

CALIFORNIA COASTAL COMMISSION

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Prepared September 20, 2007 (for October 12, 2007 hearing)

To: Commissioners and Interested Persons

From: Charles Lester, Deputy Director
Susan Craig, Coastal Planner

Subject: **City of Santa Cruz LCP Major Amendment Number 1-06 (Citywide Creeks & Wetlands Management Plan)** Proposed major amendment to the City of Santa Cruz certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's October 12, 2007 meeting to take place at the Crowne Plaza Los Angeles Harbor Hotel at 601 S. Palos Verdes Street in San Pedro.

SYNOPSIS

The City of Santa Cruz proposes to add the Citywide Creeks and Wetlands Management Plan (Management Plan) to the Local Coastal Program's (LCP) Land Use Plan (LUP) (to view the Management Plan document and Management Plan maps, go to the web site addresses listed on page 2 of this report under the "Exhibits" heading). The City also proposes to amend the certified Zoning Ordinance to add Chapter 24.08 Part 21: Watercourse Development Permit and Chapter 24.08 Part 22 Watercourse Variance (see Exhibit #4 for proposed implementation plan amendments). The purposes of the amendment are to: (1) identify and map the watercourses and known wetlands within city limits; (2) identify appropriate development setbacks based on an evaluation of habitat, stream, and land use characteristics of individual watercourses and wetlands; (3) recommend management actions that promote preservation of riparian and wetland resources; (4) define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and; (5) provide a framework for permitting development adjacent to watercourses.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the amendment if modified to: (1) re-label the northwestern finger of Moore Creek as reach #2 and apply a 100-foot wide riparian corridor and a 50-foot development setback to this reach of creek; (2) provide a 30-foot riparian corridor width and a 50-foot development setback for reach 3 of Arroyo Seco Creek; (3) provide additional encouragement for restoration of Category "B" creeks; (4) place additional restrictions on the removal of riparian vegetation; (5) add additional species to the Management Plan's invasive nonnative vegetation lists, and; (6) include a definition of wetlands that is consistent with California Code of Regulations Section 13577.

ANALYSIS CRITERIA

The Commission certified the City of Santa Cruz's Land Use Plan in July 1981. The Implementation Plan was certified in April 1985 and the City assumed coastal development permit authority that year. This proposed amendment is to the LUP and IP and was originally submitted on June 8, 2006. The amendment was filed as complete on September 25, 2006. On November 16, 2006 the Coastal Commission extended the initial three-month time limit for action until November 24, 2007.

The City has organized and submitted this LCP amendment request in accordance with the standards for



California Coastal Commission

October 2007 Meeting in San Pedro

Staff: Susan Craig Approved by: Charles Lester

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amendments to certified LCPs (Coastal Act Sections 30513 and 30514; California Code of Regulations Sections 13551 through 13553).

The proposed amendment affects the LUP and IP components of the City of Santa Cruz LCP. The standard of review for land use plan amendments is that they must be consistent with the Chapter 3 policies of the Coastal Act. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863. This staff report is also available online on the Coastal Commission’s website at www.coastal.ca.gov/mtgcurr.html.

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I. Staff Recommendation – Motions and Resolutions



A. Denial of Land Use Plan Major Amendment Number 1-06 as Submitted

Motion (1 of 4). I move that the Commission certify Land Use Plan major amendment #1-06 as submitted by the City of Santa Cruz.

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

***Resolution to Deny Certification of the Land Use Plan Amendment as Submitted:** The Commission hereby denies certification of Major Amendment #1-06 to the Land Use Plan of the City of Santa Cruz and adopts the findings set forth below on grounds that the land use plan amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan as submitted.*

B. Certification of Land Use Plan Major Amendment 1-06 with Suggested Modifications

Motion (2 of 4): I move that the Commission certify the City of Santa Cruz Land Use Plan Major Amendment #1-06 if modified as suggested in this staff report.

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

***Resolution to Certify the Land Use Plan Amendment with Suggested Modifications:** The Commission hereby certifies City of Santa Cruz Land Use Plan Major Amendment #1-06 if modified as suggested and adopts the findings set forth below on grounds that the land use plan with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan if modified.*

C. Denial of Implementation Plan Major Amendment Number 1-06 as Submitted

Motion (3 of 4). I move that the Commission reject Major Amendment #1-06 to the City of Santa Cruz Local Coastal Program Implementation Plan as submitted.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion



passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny Certification of the Implementation Plan Amendment as Submitted: *The Commission hereby denies certification of Major Amendment #1-06 to the Implementation Plan of the City of Santa Cruz Local Coastal Program and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted*

D. Certification of Implementation Plan Major Amendment Number 1-06 if Modified

Motion (4 of 4): I move that the Commission certify the City of Santa Cruz Implementation Plan Major Amendment 1-06 if modified as suggested in this staff report.

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

Resolution to Certify the Implementation Plan Amendment with Suggested Modifications: *The Commission hereby certifies City of Santa Cruz Implementation Plan amendment #1-06 if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. Suggested Modifications

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

Note: The suggested modifications are shown by deleting existing text with ~~striketrough~~ and adding text with underline.



1. Re-label the northwestern finger of Moore Creek reach #5 (Map K06) as reach #2 and apply a 100-foot wide riparian corridor width and a 50-foot development setback for this reach of creek.
2. Apply a 30-foot riparian corridor width and a 50-foot development setback from the edge of the riparian corridor for reach 3 of Arroyo Seco Creek. Update Table 4-1 (page 4-4), map L03, and the text of Section 3.3 of the Management Plan regarding recommended setbacks for this creek reach as appropriate to acknowledge the 30-foot riparian corridor width and the 50-foot development setback requirement.
3. Modify the first paragraph of Table ES-3 (page ES-13) and Table 4-2 (page 4-9) of the Management Plan regarding allowable uses and activities with a watercourse development permit as follows:

Watercourse and wetland restoration, removal of invasive and/or exotic vegetation where appropriate, minor removal of mature eucalyptus trees in known Monarch butterfly habitat areas subject to biological review and consistency with the Monarch butterfly resource protection policies of the LCP, removal of non-hazardous trees (i.e. invasive species and/or for habitat or fire management), in accordance with the City's Heritage Tree Ordinance and a plan prepared by a qualified professional, and removal of impervious surfaces in the riparian corridor.

4. Modify Table ES-4 (page ES-14) and Table 4-4 (page 4-12) (Summary of Watercourse Development Standards and Guidelines) of the Management Plan as follows:

Use of Permeable Paving: 2. Construct pedestrian walkways or patios with loose aggregate, ~~wooden decks~~ or well-spaced paving stones within the development setback area.

Habitat Enhancement. 10. ~~Avoid~~ Prohibit mowing or removal of riparian vegetation. 11. For Category A watercourses (riparian corridor), require the following: plant a variety of native plants; ~~avoid~~ prohibit clearing of riparian understory, unless necessary to remove nonnative plant species or to complete a restoration plan; remove and control spread of nonnative species; and ~~avoid~~ prohibit the planting of nonnative species.

Habitat Enhancement. Recommended. For Category B watercourses strongly encourage to the maximum extent feasible the following in the development setback area: plant a variety of native plants, ~~avoid~~ prohibit clearing of riparian understory; remove and control spread of nonnative species, and avoid planting of nonnative species.

5. Modify Table ES-2 (page ES-12) and Table 4-2 (page 4-9) of the Management Plan (Projects Exempt from Watercourse Development Permits) regarding coastal permit exemptions and "Landscaping and Vegetation Removal" as follows:



PROJECTS EXEMPT FROM WATERCOURSE DEVELOPMENT PERMITS (in the Coastal Zone, the following list of projects are exempt only if the criteria of Zoning Ordinance Section 24.08.230.1 regarding coastal permit exemptions are met).

- Mowing and grazing on public lands (outside of the riparian corridor within the Coastal Zone), consistent with an adopted Parks or Fire Management Plan.
6. Modify the following sentences on pages ES-5 & 4-2 regarding Category B watercourses (the remainder of the paragraph is unchanged):

... The goals of this category include improving habitat by ~~voluntary~~ removal of invasive, nonnative plant species and improving water quality and flow with implementation of proper erosion control and best management practices, and planting of appropriate species.
 7. Modify the last sentence of Section 4.4.3 (page 4-8) and the first sentence in the second paragraph of Section 4.5.5 (page 4-17) of the Management Plan as follows (the remainder of these sections are unchanged):

~~Voluntary~~ improvement and restoration of watercourses, especially Category “B,” is strongly encouraged to the maximum extent feasible. Voluntary improvement of ~~and possibly~~ “C” watercourses, ~~are~~ is encouraged...
 8. Modify the first sentence of Standard 10 (page 4-17) of the Management Plan as follows:

~~Avoid~~ Mowing, clearing or stripping of native riparian vegetation is prohibited, unless necessary to remove nonnative plant species or to complete a restoration plan. Thinning of native riparian vegetation may be allowed on a limited basis upon review and approval of plans by the City’s Planning Director and the Fire Department.
 9. Modify the following sentences regarding required measures for Category A watercourses in Standard 11 (page 4-17) of the Management Plan as follows:
 - ~~Avoid~~ Prohibit the clearing of native understory vegetation to create open areas.
 - ~~Avoid~~ Prohibit the planting of nonnative plants in the riparian corridor.
 10. Modify the following sentence in the Guidelines for Category B watercourses (page 4-18) of the Management Plan as follows:

The following measures are strongly encouraged to be implemented to the maximum extent feasible for Category B watercourses to enhance the riparian habitat of watercourses and wetland areas:
 11. Modify the “Definition of Wetlands under the California Coastal Commission” on page A-2



of Appendix A of the Management Plan as follows:

The Coastal Commission, through adoption of the Coastal Act, regulates activities within wetlands that occur within the Coastal Zone. Section 13577 of the Coastal Commission's Regulations defines wetlands 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 also includes 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. The Coastal Commission's definition ~~and interpretation~~ of wetlands differs from the ~~federal~~ definition used by the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency and the Natural Resources Conservation Service. Under normal circumstances, the ~~federal~~ definition used by those agencies requires all three wetland identification parameters (hydrology, hydrophytic vegetation, and hydric soils) to be met, whereas the Coastal Commission's definition, ~~(using the Cowardin [1979] definition)~~ which is similar to U. S. Fish and Wildlife Service's definition, requires the presence of at least one of ~~these~~ those parameters. The Coastal Commission's definition distinguishes wetlands from uplands by the presence of the following attributes: requires that wetlands must have one or more of the following three attributes:

- (1) ~~at least periodically,~~ the land supports predominantly hydrophytic cover hydrophytes (at least 50 percent of the aerial vegetative cover);
- (2) the substrate soil is predominantly ~~undrained~~ hydric soil; and
- (3) ~~the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season (Cowardin et al., 1979).~~ In the case of wetlands without vegetation or soils, the land is flooded or saturated at some time during years of normal precipitation

12. Modify the first sentence of Appendix B (page B-1) of the Management Plan as follows:

A wetland delineation should be conducted as per ACOE criteria and ~~or~~ in the Coastal Zone per Coastal Commission criteria.

13. Modify the paragraph of the Management Plan entitled "Presence of Invasive, Nonnative Vegetation" (page 2-4) as follows:

Invasive, nonnative plant species were documented for each reach. Table 4-6 and Appendix C presents a more detailed discussion and a more complete listing of potentially problematic species that may invade central coast riparian areas. ~~of these species and their occurrence within the City watercourses and wetlands.~~ These Currently, the most problematic of these species are: [list of plants remains unchanged].

14. Add the following species to the invasive nonnative vegetation lists located in Table 4-6



(page 4-16) and Table C-3 (page C-6) of the Management Plan as follows:

Trees: *Myoporum laetum* (myoporum); *crataegus monogyna* (English hawthorn); *Ficus carica* (edible fig); *Prunus cerasifera* (cherry plum, wild plum); *Robinia pseudoacacia* (black locust).

Shrubs: *Tamarix parviflora* (smallflower tamarisk); *Tamarix ramosissima* (saltcedar, tamarisk)

Other Perennials, Biennials, and Annuals: *Arundo donax* (giant reed); *Acroptilon repens* (Russian knapweed); *Agrostis avenacea* (Pacific bentgrass); *Agrostis stolonifera* (creeping bentgrass); *Asparagus asparagoides* (bridal creeper); *Brassica rapa* (birdsrape mustard, field mustard); *Cardaria draba* (hoary cress); *Centaurea maculosa* (= *C. biebersteinii*) (spotted knapweed); *Centaurea solstitialis* (yellow starthistle); *Cirsium arvense* (Canada thistle); *Cirsium vulgare* (bull thistle); *Conium maculatum* (poison hemlock); *Cotula coronopifolia* (brass buttons); *Dipsacus fullonum* (common teasel); *Dipsacus sativus* (fuller's teasel); *Dittrichia graveolens* (stinkwort); *Holcus lanatus* (common velvetgrass); *Iris pseudacorus* (yellowflag iris); *Lepidium latifolium* (perennial pepperweed, tall whitetop); *Lobularia maritima* (sweet alyssum); *Ludwigia peploides* ssp. *Montevidensis* (creeping water-primrose); *Ludwigia hexapetala* (= *L. uruguayensis*) (Uruguay water-primrose); *Lythrum hyssopifolium* (hyssop loosestrife); *Marrubium vulgare* (white horehound); *Mentha pulegium* (pennyroyal); *Myosotis latifolia* (common forget-me-not); *Myriophyllum aquaticum* (parrotfeather); *Myriophyllum spicatum* (Eurasian watermilfoil); *Onopordum acanthium* (Scotch thistle); *Picris echioides* (bristly oxtongue); *Piptatherum miliaceum* (smilgrass); *Poa pratensis* (Kentucky bluegrass); *Polygonum cuspidatum* (= *Fallopia japonica*) (Japanese knotweed); *Polygonum sachalinense* (Sakhalin knotweed); *Polypogon monspeliensis* and subspp. (rabbitfoot, polypogon, rabbitgoot grass); *Potamogeton crispus* (curlyleaf pondweed); *Ranunculus repens* (creeping buttercup); *Ricinus communis* (castorbean); *Rumex acetosella* (red sorrel, sheep sorrel); *Rumex crispus* (curly dock); *Salvinia molesta* (giant salvinia); *Saponaria officinalis* (bouncingbet); *Schinus molle* (Peruvian peppertree); *Senecio jacobaea* (tansy ragwort); *Silybum marianum* (blessed milkthistle); *Torilis arvensis* (hedgeparsley); *Zantesdeschia aethiopica* (calla lily).

*** This list shall be updated based on the California Invasive Plant Council list concurrent with periodic review of the plan by the Planning Commission.

15. Modify the species name of the native plant commonly known as “mugwort” in Table 4-5 (page 4-15) and Table C-1 (pages C-2 to C-3) of the Management Plan as follows:

Artemisia californica douglasiana

16. Delete proposed Section 24.08.230(14) (Exhibit #4 page 13) of the zoning ordinance regarding exemptions as follows:



~~Watercourse Development Permits. Development that requires issuance of a watercourse development permit as set forth in Part 21.~~

17. Delete proposed Section 24.08.230.2(8d) (Exhibit #4 page 15) of the zoning ordinance regarding exclusions as follows:

~~Watercourse Development Permits. Development that requires the issuance of a watercourse development permit as set forth in Part 21.~~

18. Modify the introductory paragraph of section 24.08.2140 (Exhibit #4 page 21) of the zoning ordinance regarding exemptions to watercourse development permit requirements as follows:

Certain types of projects that clearly would not impact riparian resources and support the goals of the Citywide Creeks and Wetlands Management Plan are exempted from the Watercourse Development Permit Requirements (in the coastal zone, the following list of projects are exempt only if the criteria of Section 24.08.230.1 regarding coastal permit exemptions are met). Such projects should incorporate applicable Best Management Practices in the project design. In situations where it is unclear whether the project is eligible for an exemption under this section, the determination would be made by the Zoning Administrator in accordance with the goals of the Citywide Creeks and Wetlands Management Plan. The following permits are eligible for an exemption:...

19. Add new zoning ordinance section 24.08.2110(2)(1) (Exhibit #4 page 21; definition of “Wetland” (Coastal Zone)) as follows:

“Wetland” (Coastal Zone). An area that is a) identified as a known wetland or area of ponding that needs further site specific review as described in the Citywide Creeks and Wetlands Management Plan or b) identified as part of a review process as having at least one of the following three attributes: (1) land that supports predominantly hydrophytic cover; (2) soil that is is predominantly hydric; (3) or in the case of wetlands without vegetation or soils, land that is flooded or saturated at some time during years of normal precipitation.

20. Modify Section 24.08.2140 (3)(f) (Exhibit #4 page 23) regarding exemptions as follows:

f. Mowing and grazing on public lands (outside of the riparian corridor in the Coastal Zone), consistent with an adopted Parks or Fire Management Plan.

21. Modify Section 24.08.2170(5)(a) (Exhibit #4 page 26) regarding habitat enhancement, as follows:

a. ~~Whenever possible, avoid~~ Prohibit mowing, clearing, or stripping of riparian vegetation.

22. Modify Section 24.08.2170(5)(b)(ii) (Exhibit #4 page 26) regarding habitat enhancement



along Category “A” watercourses, as follows:

b. The following measures are required for Category A watercourses: ii. ~~Avoid~~ Prohibit clearing of dense native understory vegetation to create open areas, except as otherwise permitted pursuant to Zoning Ordinance Sections 24.08.2110(2)(h) and 24.08.2110(2)(i).

- 23.** Modify Section 24.08.2240 (Exhibit #4 page 28) regarding findings required for variances to watercourse development permits, as follows:

In approving a watercourse variance, it shall be determined by the hearing body that:

1. There are exceptional or extraordinary circumstances or conditions applicable to the subject watercourse site that do not generally apply to other watercourse parcels.

2. Granting the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship.

3. In granting a variance to allow a reduction in the minimum setbacks provided in the Citywide Creeks and Wetlands Management Plan, the setbacks have only been reduced to the point at which a principal permitted use (modified as much as is practical from a design standpoint) can be accommodated.

~~4.3.~~ Granting the variance would not be detrimental or injurious to property or improvements in the vicinity of the subject site or to the health, safety and welfare of the watercourse directly affected by this application.

~~5.4.~~ Granting the variance is in conformance with all other goals, policies and objectives of City-wide Creeks and Wetlands Management Plan.

- 24.** Modify Section 24.12.160(1)(g) (Exhibit #4 page 30) to correct a typographical error, as follows:

g. Fences within Watercourse Setback Areas. Fencing within a designated riparian corridor or development setback area of a watercourse shall be consistent with requirements of the Watercourse Development Permit Section ~~24.08~~14.2100.

III. Findings and Declarations

The Commission finds and declares as follows:



A. Background

The City of Santa Cruz is home to numerous creeks, streams, rivers, and wetlands, portions of which are located in the coastal zone. Some of the watercourses that are located within the coastal zone, such as Moore Creek, abut undeveloped land or rural residential yard areas and thus retain extensive riparian vegetation and habitat for wildlife. However, many of the City's watercourses are located within the urbanized areas of the City. These watercourses generally have limited remaining riparian habitat and are generally confined by adjacent land uses. In the most severe cases, certain reaches of specific creeks have been transformed into drainage channels that are concrete or otherwise manmade and consist of above-ground or below-ground culverts with very low to no habitat value remaining.

The City's LCP requires that new development be set back 100 feet from the centerline of a creek or the edge of a wetland, unless a site-specific biotic report and management plan has been prepared. The watercourses located within the urbanized areas of Santa Cruz are located adjacent to residential, commercial, industrial, or institutional development. In these urbanized areas, complying with the 100-foot setback requirement can be difficult given the typical size of adjacent parcels and the level of existing development in the City of Santa Cruz. For example, many of the residential parcels located adjacent to the City's urbanized creeks are in the 5,000 square foot range (i.e., 50 x 100 feet). Applying the 100-foot setback requirement in such cases would render the entire parcel undevelopable. Over the years, this has resulted in the City issuing numerous variances to the 100-foot setback requirement for proposed development located adjacent to urbanized creeks. In these situations, the City has typically conditioned its approval to require the applicant to submit a planting plan developed for the specific parcel in question, i.e., the City may require the applicant to remove nonnative vegetation and plant appropriate native vegetation along the stretch of creek that abuts the applicant's property.

The City's certified zoning ordinance allows for variances if by reason of exceptional narrowness, shallowness, or unusual shape of property, the literal enforcement of the conservation regulation would involve practical difficulties or would cause undue hardship. However, the variance procedure that has been used by the City over the years to reduce the stream and wetland setbacks established by the LCP for protection of wetlands, streams, and other habitat resource areas has presented some difficulties. Specifically, the standards for a variance are not designed to address directly the intent of the LCP's conservation regulations. Also, the zoning ordinance does not allow for variances when the situation requiring the variance is so recurrent in nature that a regulation could be drafted to cover the situation. If lesser stream setbacks are to be considered, the LCP requires this to be done within the context of a management plan submitted and approved by the Coastal Commission as an amendment to the LCP. For this reason, Commission staff has urged the City to develop a creeks and wetlands management plan that would include biologically based criteria for varying the width of setbacks based on on-the-ground resources and existing patterns of development.

The Citywide Creeks and Wetlands Management Plan was developed so that planning for these urban creek corridors is not done on a project-by-project basis, but rather that each stretch of creek is considered as a whole ecosystem for which appropriate rules (including setbacks) for adjacent development, creek stretch restoration and enhancement, and management can be established. These



rules are based upon biological criteria that take into account the entire reach of a creek or an entire wetland area and the individual and cumulative ramifications of development and redevelopment adjacent to these natural communities. When projects are instead analyzed one at a time outside of the context of the entire reach of a creek, their consistency with LCP policies, goals, and objectives is more difficult to measure. Also, as discussed in the analysis below, although many of the urbanized streams and wetlands in the City have been degraded over time, a management plan that provides specific development setbacks for each reach of creek and conditional requirements for specific enhancements as part of the approval of a development or redevelopment will further Goal #4 of the LUP's Environmental Quality Element, which is to "protect and enhance natural vegetation communities and wildlife habitats throughout the City." A management plan will also provide specific guidance to homeowners and other parcel owners along creeks and wetlands with respect to required riparian setbacks and allowable development within or adjacent to the riparian buffer zone area.

B. Amendment Description

1. Purpose and Intent of the Management Plan

The proposed amendment affects the LCP's certified land use plan component as well as the implementation plan (zoning ordinance). Specifically, the Citywide Creeks and Wetlands Management Plan (Management Plan) (please go to <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html> for the Management Plan document) is proposed as a component of the land use plan. The purpose and intent of the Management Plan is to:

- Identify appropriate development setbacks for each reach of each creek based on evaluation of habitat, stream, and existing land use characteristics;
- Recommend management actions that promote preservation of riparian and wetland resources;
- Define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and;
- Provide a framework for permitting development adjacent to watercourses.

The plan presents a strategic approach to stream corridor management that is intended to result in better protection, enhancement, and management of the City's riparian and wetland resources and water quality, while providing consistency and predictability to the City's permitting process.

In addition to the Management Plan, the proposed amendment includes modifications to Title 24 of the City's certified zoning ordinance to provide development standards for lands adjacent to watercourses within the City that will carry out the goals and requirements of the Management Plan. See attached Exhibit #4 for the proposed amendments to the City's zoning ordinance.

2. Methods

The Management Plan consists of mapping of all City watercourses and identification of the centerline



of each watercourse and delineation of the 100-foot setback that is currently required under LCP Environmental Quality Policy 4.2.2. The City gathered an inventory of the resource characteristics of each watercourse reach, including stream or channel type, habitat type, extent of riparian vegetation, and wildlife potential. The inventory was used to assess the existing habitat and hydrological values for each watercourse reach, as well as the potential for habitat restoration and water quality enhancement. The inventory was based on high resolution aerial photographs, a GIS database, review of existing resource studies, and biological and land use site inspections where feasible or where allowed by landowners. Land patterns were identified, including the average distance between the watercourse and existing development. From this information, specific development setbacks were determined for each reach of each creek.

3. Watercourse Categories

To determine the level of permit review required for the variety of watercourse types within the City, all watercourses and watercourse reaches have been categorized as either an “A,” “B,” or “C” watercourse. Category “A” watercourses include watercourse reaches that support high quality riparian habitat, with a vegetated corridor that is continuous, with few gaps. Category “A” watercourses abut undeveloped lands or rural residential yard areas that provide the ability for wildlife to use these adjacent areas, with some available area for riparian vegetation to expand within the corridor over time. The goals of this category include protecting and restoring existing vegetated watercourses as wildlife movement corridors through removal of invasive nonnative plant species and restoration of native vegetation, as well as protection and improvement of water quality with implementation of proper erosion control and best management practices, and the planting of appropriate native plant species.

Category “B” watercourses are located in urban areas. These watercourses generally have limited riparian habitat confined by adjacent land uses that limits the ability for the riparian corridor to expand. The goals of this category include improvement of habitat by removing nonnative invasive species and the planting of appropriate native plant species, and improving water quality and flow with implementation of proper erosion control and best management practices.

Category “C” watercourses include drainage channels that are concrete and manmade, including above- or below-ground culverts, with little to no existing habitat value. The corridor is extremely fragmented with little to no room for restoration without significant land acquisition or easements. Category “C” watercourses would be exempt from the Citywide Creeks and Wetlands Management Plan regulations.

4. Setbacks

Based on an evaluation of biological, hydrological, and existing land use characteristics, the Management Plan recommends specific setback requirements for each reach of each creek and establishes a process for obtaining a watercourse permit for development within setback areas. For each section or reach of watercourse in the City, the recommended setbacks include a management area, a riparian corridor, and a development setback area. The riparian corridor is intended to provide an adequate riparian width to maintain or enhance habitat and water quality values. Allowable uses within the riparian corridor are extremely limited and primarily consist of habitat restoration and enhancement.



The development setback is intended to provide an appropriate buffer between the riparian corridor and development. The management area includes the riparian corridor, the development setback area, and an additional 25 feet outward from the edge of the development setback. New development would be allowed in the area between the management area boundary and the development setback area, subject to review and approval of a watercourse development permit by the City. Any proposed development outside of the management area would not be subject to watercourse regulations. The Management Plan outlines the permit procedures for development and other uses proposed within a management area. See attached Exhibit #5 for a figure showing the proposed setback areas and attached Exhibit #6 for proposed allowable uses in the riparian corridor, development setback, and remaining management area. The table on the next page details each reach of each creek in the coastal zone, its category, and the recommended setbacks (see next section for more discussion of setbacks):



Table 1. Summary of Watercourse Categories & Recommended Setbacks (Coastal Zone only)
 (For watercourse maps, go to: <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>)

Watercourse Name & Reach	Category (A, B, C)	Riparian Corridor (measured in feet from centerline of watercourse)	Development Setback (measured in feet from centerline of watercourse)	Management Area (measured in feet from centerline of watercourse)	Map (Pages)
Arroyo Seco 1	C	0	0	0	L02, L03
Arroyo Seco 2	B	15	20	45	L03
Arroyo Seco 3	A	50	70	95	L03
Bethany Creek 1	B	20	30	55	M03
Bethany Creek 2	B	5	5	30	M04
Hagemann Gulch 1	B	40	60	85	Q06, Q07
Hagemann Gulch 2	B	10	15	40	Q07
Moore Creek 1	A	100	130	155	K02, K03
Moore Creek 2	A	100	150	175	K04-K07, L05
Moore Creek 3	A	100	130	155	K07, K08
Moore Creek 4	A	100	150	175	J07, K05-K07
Moore Creek 5	A	70	100	125	K06, K07
Natural Bridges Creek	A	80	100	125	K02, L02, L03
Ocean Villa Creek	B	50	70	95	P05, P06
Pilkington Creek 1	B	30	40	65	P05
Pilkington Creek 2	B	10	15	40	P05
Woods Creek 1	B	20	30	55	Q05, Q06
Woods Creek 2	B	10	15	40	Q06

Projects subject to approval of other City permits (such as a coastal permit) would also be subject to environmental review. During the environmental review process, site-specific review of sensitive habitat



and sensitive species would be undertaken, if applicable, based on known and potential habitat areas identified on Table 2-2 of the Management Plan (pages 2-8 to 2-9 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>), and additional protective measures may be recommended. Although site visits were made to as many individual properties as possible during preparation of the Management Plan, the Management Plan focuses on creek segments and reaches. There may be some circumstances in which an identified setback is recommended to be increased based on the outcome of the environmental review.

For wetlands and other unique areas of ponding water, the Management Plan identifies general acceptable uses and enhancement actions, but requires further site-specific biotic review (as is currently required by the LCP), since detailed analysis and/or citywide wetland delineations were not conducted as part of the preparation of the Management Plan. The current minimum 100-foot setback required by LCP Environmental Policy 4.2.2 would remain in effect for wetland areas. Additionally, specific management plans have been developed and adopted for certain designated open space lands within the City, such as the certified San Lorenzo Urban River Plan and the certified Neary Lagoon Management Plan. New development proposed along watercourses or wetlands that are covered by a specific management plan would be subject to the requirements of those specific management plans and the Environmental Quality policies of the Land Use Plan.

5. Watercourse Variance

Projects that do not comply with the development setbacks or projects requesting exceptions to the Watercourse Development Standards would be subject to Planning Commission review and approval as a Watercourse Variance at a public hearing. Lesser setbacks would be permitted only in unique or extraordinary circumstances, such as if application of the minimum setback standards would render the parcel physically unusable for a principal permitted use. In such cases, setbacks would be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) could be accommodated. See pages 4-20 to 4-22 of the Management Plan at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html> for more information regarding watercourse variances.

6. Periodic Plan Review

Section 4.4.3 of the Management Plan (see page 4-8 of the Management Plan at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>) requires a periodic review of the Management Plan every five years by the Planning Commission to evaluate how successful implementation of the Management Plan has been and to determine what, if any, components of the Management Plan may need to be modified to assure continuing adequate protection of watercourse and wetland resources. Also, if upon a periodic review it is discovered that a watercourse has been restored to such an extent that it may be upgraded to a different category, this would be evaluated at a public hearing. Any modifications made to the Management Plan at local public hearings would require submission of an LCP amendment to the Coastal Commission for certification.



C. Analysis of Land Use Plan Amendments

Coastal Streams & Environmentally Sensitive Habitat

Coastal Act Section 30231 protects the biological productivity of streams and wetlands and states:

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

Coastal Act Section 30240 protects environmentally sensitive habitat and states:

***30240(a).** Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b).* Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As stated above, the purpose and intent of the Management Plan is to:

- Identify appropriate development setbacks for each reach of each creek based on evaluation of habitat, stream, and existing land use characteristics;
- Recommend management actions that promote preservation of riparian and wetland resources;
- Define development guidelines and standards for areas where development adjacent to watercourses may be appropriate, and;
- Provide a framework for permitting development adjacent to watercourses.

The Management Plan presents a strategic approach to stream corridor management that is intended to result in better protection, enhancement, and management of the City's riparian and wetland resources and water quality, while providing consistency and predictability to the City's permitting process. To ensure, however, that the proposed Management Plan provides consistency with the requirements of Coastal Act Sections 30231 and 30240, a number of modifications are required.

As discussed above, Category "A" watercourses include watercourse reaches that support high quality riparian habitat, with a vegetated corridor that is continuous, with few gaps. Category "A" watercourses abut undeveloped lands or rural residential yard areas that provide the ability for wildlife to use these adjacent areas, with some available area for riparian vegetation to expand within the corridor over time.



The goals of this category include protecting and restoring existing vegetated watercourses as wildlife movement corridors through removal of invasive nonnative plant species and restoration of native vegetation, as well as protection and improvement of water quality with implementation of proper erosion control and best management practices, and the planting of appropriate native plant species.

The Management Plan calls for development setbacks for Category “A” riparian corridors of between 20 and 50 feet from the edge of the riparian corridor as identified for each watercourse, with the bulk at 20 feet. Ideally, all Category “A” riparian corridors would be afforded a development setback of at least 50 feet. However, due to the constraints of existing development along many of these creeks, a 50-foot development setback is not always possible. Following an August 28, 2007 site visit with City staff to a number of creeks within the Coastal Zone, the Commission’s staff biologist has concurred that the development setbacks for Moore Creek reaches 1, 3, and 5 (all Category “A”) are appropriately set at 30 feet (see Exhibit #7). However, the northwestern finger of Moore Creek reach #5 (see map K06 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>) is not constrained by existing development and has adequate room for a 50-foot development setback. **Modification #1** requires that this stretch of creek be re-labeled as reach #2 and that the riparian corridor width be increased from 70 feet to 100 feet and that the development setback width be increased from 30 feet to 50 feet for a total riparian corridor/development setback width of 150 feet.

The proposed Management Plan provides a 50-foot riparian corridor and a 20-foot development setback (for a total riparian corridor/development setback width of 70 feet) for Arroyo Seco Creek reach #3 (see map L03 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html> for an aerial photograph of this Category “A” creek). In March 2000, the City of Santa Cruz approved relocation of this reach to approximately its original location along the western property line of the 53-acre site known as the Lipton property. The City’s approval was appealed to the Commission. In June 2000, the Commission found that the appeal raised a substantial issue regarding consistency with the certified City of Santa Cruz LCP. At that hearing, the Commission approved the creek relocation subject to a condition that required incorporation of recommendations made by the California Department of Fish and Game into the resource management plan for the creek. Additionally, the Commission conditionally required a 100-foot development setback from the centerline of the restored stream. This condition also stated that any setback less than 100 feet would only be allowable upon Commission approval of a resource management plan as an amendment to the Land Use Plan, such as the proposed Management Plan. This reach of creek has undergone the restoration required by the Commission’s approval and now supports a dense riparian corridor. However, the City has submitted a letter (see Exhibit #9) stating that during preparation of the proposed Management Plan, the riparian corridor of this creek reach was overestimated and that the riparian corridor width is actually 30 feet, instead of 50 feet. The City proposes to revise the Management Plan regarding Arroyo Seco Creek reach #3 to provide for a riparian corridor width of 30 feet and (given the undeveloped nature of the adjacent parcel) a development setback of 50 feet, for a total riparian corridor/development setback width of 80 feet. Commission staff has visited the site and concurs with the City that a 30-foot riparian corridor width is appropriate for this creek reach, and also concurs with the adequacy of the proposed 50-foot development setback (see Exhibit #7). **Modification #2** requires that a 30-foot riparian corridor width and a 50-foot development setback be applied to Arroyo Seco Creek reach #3.



The Commission's staff biologist (Exhibit #7) also generally recommends a minimum development setback (the buffer adjacent to the riparian corridor) of at least 20 feet from the edge of riparian vegetation along more urbanized "B" category creeks in order to best preserve the integrity and natural function of the riparian corridor and to create a zone where there will be little or no human activity, to "cushion" species and habitats from disturbance, and to allow native species to persist more naturally. The development setbacks proposed by the City for urbanized Category "B" riparian corridors range between 5 to 20 feet, with the bulk at 10 feet from the edge of riparian vegetation. The City derived the individual setbacks required for each reach of creek based on high resolution aerial photographs, a GIS database, review of existing resource studies, and biological and land use site inspections where feasible or where allowed by landowners. One of the purposes of the Management Plan is to apply consistent setbacks that avoid the need for variances. Increasing the development setback to 20 feet from the edge of riparian vegetation along Pilkington Creek, for example (see map P05 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/maps/mapsindex.html>), would extend the management area into existing development, including large portions of existing residences, paved streets and driveways, and would render large portions of these small lots undevelopable. Along Pilkington Creek, however, there may be a few parcels that could comply with a 20-foot development setback. The Management Plan notes that proposed projects that are subject to approval of other city permits (such as a coastal development permit) would also be subject to environmental review and that the result of this review might be the imposition of additional protective measures. The Management Plan also notes that there may be some circumstances in which an identified setback is recommended to be increased based on the outcome of the environmental review required for a proposed project. Given these qualifications that provide for opportunities for increased setbacks for specific parcels along specific creek reaches, the setbacks for each reach of Category "B" watercourses in the Management Plan are adequate given the existing urban land use constraints.

Modifications #3-10 provide additional specificity about required restoration efforts and allowable uses and activities in the riparian corridor and development setback area. For example, Modification #3 specifies that removal of mature eucalyptus trees in known monarch butterfly habitat areas can only be done after appropriate biological review and only if found consistent with the LCP's monarch butterfly protection policies, such as Environmental Quality Policy 4.5.3.2, which prohibits the cutting, thinning, pruning or removal of any tree or shrub (especially nectar plants used by Monarchs) except as necessary for safety of homes or persons, and requires replacement of comparable vegetation. Additionally, these modifications prohibit the installation of wooden decks in the development setback area along Category "A" and "B" watercourses (only pervious surfaces occupying a maximum of 25% of the development setback area are allowed), prohibit the clearing of native understory vegetation, limit the installation of solid fencing in the development setback area to the boundary between the development setback and remaining management area, and allow thinning of riparian vegetation only for fire management purposes as directed under a fire management plan. These modifications also add language to strongly encourage restoration of Category "B" creeks to the maximum extent feasible as a condition of development.

The Management Plan provides a "Definition of Wetlands under the California Coastal Commission" (see page A-2 of Appendix A at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>). The text in this



section of the Management Plan implies that the Coastal Commission definition of wetlands is based on the Cowardin definition of wetlands, which is a comprehensive classification system of wetlands and deepwater habitats that was developed for the U.S. Fish and Wildlife Service in 1979. However, the Cowardin definition of wetlands is not equivalent to the definition of wetlands found in Section 13577 of the Coastal Commission's regulations. **Modification #11** ensures that the Management Plan's "Definition of Wetlands under the California Coastal Commission" is consistent with Section 13577 of the Coastal Commission's regulations. **Modification #12** ensures that the Management Plan recognizes that wetland delineations performed in the coastal zone be conducted pursuant to Coastal Commission criteria.

The Management Plan provides lists of invasive plant species that are prohibited from use and recommended for removal along riparian areas (see Table 4-6 on page 4-16 of the Management Plan and Appendix C on page C-6 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>). However, according to the California Invasive Plant Council, there are many additional nonnative plant species that are invading riparian areas along the Central West geographic region of California, which includes Santa Cruz. For example, *Arundo donax* (giant reed) is a highly invasive plant that has severe ecological impacts on the physical processes, plant and animal communities, and vegetation structure of riparian areas. This species, and a number of other species that are problematic in riparian areas along the central coast of California, are not listed in the Management Plan. **Modifications #13 & #14** require that the Management Plan's invasive species lists include all potentially invasive plant species (pursuant to the California Invasive Plant Council listings) that have been noted to be problematic in riparian habitats in this area of California. These lists are required to be updated upon any periodic review of the Management Plan.

The Management Plan contains several tables (Table 4-5 on page 4-15 and Table C-1 on pages C-2 to C-3 at <http://www.ci.santa-cruz.ca.us/pl/Creeks/WMP.html>) that list the names of native plant species suitable for riparian and wetland revegetation. *Artemesia californica* is incorrectly listed (this is a coastal scrub/sagebrush plant). **Modification #15** corrects this reference to *Artemesia douglasiana*.

With all the above modifications, the proposed Land Use Plan amendment is consistent with Coastal Act Sections 30231 and 30240 regarding protection of coastal streams and environmentally sensitive riparian habitats.

D. Analysis of Implementation Plan Amendments

The City of Santa Cruz's Land Use Plan Environmental Quality Policies provide setback requirements for development along watercourses and wetlands and set standards for development along watercourses, as follows:

4.2: Preserve and enhance the character and quality of riparian and wetland habitats, as identified on Maps EQ-8 and EQ-11, or as identified through the planning process or as designated through the environmental review process.



4.2.1: Develop, adopt, and implement management plans for City-owned wetland and riparian areas including: San Lorenzo River, Neary Lagoon. Require management plans for sites not owned by the City in connection with development, and/or encourage other agencies to implement management plans for: Younger Lagoon, Jessie Street Marsh, Arana Gulch, Moore Creek, Natural Bridges Marsh, and Antonelli Pond. The need for management plans for other significant environmental resource systems in the Coastal Zone, where ownership is fragmented, will be evaluated on a case-by-case basis when identified in the planning process. When a management plan is prepared, mechanisms will be adopted to implement the plan through permit conditions and other measures to enhance the natural resource.

4.2.2: Minimize the impact of development upon riparian and wetland areas through setback requirements of at least 100 feet from the center of a watercourse for riparian areas and 100 feet from a wetland. Include all riparian vegetation within the setback requirements, even if it extends more than 100 feet from the watercourse or if there is no defined watercourse present.

4.2.2.1; Require that all development within 100 feet of these areas be consistent with the applicable management plan provisions under EQ 4.2.1 and L 3.4, if one has been established.

4.2.2.3: Prohibit uses such as construction of main or accessory structures, grading or removal of vegetation within riparian and wetland resource and buffer areas and allow permitted uses... associated with nature study or resource-dependent activities, construction, grading or removal of vegetation necessary for maintenance, landscaping designed to provide a natural buffer and grading necessary as a part of such landscaping plan, passive recreation, habitat preservation, and restoration, that are consistent with the environmental quality policies of the Plan, Section 30222 of the Coastal Act, and adopted management plans. Development in wetlands can be undertaken only where there is no feasible, less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects. If any exceptions to this policy are to be considered, it shall be within the context of a resource management plan approved by the Coastal Commission as an amendment to the Land Use Plan.

The City proposes to amend the certified Zoning Ordinance to add standards for development along watercourses through the imposition of a watercourse development permit (see Exhibit #4 for proposed zoning ordinance amendments). A watercourse development permit would be required for non-exempt development that takes place in the designated management area along a creek, as defined in the Management Plan. The proposed amendment, however, adds section 24.08.230(14) to the zoning ordinance that would render all watercourse development permits exempt from coastal permitting requirements (see pages 10-13 of Exhibit #4). However, as certified, section 24.08.230.1 of the zoning ordinance does not allow for exemptions to coastal permitting requirements for development in natural resource areas. Thus, proposed section 24.08.230(14) would result in an internal inconsistency within the certified zoning ordinance. Furthermore, California Code of Regulations Sections 13250, 13252, and 13253 do not allow for exemptions for development in environmentally sensitive habitat areas, including areas adjacent to streams and wetlands. For the above reasons, **Modification #16** deletes



proposed zoning ordinance section 24.08.230(14).

The proposed implementation amendment would add section 24.08.230.2(8)(d) to the zoning ordinance, which would exclude all watercourse development permits located in Coastal Exclusion Zone B from coastal permitting requirements (see Exhibit #4 pages 13-15). However, zoning ordinance section 24.08.230(B) states that “Coastal Exclusion Zone B is the Santa Cruz City Coastal Zone but not including the (a) Coastal Appeal Zone/shoreline Protection District or projects otherwise appealable to the Coastal Commission pursuant to section 24.04.186...” Zoning Ordinance Section 24.04.186(2)(a)(3) provides that “Developments...located...within one hundred feet of any wetland, estuary, stream...” are appealable to the Coastal Commission. Thus, proposed section 24.08.230.2(d) would result in an internal inconsistency within the certified zoning ordinance. Furthermore, a request for an exclusion must adhere to the requirements of California Code of Regulations Section 13241. These requirements include that the local government must provide materials and information that enable Commission staff to make findings consistent with Coastal Act Sections 30610(e) and 30610.5(b) and the California Environmental Quality Act. These findings must demonstrate that the exclusion will not result in any significant adverse effect, either individually or cumulatively, to coastal resources. The requirements of California Code of Regulations Section 13241 have not been met. For the above reasons, **Modification #17** deletes proposed zoning ordinance section 24.08.230.2(8)(d).

The proposed implementation plan amendment would add Section 24.08.2140 to the zoning ordinance, which would provide that certain types of projects with little potential for impact to riparian resources would be exempt from the Watercourse Development Permit requirements (see pages 21-23 of Exhibit #4). Certified Zoning Ordinance Section 24.08.230.1, however, provides for coastal permitting exemptions for projects in the coastal zone. In order to exempt a watercourse project from coastal permitting requirements, the criteria of Section 24.08.230.1 must be met. If these criteria are not met, a coastal permit will be required for a watercourse project and appropriate watercourse development standards will be applicable. Thus, **Modification #18** ensures that, in the coastal zone, the exemptions cited in proposed Section 24.08.2140 will only apply if a coastal permit is not required pursuant to zoning ordinance section 24.08.230.1.

Section 24.08.2110(2)(k) of the proposed Zoning Ordinance amendment provides a definition of a “wetland” area (see page 21 of Exhibit #4). **Modification #19** adds a definition for “wetland” areas in the Coastal Zone that is consistent with Section 13577 of the California Code of Regulations.

Modifications #20-22 provide additional specificity to the proposed zoning ordinance amendments regarding required restoration efforts and allowable uses and activities in the riparian corridor and development setback area (pages 22-26 of Exhibit #4). These modifications also provide internal consistency with the modified Management Plan.

Section 24.08.2240 of the proposed zoning ordinance provides for the required findings that need to be made in order to approve a variance to the watercourse development permit requirements (see Exhibit #4 page 28). A variance to provide lesser setbacks would be permitted only in unique or extraordinary circumstances, such as if application of the minimum setback standards would render the parcel



physically unusable for a principal permitted use. **Modification #23** adds an additional finding that ensures that setbacks have only been reduced to the point at which a principal permitted use, which has been modified as much as is practical from a design standpoint, can be accommodated.

Modification #24 corrects a typographical error in the zoning ordinance (Exhibit #4 page 30).

With the above modifications, the proposed implementation plan amendment is consistent with the modified Environmental Quality policies of the certified Land Use Plan and with the Citywide Creeks and Wetlands Management Plan, as modified.

IV. California Environmental Quality Act (CEQA)

Pursuant to section 21080.5 of CEQA, the Secretary of Resources has certified the Coastal Commission's review and development process for LCPs and LCP amendments as being the functional equivalent of the environmental review required by CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits the Commission from approving any project "if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the [project] may have on the environment." Furthermore, section 21080.9 of CEQA exempts local governments from the requirement to which they would otherwise be subject to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. In this case, the City certified a Negative Declaration for the proposed amendments. This staff report has discussed the relevant coastal resource issues raised by the proposed amendments, including impacts to environmentally sensitive creeks and wetlands, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources and to ensure that the land use plan amendments will be consistent with and adequate to carry out the Coastal Act, and that the implementation plan amendments will be consistent with and adequate to carry out the amended land use plan. There are no additional alternatives or mitigation measures available that would lessen any significant adverse effect of the amendments on the environment. The above findings are incorporated herein in their entirety by reference.

