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Staff: J. Grace-V
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Hearing Date: 10/6/15

STAFF REPORT: REGULAR CALENDAR

Application No.:	**4-14-1806**
Applicant:	**City of Carpinteria**
Location:	Carpinteria City Beach, Carpinteria (Santa Barbara County)
Project Description:	Permit for annual construction and removal of an approximately 1,440 ft. long, approximately 12 ft. high, winter sand berm on Carpinteria City Beach involving approximately 26,000 cu. yds. of grading, including 13,000 cu. yds. of cut and 13,000 cu. yds. of fill. The proposed project includes construction of the berm prior to the winter storm season, maintenance of the berm during the winter, and removal of the berm in the spring.
Staff Recommendation:	Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with **eight (8) special conditions** regarding (1) Timing of Construction, (2) Operational Responsibilities, (3) Sensitive Species Monitoring, (4) Assumption of risk, Waiver of Liability, and Indemnity Agreement, (5) Permit Expiration, (6) Limitations on Construction Activities, (7) Feasibility Study Updates, and (8) Required Approvals.

The applicant is proposing to construct an approximately 1,440 ft. long, approximately 12 ft. high sand berm at Carpinteria City Beach during the winter storm season. The berm is intended to protect existing beachfront development (including private residential development as well as public parking facilities and restroom facilities) on the project site from damage from wave action during the winter storm season. Where existing beachfront development is in danger from erosion as in the subject case, soft solutions such as beach berms generally have fewer significant environmental impacts than revetments, seawalls, or other similar structures. However, disturbance from construction, maintenance, and demolition of the berm on an annual basis could still result in potential adverse effects to the sensitive resources on site. Additionally, the proposed berm could have potential impacts to public access.

The berm will be constructed in November each year and removed no later than Memorial Day of each spring to ensure public access is not restricted during peak beach usage dates, pursuant to Special Conditions One (1) and Two (2). During the time the berm is in place, there will be slightly lowered portions where the public can access the beach (at the street ends). The average beach goer will be able to access the water by climbing over the berm and beach area will be available for pass/repass and recreation.

This project area does not contain any designated ESHA but there are nearby areas designated as ESHA and the project site contains potential habitat for Western Snowy Plover, Pismo Clams, Globose Dune Beetles, California Grunion or other sensitive species. To ensure that none of these are negatively impacted by berm construction, staff had added Special Condition Three (3), which requires the a biologist or resource specialist to monitor the site for sensitive species presence before, during, and after the time in which the berm is constructed, maintained, and removed.

Although the Commission has previously certified a Local Coastal Program (LCP) for the City of Carpinteria, the proposed project will be located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter Three policies of the Coastal Act, with the applicable policies of the City of Carpinteria LCP as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

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APPENDICES

EXHIBITS

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 4-14-1806 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter Three of the Coastal Act. Approval of the permit 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 development on the environment, or (2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Timing of Construction.

All project operations, including, but not limited to, construction, demolition, operation of equipment, sand excavation and placement, or other construction, maintenance, material removal, or activities involving mechanized equipment shall be prohibited on any part of the beach in the project area from Memorial Day in May through Labor Day in September to avoid impacts on public recreational use of the beach.

2. Operational Responsibilities.

It shall be the applicant's responsibility to assure that the following occurs during project operations:

a) The sand berm shall be constructed in accordance with project plans, subject to the timing restrictions specified in **Special Condition One (1)** above.

b) The sand berm shall be removed (lowered) prior to Memorial Day, subject to the timing restrictions specified in **Special Condition One (1)** above.

c) The sand berm shall be graded/lowered to pre-existing beach contours to restore the shoreline and to facilitate recreational use.

d) No construction material, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.

e) Any and all debris resulting from construction activities shall be removed from the beach immediately.

f) Equipment shall not be in contact with coastal waters at any time.

3. Sensitive Species Monitoring.

The applicant shall retain the services of a qualified biologist or environmental resources specialist with appropriate qualifications acceptable to the Executive Director. The applicant shall provide the environmental monitor's qualifications for review by the Executive Director at least two (2) weeks prior to commencement of project activities. The environmental monitor shall conduct a visual survey of the project site, to determine the presence and behavior of the Western Snowy Plover, Pismo clams, Globose Dune Beetles, California Grunion or other sensitive species prior to any excavation, construction, reconstruction, maintenance, or removal activities, associated with the sand

berm. Prior to any project activities, the environmental monitor shall examine the beach area to preclude impacts to:

A. Snowy Plover – no excavation, construction, reconstruction, maintenance, or removal activities shall occur until any and all Western Snowy Plovers have left the project area or its vicinity. In the event that the Western Snowy Plover exhibit reproductive or nesting behavior, the applicant shall cease work, and shall immediately notify the Executive Director and federal, state, and local resource agencies. Project activities shall resume only upon written approval of the Executive Director.

B. Pismo Clams and Globose Dune Beetles – in the event that either of these species or other sensitive wildlife species are identified within the project area, the environmental resource specialist shall require the applicant to cease work and immediately notify the Executive Director to determine an appropriate strategy to minimize any potential impacts to wildlife. Work shall not recommence until the Executive Director authorizes further project activity.

C. California grunion – by February 25 of each year, the applicant shall obtain the seasonally predicted run schedule for the California grunion, as identified by the California Department of Fish and Wildlife. In the event that excavation, construction, reconstruction, maintenance or removal activities will occur during the seasonally predicted run period and egg incubation period for the California grunion, then the environmental monitor shall document any grunion spawning activity, and if grunion are present in any life stage, no excavation, construction, reconstruction, maintenance, or removal activities shall occur during the grunion spawning activity below the semilunar high tide mark.

The environmental monitor shall be present during the excavation, construction, re-construction, maintenance, or removal activities, of the sand berms. The monitor shall identify, in the field, the location of the wrack line at the time of any construction in order to assure compliance with the provisions of **Special Condition Six (6).** In the event the environmental monitor concludes that the applicant has violated, or is violating, any special condition of this permit, or if any unforeseen sensitive habitat issues arise, the applicant must cease work. The environmental monitor shall immediately notify the Executive Director if activities outside of the scope of Coastal Development Permit 4-14-1806 occur or if habitat is removed or impacted beyond the scope of the work indicated in Coastal Development Permit 4-14-1806. If significant impacts or damage occur to sensitive wildlife species, the applicant shall stop all work and be required to submit a revised or supplemental program to adequately mitigate such impacts. The revised or supplemental program shall be processed as an amendment to this coastal development permit.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement.

A. BY ACCEPTANCE OF THIS PERMIT, THE APPLICANT ACKNOWLEDGES AND AGREES (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the

property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. ***Prior to issuance of the coastal development permit***, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

5. Permit Expiration.

All sand berms approved and constructed pursuant to Coastal Development Permit 4-14-1806 shall be removed prior to Memorial Day weekend of each year, unless additional time is granted by the Executive Director for good cause . The approval of this project shall expire on Memorial Day 2020. Any construction, excavation, or sediment transport activities after the expiration of this permit will require the issuance of a new coastal development permit.

6. Limitation on Construction Activities.

Berm construction activities, including, but not limited to, excavation and deposition of sand, re-contouring of sand, and berm maintenance shall be implemented in a manner that avoids the removal or disturbance of wrack to the maximum extent feasible. However, if berm maintenance activities cannot feasibly avoid removal or disturbance, wrack located within the maintenance area shall be removed for the duration of the maintenance work, and subsequently relocated to the area from which it was removed upon completion of the work. Unless temporarily relocated for the duration of maintenance work, this permit does not allow for the removal of wrack from this area with the exception that debris that is entangled in the wrack, and which poses a clear threat to public safety, may be removed by hand as needed.

7. Feasibility Study Updates

By acceptance of this permit, the applicant agrees to:

A. Provide the Executive Director with copies of all reports and documents issued by the Army Corps of Engineers (ACOE) as part of their Storm Damage and Shoreline Protection Feasibility Study. The applicant further agrees to submit these documents within thirty (30) days of their receipt.

B. Evaluate, as part of any long-term shoreline protection program or project, beach grooming alternatives that minimize the removal of natural wrack to the extent feasible on Carpinteria City Beach.

8. Required Approvals

By acceptance of this permit, the applicant agrees to obtain all necessary approvals from the U.S. Army Corps of Engineers (ACOE) for the approved development. Any changes to the Coastal Commission approved site/development plans required by the ACOE shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The proposed project is for the annual construction and removal of an approximately 1,440 ft. long, approximately 12 ft. high winter sand berm on Carpinteria City Beach involving approximately 26,000 cu. yds. of grading, including 13,000 cu. yds. of excavation and 13,000 cu. yds. of fill. The proposed project includes construction of the berm prior to the winter storm season, maintenance of the berm during the winter, and removal of the berm in the spring every year.

The project site is located at Carpinteria City Beach between Linden Avenue and Ash Avenue. The sand berm will be constructed on the back portion of the sandy beach immediately seaward of the existing residential development. Approximately 13,000 cu. yds. of sand to construct the berm will be excavated (pushed by scraper/bulldozers) from the beach seaward of the proposed berm location. Periodic maintenance of the berm will involve pushing sand from the beach immediately seaward of the berm back onto the berm with bulldozers. In the event that the berm is completely destroyed by wave action during the winter season, the berm would be reconstructed. The City proposes to remove the berm and restore the beach to its pre-development profile each spring prior to Memorial Day. Berm removal/demolition activity would involve using a bulldozer to evenly redistribute the berm sand immediately seaward of the berm's location.

The proposed sand berm is intended to protect existing development adjacent to the project site from damage from wave action during the winter storm season. The subject beach is backed by numerous private residences located on the seaward side of Sandyland Avenue. The City has indicated that in years past wave action during the winter storm season has resulted in damage to the existing private residences and public amenities (including public streets, parking lots, and a restroom facility) located on the back portion of Carpinteria City Beach.

Carpinteria City Beach is characterized as a moderately wide public beach approximately 1,500 ft. in length backed by both private residential development and public parking facilities at several street ends. Public access and recreation is available along the entire length of the beach fronting the project site and the beach is a popular visitor destination within the Santa Barbara County area. The sandy beach on the subject site is most heavily used for public recreational use during the summer season but remains a popular visitor destination throughout the entire year.

Although the project site is heavily utilized for public access and recreation, and is not a designated environmentally sensitive habitat area (ESHA), it does contain important biological resources. The City's biologist has indicated that Carpinteria City Beach provides potential habitat for California Grunion and, below the surf zone, Pismo clams. Critical habitat for the endangered Western Snowy Plover is located downcoast from the project site. In addition, the project site is located immediately onshore from the Carpinteria reef and kelp beds that are designated ESHAs.

Evidence of a Regional Water Quality Control Board (RWQCB) approval had been provided and is valid until 2024. Preliminary approval from the ACOE has also been provided. Final approval will be granted by the ACOE once the subject CDP has been issued.

B. BACKGROUND

The Commission first approved annual construction of the sand berm in 1995. Coastal Development Permit (CDP) 4-95-207 was issued with special conditions regarding limited duration (not to exceed five years), biological monitoring during berm construction and removal activities, and submittal of an annual sand placement monitoring report. Over the next 20 years, several other permits were issued (CDP Nos. 4-95-207, 4-00-199, 4-01-155, 4-05-160 and 4-10-061), which were subject to similar conditions limiting the term of the permit, biological monitoring, and limiting construction/removal activities to avoid impacts to public access and biological resources.

In a previous CDP application the City submitted a document titled, "Winter Protection Berm – Feasibility Study," prepared by MNS Engineers, and dated July 26, 2001. The MNS report concluded that a temporary, seasonal sand berm is the most feasible means to protect beachfront development adjacent to the project site from wave action. However, the report did not provide a detailed evaluation of all feasible long-term solutions, and did not evaluate the feasibility of a dune system in conjunction with concurrent beach replenishment.

Also in 2001, the City began collaborating with the ACOE on the Carpinteria Storm Damage and Shoreline Protection Feasibility Study to address long-term solutions to protecting beachfront development in Carpinteria. Despite federal funding setbacks, work on the feasibility study has been ongoing. The baseline studies and computer modeling analyses for the feasibility study prepared by the USGS in their Carpinteria Coastal Processes Study from 2005-2007 were submitted with the current application. The study will address five alternative means of shoreline protection, including two beach nourishment alternatives that include construction of vegetated sand dunes; two artificial submerged reef alternatives that also include construction of vegetated

sand dunes; and a reinforced concrete seawall. In a letter accompanying the current application, the City notes that, due to funding cuts, progress on the feasibility study has again fallen behind schedule. They do indicate that progress is being made, albeit slowly.

C. HAZARDS AND SHORELINE PROCESSES

Section **30235** of the Coastal Act states:

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

Section **30253** of the Coastal Act states in part that new development shall:

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

Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In addition, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property.

The proposed project is for the annual construction and removal of an approximately 1,440 ft. long, approximately 12 ft. high winter sand berm on Carpinteria City Beach involving approximately 26,000 cu. yds. of grading, including 13,000 cu. yds. of excavation and 13,000 cu. yds. of fill. The proposed project includes construction of the berm prior to the winter storm season, maintenance of the berm during the winter, and removal of the berm in the spring. The berm will be constructed on the back portion of the sandy beach immediately seaward of the existing residential development as shown in **Exhibit 3.** Approximately 13,000 cu. yds. of sand to construct the berm will be excavated (pushed by scraper/bulldozers) from the beach seaward of the proposed berm location. Periodic maintenance of the berm will involve pushing sand from the beach immediately seaward of the berm back onto the berm with bulldozers. In the event that the berm is completely destroyed by wave action during the winter storm season, the berm would be reconstructed. The City proposes to remove the berm and restore the beach to its pre-development profile each spring prior to Memorial Day. Berm removal/demolition activity

would involve using a bulldozer to evenly redistribute the berm sand immediately seaward of the berm's location.

Carpinteria City Beach is backed by numerous private residences (single family residences, condominiums, and apartments) located on the seaward side of Sandyland Avenue, public parking facilities (located at several street ends), and a public restroom facility. The City has indicated that in years past, during the winter storm season, wave action has resulted in damage to the existing private residences and public amenities (including public streets, parking lots, and a restroom facility) located on the back portion of Carpinteria City Beach. The proposed sand berm is intended to protect existing development adjacent to the project site from damage from wave action during the winter storm season. In a letter dated August 3, 2010, the City states that:

> *The winter storms of 1983, 1987, 1993, 1994, 1997, 1998, 2003, 2005, 2006, 2008, 2009 all produced threatening storms that the City believes had the potential to cause damage to public improvements and to residential structures. Most recently, the winter 2010 saw wide spread ocean wave flooding and property damage along the Southern California coast. Many beach front managers and coastal engineers believe the 2010 beach erosion event was the most significant in 20 years. In Carpinteria, the berm, placed in the backshore area, prevented the run of the waves from flooding public and private property. No significant property damage was inflicted to the Carpinteria City Beach or the residential housing front. A local emergency response was required to maintain the berm until ocean conditions settled. Adjacent communities were not as fortunate.*
>
> *It was in the December of 1995 when the winter protection berm had not yet been built when a severe ocean wave event occurred. This event illustrated the risk of not constructing the berm. Hurricane force winds off of the Oregon and Northern California Coast generated twenty foot surf off of the Carpinteria Beach. This resulted in approximately $369,000 in damages to residential properties and public beach access improvements.*

The Commission has approved construction of a seasonal sand berm (as proposed by this application) on Carpinteria City Beach since 1995 (CDP Nos. 4-95-207, 4-00-199, 4-01-155, 4-05-160 and 4-10-061). Although sand berms may not be completely adequate for extreme wave or flooding conditions, the City's experience with the construction and maintenance of the berm at the subject location demonstrates that it has been effective protection. Sand berms could be considered to be shoreline protection structures because they have the potential to alter natural shoreline processes, but they are generally utilized on a temporary basis and have fewer potential impacts in that berms do not reflect wave energy. The Commission has found that where existing beachfront development is in danger from erosion as in the subject case, soft solutions such as beach berms generally have fewer significant environmental impacts than revetments, seawalls, or other similar structures. In its approval of these permits, the Commission did find that the proposed sand berm was an environmentally preferable alternative to provide for protection of existing development in comparison to the construction of "hard" solutions such as the construction of a rock revetment or seawall. However, the Commission also found that

disturbance from construction, maintenance, and demolition of the berm on an annual basis would still result in some potential adverse effects to the habitat resources on site.

The City of Carpinteria is actively collaborating with the United States Army Corps of Engineers (ACOE) on the Carpinteria Storm Damage and Shoreline Feasibility Study which will address long-term solutions to protect beachfront development in Carpinteria that is in danger from erosion. As outlined in the Project Management Plan, an initial report prepared by the ACOE, the study will address five alternative means of shoreline protection, including two beach nourishment alternatives that include construction of vegetated sand dunes; two artificial submerged reef alternatives that also include construction of vegetated sand dunes; and a reinforced concrete seawall. In a letter accompanying the current application, the City notes that, due to funding cuts, progress on the feasibility study has again fallen behind schedule. They do indicate that progress is being made, albeit slowly. Given that a conclusive analysis of all feasible alternatives has not been provided, and given that a detailed study of alternatives is underway **Special Condition Seven (7)** requires the City to provide the Executive Director with copies of all reports and documents issued by the ACOE as part of the feasibility study within thirty (30) days of their receipt.

In addition, the Commission notes that the proposed project will involve approximately 26,000 cu. yds. of grading and the use of construction equipment on the sandy beach. As such, the Commission finds that the proposed project will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately/unsafely exposed on the project site. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. Therefore, in order to ensure that adverse effects to the marine environment are minimized, **Special Condition Two (2)** requires the applicant to ensure that no stockpiling or storage of dirt, construction materials, or equipment shall occur on the beach seaward of the proposed berm location and that any and all debris that results from the construction period shall be immediately removed from the sandy beach.

The Commission notes, based on the information submitted by the City of Carpinteria, that the proposed development is located in an area of the Coastal Zone which has been identified as subject to potential hazards from wave action during the winter storm season. As discussed above, the existing private residences and public facilities located along Carpinteria City Beach have previously been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1995 winter storm season. As such, the Commission finds that evidence exists that the project site is subject to potential risks due to storm waves and surges, high surf conditions, erosion, and flooding.

The Commission further finds that although the proposed project will provide some level of protection for the developed portions of the subject site from wave-caused erosion, there remains some inherent risk to development on such sites. The Coastal Act recognizes that certain types of development, such as the proposed project to protect existing structures from storm waves,

may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his/her property. As such, the Commission finds that due to the unforeseen possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as a condition of approval. Therefore, **Special Condition Four (4)** requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Lastly, the Commission notes that approvals from the ACOE and RWQCB are necessary and serve to further reduce the potential for hazards associated with the proposed project. The City currently has approval from the RWQCB that extends to November 2024; however, the required ACOE permit has only been preliminarily approved. Final approval of the ACOE permit will be given once the subject CDP has been issued. To ensure that approvals are in place before the construction of the berm for this year and in the subsequent years permitted herein, **Special Condition Eight (8)** requires the City to obtain the final ACOE permit prior to commencement of construction of the berm. The ACOE and RWQCB approvals will be valid through the approved term of the subject CDP (extending through Memorial Day 2020).

Therefore, the Commission finds that, for the reasons set forth above, the proposed project, as conditioned, is consistent with Coastal Act Sections 30235 and 30253.

D. ENVIRONMENTALLY SENSITIVE HABITAT AND MARINE RESOURCES

Section **30230** of the Coastal Act states:

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

Section **30231** of the Coastal Act states:

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

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

Section **30240** of the Coastal Acts states:

(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.

Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30240 requires that environmentally sensitive habitat areas (ESHAs), as well as areas adjacent to ESHAs and parks and recreation areas, be protected from significant disruption of habitat values.

The proposed sand berm will involve approximately 26,000 cu. yds. of grading on the sandy beach between the back beach area and the surf zone along Carpinteria City Beach. Although the project site is not designated ESHA in the Carpinteria LCP, it does contain important biological resources. The City's certified Land Use Plan (LUP) classifies "beaches, tidelands, and subtidal reefs" as an important biological resource area and states:

Beaches, tidelands, and subtidal reefs have habitat and recreational value, and are used by both residents and tourists. Human activity in these areas increases stress on the habitats and can inhibit species reproduction and stability.

In addition, Policy OSC-1c of the LUP states:

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

The project site is located immediately onshore from the Carpinteria reef and kelp beds that are designated ESHAs. In addition, the City's biologist has noted that the project site contains habitat for Pismo clams, as discussed below.

Critical habitat for the Western Snowy Plover is located downcoast from the project site and some potential exists for the plover (and other sensitive species) to be found at or near the site. In addition, the sandy beach on the subject site has been identified as a potential grunion spawning location. Grunion spawns have the potential to occur in spring during the possible

berm removal period, but are unlikely and uncommon. Construction of the proposed berm is expected to occur outside the seasonally predicted run period and egg incubation period of the California Grunion and is therefore unlikely to result in any adverse effects to grunion spawning activities. However, maintenance activities and removal of the berm the following spring may result in potential adverse effects to grunion spawning activities on site.

In its application for CDP 4-00-199, the City submitted a Biological Analysis by Vince Semonsen, consulting biologist for the City of Carpinteria, dated October 25, 2000. The analysis indicates that the subject beach is known to provide potential habitat for several endangered species and species of concern including: Western Snowy Plover, California grunion, Pismo Clams, and potentially the Globose Dune Beetle. The analysis also indicates that disturbance of the beach habitat from construction, maintenance, and demolition of the proposed berm on an annual basis may result in several potential impacts to biological resources on site and that such impacts may be minimized through proper mitigation measures and monitoring. The report states:

> *This letter identifies several potential impacts to the fauna known to utilize the Carpinteria City Beach (1,500 lineal feet of beach) during the construction and smoothing of a winter sand berm…Western Snowy Plovers are known to utilize the City Beach. To prevent any possible impacts to the birds a qualified biologist is hired to survey the beach prior to both the winter berm construction and the spring smoothing work…California grunion come on to the City Beach to breed during periods of high tides. This activity is monitored and if a "run" has occurred there is no moving of beach sand for at least a two week period…Pismo clams are found along the beach and appear to be increasing in numbers. During the construction of the sand berm a biologist is onsite watching for any impacts to the clams. The clams generally reside in the surf zone below where the bulldozers will be working and are not expected to be impacted…An evaluation for the presence of the globose dune beetle is recommended and will be conducted just prior to this year's winter work.*

In past applications (and in the present application), the City has submitted letters from the biologist retained to monitor the berm construction, maintenance, and removal. The letters submitted as part of the subject application report the results of biological monitoring before, during, and after the construction of the winter berm from years 2011-2015. Biological monitoring letters from 1995-2010 were submitted with previous permit applications. The letters generally state that no Western Snowy Plovers or Pismo Clams were seen, and that construction of the berm avoided grunion runs. One letter from 2001 addresses the presence of globose dune beetles:

> *Prior to the berm work I looked for the endangered globose dune beetle* (Coelus globosus)*, a small, fossorial insect that inhabits coastal dunes of California and Northern Baja California. Several dune beetles were found in the vegetated portions of the beach near the homes and the beach access routes; they were identified as the more common* Coelus ciliatus. *Dune beetles are found primarily within vegetated dune systems, with the*

C. ciliatus *occupying more disturbed dune systems. The vegetated portions of the City beach were not affected by the berm work.*

The results of past biological monitoring indicate that sensitive resources have not been present in the project area at the time of berm construction activities so adverse impacts have been avoided. Nonetheless, there is appropriate habitat on the site for sensitive species.

As previously discussed, the Commission finds that construction of a seasonal sand berm on Carpinteria City Beach is an environmentally preferable alternative to provide for protection of existing development, in comparison to the construction of "hard" solutions such as the construction of a rock revetment or seawall. However, the Commission also finds that disturbance from construction, maintenance, and demolition of the berm on an annual basis has the potential to result in adverse effects to the habitat resources on site. Additionally, the presence, location, and sensitivity of resources present on the project site could change in the future. In order to ensure that the berm project will address any changed circumstances in the future, the Commission finds it necessary to require that the development be approved only for a term of five years. **Special Condition Five (5)** limits the duration of this permit to no more than five years thereby requiring the consideration of a new CDP if the City wishes to continue the berm construction..

The Commission finds that the proposed project has been previously implemented in a manner to minimize adverse effects to the sensitive beach and marine resources on the subject site. However, the Commission also finds that the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and grading activity. Therefore, to ensure that all recommendations of the environmental consultant are properly implemented, and to ensure that any potential adverse effects to beach and marine environments are minimized, **Special Condition Three (3)** requires that a qualified biologist or environmental resource specialist shall conduct a survey of the project site (donor site and receiver site) prior to the commencement of any berm construction , maintenance, or demolition activity to determine whether any Western Snowy Plovers, California Grunion, Pismo Clams, Globose Dune Beetles, or any other sensitive wildlife species are present. The condition requires that no excavation, construction, reconstruction, maintenance, or removal activities can occur until any and all Western Snowy Plovers have left the project area or its vicinity. In the event that the Western Snowy Plover exhibit reproductive or nesting behavior, the applicant must cease work, and shall immediately notify the Executive Director and federal, state, and local resource agencies. Project activities shall resume only upon written approval of the Executive Director. In the event that Pismo Clams, Globose Dune Beetles or other sensitive wildlife species are identified within the project area, the environmental resource specialist must require the applicant to cease work and immediately notify the Executive Director to determine an appropriate strategy to minimize any potential impacts to wildlife. Work cannot recommence until the Executive Director authorizes further project activity. Finally, in order to avoid impacts to California grunion, Special Condition 3 requires that by February 25 of each year, the applicant shall obtain the seasonally predicted run schedule for the California grunion, as identified by the California Department of Fish and Wildlife. In the event that excavation, construction, reconstruction, maintenance or removal activities will occur during the seasonally predicted run period and egg incubation period for the California grunion, then the

environmental monitor shall document any grunion spawning activity, and if grunion are present in any life stage, no excavation, construction, reconstruction, maintenance, or removal activities shall occur during the grunion spawning activity below the semilunar high tide mark.

In addition, the Commission notes that the proposed project will involve approximately 26,000 cu. yds. of grading and the use of construction equipment on the sandy beach. As such, the Commission further notes that the proposed project will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. Such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. Therefore, in order to ensure that adverse effects to the marine environment are minimized, **Special Condition Two (2)** requires the applicant to ensure that no stockpiling or storage of dirt, construction materials, or equipment shall occur on the beach seaward of the proposed berm location and that any and all debris that results from the construction period shall be immediately removed from the sandy beach.

Also, beach grooming, which involves mechanically raking and, in some cases, sifting, beach sand in order to remove wrack and debris, has significant impacts on the natural ecology of sandy beaches, including invertebrates and foraging seabirds. The City currently rakes the subject beach in the summer months, and deposits the wrack in the tidal zone, where it is transported downcoast in the direction of the ungroomed State Beach. The proposed project has the potential to affect beach wrack through the use of heavy equipment on the beach. While the proposed berm construction project does not specifically include any beach grooming activities, the proposed project does include excavation of dry sand for construction and maintenance of the berms, re-contouring or "smoothing" of excavated areas, and re-contouring of the deposition sites following berm removal in the spring. While much of the berm construction activities take place well landward of the typical wrack line, given the importance of wrack in beach habitats, the Commission finds it necessary to ensure that impacts to wrack are avoided. Therefore, in order to avoid potential adverse impacts to sensitive habitat, **Special Condition Six (6)** requires that any excavation, deposition, and re-contouring associated with the proposed project shall minimize disturbance to wrack. **Special Condition Six (6)** further requires that wrack shall not be removed from the beaches during berm construction activities with the exception that debris that is entangled in the wrack, and which poses a clear threat to public safety, may be removed by hand as needed.

As noted above, the Carpinteria City beach is the subject of a feasibility study evaluating long-term shoreline protection solutions, including construction of vegetated sand dunes, construction of an artificial reef, and construction of a concrete seawall. In order to ensure that the impacts of beach grooming practices are adequately considered as part of any long-term shoreline protection effort, **Special Condition Seven (7)** requires that the City evaluate, as part of any long-term shoreline protection program or project, beach grooming alternatives that minimize the removal of natural wrack to the extent feasible on the subject beach.

Lastly, the Commission notes that approvals from the ACOE and RWQCB are necessary and serve to further reduce potential impacts to sensitive habitat and marine resources. The City currently has approval from the RWQCB that extends to May 2024, so approval is in place for the recommended duration of this permit. Preliminary ACOE approval has been provided, and final approval will be provided once the subject CDP has been issued. To ensure that approvals are in place for the construction of the berm in the subsequent years permitted herein, **Special Condition Eight (8)** requires the City to the final required approval from the ACOE. If the ACOE approval requires modifications to the subject project, a CDP amendment will be required, unless the Executive Director determines that no amendment is necessary. The ACOE and RWQCB approvals shall be valid through Memorial Day 2020.

As conditioned to monitor the project site for the presence of sensitive species, to cease work or avoid working in areas where sensitive species are identified, to avoid the removal of beach wrack during construction, to control construction materials and equipment, and to obtain all other required permits, the Commission finds that the proposed project will minimize impacts to the beach and marine environment. Therefore, for the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

E. PUBLIC ACCESS AND VISUAL RESOURCES

Coastal Act Section **30210** states:

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

Coastal Act Section **30211** states:

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

In addition, Coastal Act Section **30251** states:

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

Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The project site is located on the back portion of the City of Carpinteria Beach. Public access is available along the entire approximately 1,440 ft. length of the project area. The proposed project involves the construction of a sand berm immediately seaward of the existing residential development and public street ends located on site. The crest of the proposed berm will be approximately 12 ft. above the typical ground elevation of the sandy beach area.

The proposed berm will result in some limited temporary adverse effects to public access and views. Beachgoers will be required to traverse the sand berm, approximately 12 ft. higher than the elevation of the back beach, in order to access the beach. However, the Commission notes that access over the proposed berm will not be blocked or result in an impassable barrier for the average beachgoer, and that the berm will not fully occupy the sandy beach. Beach area will be available for pass/repass and recreation, with the possible exception of winter periods when storm waves steepen the beach profile and erode the face of the berm. These conditions would be of a temporary nature only. In addition, the City will construct "ramped" areas to the top of the berm at several of the public street ends and parking lots in order to facilitate public access.

Public views of the beach from public viewing areas located along adjacent city streets will be limited by the proposed berm. However, the proposed project is temporary in nature and includes removal of the berm each spring. In order to ensure that any potential adverse effects to public views and access are minimized, **Special Condition One (1)** has been required to ensure that the berm is removed each year prior to Memorial Day, unless additional time is allowed by the Executive Director for good cause. Removal of the proposed berm involves redistributing sand seaward of the berm and restoring the beach to its pre-development profile.

Therefore, for the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A

Substantive File Documents

Carpinteria Coastal Processes Study, 2005-2007: Final Report prepared by the U.S. Geological Survey; Letter from Matthew Roberts, City of Carpinteria Director of Parks and Recreation Department dated 8/3/10; Biological Monitoring Memos dated 1/3/07, 3/8/11, 12/7/11, 4/30/12, 1/29/13, 4/2/13, and 3/13/14, and prepared by Vince Semonsen, Consulting Biologist for the City of Carpinteria; Mitigated Negative Declaration prepared by the City of Carpinteria; Winter Protection Berm – Feasibility Study dated 7/26/01 and prepared by MNS Engineers, Inc.; Report Synopsis for Carpinteria Shoreline Feasibility Study; Coastal Development Permit Nos. 4-95-207 (City of Carpinteria); 4-00-199 (City of Carpinteria); 4-01-155 (City of Carpinteria); 4-02-074 (BEACON); 4-05-160 (City of Carpinteria); 4-10-061 (City of Carpinteria).

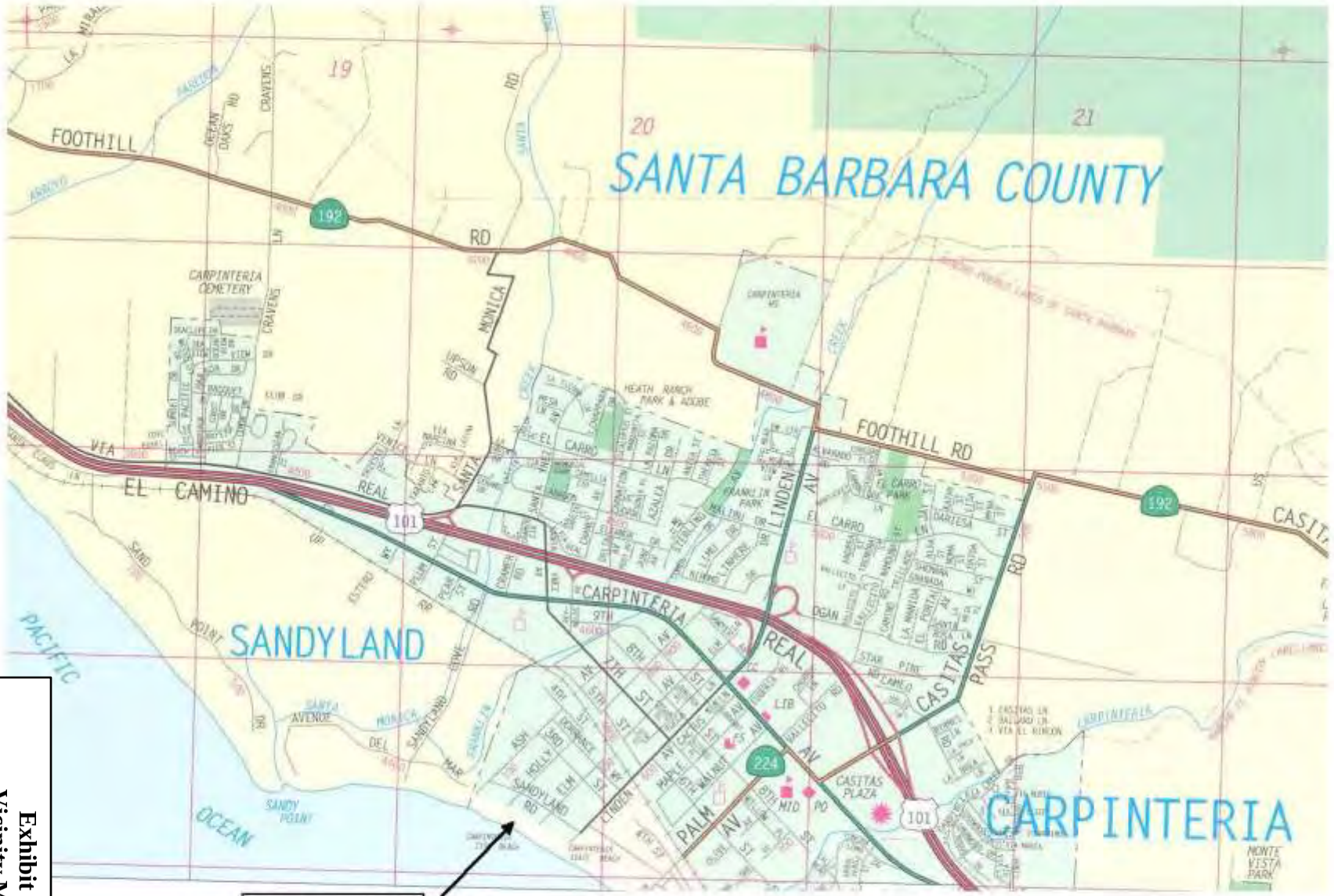
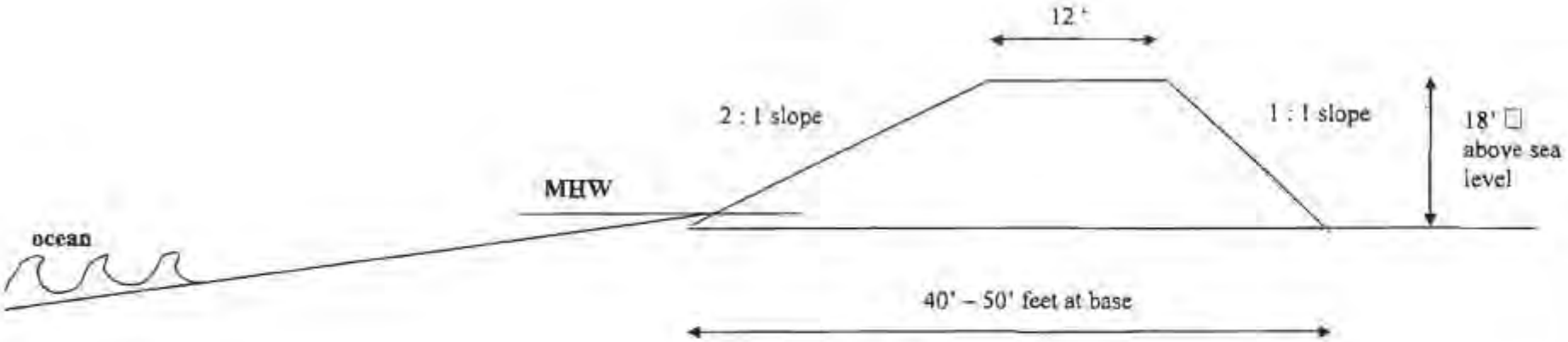


Exhibit 1
Vicinity Map
CDP 4-14-1806

Exhibit 2
Aerial Photograph
CDP 4-14-1806

Exhibit 3
Berm Plan
CDP 4-14-1806

Proposed Protective Dune Construction
City of Carpinteria
County of Santa Barbara
State of California

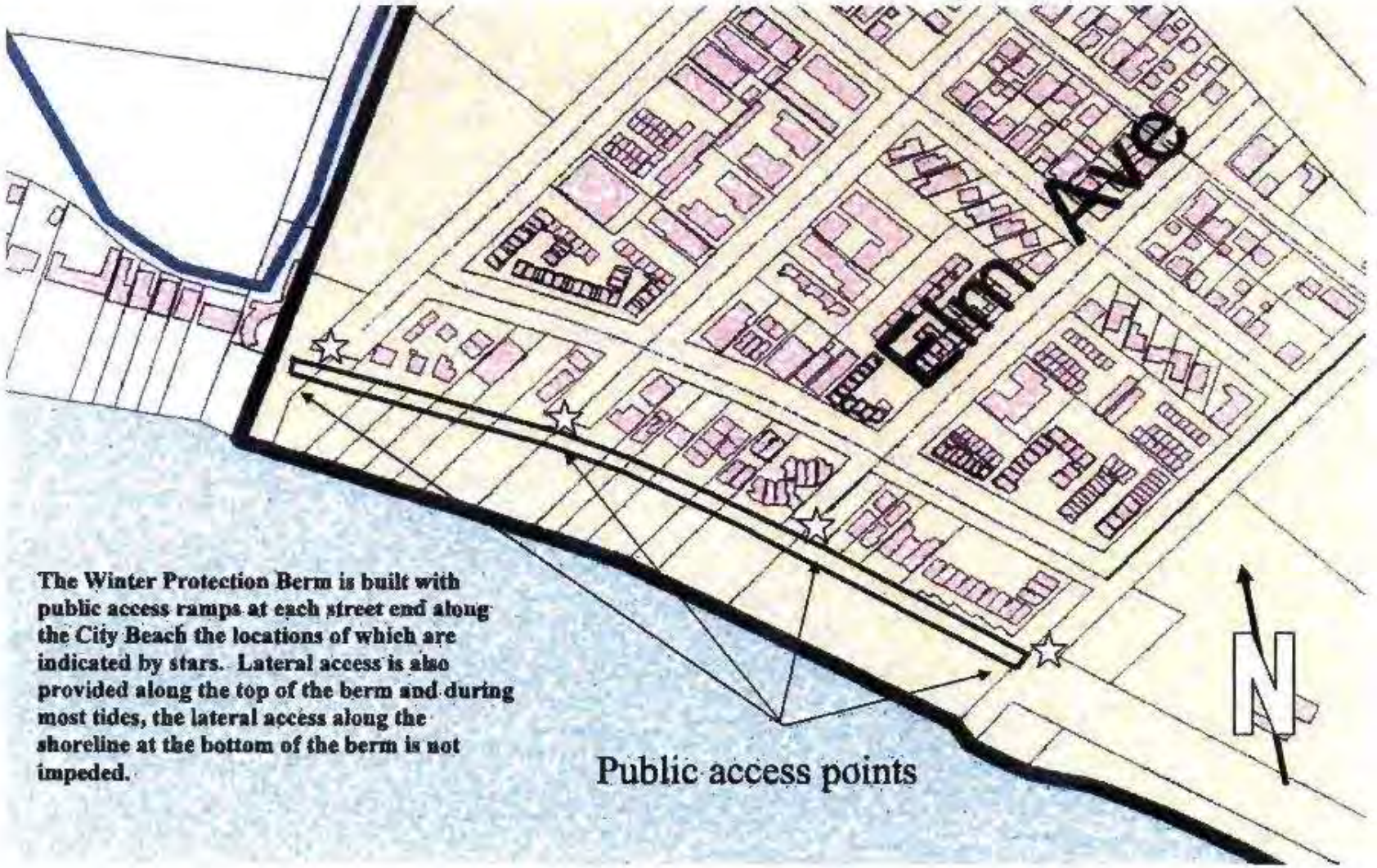


Typical Cross section,
No Scale
Material for dune shall be bulldozed from the seaward side during low tide conditions

Notes:

1. Beach elevations shown above are typical. Due to frequently changing conditions, they may not represent current conditions.
2. Estimated yardage is 13,000 CY based upon 1,440 LF of a 247 SF cross section. Actual yardage should be less since the dune area usually has some accumulation already.
3. All work shall be in accordance with the Standard Specifications for Public Works Construction Latest Edition

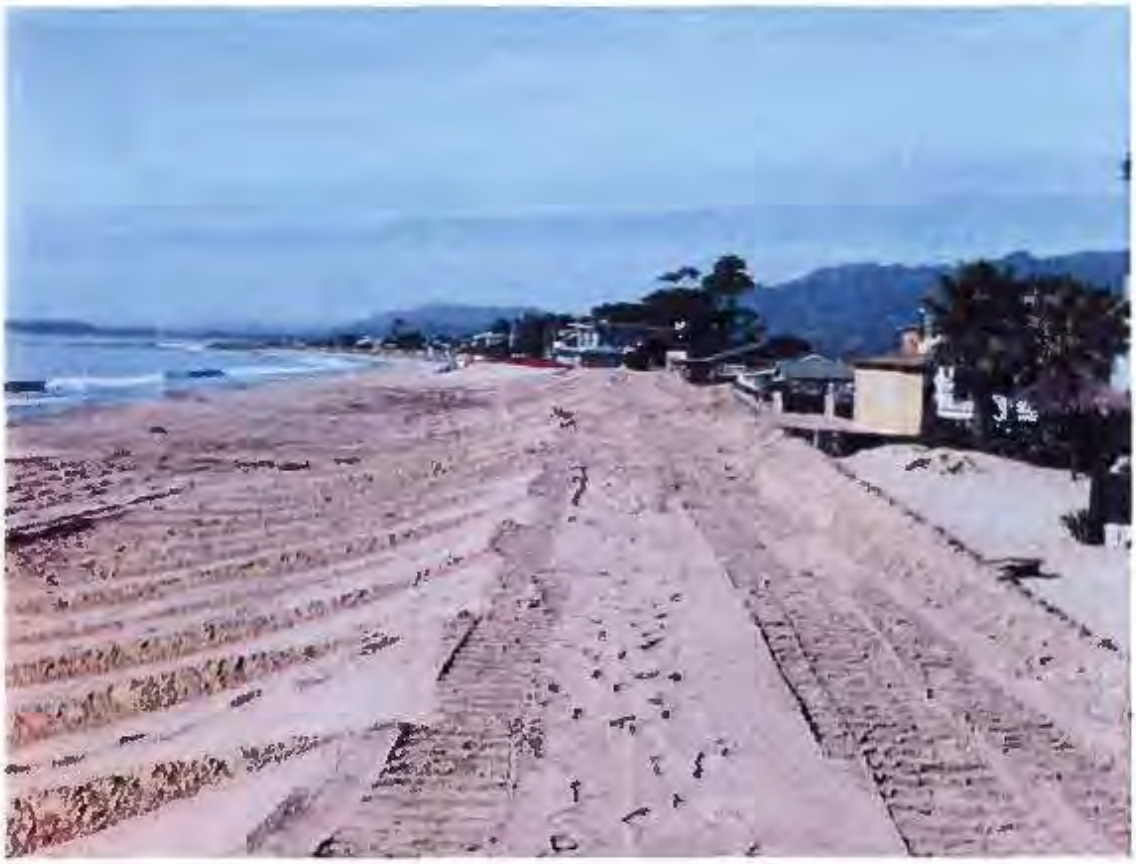
Exhibit 4
Berm Cross-Section
CDP 4-14-1806



Carpinteria Winter Protection Berm
7/2010

Exhibit 5
Public Access Points
CDP 4-14-1806

Exhibit 6
Adjacent ESHA
CDP 4-14-1806



View from mid beach looking west.
Berm just completed for 2009 winter. Note sand is gathered from upper tidal zone as beach sand volumes were ample. Also note wide berm top allowing pedestrian parallel access to coastline.
Photo date: November 2008

Exhibit 7
Photos
CDP 4-14-1806

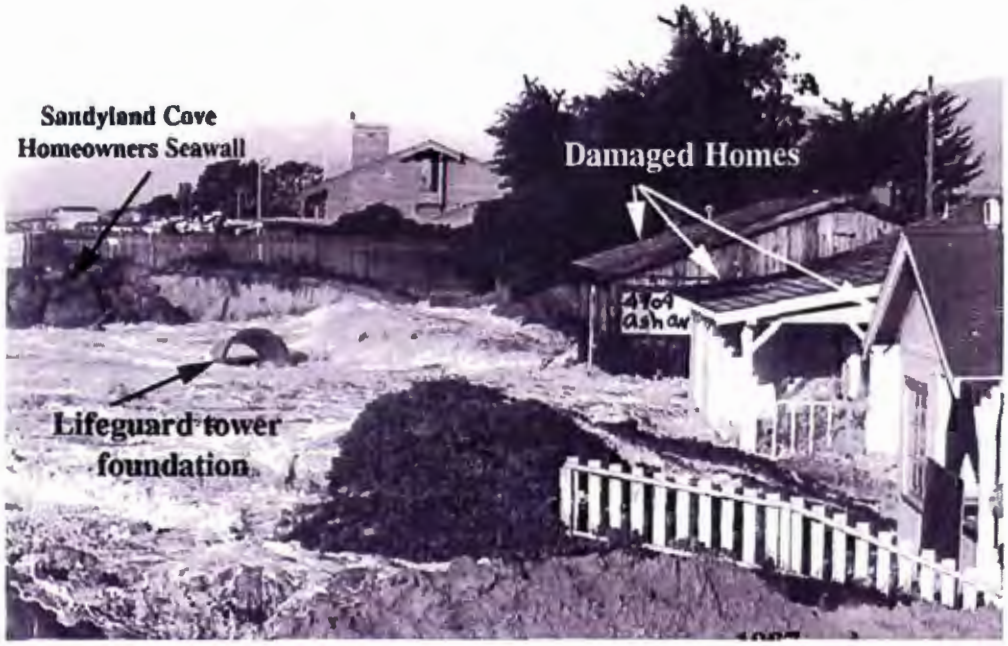
View Ash Avenue looking east..
Berm just completed for 2009 winter Note wide berm top allowing pedestrian parallel access to coastline.
Photo date: November 2008

In some years the berm requires maintenance. In this photo, new sediment has been pushed up to the remaining berm to fend off another high tide with heavy

A photo of maintenance activity during low tide in the Ash Avenue (western, end)of the City Beach

View from Ash Avenue looking east.
Berm has completely washed out after high tide
USGS study suggests end effects of
Sandyland Cove seawall contributes to
Acute erosion problem at this location
Photo date February 2003

The homes nearest Ash Avenue are the most vulnerable. Some evidence suggests it is due to "end effects" of the Sandyland Cove seawall.



In 1987, the winter berm was overwhelmed by a fierce winter storm with eight to ten foot surf, an extreme high tide. The wave frequency was very short at 8 to 10 seconds causing further damage potential.

Because the berm is made of clean sand, it is often the preferred sunbathing location as opposed to the wet sand area seaward.

A view looking west. The berm does not impede beach walks at medium to lower tides. This picture was taken in March 2000.

The picture above shows a high tide with moderate to high surf. The rip rap wall in the upper picture is out of the City Limits. The conditions present at the time of this photo would have caused structural and street flooding if it were not in place. Photo was taken in winter 2008.

Aerial view of berm in the Holly Avenue to Elm Avenue block. This picture was taken during reconstruction after a major erosion event.

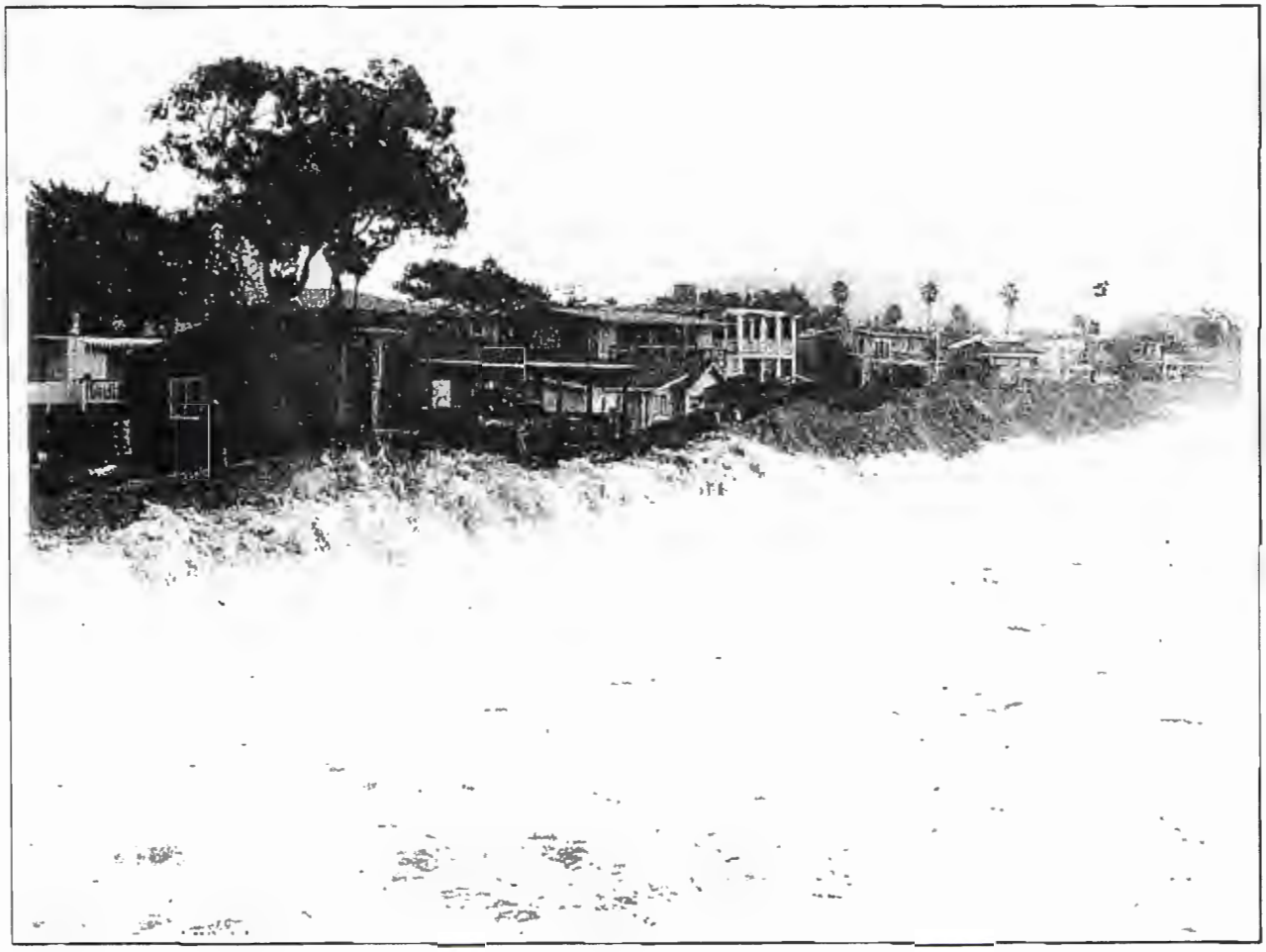


Photo of Carpinteria City Beach taken on December 20, 2002. This photo was taken at 9:00 AM during a 6.2' high tide. Berm has eroded 100% in the Ash Avenue area. The lifeguard station and several vintage beach cottages are imminently threatened.