the applicant's engineer determining the adequacy of the proposed drainage system and the adequacy of the existing downstream system. A rainfall frequency of 25 years shall be used for sizing piping and inlet structures. If no overland escape is available, 100-year flows shall be used as the basis of design. Santa Barbara County Engineering Design Standards shall be used. Storm drainage run-off shall be conducted to the public street in a safe and adequate manner per Santa Barbara County Standards. Easements required for drainage shall be described and shown on the Improvement Plans. (Engineering)
102. Prior to performing any grading, the developer shall obtain a Grading Permit from the City Engineer and pay the required grading permit deposits/fees. For all projects over one acre in size, a separate grading permit is required to be obtained from the State Water Resources Control Board and must be obtained prior to City issuance of a City Engineering Grading Permit. (Engineering)
103. Prior to issuance of Grading Permit, a Storm Water Pollution Prevention Plan (SWPPP) which covers all phases of the grading operations must be prepared and submitted for review to the City Engineer. Said Plan shall incorporate appropriate Best Management Practices (BMPs) to effectively mitigate the effects of storm water pollution. (Engineering)

Carpinteria-Summerland Fire Protection District

104. Project shall comply with all applicable standards of the Fire District and the City Municipal Code §8.24. (CSFPD)
 105. Access to all structures shall conform to the requirements for private roads and driveways set forth in the Santa Barbara County private roads and driveway standards, Section 8. (CSFPD)
 106. All required access ways (public and private) shall be installed and made serviceable prior to the erection of combustible materials. (CSFPD)
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107. Access ways shall be extended to within 150 feet of all portions of the exterior walls of the first story of any building. (CSFPD)
 108. Dead end access roads shall terminate with a Fire District approved turnaround. (CSFPD)
 109. A minimum of 13 feet 6 inches of vertical wall clearance shall be provided and maintained for fire apparatus. (CSFPD)
 110. When access ways are gated, a Fire District approved key box shall be installed in an accessible location. Prior to installation, the location and type shall be approved by the Fire District. (CSFPD)
 111. Prior to issuance of Fire District approval of plans, the northeast industrial/office building shall provide fire access. (CSFPD)
 112. Visible street addresses must be posted at driveways and on the buildings. Numbers shall be a minimum four inches high on a contrasting background. (CSFPD)
 113. Permanent exterior access to the roof shall be provided for commercial buildings where the roof edges, mansard, or parapet is over 18 feet above grade level. The access ladders shall commence at the 18-foot level and terminate at the roof. This access must be located where the Fire District can utilize their ladders and, therefore, shall meet their approval. (CSFPD)
 114. Public fire hydrants supplying the required fire flow within the required driving distance from the structure shall be provided. The type of hydrant and the exact location shall be approved by both the Carpinteria Fire and Water Districts. The new fire hydrant shall be installed and in service prior to any construction. (CSFPD)
 115. Fire hydrants shall be installed within 500 feet driving distance of all residences and 350 feet driving distances from the industrial/office structures. The fire hydrants and mains supplying same shall be installed in accordance with the established standards, and supply a minimum 1,500 gallons per minute under normal flow pressure. (CSFPD)
 116. Prior to water system installation, one set of plans showing the location size and type of hydrants, valves, main lines and lateral lines shall be submitted to the Fire District for approval. (CSFPD)
 117. Prior to the erection of combustible materials, the fire protection water system shall be installed, tested and approved by the Fire District to ensure compliance with the standards expressed herein. (CSFPD)
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118. All new commercial and multi-unit residential buildings shall be protected by an approved automatic fire sprinkler system. It is highly recommended that the single-family homes have a sprinkler system. Prior to installation, plans for the proposed fire sprinkler system shall be designed by a qualified person and submitted to the prevention bureau for approval. (CSFPD)
119. An approved fire alarm system shall be installed as set forth in the Fire Code. (CSFPD)
120. Prior to occupancy, State Fire Marshal approved smoke detectors must be installed in accordance with the County Code. (CSFPD)
121. Pursuant to C.S.F.P.D. Ordinance No. 92-02, prior to issuance of a "Certificate of Occupancy", the Carpinteria-Summerland Fire Protection District mitigation fee must be paid. Mitigation fees shall be assessed in accordance with Ordinance 599 for applicable residential, commercial and industrial development. (CSFPD)
122. Any future changes, including further division, intensification of use, or increase in hazard classification, may require additional conditions in order to comply with applicable Fire District development standards. (CSFPD)

Carpinteria Sanitary District

123. LAFCO of Santa Barbara County and the Carpinteria Sanitary District's Board of Directors must approve the annexation of this parcel to the District. All fees associated with LAFCO annexation are the responsibility of the applicant. (CSD)
 124. The owner of record shall enter into an Agreement for Construction of Sewer Facilities with the Carpinteria Sanitary District. All permitting fees and Performance Bonds are due to the District prior to construction. (CSD)
 125. The applicant shall submit three sets of sewer construction drawings to the Sanitary District for review prior to final conditions. As-built drawings on mylars will be required at the completion of the project and submitted to the District. (CSD)
 126. Owner must submit for review, a comprehensive engineer's estimate for the cost of the sewer construction for the development. (CSD)
 127. No trees shall be planted within seven feet of a sewer mainline, building lateral, or within the Sanitary District's recorded easement. No buildings or structures shall be constructed within three feet of a sewer mainline or within two feet of a building lateral or District recorded easement. (CSD)
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128. Owner must submit, for review, an engineer's analysis of the impact of the development upon the District's existing sanitary sewer system and capacity. The Sanitary District will provide the study parameters. Applicant shall contact the Sanitary District to determine if any existing sewer flow analysis for the development shall be updated or tested to the District's satisfaction at the applicant's responsibility. (CSD)
129. The Carpinteria Sanitary District Sewer Development Impact Fee will be calculated and charged for each newly constructed commercial building. Payment will be due in full prior to the commencement of construction. District sewer service charges (SSCs) are collected through the County of Santa Barbara property tax rolls on an annual basis. Prior to obtaining a Certificate of Occupancy for each proposed development, the applicant shall pay District applicable SSCs due for the period between building occupancy and the following June 30th. Non-residential SSCs are estimated based on projected water use. (CSD)
130. The Carpinteria Sanitary District Sewer Development Impact Fee in effect at the time of the permit application will be charged for each newly constructed equivalent dwelling unit (EDU). For example, the current fee is \$2,400 per EDU so \$177,600 (\$2,400 x 74 units) will be collected prior to construction. In addition, the DIF charges for the proposed office/research buildings shall be added to the DIF for the proposed EDUs. The Sanitary District's Finance Director will determine those fees and submit a total prior to permitting. (CSD)
131. Each commercial building is required to install a Sanitary District approved grease interceptor (pre-treatment device) equipped with a sample point. All non-domestic wastewater shall be plumbed to the interceptor. All State, Federal and District sanitary requirements will be enforced for commercial and residential development. (CSD)
132. An "S" shall be stamped onto the face of the gutter/sidewalk at the point of terminus for each residential units sewer lateral. (CSD)
133. Each residential unit shall have a sewer service lateral cleanout located at the property line. This cleanout shall have a concrete box with a metal lid for locating purposes. Details are available from the Sanitary District. All commercial development cleanouts shall be constructed to Carpinteria Sanitary District Standards. (CSD)

Carpinteria Valley Water District

134. Developer shall enter into a Main Extension Agreement with the Water District prior to approval of construction plans. (CVWD)
 135. Developer shall pay all fees and deposits prior to beginning construction. (CVWD)
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136. Developer shall submit construction plans to the Water District for review prior to final approval of construction plans. (CVWD)
137. Each residential unit shall be supplied by appropriately sized meters as determined by the Water District. (CVWD)
138. Water facilities shall be constructed per Water District Standards. (CVWD)
139. Performance bonds shall be submitted to the Water District prior to construction. (CVWD)
140. Inspection Fees shall be paid to the Water District prior to project construction. (CVWD)
141. If the road will be a private road, then recorded easements, as specified in the said Main Extension Agreement shall be filed at the Water District before final occupancy. (CVWD)
142. Water District fees will be determined at the time of Main Extension Agreement. (CVWD)

TENTATIVE PARCEL MAP

143. Prior to recordation of the map, the applicant shall complete (to the satisfaction of the Community Development Director) a separate informational sheet to be recorded with the map listing all of the mitigation measures, conditions, agreements and specific plans associated with or required by this project approval. These requirements shall be graphically illustrated where necessary for clarification. (Community Development)
 144. Street trees shall be planted in conformance with the City Street Tree Policy or, upon determination and approval of the City Manager, that prior to the issuance of any building permits the applicant post a cash surety in an amount commensurate with the number and type of trees as specified on the Landscape Plan or adopted Street Tree Plan. This surety shall be equivalent to the cost of in place landscape development. (Architectural Review)
 145. The Parcel Map shall be subject to the Subdivision Ordinance of the City of Carpinteria and to the State Subdivision Map Act. The map shall be prepared by a qualified California Registered Civil Engineer or Licensed Land Surveyor. Closure calculations shall be submitted along with adequate reference data and a current title report. Two copies of the map and one copy of the calculations shall be submitted. Within 30 days after the recordation of the Final Map, the applicant shall deliver one set of reproducible mylar copies of the recorded map to the Community Development Department. (Engineering)
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146. The Parcel Map shall be substantially in conformance with the Tentative Map as approved. Any substantial changes, as determined by City staff, require the approval of the Planning Commission and the City Council. (Engineering)
147. The Tentative Parcel Map shall expire three years after approval or conditional approval by the final decisionmaker unless otherwise provided in the Subdivision Map Act, Government Code §66452.6.
148. The applicant shall pay all engineering fees and all other fees and deposits prior to approval of the Parcel Map by the City Council. (Engineering)
149. Before recordation of the Parcel Map, developer shall provide the City Engineer with written evidence from the Santa Barbara County Clerk's Office that Developer has executed and filed with the Clerk all certificates, statements and securities required by Government Code §66492 and 66493. (Engineering)
150. The applicant shall offer to dedicate to the City of Carpinteria a 20-foot wide Storm Drain easement which straddles the centerline of the existing 42" RCP Storm Drain that drains from Cindy Lane. (Engineering)
151. The applicant shall dedicate to the City of Carpinteria, in fee, the necessary right-of-way frontage along Via Real as necessary for the road improvements. (Engineering)
152. The emergency lane of access onto Lomita Lane shall be adequately controlled to prevent blockage of emergency vehicles. This shall include at minimum "no parking" signage and "red curb" treatment at the appropriate locations. Lomita Lane shall be reconstructed per the approved plans prior to the Certificate of Occupancy for the first commercial building. Throughout the construction process Lomita Lane shall be maintained in good repair as determined by the Community Development Department. (Engineering)

TENTATIVE TRACT MAP

153. The Tract Map shall be subject to the Subdivision Ordinance of the City of Carpinteria and the State Subdivision Map Act. The map shall be prepared by a qualified California Registered Civil Engineer or Licensed Land Surveyor. Closure calculations shall be submitted along with adequate reference data and a current title report. Two copies of the map and one copy of the calculations shall be submitted. Within 30 days after the recordation of the Final Map, the applicant shall deliver one set of reproducible mylar copies of the recorded map to the Community Development Department. (Engineering)
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154. The Final Map shall be substantially in conformance with the Tentative Map as approved. Any substantial changes, as determined by City staff, require the approval of the City Council. (Engineering)
 155. The Tentative Map shall expire three years after approval or conditional approval by the final decisionmaker unless otherwise provided in the Subdivision Map Act, Government Code §66452.6.
 156. The applicant shall pay all engineering fees and all other fees and deposits prior to approval of the Final Map by the City Council. (Engineering)
 157. Prior to recordation of the Final Map, developer shall provide the City Engineer with written evidence from the Santa Barbara County Clerk's Office that developer has executed and filed with the Clerk all certificates, statements and securities required by Government Code §66492 and 66493. (Engineering)
 158. Prior to recordation of the Final Map, and in accordance with the Subdivision Ordinance, the developer shall prepare plans and specifications for review by the City Engineer and shall enter into an Agreement for Land Development Improvements with the City to install improvements. In association with this Agreement, the developer shall provide the necessary bonds to ensure the construction of the improvements. (Engineering)
 159. Prior to recordation of the Final Map, and in accordance with the Subdivision Ordinance, the developer shall prepare plans and specifications for review by the City Engineer, and shall enter into an Agreement for Land Development Improvements with the City to install improvements. In association with this Agreement, the developer shall provide the necessary bonds to ensure the construction of the improvements. (Engineering)
 160. Prior to recordation of the Final Map, the developer shall prepare and submit to the City Engineer and City Attorney for their joint review and approval, Covenants, Conditions and Restrictions ("CC&Rs") governing the subdivision. The CC&Rs shall provide for establishment of a Homeowners' Association delineating architectural controls and responsibilities for maintenance of all open space, landscaping, site improvements, including the storm drain system, building exteriors and all other common areas developed upon the property (hereinafter collectively referred to as "Common Areas"). CC&Rs shall include a Storm Drain System Monitoring and Maintenance Plan, which addresses specific tasks and timelines for the maintenance of the on-site storm drain system. The CC&Rs shall bind the Subdivider, Homeowners' Association and any and all successors and assigns in the property with respect to maintenance, occupancy, use and modification of all Common Areas. As part of the CC&Rs, the City shall be named as Third Party beneficiary with the right, but not the obligation, to enforce the CC&Rs in the event of default with powers of enforcement in the event of either
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the Subdivider or Homeowners' Association's failure to abide by the terms and provisions thereof. (Engineering)

161. **Height Restriction.** All residential lots shall be restricted to the height and stories approved as part of the project. The homes on the following 22 lots shall be one story and no second story additions shall be permitted for such houses: Lots 1 - 13, Lots 19 - 21, Lots 24 - 25, Lots 31 - 33 and Lot 35. A covenant imposing the condition specified herein that is approved as to form by the City Attorney shall be recorded concurrently with the final map for the above listed individual lots. This condition shall also be included in the CC&Rs for the project. (Planning Commission)
162. **Additions.** All additions attached to the residential structures shall comply with the approved setbacks of the project or the setbacks identified with the City's R-1 zone district, whichever is less. (Planning Commission)
163. **Accessory Structures.** All accessory structures shall comply with the City's General Development Provisions. (Planning Commission)
164. **Fencing Restriction.** The residential detention basin has been designed to avoid the potential for future perimeter fencing that would enclose the basin thereby minimizing its open space characteristics. No barrier of any kind shall be placed around or otherwise enclose the detention basin.
165. **Building Coverage.** All projects are permitted a building coverage of no more than five percent above the building coverage permitted on the parcel at the time of Tract Map approval. In cases where the originally approved building coverage is less than 35% (the maximum prescribed in an R-1 zone district), proposed development shall not exceed a maximum 40% building coverage.

PARKING AND TRANSPORTATION

166. In accordance with the Carpinteria Municipal Code, parking facilities for bicycles shall be provided, the configuration and location of which shall be subject to review and approval of the Architectural Review Board. Bicycle parking facilities shall include:
 - A. **Parking Area Dimensions/Location:** A paved area at least six feet by one and one-half feet shall be provided for each required parking space for bicycles. Parking shall be located outside of pedestrian walkways, loading areas, etc. Parking area should be covered, where feasible.
 - B. **Rack Design:** Parking rack models shall be as specified below.
 1. Enclosed lockers or approved equal.
 2. Hitching posts permanently affixed to pavement or approved equal.

167. A minimum of 509 parking spaces be provided on the industrial portion of the subject property in accordance with the parking design standards as stipulated in Section 14.54 of the Carpinteria Municipal Code and as shown on the approved improvement plan with the exception of 153 compact stalls with minimum dimensions of 8' x 15'. (Parking/Transit/Traffic)
 168. A project based Transportation Coordinator shall be responsible for actively promoting the Superticket program. The coordinator shall post MTD posters, schedules and other route information in common areas. The coordinator need not be a separate position, but must be familiar with transit (Parking/Transit/Traffic).
 169. As determined by the Community Development Department, transit facility improvements adjacent to the project shall include but not be limited to bus turnouts (bus pockets), lighted bus shelters, trash receptacles, schedule information displays, bus sign poles and provisions for accessible loading areas. Improvements shall be paid for by the developer. (Parking/Transit/Traffic)
 170. Any existing transit facility displaced by the proposed project shall be relocated by the tenant/developer to a site acceptable to the City of Carpinteria and MTD. (Parking/Transit/Traffic)
 171. Highly visible and marked car/vanpool parking shall be provided in the very best and most convenient locations (i.e., in close proximity to building entrance, away from nuisances, in the shade) in amounts sufficient to accommodate all interested employees. (Parking/Transit/Traffic Conditions)
 172. Parking for single-occupant employee commuters shall be located behind the car/vanpool parking areas. (Parking/Transit/Traffic Conditions)
 173. Secure bicycle parking shall be provided in visible, convenient and well-lit locations. (Parking/Transit/Traffic)
 174. The project includes a Transportation Demand Management Program. Components of the program are aimed towards the following:
 - Integrating jobs with on-site housing opportunities to reduce employee commuting.
 - On-site employee workout area, showers and locker rooms.
 - On-site bicycle lockers and storage facilities.
 - On-site recreation courts.
 - On-site lunch parks, employee lunchrooms.
 - On-site dry-cleaning and laundry drop-off/pick-up facility.
 - Carpooling and vanpooling preferred parking spaces.
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- Tenants to provide coordinated lunch service to bring restaurant food orders to the site.
- Tenants to implement flexible work schedules.
- Tenants to designate transportation coordinators to assist with carpooling programs and employee incentives to use alternative transportation.
- New bus stop shelter along Via Real adjacent to project site that may accommodate local, express and regional bus participation.
(Parking/Transit/Traffic)

175. **Construction Monitoring:** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the applicant agrees to:

- a. Provide CDD staff with the name and phone number of the future contact person for the project and give estimated dates for future project activities.
- b. Contact CDD staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting with the owner, other agency personnel and key construction personnel.
- c. Pay fees prior to approval of a Grading Permit to cover costs of monitoring as described above, including costs for CDD to hire and manage outside consultants when deemed necessary by CDD staff. In such cases, the applicant shall comply with CDD recommendations to bring the project into compliance. The decision of the Director of CDD shall be final in the event of a dispute.

176. **Development Agreement Reporting.** The applicant shall participate in an annual report to the City Council providing feedback on the status of the Development Agreement as specified in Section 7.02 of the Development Agreement and the status of the grading and construction. This report shall include a description of the status of development, status of conditions, incidents of non-compliance and their results and any other pertinent or requested information.

177. Written authorization to proceed and consent to conditions of approval by the legal owner of the property shall be provided to the City prior to Building Permit issuance.

Approved by the City Council on October 23, 2006

City Clerk

Date

Staff Planner Date

I HAVE READ AND UNDERSTOOD, AND I WILL COMPLY
WITH ALL ABOVE STATED CONDITIONS OF THIS PERMIT

Applicant Date

Property Owner Date

[CLICK HERE FOR EXHIBITS 4 - 14](#)