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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-20-0391

Applicant: City of Carpinteria

Project Location: Carpinteria City Beach, Carpinteria, Santa Barbara County.

Project Description: Annual construction and removal of an approximately 1,375 ft. long, approximately 9.5 ft. high, winter sand berm involving approximately 20,000 cu. yds. of grading, including 10,000 cu. yds. of cut and 10,000 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 seven (7) 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, and (7) Required Approvals.

The applicant is proposing to construct an approximately 1,375 ft. long, approximately 9.5 ft. high sand berm at Carpinteria City Beach annually 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) adjacent to the project site from wave action damage during the winter storm season. Where existing beachfront development is in danger from erosion, as it is here, 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 the fall each year after Labor Day but prior to the winter storm season, and then 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, portions of the berm will be slightly lowered to form ramps where the public can more easily traverse the berm in order to access the beach (at the street ends). The average beach goer will be able to access the water by climbing over the lowered ramps of the berm and the beach area will remain available for 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 sensitive species are not negatively impacted by berm construction, **Special Condition Three (3)**, requires a biologist or resource specialist to monitor the site for the presence of sensitive species before, during, and after the time in which the berm is constructed, maintained, and removed.

The Commission previously issued five Coastal Development Permits (CDPs), since 1995 to the City of Carpinteria (City) for substantially the same project as is proposed by this application. These permits were subject to several special conditions, including a specific provision that limited the effective term of each permit to a five-year period, after which time any future sand berm construction activities would require a new permit from the Commission. CDP 4-14-1806 expired in May 2020; therefore, the City is proposing the subject permit application to continue the ongoing construction and demolition of the sand berm for an additional five-year period.

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 Chapter Three of the Coastal Act, with the applicable policies of the City of Carpinteria LCP serving as guidance. As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 4-20-0391, as conditioned. The motion and resolution to do so is on page 4.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. 4-20-0391 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. 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 to Approve the Permit:

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 3 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

- 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 applicant 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 applicant 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 of each year, to avoid impacts on public recreational use of the beach, unless additional time is allowed by the Executive Director for good reason.
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 the approved project plans, subject to the timing restrictions specified in **Special Condition One (1)** above.
 - b. The sand berm shall be removed (lowered) to pre-existing beach contours to restore the shoreline and to facilitate recreational use prior to Memorial Day, subject to the timing restrictions specified in **Special Condition One (1)** above.
 - c. No construction material, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion.
 - d. Any and all debris resulting from construction activities shall be removed from the beach immediately.
 - e. Equipment shall not be in contact with coastal waters at any time.
3. **Sensitive Species Monitoring.** The applicant shall retain the services of an environmental monitor that is either a qualified environmental monitor 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 applicant shall ensure that the environmental monitor conducts a visual survey of the project site to determine the presence and behavior of any 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. The applicant shall also ensure that prior to any project activities, the environmental monitor shall examine the beach area to preclude impacts to:
 - a. Western 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, Globose Dune Beetles, and other Sensitive Species – in the event that either of these species, or other sensitive wildlife species, are identified within the project area, the environmental monitor 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, reconstruction, 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 4-20-0391 occur or if habitat is removed or impacted beyond the scope of the work indicated in Coastal Development Permit 4-20-0391. 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. Duration of Authorization.** All sand berms approved and constructed pursuant to Coastal Development Permit 4-20-0391 shall be removed prior to Memorial Day weekend of each year, unless additional time is granted by the Executive Director for good cause. The authorization to conduct the work proposed in this project shall expire on Memorial Day 2025. Any project activities conducted after the expiration of this authorization 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 of wrack located within the maintenance area, it 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. Debris that is entangled in the wrack, and which poses a clear threat to public safety, may be removed by hand as needed.
- 7. Required Approvals.** By acceptance of this permit, the applicant agrees to obtain and comply with all other State or Federal approvals that may be necessary for all aspects of the proposed project (including the Regional Water Quality Control Board and the U.S. Army Corps of Engineers). Prior to the expiration of any such approvals, the applicant shall submit evidence of a new authorization that is valid through Memorial Day 2025. Any change in the approved project which may be required by another agency shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IV. FINDINGS AND DECLARATIONS

A. Project Description

The proposed project is for the annual construction and removal of an approximately 1,375 ft. long, approximately 9.5 ft. high winter sand berm on Carpinteria City Beach for

five years, involving approximately 20,000 cu. yds. of grading, including 10,000 cu. yds. of excavation and 10,000 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 10,000 cu. yds. of sand to construct the berm will be excavated (pushed by scrapers/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 predevelopment 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 as well as public streets, beach parking lots, and a public beach restroom facility. 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 facilities 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 are 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 recreation during the summer season but remains a popular visitor destination throughout the year.

Although the project site is heavily utilized for public access and recreation and does not contain habitat that meets the definition of 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 Globose Dune Beetles, 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 in the City's Land Use Plan.

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

permit term (not to exceed five years), biological monitoring during berm construction and removal activities, and submittal of an annual sand placement monitoring report. Over the past 25 years, several other permits were issued for similar work (CDP Nos. 4-00-199, 4-01-155, 4-05-160, 4-10-061, and 4-14-1806), which were subject to similar conditions limiting the term of the permit, requiring biological monitoring, and limiting construction/removal activities to avoid impacts to public access and biological resources.

In 2001, the City began collaborating with the U.S. Army Corps of Engineers (ACOE) on the Carpinteria Storm Damage and Shoreline Protection Feasibility Study to address long-term solutions to protecting beachfront development in Carpinteria. The baseline studies and computer modeling analyses for the feasibility study were prepared by the United States Geological Survey (USGS) in their Carpinteria Coastal Processes Study from 2005-2007. However, the ACOE Feasibility Study has since been terminated by the Los Angeles District office of ACOE due to low preliminary benefits identified and lack of Federal interest to support project implementation. The City intends to pursue a conversion of the study to the Continuing Authorities Program at a later time in accordance with ACOE procedures.

The City of Carpinteria is also preparing a Living Shoreline Feasibility Study to further existing local sea level rise adaptation planning efforts and analyze the potential of using a vegetated dune system to reduce the vulnerability of the City from coastal storm damage. The study is anticipated to produce a conceptual design for a living shoreline and provide a framework for long-term shoreline management. The study is scheduled to be completed in early to mid 2022. In addition, the City participates in BEACON (Beach Erosion Authority for Clean Oceans and Nourishment), a local task force comprised of representatives from local, state, and federal government agencies whose goal is to develop a regional beach replenishment program. The City is working with BEACON to identify areas of potential sediment placement along the shoreline within the City.

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 1,375 ft. long, approximately 9.5 ft. high winter sand berm on Carpinteria City Beach involving approximately 20,000 cu. yds. of grading, including 10,000 cu. yds. of excavation and 10,000 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 2. Approximately 10,000 cu. yds. of sand to construct the berm will be excavated (pushed by scrapers/bulldozers) from the beach area located seaward of the proposed berm. 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 predevelopment 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 Road, public beach 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 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.

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, 4-10-061, and 4-14-1806). Although temporary sand berms may not be completely adequate for extreme wave or flooding conditions, the City's experience with the construction and maintenance of the berms at the subject location demonstrates that it has been effective protection during winter storm events. Sand berms could be considered to be construction that alter natural shoreline processes. However, sand berms are generally utilized on a temporary basis and have fewer potential impacts than permanent shoreline protection devices, such as seawalls and revetments, since berms do not reflect wave energy or exacerbate erosion of adjacent

areas. 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 past approval of permits for this seasonal sand berm at Carpinteria City Beach, the Commission found 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. A detailed discussion of potential impacts and mitigation measures is contained in Section D of this report. For these reasons, the Commission finds that the berm would serve to protect existing structures, including private residences, public beach parking facilities, and a public restroom facility, and that, as a soft solution, the current design of the berm mitigates adverse impacts on local shoreline sand supply and will neither create nor contribute significantly to erosion or destruction of the site or surrounding area.

The City of Carpinteria is preparing a Living Shoreline Feasibility Study to analyze the potential of using a vegetated dune system as a long-term solution to reduce the vulnerability of the City, including the predominantly residential beach neighborhood, historic downtown, and public infrastructure, from coastal storm damage. The study is anticipated to produce a conceptual design for a living shoreline and to provide the framework for long-term shoreline management. City staff and Commission staff will coordinate on project alternatives. Future implementation of a living shoreline project will require a new coastal development permit.

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. 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 developments adjacent to the subject site from wave-caused erosion, nearby developments remain subject to some inherent risk. The Coastal Act recognizes that certain types of development, such as the proposed project to protect existing structures from storm waves, may involve accepting some risk. Coastal Act policies require the Commission to assess the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in or designed to protect areas of identified hazards is proposed, the Commission considers the hazards and the potential cost to the public. As such, the Commission finds that due to the possibility of storm waves, surges, erosion, and flooding in this location, 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 proposed development or of it providing insufficient protection of developments adjacent to the subject site. 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 in the surrounding areas, and which may adversely affect the stability or safety of the surrounding developments that the proposed development is intended to protect.

Lastly, the Commission notes that approvals from the ACOE and Regional Water Quality Control Board (RWQCB) are necessary and serve to further reduce potential for hazards associated with the proposed project. The City currently has a permit from the ACOE (Permit No. SPL-2014-00508-CLH) that is valid until Memorial Day 2025. However, the required RWQCB approval expires on May 1, 2024, and does not cover the entirety of the approved term of the subject CDP. To ensure that approvals are in place for the construction of the berm in the subsequent years permitted herein, **Special Condition Seven (7)** requires the City to provide the renewed approval from the RWQCB that shall be valid through Memorial Day 2025 prior to expiration of the current approval.

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 waterflow, 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 appropriate to maintain optimum populations of marine organisms and for the protection of human health 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 20,000 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 important biological resource areas 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. Critical habitat for the Western Snowy Plover is located downcoast from the project site, and there is potential for 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 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 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 2015-2020. Biological monitoring letters from 1995-2014 were also submitted with previous permit applications. The letters show that there were few instances where sensitive species were observed during surveys in preparation for construction of the berm, and proper precautions were taken to avoid impacts on the species. Most recently in 2016, two snowy plovers and grunion were observed at the project site.

These letters show that past biological monitoring has found that sensitive species can be present in the project area at the time of berm construction and removal activities. This confirms that there is appropriate habitat on the site for sensitive species. As such, the proposed project has the potential to result in adverse impacts to sensitive species and habitat due to unintentional disturbance from construction equipment and grading activity. Therefore, to ensure that any potential adverse effects to beach and marine environments are minimized, **Special Condition Three (3)** requires that the applicant ensures that a qualified environmental monitor conducts a survey of the project 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 any present 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 applicant must ensure that the environmental monitor informs the applicant of their presence. The applicant must then 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 Three (3)** also 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. If grunion is 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 20,000 cu. yds. of grading and the use of construction equipment on the sandy beach. As such, the Commission further 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. 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 inconsistent with the mandates in sections 30230 and 30231 to maintain water quality. Therefore, in order to ensure that marine resources and the quality of coastal waters are maintained, **Special Condition Two (2)** requires the applicant to ensure that no stockpiling or storage of 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 proposed project also 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; however, debris that is entangled in the wrack, and which poses a clear threat to public safety, may be removed by hand as needed.

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 the authorization provided by 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.

Lastly, the Commission notes that approvals from the ACOE and RWQCB are necessary and serve to ensure that marine resources and quality of coastal waters are maintained. The City currently has a permit from the ACOE (Permit No. SPL-2014-00508-CLH) that is valid until Memorial Day 2025. However, the required RWQCB

approval expires on May 1, 2024, and does not cover the entirety of the approved term of the subject CDP. To ensure that approvals are in place for the construction of the berm in the subsequent years permitted herein, **Special Condition Seven (7)** requires the City to provide the renewed approval from the RWQCB that shall be valid through Memorial Day 2025 prior to expiration of the current approval.

As conditioned, marine resources will be maintained, and special protection will be given to areas and species of special biological significance. The special conditions will also ensure that the biological productivity and the quality of these coastal waters are maintained by preventing substantial interference with surface waterflow. As conditioned, the project will also protect nearby environmentally sensitive habitat areas from significant disruption and the development is sited and designed to prevent impacts which would significantly degrade those areas. 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 1,375 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 9.5 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. While the sand berm stands at approximately 9.5 ft. higher than the elevation of the back beach, the City will construct "ramped" areas within the larger berm that are slightly lower in elevation and wider. These will be at several of the public street ends and parking lots in order to facilitate public access. Beachgoers will be able to use these ramped areas to access the beach. 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 recreation, with the possible exception of winter periods when storm waves steepen the beach profile and erode the face of the berm. However, these conditions would be of a temporary nature only.

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. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified 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 approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts 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 any 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 effects, have been required as special conditions. **Special Conditions One (1) through Seven (7)** are required to assure the project's consistency with Section 13096 of Title 14 of the California Code of Regulations. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts 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.

4-20-0391
City of Carpinteria

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application Nos. 4-05-160 (City of Carpinteria); 4-10-061 (City of Carpinteria); 4-14-1806 (City of Carpinteria) and associated file documents.

Biological Monitoring Memos dated 3/17/2015, 6/29/2016, 6/5/2017, 9/28/2018, and 5/1/2020 prepared by Vince Semonsen, Consulting Biologist for the City of Carpinteria.

Mitigated Negative Declaration, prepared by the City of Carpinteria, April 2015.