City of Carpinteria
City Council Regular Meeting Agenda
Monday, November 24, 2014
Council Chamber, 5775 Carpinteria Avenue

4:00 p.m. Closed Session - 5:30 p.m. Regular Session

INFORMATION ABOUT CITY COUNCIL MEETINGS:

- The time at which an item on the agenda is scheduled to be heard is an estimate only. The City Council may consider and act on an agenda item in any order it deems appropriate. In addition, an item may be considered earlier or later than the Estimated Time, depending on the length of time which is devoted to other agenda items. All persons interested in an item listed on the agenda are advised to be present throughout the meeting to ensure that they are present when the item is called.

- The regular meeting will be broadcast live over Government Access Television Channel 21. The City Council meetings will be rebroadcast on Wednesdays at 8:00 p.m. and Saturdays at 5:00 p.m.

- Materials related to an Agenda item submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 5775 Carpinteria Avenue, Carpinteria, during normal business hours. Such documents are also available on the City of Carpinteria website at www.carpinteria.ca.us subject to staff's ability to post the documents before the meeting.

- Any written or printed material and/or exhibits presented at a City Council meeting or work session become the property of the City.

- Any information presented to the City Council by the public on any agenda item and during Public Comment using electronic media to be displayed on the overhead projector must be arranged with staff for review of materials in advance of the meeting and no later than close of business Wednesday prior to the Council meeting.

- As a courtesy to others and to avoid interference with the public address system, please refrain from using cell phones in the Council Chambers and please turn off all audible pagers and rings.

- If you wish to speak on a matter scheduled for consideration in a closed session, you will have an opportunity to address the City Council before the Council retires to its closed session deliberations.

ESTIMATED TIME:

4:00 p.m. **CALL TO ORDER**

ROLL CALL

PUBLIC COMMENT ON CLOSED SESSION MATTER

CLOSED SESSION

1. Conference with Labor Negotiator(s) - Government Code Section 54957.6; City Negotiator(s): Arlene Balmadrid, Human Resources Director, Dave Durflinger, City Manager, Jeffrey Dinkin, Attorney; Employee Organization: Service Employees International Union (SEIU) Local 620

2. Conference with City Attorney – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code section 54956.9(b) (one potential case) based on City Council's consideration of potential regulations regarding oil and gas development as reviewed in City Council's October 13, 2014 meeting

TEMPORARY ADJORNMENT TO CLOSED SESSION

5:30 p.m. **CALL BACK TO ORDER**

5:30 p.m. **CLOSED SESSION REPORT**

5:31 p.m. **ROLL CALL**

5:31 p.m. **PLEDGE OF ALLEGIANCE**

5:31 p.m. **INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS**

5:32 p.m. **PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS**

5:32 p.m. **CITY MANAGER'S REPORT**

The City Manager will report to the City Council regarding various City and/or community events and/or matters of interest. There will be no City Council discussion except to ask questions or refer matters to staff; and no action will be taken unless listed on a subsequent agenda.

5: 35 p.m. **PRESENTATIONS BY CITIZENS/PUBLIC COMMENT**

This is a time for public comments on matters not otherwise on the agenda but within the subject matter jurisdiction of the City Council. The Public Comment period is limited to 15 minutes and divided among those persons desiring to speak. No person shall speak longer than three minutes; however, the Mayor may establish shorter periods based on the time available and/or the number of persons waiting to speak. Persons wishing to speak on a specific item will be recognized at the time the agenda item is considered.

Please be aware that items on the consent calendar are considered to be routine and are normally enacted by one unanimous vote of the Council. If you wish to speak on a consent calendar item, or on a matter scheduled for consideration in a closed session at the end of the agenda, please do so during the Public Comment portion of the meeting.

The City and the City Council are not responsible for the content of statements made during the public comment period, or the factual accuracy of any such statements.

5:45 p.m. **AGENDA MODIFICATIONS:** The City Council may modify the regular agenda by tabling items, adding urgency items to the agenda, or changing the order in which items are considered. Changes to the Consent Calendar are considered at the time the Consent Calendar is considered.

5:45 p.m. **CONSENT CALENDAR (to be approved by roll call vote on one motion with all resolutions and ordinances as read by title only).** Individual items may be removed and considered separately at the request of a Councilmember. Any item, which is removed from the Consent Calendar, will be added to the end of the agenda under Other Business.

1. Minutes of the Regular City Council Meeting of October 27 and November 10, 2014.

2. Expenditures for the period ending November 18, 2014.

3. Ratification of Resolution No. 5560 entitled, a Resolution of the City Council of the City of Carpinteria Recognizing the 100th Anniversary of the Carpinteria Masonic Lodge No. 444.

4. Consider Canceling the regular City Council meeting of December 22, 2014, and closure of City Hall on December 26, 2014 and January 2, 2015.

5:46 p.m. **ADMINISTRATIVE MATTERS: NONE**

5:46 p.m. **PUBLIC HEARING: NONE**

OTHER BUSINESS:

5:46 p.m. 5. Status Report on City of Carpinteria Oil and Gas Regulations (Continued from October 13, 2014)

Recommendation: Direct that (i) changes to the Coastal Dependent Industry (CDI) land use designation be considered as part of the comprehensive update of the General Plan/Local Coastal Land Use Plan to be initiated in 2015; and that (ii) the drafting of updated oil and gas development regulations continue through the comprehensive zoning code update to be released for public review in 2015.

Staff presenter: Dave Durflinger, City Manager; Jackie Campbell, Community Development Director; and Jena Shoaf, City Attorney's Office

a. Staff Report
b. Public Comment
c. City Council Determination

6:46 p.m. **COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS**

Informational reports from Councilmember representatives on the committees, commissions and organizations listed below. This is also an opportunity for Councilmembers to request information from staff or seek support from fellow Councilmembers for future agenda items.

1. Representatives to Regional Agencies and Committees

a. Beach Erosion Authority for Clean Oceans and Nourishment (BEACON) (Shaw/Alt. Carty)
b. California Joint Powers Insurance Authority (CJPIA) (Clark/Alt. Shaw)
c. Channel Counties Division, League of California Cities (Nomura/Alt. Shaw)
d. Santa Barbara Association of Governments (SBCAG)(Clark/Alt. Nomura)
e. Santa Barbara County Air Pollution Control District (APCD)(Clark/Alt. Nomura)
f. Santa Barbara Joint Housing Task Group (Carty & Shaw)
g. Central Coast Collaborative on Homelessness (C3H) (Carty)

h. South Coast Task Force on Youth Gangs Leadership and Executive Council (Carty & Clark)

2. Joint and Standing Committees

a. City Council/Chamber of Commerce Board of Directors Committee (Carty & Nomura)
b. City Council/Public Safety Committee (Clark & Shaw)
c. City Council/School Board Committee (Stein & Carty)
d. City Council/Utilities Committee (Stein & Nomura)
e. City Council/First District Supervisor Committee (Stein & Carty)
f. City Council Finance/Budget Committee (Stein & Clark)

3. Ad Hoc Committees

a. Public Facility Site Acquisition/Development Committee (Carty & Nomura)
b. Transportation Committee (Stein & Shaw)
c. Labor Relations Committee (Nomura & Shaw)
d. Legal Services Committee (Clark & Shaw)
e. 50th Anniversary Committee (Carty & Nomura)

4. City Representatives on other Committees

a. Community Media Access Center (Gary Dobbins)
b. Santa Barbara Coastal Vector Control District (Ronald Hurd)
c. Santa Barbara Metropolitan Transit District (Chuck McQuary)

6:50 p.m. **ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS**

6:50 p.m. **ADJOURNMENT**

The next regular meeting is to be held on **Monday, December 8, 2014** at **5:30** P.M., in the Council Chamber, City Hall, 5775 Carpinteria Avenue, Carpinteria, California.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the City Clerk's Office at 684-5405, extension 403 or the California Relay Service at (866) 735-2929. Notification two business days prior to the meeting will enable the City to make reasonable arrangements for accessibility to this meeting.

This agenda was posted on Wednesday, November 20, 2014, in the City Clerk's Office, on the City Hall Public Notices Board, and on the Internet.

City of Carpinteria
City Council Minutes
Regular Meeting
Council Chambers
Monday, October 27, 2014

CALL TO ORDER

Vice Mayor Carty called the meeting to order at 4:45 p.m.

ROLL CALL

Councilmember Al Clark, Councilmember Wade Nomura, Councilmember Fred Shaw, and Vice Mayor Gregg Carty were present. Mayor J. Bradley Stein was absent. City Manager Dave Durflinger and City Attorney Peter Brown were also present.

PUBLIC COMMENT ON CLOSED SESSION: None

CLOSED SESSION

Peter Brown, City Attorney, announced that the City Council would temporarily adjourn to a Closed Session for the purpose of the following item:

CLOSED SESSION

1. Conference with City Attorney – Existing Litigation – Government Code Section 54956.9(a)

   Transportation Futures Committee, et al. vs. California Department of Transportation, et al; Santa Barbara Superior Court, Case No. 1468969

TEMPORARY ADJOURNMENT TO CLOSED SESSION

The City Council recessed to Closed Session at 4:45 p.m.

CALL BACK TO ORDER

The meeting was called to order by Vice Mayor Carty at 5:30 p.m.

CLOSED SESSION REPORT

Peter Brown, City Attorney, announced there were no reportable actions from the Closed Session.

ROLL CALL

Councilmembers present:

Councilmember Al Clark
Councilmember Wade Nomura
Councilmember Fred Shaw
Vice Mayor Gregg Carty

Mayor J. Bradley Stein was absent.

Staff members present:
Dave Durflinger, City Manager
Peter Brown, City Attorney
Fidela Garcia, City Clerk
Charles Ebeling, Public Works Director/City Engineer
Nick Bobroff, Associate Planner
Erin Marker, Environmental Coordinator
Jackie Campbell, Community Development Director
Julie Jeakle, Emergency Services Coordinator

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Mayor Stein.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS:

Charlie Ebeling, Public Works Director, provided an update regarding Carpinteria Avenue Pavement Rehabilitation Project. He noted that the project is scheduled to begin on November 10 and will include nighttime construction at the ramps on Casitas Pass Road. He stated the project is expected to be complete by Christmas.

CITY MANAGER'S REPORT:

- On October 29 at 6 p.m. at City Hall the California Public Utilities Commission will be hosting a public meeting to receive comments on the Draft Environmental Impact Report (EIR) for SB County Electrical Reliability Project proposed by Southern California Edison to improve the electrical infrastructure from Ventura to the Carpinteria substation. The comment period ends on November 12. A copy of the Draft EIR is on file at the library or can be viewed on line at the California Public Utilities website.

- Downtown Business Advisory Board (DTBAB) and participating merchants will host a Trick or Treat event on Friday, October 31 from 3:30-5 pm on Linden Street in the Downtown "T" area.

Charlie Ebeling, Public Works Director, presented an update on the Carpinteria Avenue Pavement Project. He mentioned the project is scheduled to begin on November 10, and includes repaving Carpinteria Avenue from approximately Linden to Carpinteria Avenue Bridge and Casitas Pass Road from Carpinteria Avenue north to US Highway 101. He stated Southern California Edison (SCE) and Carpinteria Valley Water District are doing utility repairs before the pavement project begins. SCE will be trenching a significant conduit run from Carpinteria Avenue Bridge area westerly towards Casitas Pass Road and continuing on to Casitas Pass Road towards US Highway 101. The conduit will contain a communications cable for SCE and is designed to coordinate with the future overcrossing project so that the cable would run underground through the future US Highway 101 Bridge for Casitas Pass Road. The Project will include a few evening of night work at the ramp terminal intersections at US 101 Highway and Casitas Pass Road with some overnight hours on one evening. He concluded by stating the south bound on and off ramps at casitas pass road will be closed to allow the construction and completion by Christmas.

PUBLIC COMMENT

Vice Mayor Carty welcomed the high school students in the audience.

AGENDA MODIFICATIONS: None

CONSENT CALENDAR

It was moved by Councilmember Shaw, seconded by Councilmember Clark, to approve the Consent Calendar and all resolutions as read by title only.

Upon voice vote, Councilmembers Clark, Shaw, and Nomura, and Vice Mayor Carty were in favor. Mayor Stein was absent. Motion carried.

1. Expenditures for the period ending October 21, 2014.

2. Adopt Resolution No. 5555, as read by title only, authorizing the destruction of certain obsolete records in the City Clerk's Office as specified in Exhibit A of the resolution.

3. Quarterly Review of Investment Results and Certifications Concerning Compliance with Investment Policy and Cash Flow Needs for the next six months.

4. Adopt Resolution No. 5557, as read by title only, Acknowledging the Review, Receipt and Filing of the Annual Statement of Investment Policy; and Adopt Resolution No. 5558, as read by title only, Authorizing the City Manager or the Finance Supervisor under the Direction of the Administrative Services Director to make investments in the Treasury Direct Program on behalf of the City.

ADMINISTRATIVE MATTER(S): None

PUBLIC HEARING: None

OTHER BUSINESS:

5. Bob Hanson Creeks Preservation Program Annual Report

Recommendation: a) Receive presentation on City efforts to protect and restore City creek resources as part of the City's Bob Hansen Creeks Preservation Program; b) Receive an update on the City's participation in the Santa Barbara Creek Week Events held September 20-28, 2014; and c) Receive an update on implementation of the City's Post Construction Runoff Controls and Phase II MS4 Permit.

Nick Bobroff, Associate Planner and Erin Maker, Environmental Coordinator, presented the staff report.

Mr. Bobroff responded to a question regarding the use of Imazapyr on Arundo and stated that this herbicide is more effective and is applied directly to the stumps after the stalks have been cut.

Ms. Maker responded to a question regarding the status of the Malibu Channel which runs parallel to Franklin Creek lateral tributary by stating that this channel runs across private property and Public Works staff has worked with the property owner in order to clear out overgrown weeds and maintain the channel. She also responded to a question regarding Santa Barbara County Technical Guide and post-construction runoff control requirements, which require projects over 5,000 square feet to have 85 percentile treatment as a water quality measure and projects over 15,000 square feet required to retain water onsite and infiltrate.

There was no Public Comment.

The report was received and filed.

6. 2015–2023 Housing Element Update of the General Plan, Case No. 14-1718-GPA

Recommendation: Adopt Resolution No. 5556, as read by title only, approving and adopting the California Environmental Quality Act (CEQA) Addendum, the 2015-2023

Housing Element Update to the City's General Plan, and authorizing staff to submit the document to the State Department of Housing and Community Development (HCD) for certification.

Jackie Campbell, Community Development Director, noted that staff failed to place a display advertisement, and she recommended moving forward with the presentation and continuing the item to a future date in order to accomplish the noticing requirement. She noted that the Housing Element Update is not due until February 2015.

Consultant John Douglas of JHD Planning presented the staff report and PowerPoint presentation.

Councilmember Clark inquired whether certain housing allocations could be carried over should a developer not come forward to create certain types of housing such as low-income. Mr. Douglas responded there is no penalty for not achieving Regional Housing Needs Assessment (RHNA) allocation. He noted that the only situation where a carry-over occurs is when a city does not have enough land zoned to accommodate its housing needs and there would be a carry-over of unaccommodated need to the next planning period.

Councilmember Clark noted that the Planning Commission had discussed vacation rentals and second units; however, the resolution and the Planning Commission minutes do not reference vacation rentals. He inquired what was being done regarding vacation rentals. Ms. Campbell responded there was discussion regarding the policy issue of vacation rentals, which would be addressed as part of the Zoning Code Update. She stated the City Council and the Planning Commission would have the opportunity to review the draft Zoning Code Update, and the City Council can adopt new regulations to determine where to allow vacation rentals, where to prohibit them, and what other regulations they may want to have in place to regulate those types of units.

Councilmember Clark inquired whether the City was considering lessening the requirements for second units. Ms. Campbell responded that staff had investigated what was achieved over the last several years and found that zero second units were produced in the last Housing Element cycle. She stated that staff was proposing modifying the regulations for second units in the next Zoning Code update for public review, Planning Commission, and City Council consideration.

Councilmember Shaw inquired whether the City requires or suggests that homes coming up for sale has low-flow appliances or toilets or energy efficient appliances as part of the home inspection. Ms. Campbell responded there is a zoning inspection done for single-family home and condominium sales; however, the law does not require homes to have low-flow fixtures. She noted there are other laws in place when building permits are issued for self-certification of changing out inefficient appliances and fixtures in accordance with new standards.

Councilmember Carty inquired whether a second water meter is required for a second unit. Ms. Campbell responded this might be a better question for the water or sanitary district because the second unit cannot be sold separately from the primary dwelling.

There were no Public Comments.

Motion by Councilmember Clark, seconded by Councilmember Shaw, to continue this item to the November 10, 2014 regular City Council Meeting.

Upon voice vote, Councilmembers Clark, Shaw, and Nomura, and Vice Mayor Carty were in favor. Mayor Stein was absent. Motion carried.

7. City's Emergency Services Management Program

Recommendation: Receive informational report with no action required.

Julie Jeakle, Emergency Services Coordinator, presented the staff report and PowerPoint presentation.

Councilmember Nomura noted that Rotary International looked at multiple major disasters occurring worldwide and one of the organizations they found that was able to address major disaster issues was the Office of Civil Defense. He inquired whether staff had investigated reaching out to this organization. Ms. Jeakle responded that staff had not looked at their plans specifically; however, she would follow-up.

Vice Mayor Carty noted that Union Pacific Railroad runs right through Carpinteria and he inquired whether there was any communication with Union Pacific Railroad in case of any disaster. Ms. Jeakle responded that rail issues are addressed in the Emergency Operations Plan as part of the threat assessment.

There were no Public Comments.

The report was received and filed.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS:

Councilmember Shaw reported that he attended the Mental Health Center Annual Luncheon. He noted that this organization is dedicated to helping persons with mental disabilities and helping the homeless find housing. He also reported that he and Vice Mayor Carty attended the Joint Affordable Housing Task Force Meeting where a presentation was given by Assemblymember Das Williams and his assistant Hilary Blackerby regarding affordable housing legislation. Vice Mayor Carty noted that Ms. Blackerby brought up issues regarding local property managers and concerns with rents increasing eight percent in the past year.

Councilmember Nomura reported that he and Councilmember Shaw attended the League of California Cities Coastal Division semiannual meeting on October 26, which focused on water infrastructure. He stated the meeting was hosted in Camarillo, which is celebrating its 50th anniversary this year. He noted that there was discussion regarding an Amtrak signage program available to Carpinteria free of charge, which identifies Amtrak stations in specific corridors along the 101 Freeway. He suggested the City of Carpinteria consider hosting next year's event as part of its 50th anniversary celebration. He stated that one of is fellow Rotarians approached him regarding Donate Life California. He noted that in 2009 the City presented a proclamation to this organization and this year they are asking the City to issue a proclamation once again. He suggested bringing this request forward for discussion.

Vice Mayor Carty noted that he previously read that the Carpinteria Sanitary District was getting closer to getting reclaimed water and the City was going to start using reclaimed water at Linden Field. He inquired regarding the status of this project. City Manager Dave Durflinger responded that the City worked collaboratively with the Sanitary District and the Water District on a grant application, which is the first step toward planning for reclaimed water. He stated he could meet with representatives from both districts and staff could provide a presentation regarding the status of the grants and possible timeline.

Mr. Durflinger noted that the City Clerk was polling the Councilmembers to schedule a special meeting for a workshop regarding the skate park.

ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS

All of the Councilmembers present indicated they would be present at the next City Council Meeting.

ADJOURNMENT

The meeting was adjourned at 7:05 p.m. by Vice Mayor Carty.

J. Bradley Stein, Mayor

ATTEST:

Fidela Garcia, CMC, City Clerk

City of Carpinteria
City Council Minutes
Regular Meeting
Council Chambers
Monday, November 10, 2014

CALL TO ORDER

Mayor Stein called the meeting to order at 4:00 p.m.

ROLL CALL

Councilmember Al Clark, Councilmember Wade Nomura, Councilmember Fred Shaw, Vice Mayor Gregg Carty, and Mayor J. Bradley Stein were present. City Manager Dave Durflinger, City Attorney Peter Brown, and Deputy City Attorney Jenna Shoaf were also present.

PUBLIC COMMENT ON CLOSED SESSION:

Gail Marshall read from her prepared statement. She stated the City Council was not the first governmental body to consider rezoning an industrial use to a use more compatible with the goals of local residents. She also stated the community had placed a high value on the Bluffs properties. She noted that the County Board of Supervisors rezoned the Venoco properties from the existing industrial use to recreation. She commented that this zoning was more in line with the City's 20-plus year vision for the community. She stated that this would not mean that Venoco would have to go away, but rather Venoco could continue to do business as a non-conforming use. She also stated Venoco would be able to upgrade within the non-conforming designation. She further stated there were no lawsuits because the City has the right to change zoning within its borders. She urged the City Council to rezone the Venoco properties to a zone designation that more appropriately suits the long-term future of the Carpinteria Bluffs.

Ted Rhodes read from his prepared statement. He stated he was a long-time resident of the Carpinteria Valley and he had been involved in a number of City and County planning, visioning, and land use issues. He also stated the City and the City Council have the right to plan, including rezone certain areas if it is for the good of the community. He noted he was a Carpinteria Valley Association (CVA) Board member in the mid 1990s when the City was working to revise its Local Coastal Plan. He also noted that the owners of the Bluffs I properties participated in the Local Coastal Amendment and then sued the City for $50 million claiming that the amendment would be a taking of their property. He stated that the City defended its right to amend its Local Coastal Plan despite the objections of a few local developers who were speculating on the Carpinteria Bluffs property. He noted that the CVA participated in the lawsuit as a third party amicus in support of the City. He also noted the City prevailed and several years later, with fundraising efforts by the community, was able to save and protect 51 acres of the Bluffs I property as active and passive recreational open space now known as the Carpinteria Bluffs Nature Preserve and Viola Playing Fields. He stated the City Council has the right and the duty to consider the overall community benefit.

Linda Krop read from her prepared statement. She stated the City has broad police power and legislative authority to regulate land uses, and the City's action to rezone property will be upheld by the courts as long as it is reasonably related to the public health, safety, and welfare. She noted she responded to the letter submitted by Venoco and the California Independent Petroleum Association and she pointed out that State law does not preempt the City's ability to designate land uses. She noted that while the State regulates how oil development occurs, the City decides whether and where such development may occur. She also noted the California Attorney General and case law support this point. She stated she also pointed out that rezoning property does not constitute a taking. She also stated the properties will retain value and the existing uses will be allowed to continue. She noted that the County of Santa Barbara rezoned five oil and gas properties in 1990 from industrial to residential, recreation, and agriculture, and these designations exist today and the County was not liable for a taking. She pointed out that environmental review is required for specific projects and rezoning; therefore, Option 2 would be subject to environmental review and the City would be required to pursue a public, transparent process. She noted that when the County considered its rezone, it prepared an environmental impact report that evaluated impacts, mitigation measures, and alternatives.

CLOSED SESSION

Peter Brown, City Attorney, announced that the City Council would temporarily adjourn to a Closed Session for the purpose of discussing Anticipated Litigation – Government Code Section 54956.9(b) – one potential case. He stated the significant exposure to litigation was based on the City Council's consideration of potential regulations regarding oil and gas development discussed at the October 13, 2014 City Council meeting.

CLOSED SESSION

Conference with City Attorney – Anticipated Litigation – Government Code Section 54956.9(b) - One potential case

TEMPORARY ADJOURNMENT TO CLOSED SESSION

The City Council recessed to Closed Session at 4:10 p.m.

CALL BACK TO ORDER

The meeting was called to order by Mayor Stein at 5:30 p.m.

CLOSED SESSION REPORT

Peter Brown, City Attorney, announced there was no reportable action from the Closed Session.

ROLL CALL

Councilmembers present:

Councilmember Al Clark
Councilmember Wade Nomura
Councilmember Fred Shaw
Vice Mayor Gregg Carty
Mayor J. Bradley Stein

Staff members present:

Dave Durflinger, City Manager
Peter Brown, City Attorney
Fidela Garcia, City Clerk
Charlie W. Ebeling, Director of Public Works/City Engineer
John Thornberry, Administrative Services Director
Erin Marker, Environmental Coordinator
Julie Jeakle, Emergency Services Coordinator
Steve Goggia, Senior Planner

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Mayor Stein.

INTRODUCTIONS, PROCLAMATIONS AND PRESENTATIONS

1. Presentation of a Certificate of Commendation to Josephine "Jo" Black in recognition of her service as Executive Director of the Independent Living Resource Center, Inc.

Mayor Stein presented a Certificate of Commendation to Josephine "Jo" Black in recognition of her service as Executive Director of the Independent Living Resource Center, Inc. Ms. Black expressed her appreciation to the City Council.

2. Presentation of the City's Fall 2014 Outstanding Community Partner Award to Boys & Girls Club and Girls Inc.

Mayor Stein presented the City's Fall 2014 Outstanding Community Partner Award to members of the Boys & Girls Club and Girls, Inc.

Jamie Collins, Director of the Carpinteria Boys and Girls Club, thanked the City Council for its support.

Erica, representing Girls, Inc., also thanked the City Council for its support. She invited everyone to attend the community dinner on November 13.

PUBLIC INFORMATION REPORTS AND ANNOUNCEMENTS

Rhonda Gutierrez, representing Carpinteria Valley Water District, reported that customer demand had decreased by 387 acre feet since the Stage 1 Drought conditions declaration in February 2014 resulting in a 13% reduction. She also reported that water usage had declined from 21% in August to 11% in October. She asked everyone to continue to conserve water, turn off irrigation systems, allow lawn to go dormant, adjust irrigation, mulch plant beds, install rain barrels to harvest rainwater, and install laundry to landscape grey water system to irrigate trees and shrubs. She stated customers could contact her for additional information at 684-2816, extension 116 or email Rhonda@cvwd.net.

PRESENTATIONS BY CITIZENS/PUBLIC COMMENT

Mary Pat O'Conner expressed her concern regarding the recent Highway 101 opening of the northbound lane by the Bailard northbound onramp where lanes merge together. She noted that a soundwall was promised along the 5700 block of Via Real by the two mobile home parks. She also noted that the next phase of the Highway 101 project has been delayed and she inquired whether anyone could request that the soundwalls be constructed now.

CITY MANAGER'S REPORT

- County of Santa Barbara will hold public meetings November 19 at 6:00 p.m. at the Goleta Valley Community Center, and November 20 at 6:00 p.m. at the Betteravia Government Center in Santa Maria to discuss a five-year spending plan for Federal Housing Community Development Funds to go towards low-income housing projects and programs. Written comments may be submitted to the County of Santa Barbara, attention Lucy Pendel.
- City Hall will be closed on November 11 in observance of Veterans Day. City Hall will also be closed November 27 and 28 for the Thanksgiving Day holiday.

Charles W. Ebeling, Public Works Director, provided an oral report regarding construction activities at Carpinteria Avenue and Casitas Pass Road. He noted that Southern California Edison (SCE) and Carpinteria Valley Water District (CVWD) were coordinating maintenance work ahead of the street overlay project. He stated that

CVWD had performed several water system valve repairs in the Maple and Walnut area of Carpinteria Avenue. He also stated that SCE would be installing conduit for its internal communication system. He spoke regarding the construction schedule for the pavement project, which would likely begin mobilization of equipment on November 12. He also spoke regarding construction activities and timeline, and stated the project should be completed by mid-December, weather permitting. He also provided an oral report regarding construction activities for the Ninth Street Pedestrian Bridge Replacement Project.

AGENDA MODIFICATIONS: None

CONSENT CALENDAR

Motion by Councilmember Shaw, seconded by Councilmember Nomura, to approve the Consent Calendar.

Upon voice vote, motion carried unanimously,

3. Minutes of the Regular City Council Meeting of October 13, 2014.

4. Expenditures for the period ending November 5, 2014.

5. Agreement Amendment No. 2 with COM3 Consulting for Continued Project Management Services for the Carpinteria Avenue Bridge Replacement Project for an additional amount of $24,750.

ADMINISTRATIVE MATTERS:

6. Review of First Quarter Financial Results

Recommendation: Receive the report and direct staff as determined appropriate.

John Thornberry, Administrative Services Director, presented the First Quarter Financial Results.

Councilmember Nomura inquired regarding the projected 10% increase in sales tax compared to the previous year. Mr. Thornberry responded that the City's sales tax consultant, HDL, reviews each sales tax generator in the City and provides a budget estimate for the year. He stated staff would contact HDL in January to provide an update.

Dave Durflinger, City Manager, stated the budget appeared to be on track for revenue and expenses overall; however, infrastructure maintenance is upside-down. He explained that expenses for street maintenance are increasing because of the age of the infrastructure and the dedicated funds for street maintenance are flat. He noted that the assessment was established in the 1980s, gas tax is fixed and has not changed, and the formula for utility franchise fees has not changed in 20 years. He commented that revenues would need to be considered carefully in the future.

The report was received and filed.

7. Extension of Agreement for Tree Maintenance Services with West Coast Arborist.

Recommendation: That the City Council authorize the City Manager to sign a temporary extension of the contract for tree maintenance service with West Coast Arborists, Inc.

Erin Maker, Environmental Coordinator, presented the staff report.

Councilmember Nomura noted that the staff report included a brief background of the agreement; however, it did not include a copy of the agreement. Ms. Maker stated staff would provide a copy.

Motion by Councilmember Nomura, seconded by Councilmember Shaw, to authorize the City Manager to sign a temporary extension of the contract for tree maintenance services with West Coast Arborists, Inc.

Upon voice vote, motion carried unanimously.

8. City's Emergency Operations Plan

Recommendation: Adopt Resolution No. 5559, as read by title only, approving the City's Emergency Operations Plan.

Julie Jeakle, Emergency Services Coordinator, presented the staff report.

Councilmember Nomura inquired regarding the implementation of public awareness, distribution of the document, and signage. Ms. Jeakle responded that the draft plan is available on the City's website and would be updated with the final approved version She also stated that copies would be distributed to the list of 15 agencies found in the Introductory Section. She noted that City staff would be trained and would host a full-scale emergency response exercise in 2015 with community partners. Councilmember Nomura noted that community groups previously participated in training. Ms. Jeakle responded this would be where Community Emergency Response Team (CERT) comes into play. She noted that CERT is currently active in the community and they are currently working with Santa Barbara County CERT Corps to identify volunteer leaders to help spread the emergency preparedness message.

Motion by Councilmember Nomura, seconded by Councilmember Shaw, to adopt Resolution No. 5559, as read by title, approving the City's Emergency Operations Plan.

Upon voice vote, motion carried unanimously.

PUBLIC HEARING:

9. 2015–2023 Housing Element Update of the General Plan, Case No. 14-1718-GPA (Continued from October 27, 2014)

Recommendation: Adopt Resolution No. 5556, as read by title only, approving and adopting the California Environmental Quality Act (CEQA) Addendum, the 2015-2023 Housing Element Update to the City's General Plan, and authorizing staff to submit the document to the State Department of Housing and Community Development (HCD) for certification.

Steve Goggia, Senior Planner, noted this item was continued from the October 27, 2014 City Council meeting.

Mayor Stein opened the Public Hearing at 6:18 p.m.

Councilmember Clark noted there was previous discussion regarding reducing square footage of lots for second units from 8,000 square feet to 7,000 square feet. He inquired how the constituents would be informed of this discussion so that they may provide input. Mr. Goggia responded that the Housing Element does not include direction or policy that requires any changes to the second unit requirements. He explained that any changes would be done through the Zoning Code Update to consider changes to the second unit program from reducing the lot size from 8,000 square feet to 7,000 square feet and to also consider allowing the units to be second stories and other considerations not currently allowed. He stated this would require a Zoning Code Amendment that would be reviewed by the Planning Commission, the City Council, and then the Coastal Commission before any changes become effective.

Jim Reginato expressed his opposition for reducing lot size for second units from 8,000 square feet to 7,000 square feet because he believed it would alter the character of the neighborhood. He also expressed concern with parking and water issues. He noted that he currently lives in a 7,000 square foot lot; however, he was still opposed.

Mayor Stein closed the Public Hearing at 6:27 pm.

Motion by Councilmember Shaw, seconded by Councilmember Nomura, to adopt Resolution No. 5556, as read by title only, Attachment A, to accept the California Environmental Quality Act (CEQA) Addendum, adopt the draft 2015-2023 Housing Element Update to the City's General Plan, and authorize staff to submit the document to the State Department of Housing and Community Development (HCD) for certification.

Upon voice vote, motion carried.

OTHER BUSINESS:

10. Status Report on the Carpinteria Avenue Bridge Replacement Project

Recommendation: Receive and file report.

Charles W. Ebeling, Public Works Director, provided introductory remarks

Kirsten Ayars, representing Ayars and Associates, presented the staff report and PowerPoint presentation.

The report was received and filed.

11. Status Report on the Linden Casitas Project

Recommendation: Receive and file report.

Charles W. Ebeling, Public Works Director, provided introductory remarks.

Fred Luna, representing Santa Barbara County Association of Governments, provided a PowerPoint presentation regarding US 101 HOV Phase 2 Project from Mussel Shoals to Carpinteria.

Mr. Ebeling continued the PowerPoint presentation regarding US 101 Phase 3 Linden Avenue and Casitas Pass Interchanges Project; including project status, current issues, and Carpinteria Creek Floodplain project coordination with the Federal Emergency Management Agency (FEMA).

Councilmember Clark noted that in 1969 there was flooding in the freeway going towards Santa Barbara and the roadway next to the bridges was washed out. He inquired what had been done to relieve the flooding. Mr. Ebeling responded it was his understanding that the water built up behind the freeway mainline bridges over Carpinteria Creek and the diversion occurred to Franklin Creek. He stated that eventually the roadway washed out and water made it down to Carpinteria Creek. He noted they were following current national flood standards in modeling of a 100-year flood and the risk of water traveling to the west to Franklin Creek exists. He stated staff is making a case to FEMA through the hydrology hydraulic analysis that the flood risk would flow from Carpinteria Creek to the ocean, and FEMA's flood insurance rate map should reflect this risk appropriately.

Catherine Overman inquired whether the project schedule was affected by what is occurring in Montecito and whether the freeway HOV lanes project would continue to be expanded. Mr. Ebeling explained that Phase 4 South Coast HOV Project is 11 miles and this project could ultimately be phased. He noted the environmental impact report (EIR) for this project was completed and finalized by Caltrans; however, the EIR was sued in Superior Court and this would likely impact the project schedule as it works it way through the court system. He stated the concern is the Linden Avenue/Casitas Pass Road Interchanges Project and how the mitigations for the Local Coastal Plan Amendment, which includes Rincon Trail and Santa Claus Lane Bike Path projects, play into the timing for those two projects with the South Coast HOV. He stated staff is looking into how the lawsuit of the South Coast HOV project may affect the mitigations and schedule to the Linden Avenue/Casitas Pass Road Interchanges Project.

Mr. Luna noted that the lawsuits on file are challenging the adequacy of the EIR and it was currently unknown how the lawsuits would affect the schedule. He also noted that design work could continue on the project, and the project is not scheduled for construction until 2016 or 2017.

Dave Durflinger, City Manager, noted that the question was how the lawsuit on Phase 4 would affect Linden Avenue/Casitas Pass Road Interchanges Project, which is Phase 3. He stated that the lawsuit should not have a large impact; however, there are components of the projects that overlap and some of those components may be affected.

Ms. Overman stated that during public meetings, a representative from Caltrans confirmed there would be soundwalls installed along the Rancho Granada and San Roque Mobile Home Parks, but not until Phase 4. She also stated she would send a letter to the appropriate agency to request this as a component of Phase 3.

Mr. Ebeling noted that recently City staff submitted an inquiry with Caltrans District 7 regarding Mary Pat O'Conner's concern. He stated staff would follow-up with Caltrans regarding when the soundwalls would be installed; however, he stated he did not believe they would be added as part of Phase 3 due to the EIR.

Councilmember Clark inquired whether the soundwalls could be installed if the project is sub-phased. Mr. Luna responded that if Phase 4 were to be segmented into phases and a segment within Carpinteria is identified for implementation through design and construction, the project would include all the necessary requirements including roadway features and soundwalls.

The report was received and filed.

COMMITTEE REPORTS, INQUIRIES AND OTHER MATTERS PRESENTED BY COUNCILMEMBERS:

Councilmember Nomura announced the City's 50th Anniversary Committee would meet on November 18 at 6:00 p.m. at City Hall. He noted he met with Robert Perez regarding updating the 50th Anniversary logo. He also mentioned that Mr. Perez, as a junior in high school, had designed the City seal.

Councilmember Clark reported he and Councilmember Nomura attended the JPIA Risk Management Conference in Santa Barbara. He noted there was a session regarding recreational activities, including skate parks, and there was discussion regarding concerns with having participants wear proper protective gear. He noted that if a monitor were to be hired to ensure participants wear the proper gear, the City's insurance rate would increase. He also noted there was another session regarding liability update and participant waivers for recreational activities.

Chuck McQuary provided an update regarding Santa Barbara Metropolitan Transit District (MTD). He announced that Jerry Estrada was appointed as MTD's General Manager. He noted that Samsun Clinics had opened several facilities on Cathedral Oaks in an area not served by MTD and MTD staff made adjustments to extend Route 3 to accommodate this change. He reported that MTD would be bringing articulated buses onboard to ease bus crowding for the service between Isla Vista and Santa Barbara City College. He stated this service should become available in January.

ATTENDANCE OF COUNCILMEMBERS FOR FUTURE MEETINGS

ADJOURNMENT

The meeting was adjourned at 7:22 p.m. by Mayor Stein.

____
J. Bradley Stein, Mayor

ATTEST:

____
Fidela Garcia, CMC, City Clerk

AGENDA SECTION: CONSENT
AGENDA ITEM # 2
REPORT # 150

STAFF REPORT
CITY COUNCIL MEETING
November 24, 2014

ITEM FOR COUNCIL CONSIDERATION

EXPENDITURES FOR THE PERIOD ENDING NOVEMBER 18, 2014

Report prepared by: Monique Epley, Finance Supervisor	Signature
Reviewed by: John Thornberry, Administrative Services Director	Signature
Reviewed by: Dave Durflinger, City Manager	Signature

STAFF RECOMMENDATION

Action Item __; Non-Action Item _X_

That the City Council accept this report concerning the current list of warrants pursuant to Carpinteria Municipal Code 2.08.150(F).

I. DISCUSSION

As part of each regular City Council agenda, staff prepares the attached listing of checks dispersed with staff certification that the expenditure transactions listed in the warrant register have been reviewed and are within the budgeted appropriations. Staff recommends that the City Council ratify the schedule of demands attached.

II. FINANCIAL CONSIDERATIONS

The warrant register included as an attachment is designed to communicate fiscal activity since the previous regular City Council agenda. No further action of a fiscal nature is requested as part of this report.

III. ATTACHMENT

A. Warrant Register for the period ending November 18, 2014

CITY OF CARPINTERIA
Warrant Register
November 6 - 18, 2014

Num	Date	Name	Source Name	Memo	Account	Paid Amount
84365	**11/12/14**	**76 FLEET SERVICES**	**76 FLEET SERVICES**	**INVOICE 38649308**	**1000101 · Operating Cash 10**	
38649308	10/28/14		76 FLEET SERVICES	VEHICLE FUEL	2531307 · Vehicle Oper & Mainten...	(97.21)
			76 FLEET SERVICES	VEHICLE FUEL	3332307 · Vehicle Oper & Mainten...	(390.27)
TOTAL						(487.48)
84366	**11/12/14**	**AERIOCONNECT**	**AERIOCONNECT**	**737108**	**1000101 · Operating Cash 10**	
737108	11/01/14		AERIOCONNECT	DSL MONTHLY SERVICE CHARGE - DECEMB...	1018222 · Equipment Maintenance	(66.06)
TOTAL						(66.06)
84367	**11/12/14**	**ALL AROUND LANDSCAPE SUPPLY**	**ALL AROUND LAN...**	**INVOICE #S1762778.001**	**1000101 · Operating Cash 10**	
S1762778.0...	10/17/14		ALL AROUND LAN...	WATER TANK	2361221 · Miscellaneous Contracts	(3.36)
TOTAL						(3.36)
84368	**11/12/14**	**BIG GREEN CLEANING COMPANY**	**BIG GREEN CLEA...**		**1000101 · Operating Cash 10**	
451065	10/17/14		BIG GREEN CLEAN...	PARKS	2861225 · Marsh Park Maintenance	(128.00)
451069	10/17/14		BIG GREEN CLEAN...	BEACHES	2861225 · Marsh Park Maintenance	(118.86)
			BIG GREEN CLEAN...	ROW	3332221 · Miscellaneous Contract...	(237.70)
			BIG GREEN CLEAN...	PARKS	2361221 · Miscellaneous Contracts	(475.44)
TOTAL						(960.00)
84369	**11/12/14**	**CALIFORNIA STATE DISBURSEMENT UNIT**	**CALIFORNIA STAT...**	**CASE NUMBER 0850182383-01**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/10/14		CALIFORNIA STAT...	PAYROLL WITHHOLDING 11-13-14	1000105 · ICMA Cash	(330.46)
TOTAL						(330.46)
84370	**11/12/14**	**CARPINTERIA VALLEY WATER DISTRICT**	**CARPINTERIA VAL...**	**OCTOBER 2014 BILLING**	**1000101 · Operating Cash 10**	
OCT 2014 B...	10/28/14		CARPINTERIA VAL...	CIVIC CENTER	1013312 · Utility - Water 13	(421.29)
			CARPINTERIA VAL...	STREETS	3332312 · Utility - Water 32	(1,601.57)
			CARPINTERIA VAL...	PARKS	2361312 · Utility - Water 23	(7,120.54)
			CARPINTERIA VAL...	POOL	4866312 · Utility - Water 66	(769.88)
			CARPINTERIA VAL...	VETS HALL	4865309 · Misc Operating Expens...	(157.17)
			CARPINTERIA VAL...	PROJ 4865 VETS HALL	1000251 · Development Deposits	(319.10)
TOTAL						(10,389.55)
84371	**11/12/14**	**CARPINTERIA VETERINARY HOSPITAL INC**	**CARPINTERIA VET...**		**1000101 · Operating Cash 10**	
223199	10/03/14		CARPINTERIA VET...	DOG LICENSE	1047213 · Animal Sheltering	(30.00)
223549	10/09/14		CARPINTERIA VET...	DOG LICENSE	1047213 · Animal Sheltering	(40.00)
224052	10/17/14		CARPINTERIA VET...	DOG LICENSE	1047213 · Animal Sheltering	(50.00)
224427	10/23/14		CARPINTERIA VET...	DOG LICENSE	1047213 · Animal Sheltering	(35.00)
TOTAL						(155.00)
84372	**11/12/14**	**COAST AUTO PARTS, INC.**	**COAST AUTO PAR...**	**OCTOBER 2014 BILLING**	**1000101 · Operating Cash 10**	

CITY OF CARPINTERIA
Warrant Register
November 6 - 18, 2014

Num	Date	Name	Source Name	Memo	Account	Paid Amount
OCT 2014 B...	10/31/14		COAST AUTO PAR...	VEHICLE MAINTENANCE	2531307 · Vehicle Oper & Mainten...	(12.81)
			COAST AUTO PAR...	VEHICLE MAINTENANCE	2531307 · Vehicle Oper & Mainten...	(18.71)
			COAST AUTO PAR...	FINANCE CHARGE	2531307 · Vehicle Oper & Mainten...	(4.11)
TOTAL						(35.63)
84373	**11/12/14**	**COASTAL VIEW NEWS**	**COASTAL VIEW N...**		**1000101 · Operating Cash 10**	
44489	11/06/14		COASTAL VIEW NE...	PET ADS	1047303 · Printing & Advertising 47	(40.00)
44476	11/06/14		COASTAL VIEW NE...	NOTICE OF PUBLIC HEARING	1011303 · Printing & Advertising 11	(264.00)
44529	11/06/14		COASTAL VIEW NE...	ABOP AD	3937308 · Supplies & Materails 37	(215.00)
44475	11/06/14		COASTAL VIEW NE...	LEGAL NOTICES	1011303 · Printing & Advertising 11	(132.00)
TOTAL						(651.00)
84374	**11/12/14**	**COX COMMUNICATIONS**	**COX COMMUNICA...**	**001-3011-022093901**	**1000101 · Operating Cash 10**	
0130110220...	11/02/14		COX COMMUNICA...	INTERNET SERVICES	1018222 · Equipment Maintenance	(132.00)
TOTAL						(132.00)
84375	**11/12/14**	**CRAFCO INC**	**CRAFCO INC**	**INVOICE 00426125**	**1000101 · Operating Cash 10**	
00426125	10/29/14		CRAFCO INC	STREETS	2531308 · Supplies & Materials 31	(360.08)
TOTAL						(360.08)
84376	**11/12/14**	**EDD-SDI**	**EDD-SDI**	**776-5147-9**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/10/14		EDD-SDI	PAYROLL 11-13-14	1000223 · SDI Withheld 10	(767.26)
TOTAL						(767.26)
84377	**11/12/14**	**EDD-SIT**	**EDD-SIT**	**932-0283-6**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/10/14		EDD-SIT	PAYROLL 11-13-14	1000221 · SIT Withheld 10	(3,807.69)
TOTAL						(3,807.69)
84378	**11/12/14**	**FORD OF VENTURA**	**FORD OF VENTURA**	**RO #6014670/3**	**1000101 · Operating Cash 10**	
6014670/3	09/12/14		FORD OF VENTURA	VEHICLE MAINTENANCE	2531307 · Vehicle Oper & Mainten...	(2,753.81)
TOTAL						(2,753.81)
84379	**11/12/14**	**HARTHORN, ROY**	**HARTHORN, ROY**	**INVOICE #1192**	**1000101 · Operating Cash 10**	
1192	11/13/14		HARTHORN, ROY	BUILDING PLAN CHECK	1010188 · BLDG PLAN CHECK C...	(5,604.15)
TOTAL						(5,604.15)
84380	**11/12/14**	**LOPEZ, PEDRO CASTRO**	**LOPEZ, PEDRO CA...**	**PAYROLL 11-13-14**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/13/14		LOPEZ, PEDRO CA...	PAYROLL 11-13-14	1000101 · Operating Cash 10	(568.98)

CITY OF CARPINTERIA
Warrant Register
November 6 - 18, 2014

Num	Date	Name	Source Name	Memo	Account	Paid Amount
TOTAL						(568.98)
84381	**11/12/14**	**MISSION UNIFORM SERVICE**	**MISSION UNIFORM...**	**OCTOBER 2014 UNIFORM**	**1000101 · Operating Cash 10**	
OCT 2014 B...	10/31/14		MISSION UNIFORM...	UNIFORM EXPENSE	2531198 · Uniform Rental 31	(72.66)
			MISSION UNIFORM...	UNIFORM EXPENSE	3332198 · Uniform Rental 32	(72.66)
			MISSION UNIFORM...	UNIFORM EXPENSE	1013198 · Uniform Rental 13	(36.33)
			MISSION UNIFORM...	UNIFORM EXPENSE	2361198 · Uniform Rental 61	(36.31)
TOTAL						(217.96)
84382	**11/12/14**	**PETTY CASH**	**PETTY CASH**	**PETTY CASH**	**1000101 · Operating Cash 10**	
PETTY CASH	11/12/14		PETTY CASH	PETTY CASH	1013302 · Postage 13	(98.00)
			PETTY CASH	PETTY CASH	1013308 · Supplies & Materials 13	(69.27)
			PETTY CASH	PETTY CASH	1030306 · Meetings & Travel 30	(3.00)
			PETTY CASH	PETTY CASH	1041306 · Meetings & Travel 41	(1.50)
TOTAL						(171.77)
84383	**11/12/14**	**ROCKWELL PRINTING**	**ROCKWELL PRINT...**	**INVOICE #25535**	**1000101 · Operating Cash 10**	
25535	11/07/14		ROCKWELL PRINTI...	BUSINESS CARDS - KEOUGH	1042303 · Printing & Advertising 42	(45.36)
TOTAL						(45.36)
84384	**11/12/14**	**SEUI LOCAL 620**	**SEUI LOCAL 620**	**PAYROLL 11-13-14**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/10/14		SEUI LOCAL 620	PAYROLL 11-13-14	1000229 · SEIU Local 620	(146.19)
TOTAL						(146.19)
84385	**11/12/14**	**SOLID WASTE SOLUTIONS INC**	**SOLID WASTE SO...**	**INVOICE #110**	**1000101 · Operating Cash 10**	
110	11/03/14		SOLID WASTE SOL...	AB949 COORDINATION	3937221 · Solid Waste	(152.00)
TOTAL						(152.00)
84386	**11/12/14**	**STAPLES ADVANTAGE**	**STAPLES ADVANT...**		**1000101 · Operating Cash 10**	
3245746531	10/17/14		STAPLES ADVANT...	VETS HALL	4865309 · Misc Operating Expens...	(341.02)
			STAPLES ADVANT...	PARKS	2361221 · Miscellaneous Contracts	(152.05)
			STAPLES ADVANT...	PW	2531308 · Supplies & Materials 31	(152.04)
3245934002	10/18/14		STAPLES ADVANT...	OFFICE SUPPLIES	1013308 · Supplies & Materials 13	(211.76)
TOTAL						(856.87)
84387	**11/12/14**	**STP SCREEN PRINTING**	**STP SCREEN PRIN...**	**INVOICE 2637**	**1000101 · Operating Cash 10**	
2637	10/27/14		STP SCREEN PRIN...	LIFEGUARD SHIRTS	4866308 · Supplies & Materials 66	(343.44)
TOTAL						(343.44)
84388	**11/12/14**	**T. ROWE PRICE**	**T. ROWE PRICE**	**PAYROLL CONTRIBUTION - ANTHONY VEGA**	**1000101 · Operating Cash 10**	

CITY OF CARPINTERIA
Warrant Register
November 6 - 18, 2014

Num	Date	Name	Source Name	Memo	Account	Paid Amount
PAYROLL 1...	11/10/14		T. ROWE PRICE	PAYROLL 11-13-14 - ANTHONY VEGA	1000105 · ICMA Cash	(50.00)
TOTAL						(50.00)
84389	**11/12/14**	**UNITED WAY OF SANTA BARBARA COUN...**	**UNITED WAY OF S...**	**PAYROLL 11-13-14**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/10/14		UNITED WAY OF S...	PAYROLL 11-13-14	1000224 · United Way Payable	(20.00)
TOTAL						(20.00)
84390	**11/12/14**	**VANTAGEPOINT TRANSFER AGENTS - 457**	**VANTAGEPOINT T...**	**PAYROLL 11-13-14**	**1000101 · Operating Cash 10**	
PAYROLL 1...	11/10/14		VANTAGEPOINT T...	PAYROLL CONTRIBUTION 11-13-14	1000105 · ICMA Cash	(950.00)
TOTAL						(950.00)
84391	**11/12/14**	**VERIZON CALIFORNIA**	**VERIZON CALIFOR...**	**011711114329800406**	**1000101 · Operating Cash 10**	
0117111143...	10/28/14		VERIZON CALIFOR...	CIVIC CENTER	1013301 · Telephone 13	(934.98)
			VERIZON CALIFOR...	PW	2531301 · Telephone 31	(41.69)
			VERIZON CALIFOR...	BEACH	2862301 · Telephone 62	(120.80)
			VERIZON CALIFOR...	POOL	4866301 · Telephone 66	(235.25)
			VERIZON CALIFOR...	BEACH CONCESSION	2864308 · Supplies & Materials 64	(113.71)
TOTAL						(1,446.43)
84392	**11/12/14**	**VERIZON WIRELESS**	**VERIZON WIRELESS**	**INVOICE #1339253956**	**1000101 · Operating Cash 10**	
1339253956	10/28/14		VERIZON WIRELESS	CELL PHONE - BUILDING INSPECTOR	1042308 · Supplies & Materials 42	(75.42)
TOTAL						(75.42)
84393	**11/12/14**	**ALL AROUND LANDSCAPE SUPPLY**	**ALL AROUND LAN...**	**INVOICE #S1763205.001**	**1000101 · Operating Cash 10**	
S1763205.0...	10/20/14		ALL AROUND LAN...	WATER TANK	2361221 · Miscellaneous Contracts	(37.65)
TOTAL						(37.65)
84394	**11/12/14**	**C3 INTELLIGENCE, INC**	**C3 INTELLIGENCE,...**	**INVOICE #4924**	**1000101 · Operating Cash 10**	
4924	11/03/14		C3 INTELLIGENCE,...	RECRUITMENT	4866308 · Supplies & Materials 66	(28.00)
TOTAL						(28.00)
84395	**11/12/14**	**CARPINTERIA VALLEY LUMBER CO**	**CARPINTERIA VAL...**	**ACCOUNT 164**	**1000101 · Operating Cash 10**	
OCT 2014 B...	10/31/14		CARPINTERIA VAL...	AVO BANNERS	2531308 · Supplies & Materials 31	(9.46)
			CARPINTERIA VAL...	AVO BANNERS	3332308 · Supplies & Materials 32	(44.26)
			CARPINTERIA VAL...	ROW	3332308 · Supplies & Materials 32	(19.42)
			CARPINTERIA VAL...	ROW	3332308 · Supplies & Materials 32	(10.21)
			CARPINTERIA VAL...	ROW	3332308 · Supplies & Materials 32	(34.55)
			CARPINTERIA VAL...	ROW	3332308 · Supplies & Materials 32	(25.98)
			CARPINTERIA VAL...	PARKS	2361221 · Miscellaneous Contracts	(25.91)
			CARPINTERIA VAL...	POOL	4866308 · Supplies & Materials 66	(16.91)
			CARPINTERIA VAL...	POOL	4866308 · Supplies & Materials 66	(10.78)
			CARPINTERIA VAL...	MENDOZA SAFETY EQUIPMENT	3332197 · Indiv Equip Reimburse...	(24.29)

CITY OF CARPINTERIA
Warrant Register
November 6 - 18, 2014

Num	Date	Name	Source Name	Memo	Account	Paid Amount
			CARPINTERIA VAL...	ROW	3332225 · ROW Maintenance 32	(64.21)
			CARPINTERIA VAL...	IPM FAIRE	2361221 · Miscellaneous Contracts	(62.16)
			CARPINTERIA VAL...	SHOP	3332308 · Supplies & Materials 32	(95.02)
			CARPINTERIA VAL...	ROW	3332308 · Supplies & Materials 32	(10.31)
			CARPINTERIA VAL...	PARKS	2361221 · Miscellaneous Contracts	(12.92)
			CARPINTERIA VAL...	STREETS	2531308 · Supplies & Materials 31	(9.91)
			CARPINTERIA VAL...	VETS HALL	4865309 · Misc Operating Expens...	(26.52)
			CARPINTERIA VAL...	STREETS	3332308 · Supplies & Materials 32	(5.80)
			CARPINTERIA VAL...	PARKS	2361221 · Miscellaneous Contracts	(19.52)
			CARPINTERIA VAL...	VETS HALL	4865309 · Misc Operating Expens...	(8.63)
			CARPINTERIA VAL...	VETS HALL	4865309 · Misc Operating Expens...	(8.52)
TOTAL						(545.29)
84396	**11/12/14**	**COASTLINE EQUIPMENT**	**COASTLINE EQUIP...**	**INVOICE #208974**	**1000101 · Operating Cash 10**	
208974	10/22/14		COASTLINE EQUIP...	UNIT 324	2531307 · Vehicle Oper & Mainten...	(270.01)
TOTAL						(270.01)
84397	**11/12/14**	**FIRST BANKCARD**	**FIRST BANKCARD**		**1000101 · Operating Cash 10**	
1081	10/28/14		FIRST BANKCARD	TRI	4863300 · Triathlon Expense	(64.43)
			FIRST BANKCARD	PARKS	4863300 · Triathlon Expense	(5.57)
			FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(18.17)
			FIRST BANKCARD	TRIATHLON	4863300 · Triathlon Expense	(126.89)
			FIRST BANKCARD	VETS HALL	4865309 · Misc Operating Expens...	(1,099.18)
			FIRST BANKCARD	POOL	4866308 · Supplies & Materials 66	(97.94)
			FIRST BANKCARD	PARKS	2361221 · Miscellaneous Contracts	(153.56)
			FIRST BANKCARD	LANDSCAPE FAIR	2361221 · Miscellaneous Contracts	(86.61)
			FIRST BANKCARD	LANDSCAPE FAIR	2361221 · Miscellaneous Contracts	(121.34)
			FIRST BANKCARD	POOL	4866308 · Supplies & Materials 66	(110.15)
			FIRST BANKCARD	BACKGROUND CHECK	4868308 · Supplies & Materials 68	(73.31)
			FIRST BANKCARD	CERTS SWIM TEAM	4868308 · Supplies & Materials 68	(35.72)
			FIRST BANKCARD	TRAVEL EXPENSE - SIMON	2862308 · Supplies & Materials 62	(124.07)
			FIRST BANKCARD	POOL	4866308 · Supplies & Materials 66	(96.90)
			FIRST BANKCARD	POOL	4866308 · Supplies & Materials 66	(199.03)
			FIRST BANKCARD	POOL	4866308 · Supplies & Materials 66	(213.18)
			FIRST BANKCARD	POOL	4866308 · Supplies & Materials 66	(21.81)
1214	10/28/14		FIRST BANKCARD	IPM SUBCOMMITTEE LANDSCAPE FAIR	1013301 · Telephone 13	(3.70)
9671	10/28/14		FIRST BANKCARD	IPM SUBCOMMITTEE LANDSCAPE FAIR	1013301 · Telephone 13	(7.04)
			FIRST BANKCARD	VOLUNTEER SUPPLIES	1045308 · Supplies & Materials 45	(130.94)
TOTAL						(2,789.54)
84398	**11/12/14**	**PQL LIGHTING**	**PQL LIGHTING**	**INVOICE #356721**	**1000101 · Operating Cash 10**	
356721	10/21/14		PQL LIGHTING	VETS HALL LIGHTING	2361221 · Miscellaneous Contracts	(145.87)
TOTAL						(145.87)
84399	**11/12/14**	**PRAXAIR**	**PRAXAIR**	**INVOICE #50766408**	**1000101 · Operating Cash 10**	
50766408	10/20/14		PRAXAIR	PW SUPPL,IES	2531308 · Supplies & Materials 31	(26.05)
TOTAL						(26.05)

3:06 PM
11/17/14

CITY OF CARPINTERIA
Warrant Register
November 6 - 18, 2014

Num	Date	Name	Source Name	Memo	Account	Paid Amount
84400	**11/12/14**	**SANTA BARBARA COUNTY, SHERIFF'S D...**	**SANTA BARBARA ...**	**15-87**	**1000101 · Operating Cash 10**	
15-87	10/20/14		SANTA BARBARA ...	CONTRACT SERVICES - NOVEMBER	1021214 · SB County Sheriff	(276,199.42)
			SANTA BARBARA ...	CONTRACT SERVICES - NOVEMBER	1000150 · COPS Grant Receivable	(8,333.33)
			SANTA BARBARA ...	CONTRACT SERVICES - NOVEMBER	1121214 · SB County Sheriff 11	(1,303.25)
TOTAL						(285,836.00)
84401	**11/12/14**	**SO CA EDISON**	**SO CA EDISON**	**2-01-201-6465**	**1000101 · Operating Cash 10**	
2-01-201-64...	11/06/14		SO CA EDISON	STREET LIGHTING	2923220 · Street Lighting	(7,660.11)
TOTAL						(7,660.11)
84402	**11/12/14**	**SO CA GAS COMPANY**	**SO CA GAS COMP...**	**016-913-9500-6**	**1000101 · Operating Cash 10**	
016-913-95...	10/31/14		SO CA GAS COMP...	CIVIC CENTER	1013314 · Utility - Natural Gas	(122.70)
TOTAL						(122.70)
84403	**11/12/14**	**STAPLES ADVANTAGE**	**STAPLES ADVANT...**	**3246096437**	**1000101 · Operating Cash 10**	
3246096437	10/21/14		STAPLES ADVANT...	POOL SUPPLIES	4866308 · Supplies & Materials 66	(262.32)
TOTAL						(262.32)
84404	**11/12/14**	**THE STORAGE PLACE**	**THE STORAGE PL...**	**STORAGE RENTAL NOVEMBER 2014**	**1000101 · Operating Cash 10**	
NOV 2014 S...	11/03/14		THE STORAGE PL...	OFFSITE STORAGE RENTAL	1013221 · Miscellaneous Contract...	(305.00)
TOTAL						(305.00)
84405	**11/12/14**	**UTILITY COST MANAGEMENT LLC**	**UTILITY COST MA...**	**INVOICE #19750**	**1000101 · Operating Cash 10**	
19750	10/23/14		UTILITY COST MAN...	STREET LIGHTING SERVICE	2923220 · Street Lighting	(85.49)
TOTAL						(85.49)
84406	**11/12/14**	**WEST GROUP**	**WEST GROUP**	**565-139-500**	**1000101 · Operating Cash 10**	
830622261	10/31/14		WEST GROUP	SUBSCRIPTION PRODUCT CHARGES	1051305 · Dues & Subscriptions 51	(128.82)
TOTAL						(128.82)
84407	**11/12/14**	**WESTERN EXTERMINATOR COMPANY**	**WESTERN EXTER...**	**OCTOBER 2014 BILLING**	**1000101 · Operating Cash 10**	
OCT 2014 B...	10/31/14		WESTERN EXTER...	\	1000251 · Development Deposits	(46.50)
TOTAL						(46.50)

TOTAL $329,837.30

City Council Meeting: 11/24/14
Agenda Section: Consent
Agenda Item No. 3

RESOLUTION NO. 5560

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA RECOGNIZING THE 100th ANNIVERSARY OF THE CARPINTERIA MASONIC LODGE NO. 444

WHEREAS, the fraternal organization known as Freemasonry has been in existence for quite some time; and

WHEREAS, the fraternal society was based loosely on medieval stonemasons' guilds and it actually appears that the first organized Lodges emerged during the Middle Ages; and

WHEREAS, in time, the fraternity borrowed various symbols from stonemasons to create a code of conduct and a system of morality; and

WHEREAS, the formation of the first Grand Lodge was in London in 1717 and the first Masonic Lodge in North America was formed in Boston in 1733; and

WHEREAS, President George Washington and many of our nation's Founding Fathers were Freemasons; and

WHEREAS, in 1850 during the Gold Rush, California became a state and that same year the Masons established the Grand Masonic Lodge of California; and

WHEREAS, today there are 60,000 masons in California and 340 masonic lodges within the state; and

WHEREAS, the Carpinteria Masonic Lodge No. 444 was chartered as part of the California Grand Masonic Lodge of California in 1914 through the petition of several Carpinterians; and

WHEREAS, the Carpinteria Masonic Lodge No. 444 is part of the Carpinteria community, sponsoring the annual Carpinteria Spelling Bee for Middle School, contributing to the Carpinteria High School Kitchen Remodel Fund, acknowledging monthly student recognition, and providing two annual high school student scholarships; and

NOW, THEREFORE, BE IT RESOLVED by the Carpinteria City Council that on the occasion of its 100th Anniversary, the Carpinteria Masonic Lodge No. 444 is recognized and thanked for being a great community partner and for its ongoing commitment to improving the community.

PASSED, APPROVED AND ADOPTED on November 24, 2014, by the following vote:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

J. Bradley Stein, Mayor

ATTEST:

Fidela Garcia, City Clerk

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held on November 24, 2014.

Fidela Garcia, City Clerk

APPROVED AS TO FORM:

City Attorney

AGENDA SECTION: CONSENT
AGENDA ITEM # 4
REPORT # **14-** 151

STAFF REPORT
CITY COUNCIL MEETING
November 24, 2014

ITEM FOR COUNCIL CONSIDERATION:

Consider cancelling the regular City Council meeting of December 22, 2014, and closure of City Hall on December 26, 2014 and January 2, 2015

Report prepared by: Fidela Garcia, City Clerk

Department: General Government

Signature

Reviewed by: Dave Durflinger, City Manager

Signature

STAFF RECOMMENDATION:

Action Item _X_; Non-Action Item __

That the City Council authorize the cancellation of the December 22 Council meeting and closure of City Hall on December 26 and January 2.

I. BACKGROUND:

The City Council holds its regular meeting on the second and fourth Mondays of every month. The City Council has the authority to establish meeting dates and times and to reschedule or cancel such meetings with proper and timely public notice (CMC 2.04.010, GC §54954). Traditionally, the City Council has cancelled the second regular City Council meeting in December due to a light agenda and/or vacation schedules.

In 1997, 2003 and again in 2008, Christmas Day and New Year's Day holidays fell on Thursdays and the City Council authorized the closure of City Hall on the following Fridays with no adverse effects to the public.

II. DISCUSSION:

Canceling the December 22 City Council meeting will require posting and noticing. Staff has considered the schedule of future matters and at this time there are no matters that would be negatively impacted by the cancellation of the meeting. As always, should an immediate need arise for the Council to consider and/or take action on a matter, a special meeting could be scheduled.

Staff is recommending that the Council consider the closure of City Hall on December 26 and January 2. This would allow staff to spend an extended weekend with family and friends over the holidays. There will be on-call personnel for emergencies or special situations that would require immediate attention.

III. FINANCIAL CONSIDERATION:

There will be no cost to the City as each employee wishing to take the above days off would use accrued vacation and/or flex time.

IV. LEGAL ISSUE:

Should the City Council cancel the scheduled meeting, staff will ensure that the required posting and proper noticing are met.

V. OPTIONS:

1. Approve the cancellation of the December 22, 2014 Council meeting and the closure of the City Hall on December 26, 2014 and January 2, 2009

2. Approve either or none of the actions in option number one.

STAFF REPORT
COUNCIL MEETING DATE
November 24, 2014

ITEM FOR COUNCIL CONSIDERATION

Status Report on City of Carpinteria oil and gas regulations (continued from October 13, 2014)

Report prepared by:

Jackie Campbell
Community Development Director Jackie Campbell
Signature

Dave Durflinger
City Manager
Signature

Jena Shoaf
City Attorney's Office Adele Canara for Jena Shoaf
Signature

ACTION ITEM X ; NON-ACTION ITEM __

STAFF RECOMMENDATION: Direct that (i) changes to the Coastal Dependent Industry (CDI) land use designation be considered as a part of the comprehensive update of the General Plan/Local Coastal Land Use Plan to be initiated in 2015; and that (ii) the drafting of updated oil and gas development regulations continue through the comprehensive zoning code update to be released for public review in 2015.

I. BACKGROUND

On March 24, 2014 the City Council asked staff to analyze additional regulations on oil and gas development as part of the City's planned update to the Zoning Code and to provide an opportunity for the Council to consider:

a. Directing that a prohibition on oil and gas drilling be included in the update; and
b. Directing that a moratorium on oil and gas drilling be established until such time as new regulations are effective.

On October 13, 2014, the City Council received a staff report (see Attachment A) outlining the following five options:

- Option 1: Prohibit Onshore Drilling in the M-CD Zone District
- Option 2: Rezone and Redesignate M-CD/CDI Properties
- Option 3: Establish a Voter Approval Requirement
- Option 4: Adopt Oil and Gas Drilling Development and Operating Standards as Part of the M-CD Zone District
- Option 5: Take No Action/Discretionary Review Process

After public testimony and deliberation on the various options for proceeding, the City Council asked that staff provide additional information on Options 2 and 4, as described and discussed in the October 13 staff report, and continued the matter to November 24, 2014.

The purpose of this agenda matter is to provide the information requested and allow the City Council to determine if it wishes to direct staff to proceed with developing legislative alternatives to the City's current oil and gas regulations.

Written public comments provided to date on this matter and excerpted draft meeting minutes from the October 13 City Council meeting are included as Attachments B and C to this report, respectively.

Figure 1. Carpinteria Processing Facility and adjacent parcels designated CDI and zoned M-CD

II. ANALYSIS

At its October 13, 2014 meeting the City Council considered five options for proceeding and requested that staff bring back additional information on Options 2 and 4.

A. Option 2: Rezone and Redesignate M-CD/CDI Properties

Under this option, the City Council could choose to change the zone district and the General Plan/Local Coastal Plan land use designation for all properties currently designated Coastal Industry District (M-CD) and Coastal Dependent Industry (CDI), respectively, to an alternative zoning designation(s) and land use designation(s).

Option 2 may include a number of variations on the theme of planning for land uses other than oil and gas for the properties zoned M-CD or a portion of these properties (see Figure 1 above). Staff has identified variations involving both content and timing of any land use and regulatory changes. In the description of Option 2, above, it is contemplated that the land use and zoning would be changed to another of the City's land use and zoning categories, excluding oil and gas use/development and other industrial uses. Option 2, as described, could be pursued separately or as a part of a comprehensive update to City land use policies and zoning that would occur as part of a General Plan update commencing in the next year or so.

1. Variations in Content

The following variations could be considered regarding the content of a rezone or redesignation of the City's M-CD/CDI properties:

- **Redefine CDI Land Use Category and M-CD Zone District.** Eliminate oil and gas development as a permitted use in the CDI land use and M-CD zone district. This variation would leave the CDI Land Use designation and M-CD zoning district in place but modify both in order to eliminate oil and gas development as permissible. In this scenario, existing oil and gas processing facilities would become non-conforming, and expansion and/or intensification of the use would not be permitted. Another variation of this option is to amend the CDI Land Use designation and M-CD zoning district to exclude oil and gas exploration, production and processing but allow other oil and gas activities. Other oil and gas related uses existing on M-CD zoned properties include a storage yard/shore base, pier and oil spill response use.

- **Reduce size of area designated CDI and M-CD.** Leave a portion of the Carpinteria Processing Facility designated for oil and gas development. This variation would permit consolidation of the current processing facility as well as consideration of proposals for other oil and gas development such as production, i.e., drilling. Venoco representatives have suggested that a site of approximately five acres in area could accommodate a consolidated plant. This variation on Option 2 could also be implemented in conjunction with the variation described above; redefining the CDI and M-CD policies and regulations and establishing a consolidated site.

2. Variations in Timing

The following variations could be considered regarding the timing of a legislative act to rezone, redesignate or redefine the City's M-CD/CDI properties:

- **Short-Term.** Pursue Option 2, or one of its variations as discussed above, immediately as a discrete work program matter. Doing this would allow for consideration of adopting appropriate alternative land use and zoning designations as soon as possible. However, due to the complex nature of any land use and zoning program changes in the coastal zone, the need for final approval by the California Coastal Commission, the likelihood of public controversy, and the possibility of litigation, moving forward on the work immediately does not necessarily mean that it will reach a final decision more quickly than other Options.

- **Long-Term.** Pursue Option 2, or one of its variations as discussed above, through the update of the City's General Plan. This option has the benefit of evaluating changes in the context of comprehensively analyzing the City's entire land use plan. Analysis of a land use change for an individual area of the City inherently involves information and assumptions about the City's overall land use planning and, therefore, is best undertaken in that context. In conjunction with its 50^{th} Anniversary, the City plans to initiate a community visioning process in 2015, Vision 2040, as the first step toward the comprehensive update of its General Plan/Local Coastal Land Use Plan.

B. <u>Option 4</u>: Adopt Oil and Gas Drilling Development and Operating Standards as part of the M-CD Zone District

Under this option, the Planning Commission may recommend and the City Council may submit a Local Coastal Program Amendment to the Coastal Commission to modify the M-CD chapter of the Zoning Code by adding development standards and operating standards for different types of oil and gas activities. These development standards would provide another layer of land use regulation beyond what is currently in the existing zoning code and General Plan/Coastal Plan. Development standards can also be tailored to address specific concerns such as setbacks, throughput, abandonment, and noise, as well as other issues. Any permit application for oil and gas development would have to comply with the applicable development standards as evaluated through the development review process.

Though the City's current oil and gas development zoning standards have not been comprehensively reviewed for a number of years, the City has been planning to apply modern standards for development and operation of oil and gas facilities through the development review process for the Paredon Project, if it should be approved. Whether applied to Paredon or not, staff has already drafted updated oil and gas development standards as a part of the currently pending comprehensive update of its zoning regulations, which is projected to be available for public review in early 2015. The administrative draft of the proposed development standards were attached to the City Council staff report dated October 13, 2014 (Attachment A of this report). In general, owners/operators of oil and gas facilities expect that up-to-date development standards will be applied to any permits they seek.

Similar to Option 2, Option 4 may also include a number of variations. Regulations may be broad or specific, and may serve to restrict or prohibit certain activities currently permitted. Staff has identified variations involving content and timing of any changes to oil and gas development/operating standards, which are presented below.

1. Variations in Content

One example of a variation in content could be to establish oil and gas development standards that prohibit, restrict or affect specific exploration, production or processing activities. It is possible that the City could determine that restrictions on certain exploration, production or processing activities are necessary in order to achieve consistency with other City policies and regulations. Such regulations have the potential to conflict with the owners'/operators' current or planned exploration, production and/or processing at existing sites. A recent example of this situation was proposed Measure P, which, if it had been approved by voters, would have established restrictions in the County of Santa Barbara on oil extraction methods and was opposed by Venoco and oil industry interests.

2. Variations in Timing

The following timelines could be considered regarding adopting and implementing oil and gas development standards:

- **Short-Term.** Pursue Option 4 or a variation of it, as described above, immediately as a discrete work program matter. Doing this would allow for appropriate development and operating standards to be established as soon as possible; however, because the City is already in the process of doing this work, there is little benefit in moving forward with legislation of this type independent of the update of the City's zoning regulations. Further, doing so would require a significant work effort; possibly resulting in the need to delay processing of the rest of the City's zoning regulations update or other long range planning projects currently in the work program.

- **Long-Term.** Pursue Option 4 or a variation of it, as described above, through one or both of the processes already underway, i.e., the update of City zoning regulations and/or the application of conditions of approval through the Paredon development permit.

C. Additional Considerations

Although one option is for the Council to pursue immediate action to modify existing oil and gas policies and/or regulations, staff finds that such changes are best considered as part of the City's current (and anticipated) comprehensive land use policy and zoning updates, rather than as a separate work matter.

Additionally, for cities located within the Coastal Zone, such as Carpinteria, the California Coastal Commission is the ultimate decision-maker for any amendment to a local coastal program, including land use policy and zoning changes, as well as any appeal of a city's action on development permits[1]. Moving forward with legislation in advance of the pending Paredon application does not ensure an immediate binding decision on an LCP amendment since the California Coastal Commission will determine the timing of its consideration of the matter, and its action could be delayed until the development permit is decided.

Special criteria included in the California Coastal Act allow coastal dependent oil and gas development to be approved even if it is inconsistent with the Act's resource protection policies. Specifically, Section 30260 states:

> *Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.*

Determining what uses are Coastal Dependent or Coastal Related and the consideration of the above special criteria applicable to oil and gas development are made on a case-by-case basis by the Coastal Commission.

Considering possible changes to oil and gas policies and regulations in the context of the current zone code update and a General Plan update (anticipated to be initiated next year) affords both cost effectiveness and a broad perspective for action by the City Council. As stated previously, considering site specific land use and zoning changes, such as those that were developed and analyzed as a part of the Bluffs "0" study from 1998-2001, benefit greatly from deliberation within the context of the City's comprehensive land use goals and policies. Also, the cost in staff resources and direct expense for consulting services needed in order to pursue Option 2 now would be expected to be significant and to duplicate expenses already required for the comprehensive zoning and General Plan update work. The previous Bluffs "0" work included a grant of approximately $250,000 and the dedication to the project of a staff planner for two years. Today, similar work would be expected to cost in the range of $400,000 - $500,000 and demand similar staff time. Such expense and demand on staff resources would be expected to delay the completion of the update of the City's zoning regulations and the initiation of the General Plan update.

Staff finds that the City's policies, regulations and development review process that apply to any proposed oil and gas project applications are adequate to support the full range of possible City decision maker actions. These include either the establishment of appropriate development and operating standards through the issuance of a development permit or a determination that a development application either is or is not consistent with City policies and regulations and therefore can or cannot be approved.

---

[1] Permit approvals are subject to appeal by either the public or the CCC itself. Appeals of permit denials of Energy Projects would also be expected to be accepted by the CCC based on PRC Section 30603(5).

III. FINANCIAL

If and how the City Council determines to proceed with the study of land use policy and zoning changes concerning oil and gas development in Carpinteria will have different costs. As indicated above, the City has already incurred significant costs associated with the comprehensive update of its zoning regulations, including oil and gas development and operating standards. Initiating a separate zone change at this point would duplicate processing costs. Further, updated standards could also be applied through the issuance of a permit for the Paredon project with no direct cost to the City, while processing a zoning amendment separately would require the City to incur all related expenses.

Similarly, efficiencies gained through developing and analyzing land use policy alternatives for the subject Bluffs "0" area as a part of the General Plan update, such as costs associated with preparing and processing the environmental document, would be lost if an amendment were processed independent of the General Plan update.

Finally, as the City Council is aware based on public testimony received on this matter to date, oil and gas policy, regulation and permitting are controversial matters and could be expected to result in litigation costs.

IV. LEGAL

In the staff report for the City Council's last consideration of this matter on October 13, 2014, a copy of which is attached as Attachment A, the City Attorney's Office presented a brief analysis of the main legal issues that can be raised when local regulation of oil and gas development is undertaken.

V. PRINCIPAL PARTIES EXPECTED

Linda Krop, Environmental Defense Center, representing Carpinteria Valley Association, Get Oil Out!, and Sierra Club Los Padres Chapter
Ian Livett, Venoco, Inc. and other oil industry representatives

VI. ATTACHMENTS

Attachment A: Staff Report, October 13, 2014
Attachment B: Letters submitted to date
Attachment C: Draft Minutes, October 13, 2014 agenda matter

ATTACHMENT A

AGENDA SECTION – OTHER BUSINESS
AGENDA ITEM #7
REPORT # 14-133

STAFF REPORT
COUNCIL MEETING DATE
October 13, 2014

ITEM FOR COUNCIL CONSIDERATION
Status report on City of Carpinteria oil and gas regulations.

Report prepared by:	
Jackie Campbell **Community Development Director**	Jackie Campbell Signature
Dave Durflinger **City Manager**	Signature
Jena Shoaf **City Attorney's Office**	Chidela Garcia for Jena Shoaf Signature

ACTION ITEM _X_; NON-ACTION ITEM __
STAFF RECOMMENDATION: Consider the options presented and direct staff as determined appropriate.

I. BACKGROUND

On March 24, 2014 the City Council asked staff to analyze additional regulations on oil and gas development as part of the City's planned update to the Zoning Code and to provide an opportunity for the Council to consider:

a. Directing that a prohibition on oil and gas drilling be included in the update; and
b. Directing that a moratorium on oil and gas drilling be established until such time as new regulations are effective.

The context in which this matter is being considered includes a national controversy over well stimulation techniques, such as fracking, that has focused greater attention on oil and gas drilling practices and is raising new concerns about drilling in Santa Barbara County. A voter initiative will be decided on November 4, 2014 that would curtail various well stimulation techniques in the unincorporated area of the County.

More locally, Venoco, Inc. has re-initiated the Paredon Project, an oil and gas exploration and production development permit request that was first proposed in 2004. After requesting that the City stop work on the processing of the Paredon Project application in 2009, Venoco supported a voter initiative, Measure J, which would have granted local permits for an oil and gas exploration and development project. Measure J was defeated by voters on June 8, 2010. The Paredon Project includes oil and gas exploration and production wells, which would constitute a change from the Carpinteria oil and gas plant's current use and development that supports production solely from offshore wells.

In this context and in light of the myriad coastal resource protection policies and regulations, oil and gas drilling projects proposed in Carpinteria may raise discussion of various public policy issues by interested parties.

The purpose of this agenda matter is to allow the City Council to determine if it wishes to direct staff to proceed with developing legislative alternatives to the City's current oil and gas regulations.

A. Summary of Oil and Gas History in Carpinteria

The Carpinteria area has a long history with the oil and gas industry. From the late 1800s through the 1930s, oil and gas exploration and production wells were common in the region. Due to the limits of technology and knowledge at the time, however, wells in Carpinteria were highly speculative and rarely successful. Oil and gas production, therefore, was not a significant element of the Carpinteria economy, which remained dominated by agriculture.[1]

By World War II, onshore production in Santa Barbara County was focused on more successful areas to the north and inland parts of the county. By 1940, there were no producing onshore oil and gas fields in the Carpinteria-Summerland area.[2]

Offshore oil and gas exploration and production grew in the 1950s, and Carpinteria became the site of storage, transportation and processing facilities that supported the offshore, platform-based production wells. Today, the Carpinteria oil and gas facilities, with the exception of the Marketing Terminal storage tanks that were taken out of commission in 1985 and removed entirely as a part of a contaminated soil remediation project in 2000, appear much as they did in the 1950s.

By 1965 the City had incorporated and, although still dominated by an agricultural economy, had become a popular visitor destination and suburban residential area. Plans for the expansion of oil and gas processing facilities were perceived as potentially clashing with the City's plans for the growth and development of Carpinteria as a residential and tourist destination. Three City Council Resolutions passed between April 1967 and February 1968 (Resolution Nos. 80, 115 and 139) illuminate this conflict and express the City's concerns over the number, type and location of oil and gas facilities.

[1] An example of an exploratory well during this period is the Kittie Ballard well that was recently remediated by ConocoPhillips in 2012. A report by ConocoPhillips describes the well as being drilled by Continental Oil Company in 1929 and abandoned after being determined to be a "dry hole."

[2] Santa Barbara County Energy Division list of Oil and Gas Fields of Santa Barbara County.

The majority of recent projects at the Carpinteria oil and gas processing site have involved removal or consolidation of facilities, repairs and clean-up of soil contamination. The pending Paredon Project diverges from this trend by seeking to re-introduce onshore oil and gas exploration and production to the area.

B. Current Carpinteria Oil and Gas Operations

Oil and gas operations in Carpinteria are located on a contiguous 55-acre site at 5675 Carpinteria Avenue. The land is owned by Venoco.[3] and includes facilities owned and operated by a variety of independent companies. Development of the site began around 1950 when construction was governed by County of Santa Barbara standards, before the City incorporated in 1965.

The site includes several Assessor's parcels. All but one parcel (the Buffer Area) have land use designations of Coastal Dependent Industry (CDI) and are zoned Coastal Industry District (M-CD). The Buffer Area has a land use designation of Open Space/Recreation (OSR) and is zoned Recreation (REC). Pipelines are used to transport oil and gas produced offshore to the various oil and gas processing facilities at the site.

The aerial photograph below shows the distribution of uses over the site. The Carpinteria Processing Facility (CPF) occupies over half of the site. The CPF processes oil and natural gas received via pipelines from offshore platforms and sends the processed product into other pipelines for distribution or transportation to other facilities for further processing. The CPF is operated by Venoco. The aerial photograph also shows to location of the proposed Paredon project.

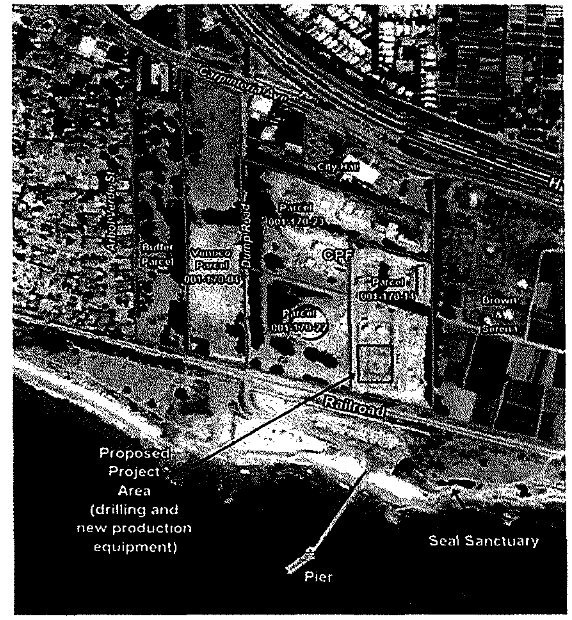
An approximately 11-acre parcel that runs parallel to the length of Dump Road includes a small natural gas odorant and metering station where gas is received via pipeline from offshore platforms odorized, metered, pressurized and sent into The Gas Company's distribution pipeline. The gas odorant and metering station is operated by Dos Cuadros Offshore Resources (DCOR) and The Gas Company. A majority of the parcel is operated as a storage yard and supply base for offshore platform operations and is operated by OST Trucks and Cranes, Inc., and others. A portion of the site adjacent to Carpinteria Avenue is vacant and was the site of soil remediation work resulting from the use of DDT in historical agricultural operations.

A nearly 11-acre parcel directly south of and adjacent to the City Hall site is an oil spill response facility/storage yard operated by Clean Seas, LLC.

A nearly nine-acre parcel that runs along the site's western boundary with the Arbol Verde residential neighborhood functions as an open space buffer area.

[See image on following page]

[3] In 1998, Chevron sold much of its assets in the region, including its Carpinteria assets, to Venoco, Inc.



Venoco and prior owners have operated the CPF since the 1960s. The CPF was constructed in 1959 and was originally built to receive oil and gas from Platforms Hilda, Hazel, Hope and Heidi, all of which were decommissioned in 1996. The CPF began receiving oil and gas production from Platforms Gail and Grace in 1988. Platform Grace ceased gas production in 1998 but still produces oil. Platform Gail is still in service producing both oil and gas.

In 2004, Venoco initiated a development proposal for oil and gas drilling from the CPF (the Paredon Project). The proposal included drilling up to 22 wells from the CPF into onshore and offshore fields. In 2009, Venoco requested that the City stop processing the Paredon Project development permit while it pursued approval of a similar project by voter initiative, Measure J. Measure J failed to receive voter approval and in 2013, Venoco reinitiated a modified Paredon Project application that includes onshore drilling into onshore reserves only. The application has been determined by the City to be complete and the City is currently initiating the environmental review process.

C. Regulatory Context

The City of Carpinteria provides regulatory oversight and permit compliance for existing oil and gas facilities through the M-CD zone district regulations in the Carpinteria Municipal Code, Title 14, Zoning, at Chapter 14.30 (see Attachment A) and previously issued permits for existing development. In addition, the City's Community Development Department provides planning, development review, environmental review, permit issuance and permit compliance services for any proposed oil and gas projects. All local actions affecting major public works or energy facilities are appealable to the Coastal Commission. Other state and federal agencies also have regulatory authority over many aspects of oil and gas production development, operations and transportation.

II. ANALYSIS

As discussed in the Background section above, the City Council has requested an opportunity to reconsider how it regulates oil and gas drilling within the City of Carpinteria as a part of an update of its oil and gas regulations in the Zoning Code, including potentially banning drilling. This section of the staff report includes a review of existing policies and regulations pertaining to oil and gas development and a discussion of legislative alternatives and implementation processes.

A. Existing Policies

In determining whether to permit a development project, the City must consider both local and state-wide policies governing land use decisions. Applicable policies are summarized below.

1. City of Carpinteria Oil and Gas Policies

In general, the City's land use policies concerning oil and gas support location of hazardous facilities away from developed areas, consolidation of industrial facilities, and the protection of scenic view sheds and sensitive environmental resources. Attachment B provides an additional list of important policies relevant to this discussion, including maintaining Carpinteria's small, beach town character, protection of open space, visual and biological resources, noise control, and public health and safety. Similar to the City's other land use policies, these policies are applied to new development proposed within the City.

The City's CDI land use category was established as a result of the CPF's historic role as supporting the offshore oil and gas industry and identifies areas for industrial uses that are coastal dependent, such as aquaculture and pipeline/gas processing facilities in support of the offshore oil industry. The CPF has not historically supported onshore oil and gas drilling. Therefore, although the CDI land use designation and M-CD zoning designation both allow oil and gas development (including drilling), any particular oil and gas development could be found to be inconsistent with the City's other land use policies and thus could not be approved, depending on the facts of the case.

City policies and regulations such as those that influence decisions concerning development applications are typically applied through the development permitting process and can result in project approval, including application of mitigation measures and project conditions, or project denial by decision-makers. Alternatively, these policies may also be considered in determining whether one or more parcels should be redesignated and rezoned in order to best implement policy objectives.

2. Industrial and Energy Development in the Coastal Zone

The California Coastal Act (CCA) provides the basis for many of the City's land use policies and implementing regulations, which must be consistent with the CCA. In general, the CCA includes policies related to preserving, enhancing and restoring

coastal resources, including sensitive habitats and public access to the coast; however, the CCA also recognizes the importance of certain industrial uses along the coast, and the tension between accommodating these uses and protecting other coastal resources.

For example, the CCA prioritizes development defined as Coastal Dependent over other activities in the Coastal Zone. Section 30255 of the CCA provides that:

> *Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.*

Additionally, the CCA includes special criteria for balancing coastal dependent oil and gas development with the Act's resource protection policies. Specifically, Section 30260 states:

> *Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible.*

Determining what uses are Coastal Dependent or Coastal Related and the consideration of other special criteria applicable to oil and gas use are made on a case-by-case basis by the Coastal Commission. Such policies, however, authorize the Coastal Commission to permit development projects, even if those projects are inconsistent with the CCA's resource protection policies.

B. Legislative Options

As outlined above, oil and gas activities raise an array of often competing policies. Although not exhaustive, the following section provides various options for the City to address oil and gas development –specifically onshore drilling–within City limits.

1. Prohibit Onshore Drilling in the M-CD Zone District

The Council could choose to amend the M-CD zone district to eliminate onshore oil and gas drilling as an allowable use. This option could result from a conclusion that onshore oil and gas drilling is inconsistent with the City of Carpinteria General Plan/Local Coastal Land Use Plan objectives and policies and related policies of the CCA, and is no longer appropriate given the proximity to sensitive resources, residential development and coastal access, trail and recreational amenities that have been developed concurrent with or since the facility was originally constructed. Under this scenario, the M-CD zone district would remain in place; however the list of permitted uses would be amended to exclude oil and gas drilling. Existing permitted operations at the CPF, including the Clean Seas yard, would not be affected as no drilling currently occurs at these sites.

Costa's Auto Works would also remain as a conforming use, subject to its Conditional Use Permit, approved by the City in 1992.

Additionally, in this scenario, the existing Coastal Dependent Industry (CDI) land use designation would remain. This designation supports priority uses as recognized in Section 30260 of the CCA, which indicates that even if a coastal dependent industrial facility cannot be found to be consistent with the resource protection policies contained in the CCA, such development may still be permitted.

In addition to accommodating existing uses, this approach would also allow for future M-CD uses such as aquaculture or a desalination facility and is consistent with the Coastal Act policies cited above.

2. Rezone and Redesignate M-CD/CDI Properties

Under this option, the City Council could choose to change the zone district and the General Plan/Local Coastal Plan land use designation for all properties currently designated Coastal Industry District (M-CD) and Coastal Dependent Industry (CDI), respectively, to an alternative zoning designation(s) and land use designation(s).

Although the City previously considered rezoning and redesignating its M-CD/CDI properties (i.e., the CPF and Costa's Auto Works properties) and City Hall (zoned Community Facility District), the effort did not result in any changes. In 1998, Chevron announced that it intended to decommission its processing plant. Shortly thereafter, the City was awarded a State Coastal Resources Grant to conduct a multi-phase planning study of the Carpinteria oil and gas plant site and several surrounding parcels including City Hall, jointly referred to as Bluffs 0. The goal of the study was to select and approve a land use plan to guide future redevelopment of the Bluffs 0 site after the anticipated Carpinteria plant and other onsite oil and gas facilities were decommissioned and removed. During this process, the plant was sold to Venoco and staff began working with Venoco to conduct planning work including:

- The Baseline Conditions Report, which describes the existing environmental and regulatory setting from both a local and regional perspective.
- The Opportunities and Constraints Analysis, which considers existing environmental characteristics of the Bluffs 0 site and evaluates the relative suitability of a range of potential land uses.
- A series of workshops and hearings where input was received from the City Council, Planning Commission, the property owner, Venoco, and members of the public.
- The development of land use plan alternatives for Bluffs 0 and completion of a Draft Environmental Impact Report.

Ultimately, Venoco informed the City that it intended to continue operating the oil and gas processing facility and to explore options for expansion. The City subsequently put the Bluffs 0 planning work on hold. In 2003, the City's General Plan/Local Coastal Land Use Plan was updated to include Policy LU-3K which calls for the City to complete the Bluffs 0 reuse study in anticipation of a change in land use. Under this option, the City may determine that it is appropriate to implement policy LU-3K and re-initiate the Bluffs 0 planning work to guide a change in use at this site in the future.

If the City were to authorize land use and zoning amendments, the application would be submitted to the Coastal Commission for review and approval. Upon the Coastal

Commission's certification that the action is consistent with the CCA, the City would be authorized to implement the new land use policy and zoning regulations. Under this option, new drilling would be prohibited and the CPF and other existing oil and gas facilities would become nonconforming uses subject to allowances and restrictions for nonconforming uses pursuant to the Municipal Code.

Consistent with Venoco's historical statements that the current operations could be consolidated to a site of approximately five acres, this option may also be the impetus for phasing out the site's oil and gas plant by moving some processing done at the plant to offshore platforms and reducing but retaining limited onshore facilities such as the natural gas odorant and metering facilities. This consolidation could allow for alternative priority uses consistent with the new land use and zoning designations on the remainder of the existing Coastal Industry properties. However, other coastal dependent industrial uses such as aquaculture or a desalination facility as mentioned above would no longer be allowed uses in another priority land use category as identified in the CCA (i.e., agriculture, visitor-serving commercial uses and open space/recreation).

3. Establish a Voter Approval Requirement

Under this option, the City Council could pursue a voter approval requirement whereby the Council would be prohibited from granting a permit to drill an oil or gas well within City limits without approval of the City's voters.[4] Although oil and gas wells are currently permitted in the M-CD zone, approval of an application to drill oil and/or gas wells is discretionary. The addition of a voter approval requirement would transfer some authority over permitted land uses from the City Council to the voters. Even if approved by the City Council, any permit application for oil and gas drilling would have to be approved by voters before it became effective.

Establishing a voter approval requirement could be implemented as a voter initiative, a council-sponsored initiative, or through the City Council's standard ordinance procedure. If approved by voters or adopted by the Council, it would be forwarded to the Coastal Commission for certification of its consistency with the CCA.

Ratification of the City Council's denial of a coastal development permit to drill oil and/or gas wells through the voter approval process is appealable to the Coastal Commission. Although under this option the voters ratify or deny the City Council's issuance of a coastal development permit, the City would remain the issuing body for all intents and purposes. In the case of an appeal, the Commission would review the City's decision to determine if the proposed development is in conformity with the certified local coastal program.

4. Adopt Oil and Gas Drilling Development and Operating Standards as Part of the M-CD Zone District

Under this option, the Planning Commission may recommend and the City Council may submit a Local Coastal Program Amendment to the Coastal Commission to modify the M-CD chapter of the Zoning Code by adding development standards and operating standards for different types of oil and gas activities. These development standards would provide another layer of land use regulation beyond what is currently in the existing zoning code and General Plan/Coastal Plan. Development standards can also be tailored to address specific concerns such as setbacks, throughput, abandonment,

[4] A similar requirement was enacted by Santa Barbara County voters in 1996 and requires voter approval for oil and gas development in the unincorporated areas of Santa Barbara County.

and noise, as well as other issues. Any permit application for oil and gas development would have to comply with the applicable development standards as evaluated through the development review process.

Independent of this matter, City staff have been engaged in updating the City's Zoning Code. The Oil and Gas Development Standards included in Attachment C are included in the proposed Draft Zoning Code Update. These standards address three aspects of oil and gas activity including Exploratory Onshore Drilling, Onshore Oil and Gas Production and Onshore Processing Facilities Related to Offshore Oil and Gas Development. The Planning Commission and the City Council may choose to add additional development standards to this draft list that will be released for public review along with the entirety of the Zoning Code Update later this.

Finalizing and adopting an update to the City's Zoning Code to adopt new development standards is likely to take approximately one to one and one-half years for both City and Coastal Commission review. If the development standards remain part of the overall comprehensive zoning code update, that effort is like to take approximately two years. In either case, the process would involve multiple public hearings before the Planning Commission and City Council before submittal of a Local Coastal Program Amendment is made to the Coastal Commission. The Coastal Commission process is expected to take one year or more before any changes would become effective. Nonetheless, the City could still use measures such as those proposed in the draft development standards as conditions of approval through the development review process for any pending oil and gas development.

5. Take No Action/Discretionary Review Process

This option maintains the status quo. With the Paredon Oil and Gas Drilling proposal pending (for onshore drilling), the City is currently using its existing discretionary review process to evaluate the proposal against the requirements of the M-CD zone, the General Plan/Local Coastal Land Use Plan, and the California Environmental Quality Act (CEQA).

The outcome of the development review process would be to implement mitigation measures from the CEQA document (similar to what was presented in the 2009 proposed final EIR for the Paredon Project) if the project is to be approved, and to apply appropriate conditions of approval. As mentioned above, the City could choose to require conditions of approval that reflect the content of what is described in the proposed draft development standards (Attachment C). Therefore, whether the development standards are adopted and considered as a part of the application review or imposed as project specific conditions of approval, the standards can be used a basis for evaluating the project application and determining policy consistency.

Pursuant to the CCA, any oil and gas development approved or denied by the City may be appealed to the Coastal Commission. The grounds for appealing a project are limited to whether the project conforms to the requirements of the LCP or the public access policies of the CCA. In the case of an appeal, the Commission would review the City's decision to determine if the proposed development is in conformity with the certified local coastal program. Furthermore, the Commission will ensure that every coastal development permit issued for development between the nearest public road and the sea within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

C. Implementation Options

The following section provides an overview of the various implementation options for the above alternatives.

1. Standard Ordinance

The legislative body of any city is authorized to amend both a city's general plan and its zoning code. Both alternative one (amending the M-CD zone district to prohibit oil and gas drilling) and alternative two (changing the zone designation of the Venoco parcel) contemplate changes to the City's General Plan, while alternatives three (establishing a voter approval requirement) and four (establishing well drilling standards) entail changes to the City's Zoning Code.

The City's General Plan may be amended by resolution. When amending its General Plan, the City must follow the procedures set forth in Government Code §65350 et seq. The Planning Commission must hold a public hearing on the amendment and consider whether to recommend that the City Council approve the amendment. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission, but any substantial modification made to the proposed amendment that was not previously considered by the Commission must be referred back for its reconsideration. If the Planning Commission recommends approval of the amendment, the City Council must hold at least one public hearing prior to amending the General Plan. The resolution takes effect 30 days after approval by the City Council.

The City's Zoning Code may be amended by ordinance. Proposed zoning code amendments must be submitted to the Planning Commission and given a noticed hearing. After considering the proposed amendment at the hearing, the Planning Commission must decide whether it will recommend the amendment to the City Council for approval, and if so, the Commission must specify its reasons for the recommendation and the relationship between the proposed amendment and the City's General Plan. Following a noticed hearing, the City Council may approve, modify, or disapprove the Planning Commission's recommendation. If the City Council wants to modify a recommendation not previously considered by the Planning Commission, it is required to refer the modification back to the Commission for a report and recommendation. The Planning Commission, however, is not required to hold a public meeting regarding the modification under consideration. The proposed amendment must be heard twice by the City Council before its adoption by ordinance.

Under the CCA, local ordinances that change the allowable land uses from what is currently permitted under a Local Coastal Program constitute an amendment requiring Coastal Commission certification before being effective. It is immaterial whether the ordinance intends to expand or limit land uses. While minor amendments may be eligible for consideration under the Commission's "rapid and expeditious" certification procedure does not cover changes in use. A change to the zoning code prohibiting oil and gas drilling in a certain zone or changing a zone designation may be considered a change in use, triggering the Coastal Commission's formal amendment certification process.

2. Urgency Ordinance

Government Code section 65858 authorizes the legislative body of a city to adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. The municipality's legislative body, however, is not authorized to adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.

There are two procedures legislative bodies may follow to adopt urgency ordinances. Without following the procedures otherwise required prior to adoption of a zoning ordinance, the legislative body of a city can adopt an urgency ordinance by four-fifths vote, which will be valid for 45 days. After notice pursuant to Government Code section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted. Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice and public hearing requirements. Under this scenario, the urgency measure would expire 45 days from its date of adoption. After notice and public hearing, the legislative body may by a four-fifths vote for a one-time extension of 22 months and 15 days.

Unlike standard ordinances, as long as an urgency ordinance does not conflict with the CCA, it does not need to be certified by the Coastal Commission before being effective. As discussed above, however, it is possible that the Coastal Commission could find that an urgency ordinance prohibiting oil and gas drilling would conflict with the CCA. Such a determination would trigger Coastal Commission certification prior to enactment.

3. Council-Sponsored Initiative

Under a council-sponsored initiative process a proposal is placed on the ballot at the direction of the municipality's legislative body. Elections Code section 9222 authorizes a city's legislative body to submit to voters, without a petition, measures for the repeal, amendment, or enactment of any ordinance. In lieu of the Council enacting legislation through one of the ordinance processes outlined above, Council-sponsored initiatives allow the Council to sponsor an initiative and submit a proposed ordinance to the voters. Although the two have a number of procedural similarities, council-sponsored initiatives are different from voter initiatives, which are placed on the ballot by voters.

The California Supreme Court has held that compliance with CEQA is required when a public agency proposes and places an initiative on the ballot without a voter petition. Additionally, to the extent that a council-sponsored initiative constitutes an amendment to the Local Coastal Program it must be submitted to the Coastal Commission for certification before it is effective.

III. LEGAL

There are numerous legal issues that emerge when considering local regulation of private property rights, including oil and gas development. Given recent experiences in the County of Santa Barbara and other communities around the state, Staff expects that regulation in this area could well result in litigation. The broad legal issues implicated, some of which are reviewed below, make the outcome of any legal challenge uncertain.

The following section provides an overview of some of the central legal issues, including regulatory takings, the City's police power, and state preemption issues.

A. Regulatory Takings Claim

A regulatory taking generally occurs when a government regulation limits the uses of private property to such a degree that the regulation effectively deprives the property owners of all economically reasonable use or value of the property, even though the regulation does not formally divest them of title to it. In California, courts follow the valuation rule which focuses on the value of the property that remains after the regulation has been enacted, rather than the value that has been lost.

In addition to analyzing the property's remaining value, courts also balance a number of factors in order to determine if the regulation has put an undue burden on the property owner requiring just compensation. These factors include consideration of the regulation's economic impact on the property owner, the regulation's interference with the property owner's investment-backed expectations, and the nature of the governmental action, among others. Although the U.S. Supreme Court has dealt with this issue on numerous occasions, there is very little jurisprudence from the California Supreme Court. Additionally, the unpredictability of the U.S. Supreme Court's decisions makes it difficult to determine the constitutionality of a municipal regulation limiting oil and gas development.

B. Police Power Analysis

Under the California Constitution, cities have wide authority to enact local laws for the public health, safety and welfare. This authority has traditionally included the right to enact zoning regulations, as long as these regulations are reasonably related to the public's welfare. Additionally the California Supreme Court has held that a local agency's regulation of oil and gas wells is a valid use of the police power.

C. Preemption Issues

An additional issue to consider is whether such regulation is preempted by state law. The California Constitution grants cities the authority to make and enforce regulations not in conflict with state laws. In California, the state Division of Oil, Gas and Geothermal Resources (DOGGR) regulates drilling, operation and maintenance of oil wells. DOGGR does not, however, regulate the intensity of oil and gas development allowed. Although courts have held that local ordinances prohibiting oil and gas exploration on state-controlled submerged lands and tidelands granted to it by the state are preempted by state law, there is a dearth of case law directly addressing whether state law preempts a municipality from applying these prohibitions to land within its jurisdiction. The California Attorney General, however, has held that cities are not preempted from regulating oil and gas development within their jurisdiction.

IV. PRINCIPAL PARTIES EXPECTED

Jim Taylor, Carpinteria Valley Association
Venoco, Inc. and other oil industry representatives
Concerned citizens
Western States Petroleum Association representatives

V. ATTACHMENTS

Attachment A: M-CD Zone District
Attachment B: Applicable Coastal Plan Objectives and Policies Summary
Attachment C: Proposed Draft Oil and Gas Development Standards

ATTACHMENT A

M-CD Zone District

Carpinteria Municipal Code Chapter 14.30 - M-CD COASTAL INDUSTRY DISTRICT

Sections:

- **14.30.010 - Purpose and intent.**

The purpose and intent of the M-CD district is to provide for certain energy and industrial uses that require a site on or adjacent to the sea in order to be able to function at all, while providing standards and conditions that will ensure that environmental damage will be avoided or minimized to the maximum extent feasible. *(Ord. 315 § 1 (part), 1981)*

- **14.30.020 - Processing.**

Prior to the issuance of any permits for development on property zoned or to be rezoned to coastal-dependent industry, a development plan shall be submitted, processed, and approved as provided in Chapter 14.68. *(Ord. 315 § 1 (part), 1981)*

- **14.30.030 - Uses permitted subject to development plan approval.**

Uses permitted in the M-CD district subject to development plan approval are as follows:

1. Onshore facilities necessary for the exploration, development, production and/or transportation of offshore oil and gas resources including:

   a. Pipelines and any necessary equipment, buildings, apparatus or appurtenances incidental thereto;

   b. Structures, equipment or facilities necessary and incidental to dehydration and/or separation of oil, gas, condensate and other liquid products from gas or water, obtained from an offshore hydrocarbon area, for the purpose of shipping and transporting, recycling, repressurizing, or reinjection of the offshore oil, gas, condensate and/or water for underground disposal in connection with enhanced recovery operations in an offshore producing oil and gas field;

   c. Staging areas and piers established for shipping equipment, supplies and personnel to offshore sites during offshore exploratory and development drilling;

   d. Pipeline installation service bases and pipe coating yards;

2. Marine terminals required for waterborne shipments of crude oil or petroleum products including a berthing system for vessels, loading/unloading equipment, storage tanks, terminal control and safety equipment, and navigational facilities;

3. Aquaculture, including fish hatcheries;

4. Oil spill and cleanup facilities including central office space and vehicles for the storage of floating oil/water separators, pumps, generators, hosing, assorted absorbent materials, steam cleaners, storage tanks, fuel tanks, and other beach and wildlife cleanup equipment;

5. Structures, equipment or facilities used in the exploration, development or production of oil, gas or other hydrocarbon substances from an onshore oil and gas field, or any appurtenances necessary thereto including:

a. Exploratory oil and gas drilling, including any necessary equipment, apparatus, buildings or appurtenances incidental thereto;

b. Drilling, redrilling or reworking of production oil and gas wells;

c. Structures, equipment or facilities necessary and incidental to dehydration and/or separation of oil, gas condensate and other liquid products from gas or water, obtained from an onshore hydrocarbon area, for the purpose of shipping and transporting, recycling, repressurizing, or reinjection of said onshore oil, gas, condensate and/or water for underground disposal in connection with enhanced recovery operations in an onshore oil and gas field;

d. Injection wells, necessary for enhanced oil recovery or disposal of production wastes;

e. Equipment necessary for enhanced oil recovery;

f. Gathering and transmission lines for oil and gas;

g. Access roads. *(Ord. 315 § 1 (part), 1981)*

- **14.30.040 - Uses permitted with conditional use permit.**

Uses permitted in the M-CD district with the conditional use permit are as follows:

1. Caretaker dwellings for employees of the owner or lessee of the land engaged in a permitted use of the land upon which the dwelling is to be located;

2. As provided in Chapter 14.62. *(Ord. 315 § 1 (part), 1981)*

- **14.30.050 - Minimum parcel size.**

No parcel shall be created having a net lot area of less than one acre. *(Ord. 315 § 1 (part), 1981)*

- **14.30.060 - Setbacks.**

1. Front. No building or structure shall be located closer than eighty (80) feet to the centerline of any street nor closer than fifty (50) feet to the property line, whichever is the greater distance.

2. Side. No building or structure shall be located closer than ten (10) feet to the side property lines.

3. Rear. No building or structure shall be located closer than ten (10) feet to the rear property line except that:

a. For any parcel that has a rear boundary which abuts the rear boundary of a lot zoned residential or commercial, the required rear yard setback shall be not less than two (2) times the height of the building;

b. No rear yard setback shall be required for buildings located on a lot having a rear boundary common to the rear boundary of any parcel zoned for industrial use. *(Ord. 315 § 1 (part), 1981)*

- **14.30.070 - Building height.**

No building or structure shall exceed a height of thirty (30) feet. *(Ord. 315 § 1 (part), 1981)*

- **14.30.080 - Parking.**

Parking regulations for the M-CD district are as provided in Chapter 14.54. *(Ord. 315 § 1 (part), 1981)*

- **14.30.090 - Landscaping/screening.**

1. All front property lines shall be landscaped with a minimum of a five (5) foot wide planted area.

2. Where any portion of a parcel subject to the requirements of this district abuts a parcel in a residential or commercially zoned district, the first ten (10) feet of the setback area shall be landscaped and a masonry wall not less than six (6) feet in height shall be provided.

3. Outdoor storage areas shall be screened from view of any street by a wall or fence six (6) feet in height. Such wall or fence shall be located not closer than five (5) feet to the street right-of-way line. The space between the wall or fence and the street shall be landscaped. Areas where stored materials or equipment exceed a height of six (6) feet shall be landscaped to provide continuous screening to an approximate height of not less than twenty (20) feet nor more than forty (40) feet when mature. *(Ord. 315 § 1 (part), 1981)*

ATTACHMENT B

Applicable Coastal Plan Objectives and Policies Summary

General Plan/Local Coastal Land Use Plan and Carpinteria Municipal Code

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

LU-3k. *Prepare a study for the future reuse of the existing Carpinteria oil and gas plant and Bluffs Area 0 (California Coastal Act §30255, 30260, 30262, 30263). Future reuse of the Carpinteria oil and gas plant and Bluffs Area 0 shall incorporate public access, coastal recreation and open space/habitat restoration uses to the maximum extent feasible, and shall at minimum provide for vertical and lateral public access to and along the Coastal Trail.*

Subarea 6. The Bluffs *(p. 58)*
Objective CDS6-2: *Ensure that development is controlled to avoid impacts to significant viewsheds, vistas, and view corridors.*

Policies:
CDS6-b. *Development on the Bluffs shall not obstruct existing view corridors of the ocean and bluff top edge. In addition, views of the ocean and mountains for users of the Carpinteria Bluffs Nature Park and coastal trail(s), for bluffs area property owners and visitors, and for passing motorists shall be maintained.*

Implementation Policies
57. New structures shall be low intensity, and reflect the low-rise, small-town feel of the surrounding area. New structures shall be designed to blend into the site and the rest of the city.

58. All structures, including ancillary structures, shall be appropriately placed so as to minimize their obtrusiveness, and to maintain existing view corridors. Existing views from Bailard Avenue, Carpinteria Avenue, and U.S. 101 to the ocean shall be preserved.

59. Development that is located on or adjacent to bluffs, beaches, or streams shall be designed and sited to prevent adverse impacts on the visual quality of these resources.

CDS6-e. *Exterior and interior lighting of development projects shall be low intensity and located and designed so as to minimize direct view of light sources and diffusers, and to minimize halo and spillover effects.*

Objective S-6: *Minimize the potential risks and reduce the loss of life, property and the economic and social dislocations resulting from hazardous materials accidents at large industrial facilities, at facilities handling acutely hazardous materials, and along transportation corridors.*

Objective OSC-5. *Protect the Harbor Seal Hauling Ground from human disturbance.*

Policies:
OSC-5a. *Harbor Seal Hauling Grounds should not be altered or disturbed by recreation, industrial, or any other uses. ...*

Mineral Resources *(p. 127)*
Oil is the only mineral resource known in the Planning Area in significant quantities. At this time, oil mining and extraction activities are limited to offshore drilling and extraction platforms, onshore oil storage facilities, a crew boat base, product transportation terminal and a natural gas processing plant. ***On-shore oil and gas facilities in Carpinteria are largely defunct and are now incompatible with residential neighborhoods that are established.*** *(emphasis added)*

Visual Resources *(p. 129)*
Objective OSC-13: *Preserve Carpinteria's visual resources.*

Policies:
OSC-13a. Preserve broad, unobstructed view from the nearest public street to the ocean, including but not limited to Linden Avenue, Bailard Avenue, Carpinteria Avenue, and U.S. Highway 101. In addition, design and site new development on or adjacent to bluffs, beaches, streams, or the Salt Marsh to prevent adverse impacts on these visual resources. New development shall be subject to all of the following measures ...

Hazardous Materials *(p. 163)*
Objective S-6: Minimize potential risks and reduce the loss of life, property and the economic and social dislocations resulting from hazardous materials accidents at large industrial facilities, at facilities handling acutely hazardous materials, and along transportation corridors.

Noise *(p. 175)*
Objective N-4: *Minimize noise spillover from industrial operations into adjacent residential neighborhoods and other sensitive uses.*

Additionally, the following requirements from Carpinteria Municipal Code Title 14, Zoning would apply to any proposed oil and gas development at the Carpinteria Processing Facility given its blufftop location and proximity to ESH areas.

14.50.010 Coastal plan development standards.
The following policies as set forth and adopted in the city coastal land use plan are incorporated into this title. These policies shall serve as development standards for all development subject to the provisions of this title. Nothing in this chapter shall be deemed to obligate any city expenditure without an express appropriation of funding for the same by the city council.

1. General.
   a. Where policies within the land use plan overlap, the policy which is the most protective of resources i.e., land, water, air, etc., shall take precedence. (Policy 1-2)
   b. Where there are conflicts between the policies set forth in the land use plan and those set forth in any element of the city's existing general plan or existing regulations, the policies of the land use plan shall take precedence. (Policy 1-3)
   c. The density specified in the land use plan for a particular parcel may be reduced if it is determined that such reduction is warranted by conditions specifically applicable to the site, such as topography, geologic, or flood hazards, habitat areas, or steep slopes, particularly when such constraints are indicated by the overlay designations on the land use plan maps. (Policy 2-29)

2. *Water and Other Public Service Systems.*
   a. *All new development shall be served by the Carpinteria county water district. At such time as extractions from the groundwater basin have reached the safe yield level, use of a private water well for new development shall be grounds for denial of the project. (Policy 12-3)*
   b. *At such time as a permanent increase in the water supply of the Carpinteria county water district is obtained (through development of surface water facilities, wastewater reclamation, desalinization of sea water, etc.), prior to issuing a development permit for any nonpriority use, the city shall make the finding that an adequate supply of water is being held in reserve to accommodate the priority uses established for the city. (Policy 12-4)*
   c. *Resource-conserving water devices shall be used in all new development. (Policy 2-27)*
   d. *Prior to issuance of a development permit, the city shall make the finding, based on information provided by the applicant or other agencies that adequate services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan. (Policy 2-28)*
3. *Hazards.*
   a. *Applications for grading and building permits, and applications for subdivision shall be reviewed for adjacency to threats from, and impacts of geologic hazards arising from seismic events, tsunami run up, landslides, beach erosion, or other hazards such as expansive soils and subsidence areas. In areas of known geologic hazards, a geologic report may be required. Mitigation measures shall be applied where necessary. (Policy 3-8)*
   b. *Major structures such as schools, hospitals, or communications facilities shall be sited a minimum of fifty feet from a potentially active earthquake fault. Greater setbacks may be required if local geologic conditions warrant. (Policy 3-10)*
4. *Beach Development.*
   a. *Seawalls shall not be permitted unless the city has determined that there are no other less environmentally damaging alternatives for protection of existing development. Where permitted, seawall design and construction shall respect to the degree possible natural land forms. Adequate provisions for lateral beach access shall be made and the project shall be designed to minimize visual impacts by use of appropriate colors and materials. (Policy 3-1)*
   b. *Revetments, groins, cliff retaining walls, pipelines, outfalls, and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse impacts on local shoreline sand supply and so as not to block lateral beach access. (Policy 3-2)*
   c. *To avoid the need for future protective devices that could impact sand movement and supply, no permanent aboveground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety, such as lifeguard towers, and recreational facilities of a temporary nature, such as volleyball nets. (Policies 3-3 and 7-2)*
   d. *For all developments between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, all dry sandy beach seaward of the base of the bluff shall be dedicated to the city. In coastal areas where the bluffs are less than five feet, the area to be dedicated shall be determined by the city. At a minimum, the dedicated easement shall be adequate to allow for lateral access during period of high tide. (Policy 7-13)*
   e. *For new developments between Sandyland Road and City Beach, the city shall determine the extent to which the land proposed for development has historically been used by the public for informal parking and beach access and shall require adequate provision for continuation of such use. (Policy 7-1)*
   f. *In those areas where it is established that the public has acquired a right of access through use, custom or legislative authorization, new development shall not interfere with or diminish such access. This policy shall be interpreted to allow flexibility in accommodating both new development and continuation of historic public parking and access. (Policy 7-20)*
5. *Bluff Development.*
   a. *In areas of new development, aboveground structures shall be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of one hundred years. The city shall determine the required setback; a geologic report may be required by the city in order to make this determination. (Policy 3-4)*
   b. *Within the required bluff top setback, drought tolerant vegetation shall be maintained. Grading, as may be required to establish property drainage or to install landscaping, and minor improvements (i.e., patios and fences) that do not impact public views or bluff stability may be permitted. (Policy 3-5)*
   c. *Development and activity of any kind beyond the required bluff top setback shall be constructed to insure that all surface and subsurface drainage shall not contribute to the erosion of the bluff face or the stability of the bluff itself. (Policy 3-6)*
   d. *No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide public beach access and pipelines for scientific research or coastal-dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face. (Policy 3-7)*
9. *Environmentally Sensitive Habitats. All development, including agriculture, adjacent to areas designated on the land use plan maps as habitat areas, adjacent to ocean-fronting parks and recreation areas, or contiguous to coastal waters, shall be regulated to avoid adverse impacts in habitat resources. Regulatory measures include, but are not limited to setbacks, buffer zones, grading controls, noise restrictions, and maintenance of natural vegetation. (Policy 2-26)*
10. *Visual Impacts of Development.*
    a. *Broad unobstructed views from the nearest public street to the ocean, including but not limited to Linden Avenue, Bailard Avenue, Carpinteria Avenue, and U.S. 101, shall be preserved to the extent feasible. In addition, new development that is located on or adjacent to bluffs, beaches, or streams, or adjacent to Carpinteria Marsh shall be designated and sited to prevent adverse impacts on the visual quality of these resources. To preserve views and protect these visual resources, new development shall be subject to all of the following measures:*
       (1) Provision for clustering development to minimize alterations to topography or to avoid obstruction of views to the ocean;
       (2) Height restrictions to avoid obstruction of existing views of the ocean from the nearest public street;
       (3) In addition to the bluff setback required for safety (Policy 3-4) additional bluff setbacks may be required for ocean-front structures to minimize or avoid impacts on public views from the beach. Blufftop structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures;
       (4) Special landscaping requirements to mitigate visual impacts. (Policy 4-1)

b. New development, or redevelopment, in the downtown section of the city shall be in conformance with the scale and character of the existing community and consistent with the city's theme of a small beach-oriented community. (Policy 4-2)

11. *Oil and Gas Processing Facilities. If an onshore pipeline for transporting crude oil to refineries is determined to be economically feasible, proposals for expansion, modification, or construction of new coastal-dependent oil and gas processing facilities shall be conditioned to require transshipment of oil through the pipeline when constructed. Small operators may be excluded from such a pipeline when it is found that: (1) they have minimal quantities of product to be shipped; (2) that they can ship by other means more economically; (3) they can ship by other means with less adverse environmental impacts. (Policy 6-1)*
12. *Oil and Gas Pipelines. Note: Standards "e" and "f" do not apply to gas pipelines.*

a. Except for pipelines exempted from coastal development permits under Section 30610(c) and (e) of the Coastal Act as defined by the state Coastal Commission's Interpretive Guidelines, a survey shall be conducted along the route of any pipeline in the coastal zone to determine what, if any, coastal resources may be impacted by construction and operation of a pipeline. The costs of this survey shall be borne by the applicant. (This survey may be conducted as part of environmental review if an EIR is required for a particular project.)

The survey shall be conducted by a consultant selected jointly by the applicant, the city, and the Department of Fish and Game. If it is determined that the area to be disturbed will not revegetate naturally or sufficiently quickly to avoid other damage, as from erosion, the applicant shall submit a revegetation plan. The plan shall also include provisions for restoration of any habitats which will be disturbed by construction or operation procedures.

For projects where a revegetation plan and/or habitat restoration plan has been deemed necessary, one year after completion of construction, the area crossed by the pipeline shall be resurveyed to assess the effectiveness of the revegetation and restoration plan. This survey shall continue on an annual basis to monitor and to assure that progress is being made in returning the site to preconstruction conditions or until the city feels no additional progress is possible. The city may require the posting of a performance bond by the applicant to ensure compliance with these provisions. (Policy 6-2)

b. Herbicides shall not be used during pipeline construction and sidecasting of soil shall be restricted when deemed necessary, by removal of excess soil to an approved dumping site after the excavation has been backfilled and compacted. (Policy 6-3)

c. The pipeline shall be sited and constructed in such a manner as to inhibit erosion. (Policy 6-4)

d. When feasible, pipelines shall be routed to avoid important coastal resources, including recreation, habitat, and archaeological areas. (Policy 6-5)

e. For pipeline segments passing through important coastal resource areas, including recreation, habitat, and archaeological areas, the segment shall, in the case of a break, be isolated by automatic shutoff valves. The city shall determine whether spacing of automatic shutoff valves at intervals less than the maximum set by the Department of Transportation is required to protect coastal resource values. (Policy 6-6)

f. Unavoidable routing through recreation, habitat, or archaeological areas, or other areas of significant coastal resource value, shall be done in a manner that minimizes the impacts of a spill, should it occur, by considering spill volumes, durations, and trajectory. Appropriate measures for cleanup or structures such as catch basins to contain a spill shall be included as part of an oil spill contingency plan. (Policy 6-7)

13. *Pipelines—Generally. Water, gas, sewer, electrical, or crude oil transmission and distribution lines which cross fault lines shall be subject to additional safety standards, including emergency shutoff where applicable. (Policy 3-9)*
14. *Repair, Replacement and Modification of Gas Pipelines. No conditional use permit or development plan shall be required for the repair, replacement or modification of existing underground gas pipelines where each of the following requirements is met:*

a. The repair, replacement or modification activities will not take place in, or require access through, any environmentally sensitive habitat area;

b. The repair, replacement or modification will not result in substantial increase in volume of gas transported through the pipeline;

c. The pipeline, after repair, replacement or modification, complies with all applicable safety and engineering standards established by state and federal law;

d. The repair, replacement or modification will not significantly expand or alter the right-of-way occupied by the existing pipeline;

e. The ground surface over the pipeline is restored to its prior condition (or better) immediately upon completion of work. Where the ground surface was previously vegetated, the pipeline operator shall revegetate the surface immediately if natural revegetation is not likely to occur within three months. In all other cases the operator shall revegetate the surface within three months of the completion of work if expected natural revegetation has not occurred.

Coastal Act Policies

Section 30250 Location; existing developed area.
(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

Section 30253 Minimization of adverse impacts.
New development shall do all of the following: (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

ATTACHMENT C

Proposed Draft Oil and Gas Development Standards

The following Development Standards are proposed in the Draft Zoning Code Update for Exploratory Onshore Drilling.

Development standards.

- ***Height limit.*** Structures shall not exceed a height of 45 feet.
- ***Setbacks.*** Exploratory oil or gas wells or related facilities shall not be allowed within 300 feet of either the mean high tide line or a residence.
- ***Maximum site size.*** A drill site shall not exceed one acre in size, but may contain any number of wells.
- ***Oil storage capacity.*** Oil storage capacity shall be temporary and limited to the amount necessary to conduct exploratory operations and testing.
- ***Drilling rig screening and soundproofing.*** Drilling rigs shall be shielded and soundproofed.
- ***Noise and vibration.*** Machinery used in the production and/or processing shall be designed and housed to ensure that noise and vibration shall be reduced to a minimum.
- ***Outdoor lighting.*** Lights shall be shielded to ensure that they do not shine directly on adjacent properties.
- ***Delivery hours.*** Except in an emergency, materials, equipment, tools or pipe used for drilling shall not be delivered to or removed from a drilling site within or through streets within a residential zone between the hours of 7:00 p.m. and 7:00 a.m.
- ***Grading and drainage.*** Grading and alteration of natural drainages shall be minimized.
- ***Archaeological and historical resources.*** Archaeological and historical resources shall be protected in accordance with the General Plan/Coastal Plan and Chapter 14.52, §14.52.030 of the Zoning Code. Where adverse impacts to archaeological and historical resources cannot be avoided, feasible mitigation shall be required and designed in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.
- ***Safe conduct of activities.*** All activities shall be conducted in such a manner so as not to be injurious to the health, safety or welfare of persons who may be present in the vicinity of the facility.
- ***Spills.*** New or modified facilities shall be designed and operated to protect against the spillage of crude oil, petroleum products or hazardous substances. Effective containment and clean-up shall be provided for accidental spills that do occur in a timely manner reflecting the need to provide a prompt, responsive and complete response. Preventive measures may include: appropriate location to avoid damage, best available design and best available operational procedures. Additional measures that may be required as a condition of approval of a permit to minimize adverse consequences of spills may include without limitation: best available containment designed for worst-case spills, automatic shutdown, leak detection, best available operational procedures, adequate planning for emergency response, oil spill contingencies, fire protection and adequate financial assurances to ensure clean-up and restoration.
- ***Abandonment of well if drilling program unsuccessful.*** If the exploratory drilling program is unsuccessful, the well shall be abandoned within 12 months of the issuance of the Coastal Development Permit, unless the Director deems this schedule to be infeasible.

The following Development Standards are proposed in the Draft Zoning Code Update for Onshore Oil and Gas Production.

Development standards.

- ***Height limit.*** Structures shall not exceed a height of 45 feet.
- ***Setbacks.*** Oil and gas production wells or related facilities shall not be allowed within 300 feet of either the mean high tide line or a residence.
- ***Maximum number of drilling/production sites.*** Not more than one drilling/production site shall be allowed for each 10 acres of land area within a lease so as to minimize the area of disturbance. A drill site may contain a number of wells as determined through the development review process.
- ***Adequate water source.*** Proposed development shall have adequate public and private services and resources, including a water source consistent with City water conservation and use policies.
- ***Odors, fumes, gases, liquids and smoke.*** No offensive odors, fumes, noxious gases, liquids or smoke (i.e., visible combustion products, not including steam) generated at the facility, other than from motor vehicles, shall be detectable outside the facility boundary.
- ***Oil storage capacity.*** Oil storage capacity shall be limited to the amount necessary to conduct operations.
- ***Drilling rig screening and soundproofing.*** Drilling rigs shall be shielded and soundproofed.
- ***Noise and vibration.*** Machinery used in the production and/or processing shall be designed and housed to ensure that noise and vibration shall be reduced to a minimum.
- ***Delivery hours.*** Except in an emergency, materials, equipment, tools or pipe used for drilling or production operations shall not be delivered to or removed from a site within or through streets within a residential zone between the hours of 7:00 p.m. and 7:00 a.m.
- ***Parking.*** Parking shall be as provided in Chapter 14.36 (Off-Street Parking and Loading Standards).
- ***Outdoor lighting.*** Lights shall be shielded to ensure that they do not shine directly on adjacent properties.
- ***Exterior color.*** Permanent structures and equipment shall be painted a neutral color to blend with natural surroundings.
- ***Screening from public view.*** Following drilling and testing of the reservoir, production equipment and facilities shall be recessed, covered or otherwise screened from view. Trees or shrubbery shall be planted and maintained to develop attractive landscaping and to screen the site and production equipment, structures, tanks and facilities on the site from public view, unless the equipment, structures, tanks and facilities are screened from public view by reason of an isolated location, existing trees or shrubbery, intervening surface contours or a wall constructed as herein provided.
- ***Grading.*** Grading and alteration of natural drainages, watersheds and hillsides shall be minimized. Where grading and alteration of natural drainages, watersheds or hillsides is required to carry forth a project, adequate mitigation shall be required, including use of temporary vegetation, seeding, mulching or other suitable stabilization to minimize impacts to affected areas. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs or appropriate non-native plants. Significant impacts to surface water due to short-term sedimentation of streams shall be mitigated to the maximum extent feasible through adequate erosion and sediment controls, including containment of loose soil.
- ***Archaeological and historical resources.*** Archaeological and historical resources shall be protected in accordance with the General Plan/Coastal Plan and §14.52.030

(Archaeological Resource Protection) of the Zoning Code. Where adverse impacts to archaeological and historical resources cannot be avoided, feasible mitigation shall be required and designed in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.

- ***Prevention of access.*** The site or the moving parts of operating machinery shall be enclosed with an adequate noncombustible type fence, wall, screen or housing sufficient to prevent unauthorized access and having a height of at least six feet.
- ***Safe conduct of activities.*** All activities shall be conducted in such a manner so as not to be injurious to the health, safety or welfare of persons who may be present in the vicinity of the facility.
- ***Spills.*** Risks of oil spills and associated impacts shall be mitigated to the extent necessary to comply with the policies and regulations of the Coastal Act and the City's General Plan/Coastal Plan. New or modified facilities shall be designed and operated to protect against the spillage of crude oil, petroleum products or hazardous substances. Effective containment and clean-up shall be provided for accidental spills in a timely manner reflecting the need to provide a prompt, responsive and complete response. Preventive measures may include: appropriate location to avoid damage, best available design and best available operational procedures. Additional measures that may be required as a condition of approval of a permit to minimize adverse consequences of spills may include without limitation: best available containment designed for worst-case spills, automatic shutdown, leak detection, best available operational procedures, adequate planning for emergency response, oil spill contingencies, fire protection and adequate financial assurances to ensure clean-up and restoration.

The following Development Standards are proposed in the Draft Zoning Code Update for Onshore Processing Facilities Related to Offshore Oil and Gas Development.

Development standards

- ***Height limit.*** Structures shall not exceed a height of 45 feet.
- ***Setbacks.*** Oil and gas related structures, including wells, shall not be allowed within 300 feet of either the mean high tide line or an occupied residence.
- ***Oil storage capacity.*** Oil storage capacity shall be limited to the amount necessary to conduct operations.
- ***Noise and vibration.*** Machinery used in the production and/or processing shall be designed and housed to ensure that noise and vibration shall be reduced to a minimum, consistent with §14.30.070 (Performance Standards).
- ***Delivery hours.*** Except in an emergency, materials, equipment, tools or pipes used for plant operations shall not be delivered to or removed from the plant site through streets within a residential zone between the hours of 7:00 p.m. and 7:00 a.m.
- ***Parking.*** Parking shall be as required by Chapter 14.36 (Off-Street Parking and Loading Standards).
- ***Odors, fumes, gases, liquids and smoke.*** No offensive odors, fumes, noxious gases, liquids or smoke (i.e., visible combustion products, not including steam) generated at the facility, other than from motor vehicles, shall be detectable outside the facility boundary.
- ***Drilling rig screening and soundproofing.*** Drilling rigs shall be shielded and soundproofed.
- ***Visual compatibility.*** The installation shall be visually compatible with the potential surroundings by use of any or all of the following measures where applicable: buffer strips, depressions (natural or artificial); screen planting and landscaping continually maintained, camouflage and/or blending colors.
- ***Exterior color.*** Permanent structures and equipment shall be painted a neutral color to ensure that they blend with the natural surroundings.
- ***Outdoor lighting.*** Lights shall be fully shielded to ensure that they do not directly shine on adjacent properties.
- ***Grading.*** Grading and alteration of natural drainages, watersheds and hillsides shall be minimized. Where grading and alteration of natural drainages, watersheds or hillsides is required, adequate mitigation shall be required, including use of temporary vegetation, seeding, mulching or other suitable stabilization to minimize impacts to affected areas. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs or appropriate non-native plants. Significant impacts to surface water due to short-term sedimentation of streams shall be mitigated to the maximum extent feasible through adequate erosion and sediment controls, including containment of loose soil.
- ***Archaeological and historical resources.*** Archaeological and historical resources shall be protected in accordance with the General Plan/Coastal Plan and Chapter 14.52, §14.52.030 of this Zoning Code. Where adverse impacts to archaeological and historical resources cannot be avoided, feasible mitigation shall be required and designed in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.
- ***Adequate water source.*** The applicant shall demonstrate to the satisfaction of the Director that the proposed development will have adequate public and private services and resources, including a water source consistent with City water conservation and use policies.
- ***Oil Spills.*** Risks of oil spills and associated impacts shall be mitigated to the extent necessary to comply with the policies and regulations of the Coastal Act and the City's

General Plan/Coastal Plan. New or modified facilities shall be designed and operated to protect against the spillage of crude oil, petroleum products or hazardous substances. Effective containment and clean-up shall be provided for accidental spills in a timely manner reflecting the need to provide a prompt, responsive and complete response. Preventive measures may include: appropriate location to avoid damage, best available design and best available operational procedures. Additional measures that may be required as a condition of permit approval to minimize adverse consequences of spills may include: best available containment designed for worst-case spills, automatic shutdown, leak detection, best available operational procedures, adequate planning for emergency response, oil spill contingencies, fire protection and adequate financial assurances to ensure clean-up and restoration.

- ***Transportation of processed oil.*** Permits for expanding, modifying or constructing crude oil processing or related facilities shall be conditioned to require that all oil processed by the facility shall be transported from the facility and the City by pipeline. Transportation by a mode other than pipeline may be permitted only:
    - When the environmental impacts of the alternative transportation mode are required to be mitigated to the maximum extent feasible; and
    - When the shipper has made a commitment to the use of a pipeline when operational to the shipper's refining center of choice; and
    - When the Council has determined use of a pipeline is not feasible by making one of the following findings;
    - A pipeline to the shipper's refining center of choice has inadequate capacity or is unavailable within a reasonable period of time;
    - A refinery upset has occurred, which lasts less than two months and precludes the use of a pipeline to that refinery, requiring temporary transportation of oil to an alternative refining center not served by pipeline;
    - The cost of transportation of oil by common carrier pipeline is unreasonable taking into account alternative transportation modes, economic costs and environmental impacts; or
    - An emergency, which may include a national state of emergency, has precluded use of a pipeline.
- A permit for the use of a non-pipeline mode of transportation may specify the duration for such permitted use. Such permit may be extended upon a showing of good cause based upon a consideration of the findings listed above. A permit based on finding 14.42.050.B.17.c (2) shall be granted for two months only. If refinery upset conditions continue beyond two months and the shipper wishes to continue use of a non-pipeline transportation mode, the shipper must seek a new or modified permit that is based on a reconsideration of all the required findings. In all cases, the burden of proof as to pipeline unavailability or inadequate capacity, unreasonable tariffs and the need for and use of other transportation systems shall be on the shipper.
- ***Facility and site abandonment.*** The City shall review permits for new or modified oil and gas facilities when throughput, averaged (arithmetic mean) over any 12 consecutive months, does not exceed three percent of the facility's maximum permitted operating capacity. The review shall be conducted in a duly noticed public hearing to determine if facility abandonment or facility modifications are appropriate.

ATTACHMENT B

VENOCO, INC.

OCT 13 2014

October 13, 2014

(Via Hand Delivery)

To the Honorable Mayor Bradley Stein and
Members of the Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, California 93013

Re: Agenda Item 7, October 13, 2014--Proposed Oil and Gas Regulations

Mayor Stein and Fellow Members of the City Council:

Venoco, Inc. ("Venoco") submits the following comments for your consideration on Agenda Item No. 7 - City of Carpinteria ("City") Oil and Gas Regulations. Venoco appreciates your time and requests that you carefully review this information before taking any action to further restrict oil and gas operations in the City.

Venoco is the owner of the Carpinteria Oil and Gas Production Facility ("CPF") and the only oil and gas company operating within the City. Venoco has been safely operating the CPF in the City for over fifteen years and prides itself on being a good neighbor and corporate citizen. Venoco cares about this community and has demonstrated its commitment through financial support and outreach. The people of Venoco expect to continue this relationship for years to come.

Venoco purchased the CPF in 1998 with the knowledge that substantial petroleum reserves lay beneath the CPF and extend off-shore. Accordingly, Venoco first submitted its Paredon Project (or "Project") to the State Lands Commission in December 2001 and to the City in August 2004. Processing of that application continued until 2009, when Venoco decided that seeking voter approval of the Project was a more efficient way to ensure the Project's future.

Venoco now understands that the community and this Council felt Venoco was trying to bypass the appropriate public review and hearing process. Venoco acknowledges its mistake in this regard. Consequently, Venoco filed a revised Project application in June 2013 in a sincere attempt to renew and, this time, follow the City process to its conclusion.

The City's Community Development Department recently deemed Venoco's renewed application for the Paredon Project complete. The Project proposes to develop hydrocarbon resources from Venoco's CPF by drilling *one exploratory well* incorporating multiple sidetracks. If the exploratory well

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is successful, Venoco intends to proceed to the second phase of the Project to delineate and develop up to 20 production wells from one location on the CPF. The second phase of the Project would likely require a Local Coastal Plan amendment and accordingly, additional approvals from the City and the Coastal Commission. Venoco also plans to upgrade the facilities at the CPF for the purpose of developing and producing oil and natural gas from the Paredon field, which is estimated to contain recoverable reserves of approximately 20.5 million barrels of sweet oil and 30.8 billion standard cubic feet of sweet natural gas. Such reserves could result in revenue for Venoco, the State of California, the County of Santa Barbara and the City in excess of two billion dollars ($2,000,000,000.00) based on today's oil prices. It is expected that the Paredon reservoir can be fully and safely developed from the CPF using existing drilling techniques that do not involve hydraulic fracturing stimulation and without the need to construct new offshore platforms. It is Venoco's belief that once the EIR has been completed, it will clearly demonstrate that the impacts to local citizens and the environment will be very minimal and can be easily mitigated.

Unfortunately, it appears the City is exploring ways to prevent Venoco from achieving its mutually beneficial business plans. Venoco cannot help but feel that the City's consideration of additional oil and gas regulations within the City is a direct and targeted response to Venoco's Paredon Project application with no real foundation based on scientific evidence of an impact to public safety or threat to the environment. The Staff Report proposes five options for the Council to consider. Four of those options outline methods by which the City can attempt to either prohibit or further restrict oil and gas development. The fifth option presented is to maintain the status quo by taking no action and following the discretionary review process which Venoco urges you to consider. Venoco is part of an already heavily regulated industry and the only energy company that will be affected by additional City regulations. Especially given Venoco's intention to implement the Paredon Project, Venoco cannot support any options or suggestions in the City's Staff Report that further restrict Venoco's current or planned operations.

More specifically, the Staff Report presents one option which would result in a complete ban of onshore oil and gas drilling in the M-CD zone. This option goes beyond even the far reaching restrictions proposed in Santa Barbara County's Measure P to include not only "High-Intensity Petroleum Operations" but all oil and gas drilling of any kind. Implementing such a measure would be excessive and deny Venoco its ability to use the CPF property as it intends.

Venoco's research indicates that the reserves under the CPF onshore property, and extending offshore, are plentiful. Extracting those resources from *onshore* wells is the environmentally superior option. Venoco does not want to, and should not have to, explore offshore drilling alternatives. Should the City wish to have an informed discussion about the various drilling methods and the desire to regulate or eliminate certain methods, Venoco is happy to be part of that conversation. However, any broad attempt to prohibit all oil and gas drilling will, necessarily, result in Venoco protecting its valuable property interests.

A land use regulation that goes too far may effect a taking of property requiring just compensation, even if it does not deprive the owner of all economically beneficial use of its land. *Lockaway Storage* *v. Alameda*, (2013) 216 Cal.App.4th 161, 183, citing *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 617. When a taking is neither a permanent physical invasion nor a deprivation of all economically beneficial use of the property, courts consider (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation interfered with distinct investment backed expectations, and (3) the character of the government action. *Penn Central Transportation Company v. City of New York* (1978) 438 U.S. 104. As Venoco has always intended to develop onshore drilling at the CPF, it is concerned that eliminating or severely restricting Venoco's oil and gas operations would deprive Venoco of the return on its investment that it reasonably expected from its intended use. *Lockaway Storage*, 216 Cal.App.4th 161, 185.

Perhaps the most troubling aspect of the Staff Report is the suggestion that the City Council has the option to proceed with an *urgency* interim ordinance under Government Code section 65858 to essentially place a moratorium on oil and gas drilling. While Government Code section 65858 does allow a city to adopt an interim ordinance that prohibits any *uses* which may be in conflict with a general plan the city is considering within a reasonable time, as the Staff Report correctly states, such an ordinance cannot be adopted without (1) legislative findings that there is a *current and immediate threat* to the public, health, safety, or welfare" *and* (2) a finding that the *approval of* additional entitlements for use which are required in order to comply with a zoning ordinance *would result in that threat* to public health, safety, or welfare. (Govt Code § 65858, emphasis added). "Limiting the reach of an interim ordinance to those situations where actual approval of an entitlement for use is imminent is consistent with the purpose of interim controls." *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1417.

An urgency interim ordinance is *not* an appropriate measure for the City to even consider at this time. Even assuming drilling could reasonably be considered a threat to the public's health or safety, there are no current or immediate plans of oil and gas drilling within the City. The application for Venoco's Paredon Project was just deemed complete last month and the City is now only beginning the process of selecting an Environmental Impact Report ("EIR") consultant. Venoco anticipates the EIR process will take approximately a year to complete. Only then will the subsequent public hearing process commence.

Further, choosing to pass an urgency interim ordinance halting oil and gas drilling will not stop the processing of the Paredon Project application. Once a permitted use is identified by the applicable zoning ordinance the procedure for processing a development application is established by state laws other than zoning. The power to establish uses does not include the power to fix procedures for processing development applications. *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1416-17.

Should the City Council choose to pass such an interim ordinance, Venoco believes the ordinance would require Coastal Commission certification. An urgency interim ordinance cannot circumvent the certification requirement and change the permitted use of a zone acknowledged in the Local Coastal Program when that modification would (1) conflict with the California Coastal Commission Act or (2) eliminate rather than restrict a previously certified use, as this is outside the scope of the

City's authority. (See *Conway v. City of Imperial Beach* (1997) 52 Cal.App.4th 78; Public Resources Code § 30005(a).) As acknowledged in the City's Staff Report, the California Coastal Act recognizes and gives priority to the importance of coastal-dependent industrial facilities and the social and economic value they contribute to the State (Public Resources § 30250).

Venoco requests that the City carefully and fully analyze its planning options for oil and gas development within the City. Whether the City ultimately chooses to adopt further regulations via standard ordinance or council sponsored initiative, the input of all stakeholders, including state and federal regulators, must be solicited, evaluated and balanced.

Therefore, Venoco urges the City to take no action at this time and allow the Paredon Project discretionary review process to run its course. During this important process, the Council, its staff and the public will be provided with invaluable information, including an EIR, as well as the opportunity to assess all relevant information and seek further comment from Venoco as the applicant. With this essential information, the City can develop and refine mitigation measures and conditions of approval to ensure the Paredon Project is consistent with the M-CD zoning and the City's General Plan/Local Coastal Land Use Plan. Perhaps most importantly, this discretionary review process will allow Venoco time to work with the City and the community of Carpinteria to ensure only safe and responsible oil and gas development occurs.

Venoco appreciates the opportunity to provide these comments on the proposed City of Carpinteria oil and gas regulations. As a vital stakeholder in this process, Venoco looks forward to discussing its comments with you further as this process continues.

Sincerely,

I Livett

Ian Livett
Vice President, Southern California
Venoco, Inc.

cc: Dave Durflinger
Jackie Campbell
Jean Shoaf, City Attorney's Office

CIPA

California Independent Petroleum Association
1001 K Street, 6th Floor
Sacramento, CA 95814
Phone: (916) 447-1177
Fax: (916) 447-1144

October 13, 2014

To the Honorable Mayor Bradley Stein and
Members of the Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, California 93013

Re: Agenda Item 7, October 13, 2014--Proposed Oil and Gas Regulations

Mayor Stein and Fellow Members of the City Council:

I am writing on behalf of the California Independent Petroleum Association ("CIPA") to notify you of our organization's strong opposition to the proposed ordinance changes that could ban certain oil and gas operations within the city limits. CIPA believes the proposal is severely flawed from both a policy and legal perspective and should be rejected by the Council. CIPA also believes there are significant legal issues that have been overlooked and that must be studied before this matter is taken up by the City. This letter focuses on whether such ordinances would be preempted by State law and/or result in a taking of property requiring compensation by the City.

CIPA is a non-profit, non-partisan trade association representing approximately 500 independent crude oil and natural gas producers, royalty owners, and service and supply companies operating in California. Our members represent approximately 70% of California's total oil production and 90% of California's natural gas production. CIPA understands that the City is considering the adoption of an ordinance that would impose a moratorium or ban on oil and gas operations.

I. Regulations Impacting The Economic Return of Property Can Give Rise To A Claim For Just Compensation

The proposals under consideration by the Council seek either to impose a moratorium on all forms of oil and gas operations or severely and arbitrarily restrict new oil production. Any form of regulation that severely limits the reasonable use of drilling operations or bans it outright would eliminate any future wells within the City, forcing well operators and royalty holders to lose millions of dollars. As set forth below, CIPA believes that those who lose the value of their mineral assets as a result of City action will have a claim against the City for just compensation under both the federal and state Constitutions.

The state and federal Constitutions prohibit government from taking private property for public use without just compensation. (Cal. Const., art. I, ß 19; U.S. Const., 5th Amend.; *Chicago, Burlington &c. R'd v. Chicago* (1897) 166 U.S. 226, 239 [applying the federal takings clause to the states].) In *Penna. Coal Co. v. Mahon* (1922) 260 U.S. 393, 415 (*Penna. Coal*), the United States Supreme Court recognized that a regulation of property that "goes too far" may effect a taking of that property. When a regulation does not result in a physical invasion and does not deprive the property owner of all economic use of the property, a reviewing court must evaluate the regulation in light of the "factors" the high court discussed in *Penn Central Transp. Co. v. New York City,* and subsequent cases. *Penn Central* emphasized three factors in particular: (1) "[t]he economic impact of the regulation on the claimant"; (2) "the extent to which the regulation has interfered with distinct investment-backed expectations"; and (3) "the character of the governmental action." *Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 124. Subsequent cases, as well as a close reading of Penn Central, indicate other relevant factors such as whether the regulation affects the existing or traditional use of the property and thus interferes with the property owner's "primary expectation" (*id.* at pp. 125, 136), and whether the regulation "permit[s the property owner] . . . to profit [and] . . . to obtain a 'reasonable return' on . . . investment" (id. at p. 136).

The proposed ordinance changes could give rise to a claim for just compensation by oil well operators and owners as well as royalty holders. Moreover, changes to the zoning law, or changes to the General Plan necessitated by changes to the zoning law can both be considered regulatory takings giving rise to a claim for compensation.

The long running litigation between the City of Hermosa Beach and MacPherson Oil is instructive in showing how a regulatory overreach can result in repercussions that could financially destroy a municipality. In that case, the City of Hermosa Beach adopted an ordinance that in essence prohibited oil production operations within the city limits. Using standard industry valuation techniques, Macpherson Oil was able to show that the financial loss resulting from the actions of Hermosa Beach could be as much as $850,000,000. When a court confirmed that Hermosa could be liable for that amount of compensation, the City agreed to settle the matter. What is notable is that in the MacPherson Oil dispute with Hermosa Beach, the reserves at issue in Hermosa Beach had not yet been developed which is similar to the situation with Venoco and its pending Paredon Application. The financial exposure of the City of Carpenteria to damages from a taking claim by the impacted royalty owners and operators within the City could be massive. Accordingly, the City of Carpenteria could be subject to a claim for compensation of several hundreds of millions of dollars should it adopt any proposal that creates operational prohibitions on downhole operations. It is clear that neither of the motions that have been introduced contemplated this very serious issue.

There are Carpinteria residents that are royalty holders with a financial interest in the wells that would be drilled within the city limits. While their interest range from minimal to substantial, any action that results in the elimination of production could financially harm the City Council's own constituents. As well, since the Paredon application is an extension on the original application from 2001, the City would be provided direct royalty benefits from oil and gas production from the project that would be tens of millions of dollars. It is our understanding that this money could be used for any item required within the city including education, public safety or parks and recreation. It does not appear that the proposed ordinance change contemplated the direct or indirect economic impacts of the proposal for all the constituents of the City. Put simply, CIPA believes there are <u>significant</u> economic impacts associated with possible ordinance changes to the Carpinteria City - Oil and Gas Regulations currently under consideration by the Council. It would be unwise, in our view, for the City to enact any such measures without the Council being fully informed about the severe legal and economic risks posed by the current proposals.

II. California Law Concerning State Preemption of Local Regulation

State law comprehensively addresses oil and gas operations, including the drilling, construction, and operation of oil and gas wells, and the technical question of whether to inject fluids to improve reservoir productivity. (Pub. Resources Code, § 3000 et seq.; Tit. 14, Cal. Code Regs., § 1712 et seq.) To the extent that issues associated with oil and gas operations have not been fully covered by State law, the

Legislature has vested discretion over technical decisions with the State Oil and Gas Supervisor ("Supervisor"). (Pub. Resources Code, §§ 3013, 3222.) Moreover, State law evidences an intent to maximize the productivity of oil and gas operations, while addressing potential environmental effects thereof. (Pub. Resources Code, § 3106.) State law has therefore extensively covered the field of oil and gas operations as it relates to downhole oriented matters to ensure safe and efficient production operations. (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 751 [citations omitted.].)

Under California law, local government regulations that conflict with State general law are preempted. (Cal. Const., Art. XI, § 7.) The preemption may be express or by implication. (*Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal.3d 878, 885.) Express preemption exists where the Legislature has included in statute a statement of intent to preempt local regulations. (52 Ops.Cal.Atty.Gen. 166, 168 (1969).) Implied preemption exists under any of the following circumstances: (1) the subject matter has been so fully and completely covered by the State general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been partially covered by State general law, but the context clearly indicates that State concerns will not tolerate local regulation of the same subject; or (3) the subject matter has been partially covered by State general law, and the subject is of such a nature that the adverse effects of local regulation outweigh the possible benefits to the local government. (*Morehart,* supra, 7 Cal.4th 725 at 751 [citations omitted.].) In determining whether the Legislature intended to occupy the entire field to the exclusion of all local regulation, a court will look to the "whole purpose and scope of the legislative scheme," not just the language used in the statute. (*Tolman v. Underhill* (1952) 39 Cal.2d 708, 712.) A local regulation that is preempted by State law is void and unenforceable. (*People ex rel. Deukmejian v. County of Mendocino* (1984) 36 Cal.3d 476, 484.)

Consistent with its strong interest in oil and gas resources and intent to maximize the productivity of oil and gas wells, California has adopted statutes and regulations that comprehensively address oil and gas operations. The statutory provisions for oil and gas law are contained within Division 3 ("Oil and Gas") of the Public Resources Code, encompassing sections 3100 through 3865. These statutes address oil and gas operational issues in detail, including notice of intent to drill and abandon (§§ 3202, 3229); bonding (§§ 3204- 3207); abandonment (§ 3208); recordkeeping (§§ 3210-3216); blowout prevention (§ 3219); casing (§ 3220); protection of water supplies (§§ 3222, 3228); repairs (§ 3225); regulation of production facilities (§ 3270); waste of gas (§§ 3300-3314); subsidence (§ 3315 et seq.); spacing of wells (§§ 3600-3609); unit operations (§§ 3635-3690); and regulation of oil sumps (§§ 3780-3787).

Conclusion

In summary, under both the federal and state Constitutions, local regulations that have the effect of stopping or impacting oil production give rise to claims for compensation from both well owners and royalty holders. <u>Claims for diminution of value against the City could easily be in the hundreds of millions of dollars.</u> The recent experience of the City of Hermosa Beach on matters of well valuation should be carefully studied by the Council before proceeding with a proposal that would give rise to similar claims. As noted above, CIPA believes there are other issues related to property tax impacts the City must review before taking any action on this topic. In addition, State law comprehensively covers the subject of oil and gas operations, including whether to use methods to stimulate reservoir productivity. This comprehensive regulation of oil and gas operations is consistent with the State's strong interest in oil and gas resources, and intent to maximize the recovery of hydrocarbons from oil and gas reservoirs. Thus, when looking at the "whole purpose and scope of the legislative scheme," it is evident that the Legislature intended to preempt local regulation on the subject of oil and gas operations.[1] (*Tolman v.*

[1] The California Office of the Attorney General reached a similar conclusion when considering the issue of State preemption of local regulation of oil and gas operations in the mid-1970s. (59 Ops.Cal.Atty.Gen. 461, 478 (1976)

Underhill (1952) 39 Cal.2d 708, 712.) A local regulation that attempts to impose a moratorium on or severely limit the use oil and gas operations is preempted by State law and unenforceable, and would most certainly be challenged on such basis.

Such a legal challenge was filed recently by the Western States Petroleum Association against the City of Compton who proposed a ban on new drilling operations. The City of Compton has since settled the lawsuit by rescinding the moratorium.

CIPA appreciates the opportunity to provide our input on this topic and looks forward to addressing this issue cooperatively. Should you have any questions regarding the above analysis, please give me a call at (310) 312-4353.

Sincerely,

Rock Zierman
CEO

["Where the statutory scheme or Supervisor specifies a particular method, material, or procedure by a general rule or regulation or gives approval to a plan of action with respect to a particular well or field or approves a transaction at a specified well or field, it is difficult to see how there can be any room for local regulation . . . We observe that these statutory and administrative provisions appear to occupy fully the underground phases of oil and gas activity."].)

WSPA
Western States Petroleum Association

Western States Petroleum Association
Credible Solutions • Responsive Service • Since 1907

Catherine H. Reheis-Boyd
President

Via Hand Delivery

October 13, 2014

The Honorable Bradley Stein, Mayor and
Members of the Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, California 93013

Re: October 13, 2014 City Council Meeting
WSPA Comments on Proposed Oil and Gas Regulations

Dear Mayor Stein and Fellow Members of the City Council:

The Western States Petroleum Association ("WSPA") has reviewed the Staff Report on the City's proposed oil and gas regulations to be considered at the October 13, 2014 City Council meeting. WSPA appreciates the opportunity to provide its comments.

WSPA is a non-profit trade association representing twenty-six companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in five western states, including California.

WSPA supports pragmatic approaches to regulating oil and gas production, as long as those efforts sufficiently recognize the respective rights and interests of the public and operators. As the Staff Report acknowledges, the oil and gas industry has a long history in the Carpinteria area — a relationship that WSPA and its members value, and want to continue to maintain responsibly.

The Staff Report offers several regulatory paths for the Council's consideration. As explained below, some of these options present considerable legal obstacles.

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Prohibiting Onshore Drilling May Expose the City to Claims for Unconstitutional Takings

The Staff Report suggests that the City Council could amend its Zoning Code to disallow any onshore oil and gas drilling in the M-CD zone. The Staff Report properly concedes that such an action would raise constitutional concerns under the regulatory takings doctrine, but states that there is insufficient precedent for analyzing the legality (see p. 12). To the contrary, it is well established that regulation which "goes too far" amounts to an improper taking under both the federal and California constitutions. *See e.g.*, *Koontz v. St. Johns River Water Mgmt. Dist.*, 133 S. Ct. 2586, 2604 (2013); *Lockaway Storage v. Alameda*, 216 Cal. App. 4th 161, 184 (2013) ("A regulatory takings analysis rests on the foundational principle that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking."). Important factors in this regard are (1) the economic impact of the regulation, (2) the extent to which the regulation interferes with distinct investment-backed expectations and (3) the character of the governmental action. *Penn Cent. Transp. Co. v. N.Y.*, 438 U.S. 104, 124 (1978).

Contrary to what is stated in the Staff Report, a regulation can be unconstitutional under this analysis even if it does not deny *all* economically viable uses of a property. *See Palazzolo v. R.I.*, 533 U.S. 606, 631 (2001) ("a State may not evade the duty to compensate on the premise that the landowner is left with a token interest"); *Yee v. Escondido,* 503 U.S. 519, 523 (1992) (compensation for regulatory taking is required if "considerations such as the purpose of the regulation or the extent to which it deprives the owner of the economic use of the property suggest that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole"); *Vacation Vill., Inc. v. Clark County*, 497 F.3d 902 (9th Cir. 2007) (holding that where owners had property interest in airspace and zoning ordinance capped building heights, regulation amounted to a taking).

Consider, for example, *Avenida San Juan Partnership v. San Clemente*, 201 Cal. App. 4th 1256 (2011), in which a California court of appeal found a compensable taking when a city re-zoned a property to allow for a lesser degree of development than was previously permissible. In analyzing the ordinance, the court noted:

- The economic effect of the zoning ordinance was "dramatic" when one compared the property's value with reduced development;
- "The regulation wholly undermined the investment-backed expectations of the owners," who purchased the property when it was zoned to allow for larger-scale development; and
- "The subject parcel was singled out for unequal treatment, particularly in light of the land use scheme that" previously governed. *Id.* at 1273.

Similarly, here, the Staff Report (pp. 4–5) makes clear that only one landowner would be impacted by a ban on oil and gas drilling in the M-CD district, thus singling out a specific property and substantially reducing the value of land that was purchased and has historically been used for petroleum production. The City has been aware for years of the landowner's intent to conduct drilling on the property. Moving forward with a ban on oil and gas drilling, a significant and unanticipated change in course, could therefore result in the City being liable for the lost value of the property given the proposed drilling operations.

WSPA Supports Reasonable Regulation of Oil and Gas Operations

California cities can, and should, enact regulations that promote the public welfare within their jurisdictions. WSPA therefore does not oppose development standards designed to protect health and safety and that are within the scope of the police power. WSPA looks forward to continuing to work with the City as it develops sound and practical updates to its regulations for oil and gas exploration and development.

Thank you for your consideration of WSPA's comments. Please contact me at (916) 498-7752 or creheis@wspa.org if you have any questions or would like additional information regarding WSPA's comments.

Sincerely,

environmental
DEFENSE CENTER

November 9, 2014

Mayor Brad Stein
Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, CA 93013

Re: City of Carpinteria Oil and Gas Regulations

Dear Mayor Stein and City Councilmembers:

Thank you for the opportunity to comment on the City of Carpinteria's oil and gas regulations, which were the subject of a public hearing on October 13, 2014. The following comments are submitted by the Environmental Defense Center ("EDC") on behalf of the Carpinteria Valley Association, Sierra Club Los Padres Chapter, and Get Oil Out! EDC and our clients have worked for decades to protect the Carpinteria Bluffs and surrounding area from potential development and industrial threats.

The staff report for the City's October 13 hearing identified five options for the City to consider as part of its planned update to the Zoning Code.[1] The four legislative options include: (1) prohibiting onshore drilling in the M-CD zone district; (2) rezoning and redesignating M-CD/CDI properties; (3) establishing a voter approval requirement; and (4) adopting oil and gas drilling development and operating standards as part of the M-CD zone district. Options for implementation include adopting a standard ordinance; also adopting an urgency ordinance to maintain the status quo pending consideration and approval of a new ordinance; and/or sponsoring an initiative that would be voted on by the electorate. The fifth and final option is to take no action, and instead to continue with the discretionary review process for the Paredon Oil and Gas drilling proposal.

As explained herein, our clients urge the Council to vote for Option 2, which would facilitate completion of the "Bluffs 0" study and allow the City to develop a comprehensive, integrated plan for this site that is compatible with the surrounding community. The purpose of this letter is to support this option, and to respond to legal issues raised by the oil industry.

[1] Staff Report: "Status report on City of Carpinteria oil and gas regulations," October 13, 2014.

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I. The City Should Exercise Its Police Power to Protect the Community from the Risks and Impacts of Oil and Gas Related Development.

A. The City has the Legal Authority to Regulate Land Uses, Including Uses Related to Oil and Gas Development.

The U.S. Supreme Court has highlighted the importance of the police power as the means by which local agencies protect the public health, safety and welfare of their residents. *Berman v. Parker* (1954) 348 U.S. 26. The Court described this power as "broad and inclusive" and noted that "[i[t is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled." *Id.* at 32-33; see also *Village of Belle Terre v. Boraas* (1974) 416 U.S. 1. The California Supreme Court has similarly recognized the broad police power authority of cities to enact legislation in the interests of their citizens. *Metromedia, Inc. v. City of San Diego* (1980) 26 Cal.3d 848 (holding that ban on billboards constituted proper exercise of the City's police power).

The California Constitution confers on all cities the power to "make and enforce within [their] limits all local police, sanitary and other ordinances and regulations not in conflict with general laws." Cal. Const. Art. XI, §7. The police power is "elastic" so that cities can respond to evolving issues and needs. *Rancho La Costa v. County of San Diego* (1980) 111 Cal.App.3rd 54.

The courts construe the police power broadly and will uphold the legislative actions of cities so long as they are reasonably related to public health, safety or welfare. *Associated Home Builders, Inc. v. City of Livermore* (1976) 18 Cal.3d 582. "Welfare" includes such intangibles as aesthetics and the character of a community. *Metromedia, Inc.*, 26 Cal.3d at 861, relying on *Berman v. Parker* (1954) 348 U.S. 26, 33; see also *Ewing v. City of Carmel-by-the-Sea* (1991) 234 Cal.App.3d 1579, 1590-1591 (upholding ordinance intended to protect the "residential character" of neighborhoods by prohibiting the transient commercial use of residential properties).

Accordingly, the police power has been relied upon to prohibit certain uses and activities that are not within the identified interests of a city. See, for example, *Metromedia, Inc.*, 26 Cal.3d 848 (ban of offsite advertising billboards); *Wal-Mart Stores, Inc. v. City of Turlock* (2006) 138 Cal.App.4th 273 (prohibiting development of discount superstores).

These types of banned activities include oil and gas development. For example, in *Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal.App.4th 534, 555, the court held that a ballot initiative prohibiting all oil and gas exploration, drilling and production was a legitimate exercise of the City's police power. The court noted that the ban was founded on the desire to "preserve the environment, as well as to protect the public health, safety and welfare of people and property within Hermosa Beach. It is, therefore, presumptively a justifiable exercise of the City's policy power." *Id.*

Similarly, in *Higgins v. City of Santa Monica* (1964) 62 Cal.2d 24, the California Supreme Court upheld an ordinance prohibiting oil drilling and prospecting, holding that the

City's desire to protect the public from the "inconvenience, noisome effects, and potential dangers that may accompany and follow the exploration for, and production of, oil" was a valid exercise of the City's police power. See also *Beverly Oil Co. v. City of Los Angeles* (1953) 40 Cal.2d 552 (the California Supreme Court found that a city zoning ordinance prohibiting production of oil in designated areas was a reasonable exercise of the city's police power); *Pacific Palisades Assn. v. City of Huntington Beach* (1925) 196 Cal. 211, 217 (the state Supreme Court held that the city has "the unquestioned right to regulate the business of operating oil wells within its city limits, and to prohibit their operation within delineated areas and districts, if reason appears for doing so").

B. Adopting Option 2 Would Allow the City to Exercise its Police Power to Protect the Public Health, Safety and Welfare.

Option 2 is the only option that complies with the City's commitment to complete the "Bluffs 0" study and implement a plan for the subject area that protects its residents and visitors from the risks and impacts of coastal industrial development. Although this Option would allow the existing uses to continue, it would prevent any new or expanded uses, such as new drilling and production operations.[2] These types of operations pose significant risks to air and water quality, increase the likelihood of oil spills and gas leaks, cause visual blight, threaten the environment, and interfere with public recreation and enjoyment of the area.

The properties in question are located near the Carpinteria Bluffs, Seal Sanctuary, public beaches, City Hall, local farms, and adjacent neighborhoods that include Arbol Verde and Concha Loma, the Rancho Granada and San Roque Mobile Home Parks, the Carpinteria Creek and Carpinteria Creek Park, and two visitor serving motels. Option 2 would prevent new or expanded industrial development that is clearly incompatible with these surrounding uses, and would provide a long-term vision for future uses of the area when the existing industrial operations cease.

The City should exercise its police power to adopt zoning designations that reflect the community's needs and priorities.

II. The City's Authority to Rezone Industrial Properties Supporting Oil and Gas Development is Not Preempted by State Law.

As noted in the October 13, 2014 staff report, the state regulates drilling, operation and maintenance of oil wells, but land use decisions are relegated to local cities and counties. (Staff report at p. 12.) The staff report refers to an opinion by the California Attorney General that confirms that "cities are not preempted from regulating oil and gas development within their jurisdiction." (*Id.*) The Attorney General Opinion points out that state regulation applies to

[2] This situation is similar to that in *Beverly Oil Co.*, 40 Cal.2d at 558-559, in which case the court noted that existing oil development operations could continue, but no new drilling could occur. Similarly, if the City of Carpinteria enacts an ordinance that prohibits new oil and gas development activities, existing operations will be allowed to continue. See discussion of nonconforming uses, below.

"down-hole" or "subsurface operations" but not "land use control." Ops. Cal. Atty. Gen. 461, p. 2 (August 24, 1976). In fact, the Attorney General stated that *"it is our opinion that cities and counties have the power to prohibit [oil and gas] operations."* *Id.* at p. 5, emphasis added. Because "local police power concerns extend to land use, maintaining public safety, preventing fires, explosions, excessive noises, unwholesome and noxious odors and other threats to life, health and property as well as environmental protection and preservation of aesthetic property values," "it is clear that local legislators are best-suited to make decisions concerning the use of lands." *Id.* The Attorney General concluded that decisions which should be left to the state include operational issues such as the strength of casings, shut-off tests and remedial work, unitization agreements, abandonment and plugging, and oil sumps. *Id.* at pp. 15-16. When it comes to approving drilling, the Attorney General found that although the state has authority to impose specific requirements on drilling, a city or county nevertheless has the power to *prohibit* such drilling "in all or part of its territory." *Id.* at p. 15. Accordingly, the California Attorney General has determined that cities may prohibit oil and gas drilling within their jurisdictions.

In addition, state law specifically provides that cities and counties have the right "to enact and enforce laws and regulations *regulating the conduct and location of oil production activities*, including, but not limited to, *zoning*, fire prevention, public safety, nuisance, appearance, noise, fencing, hours of operation, abandonment, and inspection." Pub. Res. Code § 3690, emphasis added.

The staff report states that there is a "dearth of case law directly addressing whether state law preempts a municipality from applying these prohibitions to land within its jurisdiction." (*Id.*) To the contrary, there are court decisions specifically upholding city bans on oil and gas development, and no decisions rejecting such bans. In *Higgins*, the California Supreme Court held that "[a]lthough the statutes show a preemption by the state with respect to the *mode and manner* in which a city may execute oil leases to tide and submerged lands granted to it by the state, there has been no preemption of the field of determining *whether or not* such lands should be developed for oil or gas." 62 Cal.2d at 32, emphasis added. Likewise, in *Beverly Oil Co.*, the Supreme Court noted that although the state regulates oil production, "city zoning ordinances prohibiting the production of oil in designated areas have been held valid." 40 Cal.2d at 558.

Clearly, the City's ability to rezone these properties and prohibit future industrial uses is not preempted by state law.

III. Adoption of Legislation Rezoning and Redesignating M-CD/CDI Properties Will Not Cause a Taking of Private Property.

Changing the zoning and designation of the Carpinteria M-CD/CDI properties will not cause a taking of private property for several reasons: (a) because the existing facilities will be allowed to continue as nonconforming uses; (b) zoning changes constitute a valid legislative function and do not in and of themselves cause a taking of private property; and (c) the properties will retain value.

A. The Existing Facilities Will Be Allowed to Continue as Legal Nonconforming Uses.

Nonconforming uses are those uses that were legal and permitted when constructed, but that no longer comply with updated regulatory requirements. *Hill v. City of Manhattan Beach* (1971) 6 Cal.3d 279, 285. Nonconforming uses are allowed to continue, but may not be expanded or extended. *County of San Diego v. McClurken* (1951) 37 Cal.2d 683, 687. Nonconforming facilities may, however, be upgraded or modified to facilitate continuation of the legal nonconforming use. *Ricciardi v. County of Los Angeles* (1953) 115 Cal.App.2d 569, 575-576 (alterations to an existing but nonconforming use are allowed, for example, if they "enable the owner to continue his business on the same scale but in a more efficient or more sanitary manner").

In *Beverly Oil Co.* the California Supreme Court noted that a zoning ordinance prohibiting oil and gas development would only apply prospectively and would not interfere with existing oil operations. 40 Cal.2d at 558-559. The same situation applies here, in that the existing operations would be allowed to continue. Because the properties may continue to be used as currently permitted, no taking will occur.

B. Zoning Changes do not Cause Takings.

A rezone is a legislative act and sets policy for the city. As with any legislative act, zoning ordinances are presumptively valid. *Goldblatt v. Hempstead* (1962) 369 U.S. 590, 594. A court will normally not consider whether a taking has occurred until a legislative act is applied to a specific piece of property. *Laurel Park Community LLC v. City of Tumwater* (2012) 698 F.3d 1180, 1188 ("As a general law, zoning laws do not constitute a taking even though they affect real property interests."). In *Laurel Park Community*, the City rezoned several properties, resulting in new restrictions on the types of uses allowed on such properties. The court found that the rezones did not constitute an unconstitutional taking of private property.

In the seminal case of *Keystone Bituminous Coal Ass'n v. DeBenedictis* (1987) 480 U.S. 470, 494-495, the U.S. Supreme Court noted the "important distinction between a claim that the mere enactment of a statute constitutes a taking and a claim that the particular impact of government action on a specific piece of property requires the payment of just compensation." Because of this important distinction, resolution of a takings claim depends on "the particular estimates of economic impact and ultimate valuation relevant in the unique circumstances" presented by a particular property; accordingly, plaintiffs "face an uphill battle in making a facial attack on the Act as a taking." *Id.*

The mere act of the City in changing the land use and zoning designations of these industrial properties will not cause a taking of private property, especially given the fact that the action will not prevent existing uses to continue as legal nonconforming uses.

C. The Properties Will Retain Value.

Even when considering the application of these changes to the properties in question, it is clear that the City will not be liable for a taking. There are two main tests to determine whether a taking has occurred. The first test, set forth in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1020, proscribes that a taking occurs when a landowner is deprived of *all* economic value of his or her property. As noted above, the fact that the existing uses will be allowed to continue confirms that a taking will not occur pursuant to the *Lucas* "total taking" test. In addition, future uses may be allowed that will continue to provide value to the property owners.

The second test, set forth in *Penn Central Transportation Co. v. City of New York* (1978) 438 U.S. 104, 124, is invoked when some value remains and is based on three factors: (1) the character of the governmental regulation; (2) the economic impact of the regulation on the owner; and (3) the extent to which the regulation has interfered with the landowner's distinct investment-backed expectations. In applying this "partial taking" test, a court will evaluate the parcel "as a whole" and base its determination not on what value may be lost due to the regulation, but rather on what value *remains*. *Keystone Bituminous Coal Ass'n,* 480 U.S. at 497-503 (regulation that affects subsurface mineral extraction does not result in the loss of all economically beneficial uses of the property and does not effect an unconstitutional taking); *Terminal Plaza Corp. v. City and County of San Francisco* (1986) 177 Cal.App.3d 892, 911 ("It is well settled that a land use regulation results in a confiscatory 'taking' only when the landowner has been deprived of 'substantially all reasonable use of his property.' Even a significant diminution in value is insufficient to establish a confiscatory taking"); *Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency* (2002) 535 U.S. 302, 331; see also *Galland v. City of Clovis* (2001) 24 Cal.4th 1003, 1026; *Concrete Pipe & Prods. Of Cal., Inc. v. Construction Laborers Pension Trust* (1993) 508 U.S. 602, 645 ("our cases have long established that mere diminution in the value of property, however serious, is insufficient to demonstrate a takings").

Applying this test, courts have upheld restrictive land use regulations in a myriad of situations, including bans on oil and gas operations. *Hermosa Beach Stop Oil Coalition,* 86 Cal.App.4th at 555 ("Enactment of a city ordinance prohibiting exploration for and production of oil, unless arbitrary, is a valid exercise of the municipal police power); *Higgins*, 62 Cal.2d at 27 (upholding local initiative measure banning oil and gas drilling or prospecting and all incidental operations within City limits); *Beverly Oil Co.*, 40 Cal.2d at 559; *Friel v. County of Los Angeles* (1959) 172 Cal.App.2d 148, 157.

For these reasons, the City of Carpinteria is well within its police power and constitutional rights to rezone these industrial properties to land uses that are more compatible with the City's vision and more in line with the need to protect the public health, safety and welfare. Enacting such a measure will not constitute a taking because the existing facilities will be allowed to continue, and even after they cease the new zoning designation(s) will allow some use of the property. The landowners will not be deprived of all economically beneficial use of the property and will retain value in the property.

For a similar action, one need look no further than the County of Santa Barbara. In 1990, the County rezoned several oil and gas properties in Goleta and along the Gaviota Coast.[3] The ARCO Ellwood marine terminal site was rezoned from M-CD (Coastal Dependent Industry) to PRD (Planned Residential Development). The ARCO Ellwood oil and gas processing site was rezoned from M-CD to REC (Recreation). The ARCO Dos Pueblos oil processing and storage site was rezoned from M-CD to AG-II-100 (Agriculture). Shell's gas processing site was rezoned from M-CD to Ag-II-320 (Agriculture). Finally, Unocal's oil and gas processing and storage sites were rezoned from M-CD to Ag-II-320 (Agriculture). The County based these rezones on the desire to facilitate compatibility with surrounding uses, protect nearby environmentally sensitive habitat, and ensure protection from "intense industrial uses" that result in "several significant, adverse impacts."[4] The County's action did not result in any takings liability.

Despite these clear precedents, the California Independent Petroleum Association sent a letter to the City dated October 13, 2014, referring to "long running litigation" between the City of Hermosa Beach and MacPherson Oil as evidence that restricting oil and gas development may result in takings liability for the City. In that case, however, the court *upheld* the City's regulatory action prohibiting oil and gas development. *Hermosa Beach Stop Oil Coalition*, 86 Cal.App.4th 534. A separate action dealing with a *contractual* issue between the City and MacPherson Oil resulted in further litigation and a settlement agreement. The Hermosa Beach case actually confirmed that a land use regulation prohibiting oil and gas operations was a valid exercise of the City's police power. 86 Cal.App. 4th at 555.

Because the properties will retain value and the existing operations may continue, the City may rezone the M-CD/CDI properties without incurring any takings liability.

IV. Option 2 is the Preferred Option and is Legally Sound.

The police power provides broad authority for the City to legislate in the public's interest. Courts will defer to agencies when they exercise their legislative authority. *Fullerton Joint Union High School District v. State Board of Education* (1982) 32 Cal.3d 779, 786 ("In reviewing...legislative actions, the trial court does not inquire whether, if it had the power to act in the first instance, it would have taken the action taken by the administrative agency. The authority of the court is limited to determining whether the decision of the agency was arbitrary, capricious, entirely lacking in evidentiary support, or unlawfully or procedurally unfair."); see also *Ratkovich v. City of San Bruno* (1966) 245 Cal.App.2d 870, 878-879:

> The determination by the legislative body of the facts warranting its action will not be set aside or disregarded by the courts unless the legislative decision is clearly and palpably wrong and such error appears beyond a rational doubt from facts or evidence which cannot be controverted. [Citations.] The courts will not nullify laws enacted under the police power unless they are manifestly

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[3] See attached Resolution of the Board of Supervisors of the County of Santa Barbara, State of California, Resolution No. 90-594, September 18, 1990.
[4] See attached Site Specific Findings in support of Resolution No. 90-594.

> unreasonable, arbitrary or capricious, having no real or substantial relation to the public health, safety, morals or general welfare. [Citations.] A court is not concerned with the wisdom or policy of the law and cannot substitute its judgment for that of the legislative body if there is any reasonable justification for the latter's action. [Citations.] If reasonable minds might differ as to the reasonableness of the ordinance [citations], or if the reasonableness of the ordinance is fairly debatable [citations], the ordinance must be upheld.... 'In considering the scope or nature of appellate review in a case of this type we must keep in mind the fact that the courts are examining the act of a coordinate branch of the government—the legislative—in a field in which it has paramount authority, and not reviewing the decision of a lower tribunal or of a factfinding body. Courts have nothing to do with the wisdom of laws or regulations, and the legislative power must be upheld unless manifestly abused so as to infringe on constitutional guaranties.' [Citation.]

This deference is based on the doctrine of separation of powers, the fact that agencies are granted broad land use authority, and the belief that they possess the expertise to legislate issues that are germane to their local communities. *Baldwin v. City of Los Angeles* (1999) 70Cal.App.4th 819, 836.

During the hearing on October 13, the City Attorney was asked to compare the various options in terms of their legal defensibility. The City Attorney's response focused on the fact that review of a specific project is subject to environmental review under the California Environmental Quality Act ("CEQA"); this response could be interpreted to suggest that the City's environmental review process provides a more thorough, informed (and thus legally defensible) decision-making process only when considering a particular project. In fact, a legislative act such as a rezone is also subject to environmental review. CEQA Guidelines § 15378(a)(1). Accordingly, such an action will necessarily include a thorough analysis of potential impacts and consequences, as well as consideration of alternatives.

Consideration of a land use designation and zoning change will be afforded full environmental and public review. Moreover, because this action constitutes a legislative act, invoking the police power of the City, it will be afforded the highest degree of deference by the courts.

Conclusion

The City possesses the authority, and the responsibility, to plan for the future of the City. Completion of the "Bluffs 0" study and consideration of appropriate land use designations for the M-CD/CDI properties is necessary given the threats facing the City, the Bluffs area, and the community at large.

Thank you for your consideration of these comments. We urge you to proceed with Option 2 because this option will be most effective in protecting the public health, safety and welfare.

Sincerely,

Linda Krop
Chief Counsel

Atts: Resolution of the Board of Supervisors of the County of Santa Barbara, State of California, Resolution No. 90-594, September 18, 1990

Site Specific Findings in support of Resolution No. 90-594

cc: Carpinteria Valley Association
Sierra Club Los Padres Chapter
Get Oil Out!
Citizens for the Carpinteria Bluffs

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING)
AMENDMENTS TO THE LOCAL)
COASTAL PROGRAM)

RESOLUTION NO. 90-594
Case Nos.: 88-GP-19, 88-GP-20, 88-GP-21, 88-GP-23, 88-GP-24, 88-RZ-16, 88-RZ-17, 88-RZ-18, 88-RZ-20, 88-RZ-21, 90-OA-11(B)

WITH REFERENCE TO THE FOLLOWING:

A. On January 7, 1980, by Resolution No. 80-12, the Board of Supervisors adopted the Santa Barbara County Coastal Plan.

B. It is now deemed in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to make the following changes to the Local Coastal program.

1. Pursuant to the findings and statements of overriding considerations contained in Exhibit A of this Resolution, amend the Coastal Plan as follows:

(a) Amend Chapter 4, *The Planning Areas*, by amending Subsection 4.5.4, *West Devereux Property*, of Section 4.5, Goleta, to read:

4.5.4 WEST DEVEREUX PROPERTY

This ±240 acre parcel (APN 73-090-10, 13, 50), which is owned by the University Exchange Corporation and IMS Financial Corporation, is bordered by the ocean to the south, the Devereux Lagoon to the southeast, Storke Road to the east, the University Village subdivision to the north, and the vacant Union Oil property (Santa Barbara Shores) to the west. A major portion of the site (66 acres) is currently developed as a golf course. A further 40.5 acres are leased to Arco **and used as** ~~and Aminoil;~~ a marine terminal site. ~~and small processing plant have been developed on their leases,~~ **The marine terminal currently operates as a legal nonconforming uses.** The rest of the property is currently undeveloped.

The undeveloped portion of the site is characterized by gentle slpes covered by natural vegetation. Several unnamed drainages and Devereux Creek flow through this property in the Devereux Lagoon. The area between the golf course and ~~oil processing facilties~~ **marine terminal** is bisected by a road and transversed by berms, averaging several feet in height, which run generally in an east-west direction. Extensive erosion has taken place in this area and the resulting sedimentation is adversely affecting the Devereux Lagoon. Extensive ORV use exacerbates this situation.

The Southern tip of this property consists of sand dunes which are sparsely vegetated due to excessive recreational (sunbathing, horseback riding, picnicking, etc.) and ORV use. This area, unlike the dunes which are within the University Ecological Reserve, is not protected by fencing or signs. A road and trail running along the western boundary of this parcel currently provide beach access for residents of the surrounding residential neighborhoods. Just to the north of the dunes is a large pond area used as an oil sump.

The beach and dune area is particularly scenic despite the intrusion of the oil storage tanks into the viewshed. This parcel along with the Devereux Campus of U.C.S.B. and the Santa Barbara Shores property constitute valuable open space, scenic, and habitat resources for residents of the Goleta Valley. Careful planning of the site is needed to ensure protection of the natural resources of the area and preservation of the Devereux Lagoon as a viable wetland habitat.

The development potential of this site is constrained by a number of factors, including the need to provide a substantial buffer around the oil facility **for as long as it remains operational** due to problems of safety, noise, and odor, and the need to protect dune and adjacent wetland habitats. The site is inappropriate for a visitor-serving use because of the oil facility, the fragility of the dunes area, and the residential character of the surrounding developments. Residential development would be an appropriate use on those portions of the site which are north of the existing golf course and adjacent to the existing residential neighborhood, as well as the area fronting Storke Road. The majority of the area south of the golf course should be kept in open space to ensure preservation of the dune and slough habitats and to provide an adequate buffer around the oil facility **until it ceases operations.**

The oil facility is **a legal nonconforming use** ~~viewed as a long-term land use, and is therefore designated on the land use plan maps as Coastal Dependent Industry~~. Development ~~on the remainder~~ of the site shall be subject to the PD requirements in Section 3.2 and the following conditions:

1. A specific plan shall be prepared for the entire site (APN 73-090-10, 13, 50) which incorporates all the conditions listed below and conforms to all other policies of the land use plan. The specific plan shall show the locations of roads and structures and indicate the amount and location of open space for habitat preservation and public recreation. The specific plan shall be subject to environmental review under County CEQA Guidelines.

   The specific plan and accompanying environmental documents shall be submitted to the Planning Commission, who may recommend additional conditions for development of the site. In adopting the specific plan, the County shall specify the number and type of housing units, open space requirements, habitat area to be protected, etc., for each of the parcels.

2. A maximum of 500 residential units, of which 20% of the units shall be affordable to persons of low and moderate income, may be permitted provided that the existing 66-acre golf course is retained in its present use. The development rights on the golf course at the rate of 70 density credits shall be acquired by or permitted to be developed on the remaining 174 acres by the owners of the remaining 174 acres before a development plan can be filed on said remaining 174 acres.

3. In addition to the existing golf course, a minimum of 55 acres ~~(excluding the area now developed for coastal dependent area)~~ shall be retained in public and common open space requirement. The public open space shall include a trail easement to allow public access from Phelps Road to the beach and a small public parking area for 20 cars at the trailhead.

4. Attractive fencing around the dune area shall be provided to keep out horses and ORVs. Signs shall also be posted informing the public of the fragility of the area and requesting that they keep off the dunes.

5. The property owners shall work with the University and the County to ensure that the specific plan for the area includes appropriate mitigating measures to protect the Devereux Lagoon.

(b) Amend the Goleta Coastal Plan Land Use Map by changing the Land Use Designation of the ARCO Ellwood marine terminal site located on a portion of Assessor Parcel Number 073-090-050 from M-CD, Coastal Dependent Industry to PRD, Planned Residential Development.

(c) Amend the Goleta Coastal Plan Land Use Map by changing the Land Use Designation of the ARCO Ellwood oil and gas processing site located on Assessor Parcel Number 079-210-042 from M-CD, Coastal Dependent Industry to REC, Recreation.

(d) Amend the Gaviota Coastal Plan Land Use Map by changing the Land Use Designation of the ARCO Dos Pueblos oil processing and storage site located on Assessor Parcel Numbers 079-200-004 and 079-200-008 from M-CD, Coastal Dependent Industry to AG-II-100, Agriculture II.

(e) Amend the Gaviota Coastal Plan Land Use Map buy changing the Land Use Designation of the Shell Western's gas processing site located on Assessor Parcel Number 081-150-015 from M-CD, Coastal Dependent Industry to AG-II-320, Agriculture II.

(f) Amend the Point Conception Area Coastal Plan Land Use Map by changing the Land Use Designation of the Unocal's oil and gas processing and storage sites located on Assessor Parcel Numbers 083-600-007 and 083-610-012 from M-CD, Coastal Dependent Industry to AG-II-320, Agriculture II.

(g) Amend Section 35-54 of Article II of Chapter 35 of the Santa Barbara County Code by adopting five Ordinances, numbers 3882, 3883, 3884, 3885, and 3886 included in this resolution as Exhibit B, and incorporated herein by reference.

2. Amend Section 35-172.10 of Article II of Chapter 35 of the Santa Barbara County Code, *Conditional Use Permits*, by adding provisions to allow revisions of conditions upon a determination of noncompliance. Said Ordinance, numbered 3887 is attached hereto as Exhibit C and incorporated herein by this reference.

C. The Planning Commission of the County of Santa Barbara, after having held duly noticed public hearings on the above described amendments, have endorsed and transmitted to this Board said recommended amendments pursuant to Government Code § 65355.

D. This Board has held duly noticed public hearings on these above described amendments as required by Government Code § 65355.

E. These amendments to the Local Coastal Program are consistent with the provisions of the Coastal Act of 1976, as amended to this date.

F. This Board now wishes to submit these amendments to the California Coastal Commission for certification.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. The above recitations are true.

2. Pursuant to the provisions of Government Code § 65357, the Board of Supervisors adopts the amendments to the Santa Barbara County Coastal Plan and to Article II of Chapter 35 of the Santa Barbara County Code as described above.

3. This Board certifies that these amendments are intended to be carried out in a manner fully in conformity with the California Coastal Act.

4. This Board submits these amendments to the California Coastal Commission for review and certification.

5. The Chairman and the Clerk of this Board are hereby authorized and directed to sign and certify all maps, documents and other materials in accordance with this Resolution to show the above mentioned actions by the Board of Supervisors.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 18th **day of** September **199**0, **by the following vote:**

AYES: Ochoa, Rogers, Owens

NOES: None

ABSENT: Wallace, Miyoshi

ABSTENTION: None

Thomas A. Rogers

Chairman of the Board of Supervisors
County of Santa Barbara
State of California

ATTEST:

ZANDRA CHOLMONDELEY
CLERK OF THE BOARD

By: Robert Cohen
Deputy

APPROVED AS TO FORM:

DAVID NAWI
COUNTY COUNSEL

By: [illegible signature]
Deputy

POLICY/BOSRZ.RSN

1.0 SITE SPECIFIC FINDINGS

1.1 ARCO's Ellwood Marine Terminal

1.1.1 Legislative Findings

The Santa Barbara County Coastal Zoning Ordinance (Section. 35-75.3) requires that the following findings of approval to be made for all property rezoned to Planned Residential Development.

> **1) The property is of the type and character which is appropriate for a Planned Residential Development in accordance with the specific purpose and intent as set forth in Sec. 35-75.1.**

The marine terminal site is a small pocket of land within a larger parcel zoned Planned Residential Development. In addition, the marine terminal site is considered to have a high habitat value due to its proximity to several designated Environmentally Sensitive Habitat (Devereux Lagoon, Devereux Creek) areas. Rezoning the site to PRD will assist in facilitating integration with surrounding planned development as well as allowing greater flexibility in applying open space status to adjacent environmental sensitive habitats.

> **2) The property is within a designated urban area as shown on the Coastal Land Use Maps.**

As noted in Section 4.2.2 of the Planning Commission staff report dated July 11, the marine terminal site lies within the County designated urban area.

> **3) The property contains no less than 20 acres, all of which shall be included in the Preliminary Development Plan.**

The marine terminal site is located on 40 acres of land which is part of a 168 acre parcel also zone PRD. The parcel is part of a 244-acre area designated in Santa Barbara County's Coastal Land Use Plan as the West Devereux Property. Presently, no specific project is proposed for this property.

> **4) The overall estimated population density which will result upon full development of the property under the Planned Residential Development District in accordance with the Preliminary Development Plan is appropriate for such area and will not have a detrimental effect upon surrounding areas nor**

exceed the capacity of service and utility facilities in such surrounding areas.

No Preliminary Development Plan has been proposed. The proposed rezone is initiated by the County to comply with the South Coast Consolidation Policies and is not intended to propose a specific project.

5) The proposed development as shown on the Preliminary Development Plan is in conformance with the applicable policies of the Coastal Land Use Plan and Coastal Zoning Ordinance.

No Preliminary Development Plan has been proposed. The proposed rezone is initiated by the County to comply with the South Coast Consolidation Policies and is not intended to propose a specific project.

In addition, staff recommends that the Board of Supervisors find that:

6) The PRD land use/zoning designation is consistent with California Coastal Act Section 30250 (a) which states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accomodate it, in other area with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

As in Section 4.3.1.1 of the EIR, "the purpose of the PRD land use/zone designation is to allow clustering of structures and a diversity of housing types, with the intent of preserving significant natural, scenic and cultural resources of the site and a maximum amount of open space." While there presently is no proposed development on the marine terminal site, the requirements of Section 30250 could be achieved under the PRD land use/zone designation, particularly if the maximum density of 500 residential units is not increased, and the marine terminal site is incorporated into the West Devereux Specific Plan.

7) The recommended Planned Residential Development land use and PRD zoning district is intended not to bias any future

proposed development which, although not a permitted use under the PRD, should be judged on its own merits through project-specific environmental review.

8) The recommended Planned Residential **Development land use** and PRD zoning district are environmenta**lly preferable to the** existing Coastal Dependent Industry **(M-CD) land use/zone** designation as stated below.

A comparative analysis between the recommended PRD alternative and the M-CD alternative indicates that the M-CD zone would not be environmentally preferred due to the potential for intense industrial uses. Since the M-CD zoning permits such uses, it is possible that the site would be developed for this type of use.

Further comparison between the two zone alternatives shows that from a land use perspective, the beneficial effects of the recommended PRD district would not be achieved by the M-CD alternative. In addition, industrial development which could be accomodated under the M-CD zoning may not be as compatible with surrounding residential land uses as the recommended PRD zone.

Zoning the marine terminal site to PRD would also eliminate the existing split-zone configuration on the parcel, achieve more orderly development, minimize industrialization along the South Coast, and provide sound land use planning principles.

1.1.2 Site Specific CEQA Findings

1.1.2.1 Significant Unmitigable Impacts

CEQA FINDING #1: Certain impacts cannot be substantially lessened or avoided.

The beneficial effects of the Planned Residential Development (PRD) land use/zone designation, outweigh the potentially significant impacts and therefore provide a basis for overriding considerations as required by CEQA. In particular, many of the significant impacts identified for the PRD zone have been identified under the existing use at the same or greater levels or numbers. As a result, numerous impacts, though still potentially significant, would actually be reduced when compared to impacts of existing land use.

The unavoidable significant impacts have been grouped by category below. The rationale for making the above finding as well as a listing of the individual impacts (as extracted from the EIR's Impact Summary Tables) is included within each grouping.

1-A. <u>Degradation of Cultural Resources</u>: Under the PRD zone district, staff assumed that the marine terminal property would be incorporated into the site design of the surrounding University Village PRD specific plan. Thus, any future development would be required to undergo a separate detailed environmental review.

<u>Cultural Resources</u>

<u>Impact</u>: Potential long-term degradation of undiscovered, unrecorded significant cultural resource sites by land disturbance (grading, excavation, farming, etc.).

<u>Partial Mitigation</u>: Site survey prior to land disturbing activities; monitoring; (to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

1-B. <u>Degradation of Water Resources</u>: Under the PRD zone district, staff assumed that the marine terminal property would be incorporated into the site design of the surrounding University Village PRD specific plan. Thus, any future development would be required to undergo a separate detailed environmental review.

<u>Water Resources</u>

<u>Impact</u>: Long-term degradation of lagoons, and other wetland areas due to grading, paving, and use of non-native vegetation, and associated erosion, runoff, sedimentation, and fertilizer pollution.

<u>Partial Mitigation</u>: Minimize paved area, require drought-tolerant native vegetation establish erosion control measures; establish developer-funded mitigation monitoring program for West Devereux Specific Plan; (to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

1.1.2.2 Class II Impacts

Class II impacts (significant impacts that have been eliminated or reduced to a level of insignificance).

The rezone actions do not propose a project, nor are permits issued at this time. Consequently, the following mitigation measures, if found to be feasible, may be implemented in two ways:

1) As a condition of permit required for a project that is

proposed in conformance with the designated land use/zone designation; and/or

2) As general policies and regulations that are adopted to regulate specific land uses, activities, or development(s).

CEQA FINDING #2: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Listed below are the identified impacts which have been eliminated or substantially lessened to a level of insignificance through the incorporation of feasible mitigation as extracted from the final EIR's Impact Summary Tables.

Air Quality

2-A. Impact: Short-term increase in the generation of PM_{10} and NO_x from dismantling activities and site restoration in an area that currently exceeds the standards for PM_{10} and ozone.

Mitigation: Consider the air quality guidelines described in section 3.10.2 of the EIR regarding dismantling and abandonment activities. Include air quality guidelines as part of the abandonment and dismantling policy workprogram.

Biology

2-B. Impact: Short-term direct damage to or removal of significant habitat or plants by demolition/construction equipment.

Mitigation: Avoid important resources, maintain 100-foot buffer strip along riparian/wetland ESH (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-C. Impact: Short-term erosion and sedimentation of riparian/wetland habitat from abandonment/site development activities.

Mitigation: Erosion control measures; (see Sect. 3.10.1 of the EIR; development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-D. Impact: Increased long-term habitat degradation from grading/erosion.

Mitigation: Erosion control measures; (see Sect. 3.10.1 of the EIR; to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

Cultural Resources

2-E. Impact: Long-term degradation of known significant or potentially significant cultural resource sites by land disturbances; (grading, excavation, etc.).

Mitigation: Avoidance preferred, further study to determine site significance; data recovery; field monitoring (to be implemented by SB Co. RMD upon approval of a future Specific Plan, and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

2-F. Impact: Long-term degradation of biological resources ofvalue to Native Americans.

Mitigation: See Biology mitigation measures and Sect. 3.10.1 of the EIR; (to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

Geology

2-G. Impact: Long-term seismic shaking hazards to residentialdevelopment.

Mitigation: Require detailed geologic investigations and proper engineering design of structures (to be implemented by SB Co. RMD upon approval of a future Specific Plan, and by RMD and Public Works as conditions on subsequent Development Plan, Coastal Development Permit, Building Permit, and if applicable, CUP).

Land Use

2-H. Impact: Interference of residential uses with nearby sensitive biological resources.

Mitigation: Establish buffer area between residential uses and ESH areas as condition of West Devereux Specific Plan; (to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

Noise

2-I. Impact: Short-term site abandonment/construction noise impacts on nearby sensitive receptors.

Mitigation: Limitation on hours of activities; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Safety and Public Hazard

2-J. Impact: The improper removal of facilities and clean-up of the site would create significant health & safety impacts on future uses of the site

Mitigation: See measure #1 as provided in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-K. Impact: Dismantling activities create the potential for a spill of chemicals, improper disposal of risual waste, fire or explosion, all of which would signficantly impact the environment.

Mitigation: Measures provided in Sections 3.10.1 and 3.10.5 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Visual

2-L. Impact: Visual intrusions of residential development on views from beach.

Mitigation: Require thorough visual analysis of proposed development; and design residences to avoid intrusions on views from beach; (to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plan, Coastal Development Permit, and if applicable, CUP).

Water

2-M. Impact: Short-term erosion and sedimentation of riparian/wetland from abandonment/site development activities.

Mitigation: Erosion control measures; (see Sect. 3.10.1 of the EIR; to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent

Development Plans, Coastal Development Permit, and if applicable, CUP).

2-N. Impact: Short-term erosion and sedimentation of riparian/wetland from abandonment/site development activities.

Mitigation: Erosion control measures; (see Sect. 3.10.1 of the EIR; to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

2-O. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from landscape maintenance activities.

Mitigation: Use drought-resistant native vegetation; water quality monitoring at Devereux Lagoon. see Sect. 3.10.1.of the EIR; (to be implemented by SB Co. RMD upon approval of a future Specific Plan and as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

1.1.2.3 Project Alternatives

CEQA FINDING #3: The project alternatives not chosen are either not feasible, not environmentally preferable or not as beneficial as the proposed project.

As discussed in Section 4.4.1 of the EIR, the recommended land use/zone designation for this site, Planned Residential Development (PRD) is the environmentally preferred alternative. The PRD zoning was analyzed in the EIR as an alternative to the proposed project, rezoning to REC. Analysis of why the other alternatives were not chosen is summarized in Sections 4.2.4 and 4.2.5 of the Planning Commission staff report dated July 11, 1990.

1.1.2.4 Statement of Overriding Considerations

CEQA FINDING #4: The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations.

Pursuant to Sec. 15093 of CEQA, the decision-maker is required to balance the benefits of a proposed action against its unavoidable environmental impacts. When significant effects are identified in the EIR the agency must state in writing the reasons to support its action of approval.

The acceptability of the impacts is determined by evaluating the relative merits and adverse effects of the recommended Planned Residential Development (PRD) land use/zone designation compared to development under the existing M-CD zone district and under feasible alternative zones. CEQA Finding #1 (see Section 1.1.2.1) revealed that while it is true that significant impacts may occur under the recommended PRD zoning, most of the impacts would also occur under the existing M-CD zone at the same or greater levels. Because of these facts, the relative environmental consequences of the recommended Planned Residential Development (PRD) land use/zone amendment compared to the existing land use is more acceptable.

1.2 ARCO's Ellwood Oil and Gas Processing Facilities

1.2.1 Legislative Findings

The Santa Barbara County Coastal Zoning Ordinance (Section 35-89.3) requires that the following findings of approval are to be made for all property rezoned to REC.

1) The level of facility development is in conformance with the environmental carrying capacity of the area to be rezoned, i.e., the proposed recreational activities are of the kind, intensity, and location to ensure protection of habitiat resources.

The potential level of facility development under the REC zoning is compatible with the environmental carrying capacity of the area to be rezoned. Presently, no recreational facility development is proposed. The proposed rezone was initiated by the County to comply with the South Coast Consolidation Policies and is not intended to propose a specific project.

2) Coastal dependent and coastal related recreational uses are given priority.

Priority coastal dependent and coastal related recreational uses may be given at the time a specific development project is considered. As stated in Section 4.1 of the Planning Commission staff report dated July 11, 1990, the Program EIR analyzes a range of potentially least and most intensive recreational uses selected by staff from Section 35-89.6 of the Coastal Zoning Ordinance. Specific uses were not considered, since to do so would be overly speculative, at this time.

3) The proposal conforms with all applicable policies in the Coastal Land Use Plan and the Santa Barbara County Comprehensive Plan Parks, Recreation and Trails Maps.

No project is currently proposed, however, subsequent specific projects may conform with applicable policies. The proposed rezone was initiated by the County to comply with the South Coast Consolidation Policies and is not intended to propose a specific project.

4) The proposed recreational activities are compatible with land use on adjacent parcels.

The proposed rezone was initiated by the County to comply with the South Coast Consolidation Policies and is not intended to propose a specific project. As noted in Section 4.3.5 of the Planning Commission staff report dated July 11, 1990, however, the REC zone would be consistent with surounding land uses.

5) If the proposed site is adjacent to the beach, adequate public access to and along the beach is provided.

The Ellwood processing site is not adjacent to the beach.

6) The property contains not less than one acre.

As noted in Section 4.3.2 of the Planning Commission staff report date July 11, 1990, the Ellwood processing site is 4.5 acres.

In addition staff recommends that the Board of Supervisors find the proposed Recreation land use designation and REC zoning district for ARCO's Ellwood oil processing site to be:

7) Consistent with Section 30001.5 (c) of the California Coastal Act which encourages maximizing public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

8) Consistent with Section 30213 of the California Coastal Act which encourages low cost visitor and recreational facilities.

9) Consistent with Santa Barbara County's Coastal Plan policy 7-18 which states: "Expanded opportunities for access and recreation shall be provided in the Gaviota Coast planning area."

10) Intended not to bias any future proposed development which, although not a permitted use under REC, should be judged on its own merits through project-specific

environmental review.

11) Environmentally preferable to the existing Coastal Dependent Industry (M-CD) land use/zone designation as stated below.

A comparative analysis between the recommended REC alternative and the M-CD alternative indicates that the M-CD zone would not be environmentally preferred due to the potential for intense industrial uses to result in several significant, adverse impacts. Further comparison between the two zone alternatives shows that, from a land use perspective, the beneficial effects of the recommended REC district would not be achieved by the M-CD alternative. In addition, depending on the particular industrial development which could be accomodated, the M-CD zoning may not be as compatible with surrounding visitor serving commercial and recreational land uses as would the recommended REC zone. Zoning the processing site to REC would minimize industrialization along the South Coast.

1.2.2 CEQA Findings

1.2.2.1 Significant Unmitigable Impacts

CEQA FINDING #1: Certain impacts cannot be substantially lessened or avoided.

The beneficial effects of the Recreation (REC) land use/zone designation, as discussed above in Finding #4, outweigh the potentially significant impacts and therefore provide a basis for overriding considerations as required by CEQA. In particular, many of the significant impacts identified for the REC zone have been identified under the existing use and other alternative uses at the same or greater levels or numbers. As a result, numerous impacts, though still potentially significant, would actually be reduced when compared to impacts of existing land use. REC was found in the EIR to be the environmentally preferred alternative.

The unavoidable significant impacts have been grouped by category below. The rationale for making the above finding as well as a listing of the individual impacts (as extracted from the EIR's Impact Summary Tables) is included within each grouping.

1-A. Recreational Use Impacts: Recreational use impacts at ARCO's Ellwood oil processing site from an RV accommodation may occur to biology, visual, socioeconomic, and water resources.

Individual project proposals will be subject to federal, state, and county policies regarding grading, areas of environmentally sensitive habitats, species of special concern, and other factors pertaining to biological, visual, and water resources. Impacts will be mitigated by protective measures incorporated in the project descriptions of individual projects as they are proposed, and by project conditions requiring habitat protection and/or enhancement. Additionally, development under the recommended land use/zone designations would reduce or eliminate some significant impacts that are anticipated to occur under the existing land use. Thus, the overall effects to biological and water resources are considered to be acceptable.

This finding is applied to the following impacts:

Biology

Impact: Increased long-term human intrusion (noise, disturbance, trampling, etc.) on ESH or pristine area from park.

Partial Mitigation: Educational/interpretive programs, trail markings, fencing, screening vegetation, patrols, 100-foot buffer strip along riparian/wetland ESH; reduce number of camping units, locate units away from sensitive areas, erosion control.

Visual

Impact: Long-term visual intrusions due to recreational vehicles.

Partial Mitigation: Require thorough visual analysis of proposed development and design facility to reduce impact. Residual likely to be significant (to be implemented by SB Co. RMD as conditions on Development Plans, Coastal Development Permit, and if applicable, CUP).

Socioeconomic

Impact: A substantial increase in water demand associated with the campground and recreation area.

Partial Mitigation: Unless a plentiful and viable water source is discovered there are no mitigation measures to offset this impact.

Water Resources

Impact: Long-term degradation of lagoons, and other wetland areas due to pavement runoff and erosion.

Partial Mitigation: Reduce vehicle accommodations, minimize paved areas, clean paved areas regularly (to be implemented by SB Co. RMD as conditions on Development Plans, Coastal Development Permit, and if applicable, CUP).

1-B <u>Abandonment and Restoration - Related Noise Impacts:</u> Abandonment and restoration - related noise impacts may occur on adjacent sensitive receptors at ARCO's Ellwood oil processing site. Although these impacts are unavoidable, they are temporary and local and therefore acceptable.

<u>Impact:</u> Short-term site abandonment and restoration noise impacts on adjacent sensitive receptors.

<u>Partial Mitigation:</u> Restrictions of hours of operation, but substantial annoyance may be unavoidable (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

1-C <u>Degradation of Cultural Resources:</u> Any future development under the REC zone district would be required to undergo a seperate detailed environmental review.

<u>Impact</u>: Potential long-term degradation of undiscovered, unrecorded significant cultural resource sites by land disturbance (grading, excavation, etc.).

<u>Partial Mitigation</u>: Site survey prior to land disturbing activities; monitoring. Possible interpretive features at recreation sites (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

<u>Impact:</u> Increased long-term human intrusion from park into a sensitive area resulting in artifact collection, vandalism.

<u>Partial Mitigation:</u> Education programs, patrols, complete mitigation unattainable (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

1.2.2.2 Class II Impacts

Class II Impacts (significant impacts that have been eliminated or reduced to a level of insignificance).

The rezone actions do not propose a project, nor are permits issued at this time. Consequently, the following mitigation measures, if found to be feasible, may be implemented in two ways:

1) As a condition of permit required for a project that is proposed in conformance with the designated land use/zone designation; and/or

2) As general policies and regulations that are adopted to regulate specific land uses, activities, or development(s).

CEQA FINDING #2: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Listed below are the identified impacts which have been eliminated or substantially lessened to a level of insignificance through the incorporation of feasible mitigation.

<u>Air Quality</u>

2-A <u>Impact</u>: Short-term increase in the generation of PM_{10} and NO_x from dismantling activities and site restoration in an area that currently exceeds the standards for PM_{10} and ozone.

<u>Mitigation</u>: Consider the air quality guidelines described in section 3.10.2 of the EIR regarding dismantling and abandonment activities. Include air quality guidelines as part of the abandonment and dismantling policy workprogram.

<u>Biology</u>

2-B. <u>Impact</u>: Short-term direct damage to or removal of significant habitat or plants by demolition/construction equipment.

<u>Mitigation</u>: Avoid important resources, maintain 100-foot buffer strip along riparian/wetland ESH; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-C. <u>Impact</u>: Short-term erosion and sedimentation of riparian/wetland habitat from abandonment/site development activities.

<u>Mitigation</u>: Erosion control measures; (see Sect. 3.10.1 of the EIR; development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-D. <u>Impact</u>: Long-term erosion/sedimentation and chemical pollution of riparian habitat from landscape maintenance activities and vehicle parking.

Mitigation: Use drought-resistant native vegetation; (See Sect. 3.10.1 of the EIR; to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Cultural Resources

2-E. Impact: Long-term degradation of biological resources of value to Native Americans.

Mitigation: See Biology mitigation measures and Sect. 3.10.1 of the EIR; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Geology

2-F. Impact: Long-term seismic shaking hazards to onsite structural development.

Mitigation: Require proper engineering design of proposed structures. Residual impact: structures would still be exposed to groundshaking, but the risk of fatal damages would be reduced to insignificance; (to be implemented by Public Works as conditions on subsequent Building Permits).

2-G. Impact: Long-term increase in erosion on unstable areas, including coastal bluffs, from recreational development.

Mitigation: Require substantial setbacks from unstable areas; design trails to avoid unstable areas. Residual impacts: not significant, but the erosion hazard would still remain; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Land Use

2-H. Impact: Long-term conflicts/incompatibility of intense recreational development with surrounding rural, or residential area.

Mitigation: Require buffers between uses; establish screening; limit size of recreational development; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Noise

2-I. Impact: Long-term park operations noise impacts on nearby sensitive receptors.

Mitigation: Limitations on hours of operation, density of development of facilities; provision of buffer areas; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Safety and Public Hazards

2-J. Impact: Dismantling activities create the potential for a spill of chemicals, improper disposal of risual waste, fire or explosion, all of which would signficantly impact the environment.

Mitigation: Measures provided in Sections 3.10.1 and 3.10.5 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-K. Impact: The improper removal of facilities and clean-up of the site would create significant health and safety impacts on future users of the site.

Mitigation: See Measure #1 provided in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Traffic

2-L. Impact: Increase in traffic during dismantling in an area where traffic conditions at affected intersections are currently poor.

Mitigation: Mitigation measures provided in Section 3.10.6 of the EIR; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Water

2-M. Impact: Short-term erosion and sedimentation of riparian/wetland from abandonment/site development activities.

<u>Mitigation</u>: Erosion control measures; (see Sect. 3.10.1 of the EIR; to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

2-N. <u>Impact</u>: Long-term significant added water demand for landscape maintenance, or other park purposes.

<u>Mitigation</u>: Use drought-resistant native vegetation; (see Sect. 3.10.1), low flow plumbing equipment; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

2-O. <u>Impact</u>: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from landscape maintenance activities.

<u>Mitigation</u>: Use drought-resistant native vegetation (see Sect. 3.10.1.; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

1.2.2.3 Project Alternatives

CEQA FINDING #3: The project alternatives not chosen are either not feasible, not environmentally preferable or not as beneficial as the proposed project.

The recommended land use/zone designation alternative for this site, Recreation (REC), is the environmentally preferred alternative. Analysis of why the other alternatives were not chosen is summarized in Sections 4.3.4 and 4.3.5 of the Planning Commission staff report dated July 11, 1990.

1.2.2.4 Statement of Overriding Considerations

CEQA FINDING #4: The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations.

The acceptability of the impacts is determined by evaluating the relative merits and adverse effects of the recommended Recreation (REC) land use/zone designation compared to development under the existing M-CD zone district. CEQA Finding #1 (see Section 1.2.2.1) revealed that, while it is true that significant impacts may occur under the recommended REC zoning, most of the impacts would also occur under the existing M-CD zone and other alternative zones at the same or greater levels. Because of these facts, the relative environmental consequences of the recommended Recreation (REC) land use/zone amendment compared to the existing land use are more acceptable.

1.3 ARCO's Dos Pueblos Oil Processing and Storage Site

1.3.1 Legislative Findings

Based on the analysis provided above, and in the EIR, staff recommends that the Board of Supervisors find the alternative Agriculture (AG-II) land use designation and AG-II-100 zoning district for ARCO's Dos Pueblos site to be preferred. Additionally, staff recommends that the Board of Supervisors find the Agriculture (AG-II) land use designation and AG-II-100 zoning district for this site to be:

1) Consistent with Califronia Coastal Act Section 30241 which assures protection of prime agricultural lands.

2) Consistent with California Coastal Act Section 30222 which assures priority for agricultural uses over visitor-serving commercial recreational facilities.

3) Consistent with the Santa Barbara County Coastal Plan policy 8-1 which encourages agricultural land use designations for any parcel in rural areas that has agricultural potential (e.g., soil, topography, and location that will support long-term agricultural use).

4) Consistent with Goal I of the proposed Agricultural Element - Phase I of Santa Barbara County's Comprehensive Plan which encourages the protection and expansion of agriculture.

5) Intended not to bias any future proposed development which, although not a permitted use under AG-II-100, should be judged on its own merits through project-specific environmental review.

In addition, staff recommends that the Board of Supervisors find that:

6) The recommended Agriculture (AG-II) land use designation and AG-II-100 zoning district are environmentally preferable to the existing Coastal Dependent Industry (M-CD) land use/zone designation as stated below.

A comparative analysis between the recommended all AG-II-100 alternative and the M-CD alternative indicates that the M-CD zone would not be environmentally preferred due to the potential for intense industrial uses to result in several significant, adverse impacts. In addition, rezoning the site to AG-II-100 would be consistent with the South Coast Consolidation Policies and findings which are designed to consolidate industrial facilities on the south coast and minimize industrialization.

Further comparison between the two zone alternatives shows that, from a land use perspective, the beneficial affects of the recommended AG-II district may not be achieved by the M-CD alternative. In addition, may not be as compatible with the surrounding rural land use as the recommended AG-II-100 zone.

Zoning the entire area to agriculture would: 1) eliminate the existing split-zone configuration on the northern parcel, and 2) achieve more orderly development and minimize industrialization along the South Coast. Additionally, determination of adequate industrial sites at this time would be premature as no such development is contemplated currently.

1.3.2 CEQA Findings

1.3.2.1 Significant Unmitigable Impacts

CEQA FINDING #1: Certain impacts cannot be substantially lessened or avoided.

The beneficial affects of the Agriculture (AG-II) land use/zone designation, as discussed below, outweigh the potentially significant impacts and therefore provide a basis for overriding considerations as required by CEQA. In particular, many of the significant impacts identified for the AG-II zone have been identified under the existing use at the same or greater levels or numbers. As a result, numerous impacts, though still potentially significant, would actually be reduced when compared to impacts of existing land use.

The unavoidable significant impacts have been grouped by category below. The rationale for making the above finding as well as a listing of the individual impacts (as extracted from the EIR's Impact Summary Tables) is included within each grouping.

1-A. Degradation of Cultural Resources: As noted in section 4.4.5 of this report, impacts to cultural resources would be potentially more severe under the REC/AG-II split zone and the all REC zone alternative than under the all AG-II zone since recreational use would generate more visitors to the area. Also noteworthy is that soil disturbance from agricultural uses (i.e., row crops, grazing etc.) is typically less than 18 inches deep. Therefore, agriculture is less likely to have impacts on cultural resources located well below the surface.

This finding is applied to the following impact:

Cultural Resources

Impact: Potential long-term degradation of undiscovered, unrecorded significant cultural resource sites by land disturbance (grading, excavation, farming, etc.)

Partial Mitigation: Site survey prior to land disturbing activities; monitoring. Always a residual potential for damage; monitoring not practical at agricultural sites for periodic tilling; consequently, mitigation found to be infeasible.

1-B. Geologic Impacts: Onshore oil and gas development would be required to undergo a separate detailed environmental review and would be subject to a detailed set of development standards and findings. Salient Coastal Zone Ordinance sections with respect to onshore oil and gas development are: 35-152.4 Onshore oil and Gas Drilling Development Standards; 35-153.4, Onshore Oil and Gas Production Development Standards, and 35-176 Oil and Gas Exploration and Production Plans.

Geology

Impact: Long-term seismic shaking hazards to onshore oil and gas development.

Partial Mitigation: Require proper engineering design. Residual impact: structures would still be exposed to damage and potential spills.

1.3.2.2 Class II Impacts

Class II Impacts (significant impacts that have been eliminated or reduced to a level of insignificance).

The rezone actions do not propose a project, nor are permits issued at this time. Consequently, the following mitigation measures, if found to be feasible, may be implemented in two ways:

1) As a condition of permit required for a project that is proposed in conformance with the designated land use/zone designation; and/or

2) As general policies and regulations that are adopted to regulate specific land uses, activities, or development(s).

CEQA FINDING #2: Impacts identified as Class II have been eliminated or substantially lessened where feasible.

The Proposed Agricultural Element - Phase I EIR recommends that:

"amending the existing Grading Ordinance to add provisions that would require agricultural grading to be subject to specific provisions of the ordinance, such as the General Provisions (intent to avoid downstream damage, etc.) ...and extend the existing Brush Clearing Ordinance to require submittal of a Conservation Plan to the County that meets Soil Conservation Service standards for brush removal, grading, and drainage... potentially significant impacts could be reduced to insignificance."(Page iv-83)

The EIR also notes that:

"While there could still be adverse effects as a result of isolated cultivation practices, even with approved grading plans, these impacts would not be significant."(Page iv-83)

Additionally, any grading for agricultural on non-agricultural purposes in excess of 50 cubic yards, in the Coastal Zone, and major vegetation removal defined in the Local Coastal Plan as: "*The removal of native vegetation, brush, trees, or orchards involving a cumulative total of one-half acre of land or more*", requires a Coastal Development Permit.

Listed below are the identified impacts extracted from the final EIR's Impact Summary Tables.

<u>Air Quality</u>

2-A. <u>Impact</u>: Short-term increase in the generation of PM_{10} and NO_x from dismantling activities and site restoration in an area that currently exceeds the standards for PM_{10} and ozone.

<u>Mitigation</u>: Consider the air quality guidelines described in section 3.10.2 of the EIR regarding dismantling and abandonment activities. Include air quality guidelines as part of abandonment and dismantling policy workprogram.

2-B. <u>Impact</u>: Long-term exceedences of County thresholds for air emissions from onshore oil development.

<u>Mitigation</u>: All measures required by APCD regulations (Onshore oil and gas development requires a seperate environmental review; to be implemented by SBCo. APCD as conditions on subsequent Air Quality Permits).

Biology

2-C. Impact: Short-term direct damage to or removal of significant habitat or plants by demolition/construction equipment.

Mitigation: Avoid important resources, maintain 100-foot buffer strip along riparian/wetland ESH; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-D. Impact: Short-term erosion and sedimentation of riparian/wetland habitat from abandonment/site development activities.

Mitigation: Erosion control measures; (see Sect. 3.10.1 of the EIR; development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-E. Impact: Long-term erosion/sedimentation and chemical pollution of riparian habitat from landscape maintenance activities.

Mitigation: Use drought-resistant native vegetation; (in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I. Thus, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-F. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from farming activities, house, and/or oil and gas development.

Mitigation Minimum tillage, chemical application; use existing oil facilities; oil and gas water pollution control measures; (as noted above, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-G. Impact: Long-term restriction of animal movement by fencing for residential development.

Mitigation: Minimize use of impermeable fencing, particularly near riparian area; (this mitigation is infeasible; in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

Cultural Resource

2-H. Impact: Long-term degradation of known significant or potentially significant cultural resource sites by land disturbances (grading, excavation, etc.).

Mitigation: Avoidance preferred, fencing at agricultural areas; further study to determine site significance if unknown; data recovery; field monitoring; interpretive features at recreation sites; (As noted above, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR. In general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

2-I. Impact: Long-term degradation of biological resources of value to Native Americans.

Mitigation: See Biology mitigation measures and Sect. 3.10.1 of EIR; (As noted above, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR. In general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

Geology

2-J. Impact: Long-term seismic shaking hazards to onsite structural development.

Mitigation: Require proper engineering design of proposed structures. Residual impact: structures would still be exposed to groundshaking, but the risk of fatal damages would be reduced to insignificant; (to be implemented by SB Co. Public Works and SB Co. RMD as conditions on subsequent Building Permits and Coastal Development Permits respectively).

2-K. Impact: Long-term increase in onsite erosion from agricultural activities; loss of soils from brush clearing and grading for row crops or grazing.

Mitigation: Require and enforce proper land management practices. Residual impact: adverse but not significant - erosion would still occur, but at a more reasonable rate; (as noted above, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-L. Impact: Short- and long-term increase in erosion from onshore oil development.

Mitigation: Require bluff setbacks and construction erosion control plans; (onshore oil and gas development requires a seperate environmental review; to be implemented by SB Co. RMD as conditions on subsequent Development Plan, Exploration Plan, Coastal Development Permits, and if applicable, CUP).

Land Use

2-N. Impact: Potential long-term incompatibility of residential and/or recreational uses with onshore oil and gas development on the same site due to safety hazards.

Mitigation: Locate dwellings outside of the hazard footprint of any oil or gas facilities; (onshore oil and gas development requires a seperate environmental review; to be implemented by SB Co. RMD as conditions on subsequent Development Plan, Exploration Plan, Coastal Development Permits, and if applicable, CUP).

Noise

2-O. Impact: Long-term oil and gas development impacts on residence.

Mitigation: Separation by distance, vegetation; (onshore oil and gas development requires a seperate environmental review; to be implemented by SB Co. RMD as conditions on subsequent Development Plan, Exploration Plans, Coastal Development Permits, and if applicable, CUP).

Safety and Public Hazards

2-P <u>Impact</u>: Dismantling activities create the potential for a spill of chemicals, improper disposal of residual waste, fire or explosion, all of which would significantly impact the environment.

<u>Mitigation</u>: Measures provided in Sections 3.10.1 and 3.10.5 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-Q. <u>Impact</u>: The improper removal of facilities and clean-up of the site would create significant health and safety impacts on future users of the site.

<u>Mitigation</u>: See Measure #1 provided in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-R. <u>Impact:</u> Increased risk of an accident in transporting wastes off the sites due to poor access or levels or service onto U.S. 101.

<u>Mitigation:</u> See Measure #1 in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Traffic

2-S. <u>Impact</u>: Increase in traffic volumes during dismantling at sites with poor access onto U.S. 101.

<u>Mitigation</u>: Mitigation measures provided in Section 3.10.6 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Visual Resources

2-T. <u>Impact:</u> Long-term visual intrusions on ocean views due to onshore oil and gas development and residence.

<u>Mitigation:</u> Locate facilities outside of VC overlay district. Limit size and height of structures. Residual impact would be adverse, but not significant; (onshore oil and gas development and residential development requires a seperate environmental review; to be implemented by SB Co. RMD as conditions on subsequent Development Plan, Exploration Plans, Coastal Development Permits, and if applicable, CUP).

Water Resources

2-U. Impact: Long-term significant added water demand for irrigated farming.

Mitigation: Dry farming or pasture/grazing; (In general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

2-V. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from landscape maintenance activities.

Mitigation: Use drought-resistant native vegetation; (In general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

2-W. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from farming activities, house, oil and gas development.

Mitigation: Minimum tillage, chemical application; (as noted above, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR). Use existing oil and gas facilities, underground injection of produced water, safety measures and procedures, proper sewage disposal; (SB Co. RMD, EHS, Regional Water Quality Control Board; development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-X. Impact: Short-term erosion and sedimentation of riparian/wetland from abandonment/site development activities.

Mitigation: Erosion control measures in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram; as noted above, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-Y. Impact: Long-term increased potential for pollution due to discharge on site.

Mitigation: Use low-flow plumbing, properly designed treatment systems; (to be implemented by SB Co. RMD as conditions on subsequent Development Plan, Coastal Development Permits, and if applicable, CUP).

1.3.2.3 Project Alternatives

CEQA FINDING #3: The project alternatives not chosen are either not feasible, not environmentally preferable or not as beneficial as the proposed project.

The analysis in the EIR selected the Resource Management (RES) land use/zone designation as the environmentally preferred alternative. Upon closer review, however, staff determined that RES zoning would not be applicable because the site does not meet the specified requirements outlined for this district in the CZO. The RES zone can only be applied to lands that have one or more of the following characteristics: 1) slopes in excess of 40 percent; 2) isolated table land surrounded by slopes exceeding 40 percent; and 3) areas which have outstanding resource values such as environmentally sensitive habitat areas.

From a policy perspective, the REC/AG-II alternative may be preferred over the all REC and all AG-II zone districts since it would provide a balance between priority uses in the Coastal Zone. However, as noted in Section 4.4.5 of the Planning Commission staff report dated July 11, 1990, impacts to air quality, biology, cultural, traffic, and water resources and potential safety hazards would be potentially more severe under the all REC and REC/AG-II alternatives, than under the all AG alternative, since a recreational facility would generate more visitors to the site.

Additional analysis of why alternatives were not chosen is summarized in Sections 4.4.4 and 4.4.5 of the Planning Commission staff report dated July 11, 1990.

1.3.2.4 Statement of Overriding Considerations

CEQA FINDING #4: The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations.

Pursuant to SEC. 15093 of CEQA, the decision-maker is required to balance the benefits of a proposed action against its unavoidable environmental impacts. When significant effects are identified in the EIR,the agency must state in writing the reasons to support its action of approval.

The acceptability of the impacts is determined by evaluating the relative merits and adverse effects of the recommended Agriculture (AG-II) land use/zone designation compared to development under the existing M-CD zone district. CEQA Finding #1 (see Section 1.3.2.1) revealed that while it is true that significant impacts may occur under the recommended AG zoning, most of the impacts would also occur under the existing M-CD zone at the same or greater levels. Because of these facts, the relative environmental consequences of the recommended Agriculture (AG-II) land use/zone amendment compared to the existing land use is more acceptable.

1.4 Shell's Canada de la Huerta site

1.4.1 Legislative Findings

Based on the analysis provided above, and in the EIR, staff recommends that the Board of Supervisors find the proposed Agriculture II land use designation and AG-II-320 zoning district for Shell's Canada de la Huerta site to be preferred. Additionally, staff recommends that the Board of Supervisors find the Agriculture land use designation and AG-II-320 zoning district for this site to be:

1) Consistent with Santa Barbara County's Coastal Plan policy 8-1 which encourages agricultural land use designations for any parcel in rural areas that has agricultural potential (e.g., soil, topography, and location that will support long-term agricultural use).

2) Consistent with Goal I of the proposed Agricultural Element - Phase I of Santa Barbara County's Comprehensive Plan which encourages the protection and expansion of agriculture.

3) Consistent with California Coastal Act Section 30222 which assures priority for agricultural uses over visitor-serving commercial recreational facilities.

4) Intended not to bias any future proposed development which, although not a permitted use under AG-II-320, should be judged on its own merits through project-specific environmental review.

In addition, staff recommends that the Board of Supervisors find that:

5) The recommended Agriculture (AG-II) land use designation and AG-II-320 zoning district are environmentally preferable to the existing Coastal Dependent Industry (M-CD) land use/zone designation as stated below.

A comparative analysis between the recommended AG-II-320 alternative and the M-CD alternative indicates that the M-CD zone would not be environmentally preferred due to the potential for intense industrial uses to result in several significant, adverse impacts.

Further comparison between the two zone alternatives shows that, from a land use perspective, the beneficial affects of the recommended AG-II-320 district may not be achieved by the M-CD alternative. In addition, the M-CD zone district may not be as compatible with surrounding rural land use as the recommended AG-II-320 zone.

Zoning the entire area to agriculture would achieve more orderly development and minimize industrialization along the South Coast. In addition, rezoning the site to AG-II-100 would be consistent with the South Coast Consolidation Policies and findings which are designed to consolidate industrial facilities on the south coast and minimize industrialization.

1.4.2 CEQA Findings

1.4.2.1 Significant Unmitigable Impacts

CEQA FINDING #1: Certain impacts cannot be substantially lessened or avoided.

The beneficial affects of the Agriculture (AG-II) land use/zone designation, as discussed below, outweigh the potentially significant impacts and therefore provide a basis for overriding considerations as required by CEQA. In particular, many of the significant impacts identified for the AG-II zone have been identified under the existing use at the same or greater levels or numbers. As a result, numerous impacts, though still potentially significant, would actually be reduced when compared to impacts of existing land use.

The unavoidable significant impacts have been grouped by category below. The rationale for making the above finding as well as a listing of the individual impacts (as extracted from the EIR's Impact Summary Tables) is included within each grouping.

1-A. Degradation of Cultural Resources: As noted in section 4.6.5 of this report, impacts to cultural resources would be potentially more severe under the REC zone alternative than under the all AG-II-320 zone because recreational uses would generate more visitors to the area. Also noteworthy is that soil disturbance from agricultural uses (i.e., row crops, grazing etc.) is typically less than 18 inches deep. Therefore, agriculture is less likely to have impacts on cultural resources located well below the surface.

This finding is applied to the following impact:

<u>Cultural Resources</u>

<u>Impact</u>: Potential long-term degradation of undiscovered, unrecorded significant cultural resource sites by land disturbance (grading, excavation, farming, etc.)

<u>Partial Mitigation</u>: Site survey prior to land disturbing activities; monitoring. Always a residual potential for damage; monitoring not practical at agricultural sites for periodic tilling; possible interpretive features at recreation sites.

1.4.2.2 Class II Impacts

Class II Impacts (Significant impacts that have been eliminated or reduced to a level of insignificance).

The rezone actions do not propose a project, nor are permits issued at this time. Consequently, the following mitigation measures, if found to be feasible, may be implemented in two ways:

1) As a condition of permit required for a project that is proposed in conformance with the designated land use/zone designation; and/or

2) As general policies and regulations that are adopted to regulate specific land uses, activities, or development(s).

CEQA FINDING #2: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Although the mitigation measures listed will not be included within the land use/zoning designation amendments, they will be implemented through subsequent permit conditions on specific projects.

<u>Air Quality</u>

2-A. <u>Impact</u>: Short-term increase in the generation of PM_{10} and NO_x from dismantling activities and site restoration in an area that currently exceeds the standards from PM_{10} and ozone.

Mitigation: Consider the air quality guidelines described in Section 3.10.2 of the EIR regarding dismantling and abandonment. Include air quality guidelines as part of abandonment and dismantling policy workprogram.

Biology

2-B. Impact: Short-term direct damage to or removal of significant habitat or plants by demolition/construction equipment.

Mitigation: Avoid important resources, maintain 100-foot buffer strip along riparian/wetland ESH; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-C. Impact: Short-term erosion and sedimentation of riparian/wetland habitat from abandonment/site development activities.

Mitigation: Erosion control measures; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram; see Sect. 3.10.1, of the EIR).

2-D. Impact: Long-term erosion/sedimentation and chemical pollution of riparian habitat from landscape maintenance activities.

Mitigation: Use drought-resistant native vegetation; (in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I. Thus, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-E. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from farming activities, house, and/or oil and gas development.

Mitigation: Minimum tillage, chemical application; oil and gas water pollution control measures; (as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR. Onsite oil and gas development is unlikely due to the lack of hydrocarbon reserves in the area).

2-F. Impact: Long-term restriction of animal movement by fencing for residential development.

Mitigation: Minimize use of impermeable fencing, particularly near riparian area; (in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

Cultural Resources

2-G. Impact: Long-term degradation of biological resources of value to Native Americans.

Mitigation: See Biology mitigation measures and Sect. 3.10.1 of the EIR; (in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

Geology

2-H. Impact: Long-term increase in onsite erosion from agricultural activities; loss of soils from brush clearing and grading for row crops or grazing.

Mitigation: Require and enforce proper land management practices. Residual impact: adverse but not significant - erosion would still occur, but at a more reasonable rate; (as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-I. Impact: Long-term increase in slope instability; landsliding and soil creep hazards from residential development on slopes.

Mitigation: Prohibition of grading or construction on canyon walls; require detailed geologic investigation for any proposed development; require detailed drainage plans.

Residual impact would not be significant if canyon walls avoided; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Land Use

2-J. Impact: Long-term incompatibility of residential development with onsite residual contamination and adjacent landfill use.

Mitigation: Require detailed site investigations to ensure effectiveness of PCB clean-up; require deed restriction, noticing property owner of potential landfill nuisances, and coordination with landfill planners on siting residential structure. Residual impact would not be significant if PCBs have been successfully removed; (to be implemented by Public Works and SB Co. RMD as conditions on subsequent Building Permits, Development Plans, Coastal Development Permit, and if applicable, CUP. Development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Safety and Public Hazards

2-K Impact: Dismantling activities create the potential for a spill of chemicals, improper disposal of residual waste, fire or explosion, all of which would significantly impact the environment.

Mitigation: Measures provided in Sections 3.10.1 and 3.10.5 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-L. Impact: The improper removal of facilities and clean-up of the site would create significant health and safety impacts on future users of the site.

Mitigation: See Measure #1 provided in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-M. Impact: Increased risk of an accident in transporting wastes off the sites due to poor access or levels of service onto U.S. 101.

Mitigation: See Measure #1 in Section 3.10.1. in the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Traffic

2-N. Impact: Increase in traffic during dismantling in an area where traffic conditions at affected intersections are currently poor.

Mitigation: See Mitigation measures provided in Section 3.10.6. of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-O. Impact: Increase in traffic volumes during dismantling at sites with poor access onto U.S. 101.

Mitigation: See Mitigation measures provided in Section 3.10.6 in the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Visual

2-P. Impact: Long-term visual intrusions of residence into ridgeline views from U.S. 101.

Mitigation: Prohibit residence from visible canyon slopes. There would be no residual impact; (to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Coastal Development Permit, and if applicable, CUP).

Water

2-R. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from landscape maintenance activities.

Mitigation: Use drought-resistant native vegetation; (In general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

2-S. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from farming activities, house, oil and gas development.

Mitigation: Minimum tillage, chemical application; (as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR. Onsite oil and gas development is unlikely due to the lack of hydrocarbon reserves in the area). Use existing oil and gas facilities, underground injection of produced water, safety measures and procedures, proper sewage disposal (SB Co. RMD, EHS, Regional Water Quality Control Board); (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-T. Impact: Short-term erosion and sedimentation of riparian/wetland from abandonment/site development activities.

Mitigation: Erosion control measures in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram; as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990. Additionally, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-U. Impact: Long-term increased potential for pollution due to discharge on site.

Mitigation: Use low-flow plumbing, properly designed treatment systems; (to be implemented by Public Works and SB Co. RMD as conditions on subsequent Building Permits, Development Plan, Coastal Development Permits, and if applicable, CUP).

1.4.2.3 Project Alternatives

CEQA FINDING #3: The project alternatives not chosen are either not feasible, not environmentally preferable or not as beneficial as the proposed project.

The recommended land use/zone designation for this site, Agriculture II (AG-II-320), is the environmentally preferred alternative. Additional analysis of why alternatives were not chosen is summarized in Sections 4.6.4 and 4.6.5 of the Planning Commission staff report dated July 11, 1990.

1.4.2.4 Statement of Overriding Considerations

CEQA FINDING #4: The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations.

Pursuant to SEC. 15093 of CEQA, the decision-maker is required to balance the benefits of a proposed action against its unavoidable environmental impacts. When significant effects are identified in the EIR the agency must state in writing the reasons to support its action of approval.

The acceptability of the impacts is determined by evaluating the relative merits and adverse effects of the recommended Agriculture (AG-II) land use/zone designation compared to development under the existing M-CD zone district. CEQA Finding #1 (see Section 1.4.2.1) revealed that while it is true that significant impacts may occur under the recommended AG zoning, most of the impacts would also occur under the existing M-CD zone at the same or greater levels. Because of these facts, the relative environmental consequences of the recommended Agriculture (AG-II) land use/zone amendment compared to the existing land use is more acceptable.

1.5 UNOCAL's Government Point oil processing facility and Cojo Bay marine terminal

1.5.1 Legislative Findings

Based on the analysis provided above, and in the EIR, staff recommends that the Board of Supervisors find the proposed Agriculture II land use designation and AG-II-320 zoning district for Unocal's Government Point site and Little Cojo site to be preferred. Additionally, staff recommends that the Board of Supervisors find the Agriculture land use designation and AG-II-320 zoning district for these sites to be:

1) Consistent with California Coastal Act Section 30222 which assures priority for agricultural uses over visitor-serving commercial recreational facilities.

2) Consistent with Santa Barbara County's Coastal Plan policy 8-1 which encourages agricultural land use designations to any parcel in rural areas that have agricultural potential (e.g., soil, topography, and location that will support long-term agricultural use).

3) Consistent with Santa Barbara County's Coastal Plan policy 8-8 which ensures protection of 10,000 acre or more, non-prime agricultural operations in the North Coast Planning Area.

4) Consistent with Goal I of the Proposed Agricultural Element - Phase I of Santa Barbara County's Comprehensive Plan which encourages the protection and expansion of agriculture.

5) Intended not to bias any future proposed development which, although not a permitted use under AG-II-320, should be judged on its own merits through project-specific environmental review.

In addition, staff recommends that the Board of Supervisors find that:

6) The recommended Agriculture (AG-II) land use designation and AG-II-100 zoning district are environmentally preferable to the existing Coastal Dependent Industry (M-CD) land use/zone designation according to the following statement.

A comparative analysis between the recommended AG-II-320 alternative and the M-CD alternative indicates that the M-CD zone would not be environmentally preferred due to the potential for intense industrial uses to result in several significant, adverse impacts.

Further comparison between the two zone alternatives shows that, from a land use perspective, the beneficial affects of the recommended AG-II-320 district may not be achieved by the M-CD alternative. In addition, zoning the sites to Agriculture would: 1) eliminate the current split-zone configuration, 2) be consistent with the South Coast Consolidation Policy findings which encourage minimizing industrialization in the South Coast Consolidation Planning Area, and 3) allow onshore oil development in lieu of offshore platforms at the Unocal processing site.

Zoning the entire area to agriculture would achieve more orderly development and minimize industrialization along the South Coast. From a policy perspective, the AG-II-320 zone alternative would represent a greater degree of conformance with Coastal Act and CLUP policies. Additionally, determination of adequate industrial sites at this time would be premature as no such development is contemplated currently.

1.5.2 Site Specific CEQA Findings

1.5.2.1 Significant Unmitigable Impacts

CEQA FINDING #1: Certain impacts cannot be substantially lessened or avoided.

The beneficial affects of the Agriculture (AG-II-320) land use/zone designation, as discussed below, outweigh the potentially significant impacts and therefore provide a basis for overriding considerations as required by CEQA. In particular, many of the significant impacts identified for the AG-II-320 zone have been identified under the existing use at the same or greater levels or numbers. As a result, numerous impacts, though still potentially significant, would actually be reduced when compared to impacts of existing land use.

The unavoidable significant impacts have been grouped by category below. The rationale for making the above finding as well as a listing of the individual impacts (as extracted from the EIR's Impact Summary Tables) is included within each grouping.

1-A. Degradation of Cultural Resources: As noted in section 4.7.5 of this report, impacts to cultural resources would be potentially more severe under REC zone alternative than under the AG-II-320 zone because recreational use would generate more visitors to the area. Also noteworthy is that soil disturbance from agricultural uses (i.e., row crops, grazing etc.) is typically less than 18 inches deep. Therefore, agriculture is less likely to have impacts on cultural resources located well below the surface, particularly since the prevalent coastal winds and poor soil conditions in the area make row crops and orchards an infeasible use and grazing a likely use.

This finding is applied to the following impact:

Cultural Resources

Impact: Potential long-term degradation of undiscovered, unrecorded significant cultural resource sites by land disturbance (grading, excavation, farming, etc.)

Partial Mitigation: Site survey prior to land disturbing activities; monitoring. Always a residual potential for damage; monitoring not practical at agricultural sites for periodic tilling; possible interpretive features at recreation sites.

1.5.2.2 Class II Impacts

Class II Impacts (Significant impacts that have been eliminated or reduced to a level of insignificance).

The rezone actions do not propose a project, nor are permits issued at this time. Consequently, the following mitigation measures, if found to be feasible, may be implemented in two ways:

1) As a condition of permit required for a project that is proposed in conformance with the designated land use/zone designation; and/or

2) As general policies and regulations that are adopted to regulate specific land uses, activities, or development(s).

CEQA FINDING #2: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

Listed below are the identified impacts extracted from the final EIR's Impact Summary Tables.

<u>NOTE</u>: An Asterisk (*) denotes an impact that applies only to the marine terminal site.

<u>Air Quality</u>

2-A. <u>Impact</u>: Short-term increase in the generations of PM_{10} and NO_x from dismantling activities and site restoration in an area that currently exceeds the standards for PM_{10} and ozone.

<u>Mitigation</u>: Consider the air quality guidelines described in Section 3.10.2 of the EIR regarding dismantling and abandonment activities; include air quality guidelines as part of abandoment and dismantling policy workprogram.

2-B. <u>Impact</u>: Long-term exceedences of County thresholds for air emissions from onshore oil development.

<u>Mitigation</u>: All measures required by APCD regulations; (onshore oil and gas development requires a seperate environmental review; to be implemented by SB Co. APCD as conditions on subsequent Air Quality Permits).

<u>Biology</u>

*2-C. <u>Impact</u>: Short-term direct damage to or removal of significant habitat or plants by demolition/construction equipment.

<u>Mitigation</u>: Avoid important resources, maintain 100-foot buffer strip along riparian/wetland ESH; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-D. <u>Impact</u>: Long-term erosion. Sedimentation of nearshore habitat.

<u>Mitigation</u>: Erosion/landslide control measures; (as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990, SB Co. RMD should pursue updating the Grading

Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

2-E. Impact: Long-term restriction of animal movement by fencing for residential development.

Mitigation: Minimize use of impermeable fencing, particularly near riparian area; (in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

Cultural Resources

*2-F Impact: Long-term degradation of known significant or potentially significant cultural resource sites by land disturbances (grading, excavation, etc.).

Mitigation: Avoidance preferred, fencing at agricultural areas; further study to determine site significance if unknown; data recovery; field monitoring; (in general, this impact is endemic to agricultural operations along the South Coast. The County permits a variety of agricultural and farming uses, under the AG-II zoning, which do not require a Coastal Development Permit. As such, this impact and potential impacts are broader policy issues that have been, and are being addressed in the Comprehensive Plan's Agricultural Element - Phase I).

Geology

2-G. Impact: Short- and long-term increase in erosion from onshore oil development.

Mitigation: Require bluff setbacks and construction erosion control plans; (to be implemented by SB Co. Public Works and SB Co. RMD as conditions on subsequent Building Permits and Coastal Development Pemits, respectively).

Land Use

2-H. Impact: Potential long-term incompatibility of residential uses with onshore oil and gas development on the same site due to safety hazards.

Mitigation: Locate dwellings outside of the hazard footprint of any oil or gas facilities; (onshore oil and gas development requires a seperate environmental review, to be implemented by SB Co. RMD as conditions on subsequent Development Plans, Exploration Plans, Coastal Development Permits, and if applicable, CUP).

Safety and Public Hazards

2-I. Impact: Dismantling activities create the potential for a spill of chemicals, improper disposal of residual waste, fire or explosion, all of which would significantly impact the environment.

Mitigation: Measures provided in Sections 3.10.1 and 3.10.5 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

2-J. Impact: The improper removal of facilities and clean-up of the site would create significant health and safety impacts on future users of the site.

Mitigation: See Measure #1 provided in Section 3.10.1 of the EIR; (development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

Water

2-K. Impact: Long-term increased potential for pollution due to discharge on site.

Mitigation: Use low-flow plumbing, properly designed treatment systems; (to be implemented by Public Works and SB Co. RMD as conditions on subsequent Building Permits, Development Plan, Coastal Development Permits, and if applicable, CUP).

*2-L. Impact: Long-term erosion/sedimentation and chemical pollution of riparian/wetland habitat from farming activities, house, oil and gas development.

Mitigation: Minimum tillage, chemical applications; (as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR). Use existing oil and gas facilities, underground injection of produced water, safety measures and procedures, proper sewage disposal; (SB Co. RMD, EHS, Regional Water Quality Control Board; development of abandonment and dismantling policies are proposed by SB Co. RMD Energy Division as part of the FY 90-91 workprogram).

*2-K. Impact: Long-term erosion/sedimentation of nearshore habitat.

Mitigation: Erosion/landslide control measures; seawall maintenance; (as noted in Section 4.4.7.2 of the Planning Commission staff report dated July 11, 1990, SB Co. RMD should pursue updating the Grading Ordinance and Brush Clearing Ordinance as recommended in the Proposed Agricultural Element - Phase I EIR).

1.5.2.3 Project Alternatives

CEQA FINDING #3: The project alternatives not chosen are either not feasible, not environmentally preferable or not as beneficial as the proposed project.

The recommended land use/zone designation for this site, Agriculture II (AG-II-320), is the environmentally preferred alternative. Additional analysis of why alternatives were not chosen is summarized in Sections 4.7.4 and 4.7.5 of the Planning Commission staff report dated July 11, 1990.

1.5.2.4 Statement of Overriding Considerations

CEQA FINDING #4: The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations.

Pursuant to SEC. 15093 of CEQA, the decision-maker is required to balance the benefits of a proposed action against its unavoidable environmental impacts. When significant effects are identified in the EIR the agency must state in writing the reasons to support its action of approval.

The acceptability of the impacts is determined by evaluating the relative merits and adverse effects of the recommended Agriculture (AG-II) land use/zone designation compared to development under the existing M-CD zone district. CEQA Finding #1 (see section 4.4.7.1) revealed that while it is true that significant impacts may occur under the recommended AG zoning, most of the impacts would also occur under the existing M-CD zone at the same or greater levels. Due to poor soil conditions and prevalent coastal winds at each site, most uses under the AG zoning (except grazing)are likely to be infeasible. Additionally, oil and gas development at the Unocal marine terminal site is unlikely given the depleted oil and gas reserves from onshore wellheads and offshore platform Harry--which has since been removed. Because of these facts, the relative environmental consequences of the recommended Agriculture (AG-II) land use/zone amendment compared to the existing land use is more acceptable.

2.0 PROGRAM CEQA FINDINGS

The California Environmental Quality Act (CEQA) requires that the lead agency make certain findings prior to approving a project. This section presents findings required for the following: consideration of environmental documents, significant impacts, project alternatives, benefits of the project, and statement of overriding considerations.

2.1 Consideration of Environmental Documents

Pursuant to CEQA Guidelines Section 15090, the Board of Supervisors finds that:

a) **The final EIR has been completed in compliance with CEQA as determined by the Environmental Hearing Officer; and**

b) **The Board of Supervisors reviewed and considered the information contained in the final EIR prior to approving the project.**

2.2 Significant Impacts

The environmental document for this project identified numerous significant environmental impacts, some of which can be reduced or avoided by the implementation of mitigation (Class II impacts). CEQA requires that any agency which approves a project with significant environmental impacts make specific findings for each of the significant effects. These findings must be accompanied by a description of the rationale for making each finding.

The environmental review conducted for the land use/zone designation amendments consists of a Program EIR, designed to assess and compare long-term and regionwide impacts effected by abandonment and dismantling of existing oil and gas facilities, and on the impacts of the range of new development permitted under the proposed zoning at each of the sites. As noted in § 15168(b) of the CEQA Guidelines, the advantages of preparing a program EIR to analyze the land use designation amendments -- as well as feasible land use/zone alternatives -- include:

1) Providing an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,

2) Ensuring consideration of cumulative impacts that might be slighted in a case-by-case analysis,

3) Avoiding duplicative reconsideration of basic policy considerations,

4) Allowing the Lead Agency to consider broad policy alternatives and programwide mitigation at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and

5) Allowing a reduction in paperwork.

The Program EIR prepared for the land use designation amendments is not intended to preclude project-specific environmental analysis for proposed projects. Since land use/zone designations, and not actual projects are being approved, potential impacts analyzed are broad and regionwide. Potential impacts specific to actual projects proposed in the future should be thoroughly evaluated at the time of development application; mitigation will be required and a complete set of project-specific findings will be made prior to permit approval. Thus, the findings made within this section correspond to the level of analysis conducted in the Program EIR. It is particularly important to note that the land use and zoning amendments do no mandate approval of specific projects, all of which must receive individual CEQA analysis prior to any permit action.

As previously mentioned, this Program EIR identifies numerous potential significant environmental impacts. Although it is both impractical and infeasible to incorporate project-specific mitigation into the land use/zoning designation amendments, feasible mitigation developed in the Program EIR should be incorporated through subsequent actions pursuant to Section 15168 (c)(3) (Program EIRs) of the CEQA Guidelines.

The Class I Impact Summary Tables in the EIR describe each of the potential significant, adverse impacts that are identified in the analysis on impacts of abandonment and dismantling of existing oil and gas facilities, and on the impacts of the range of new development permitted under the proposed zoning at each of the sites. These impacts are either unavoidable because no mitigation measures or alternative exist, or are partially mitigated after implementation of the identified mitigation measures. The impacts are analyzed in more detail in Section 3 of the EIR. Impacts of alternative land use/zoning designations are examined in Section 4.

Upon consideration of the evidence in the EIR and the analysis conducted in this staff report, staff recommends that the Planning Commission make the following findings:

> **CEQA FINDING #1: Certain Impacts cannot be substantially lessened or avoided**

The beneficial effects of the recommended land use/zone designation amendments, as previously discussed in this report, outweigh the potentially significant impacts of current land use designations and, therefore, constitute overriding considerations as required by CEQA. In particular, many of the significant impacts identified for the recommended land use/zone designations have been identified under the existing use at the same or greater levels or numbers. As a result, numerous impacts, though still potentially significant, would actually be reduced when compared to impacts of existing land uses.

Class I impacts and their associated mitigation measures are listed above for each site under the "Class I" sections of this report.

2.3 Class II Impacts

Class II Impacts (significant impacts that have been eliminated or reduced to a level of insignificance).

> **CEQA FINDING #2: Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.**

The Class II mitigation measures listed in this report will not be included within the land use/zoning designation amendments, but will be implemented through subsequent permit conditions on specific projects (i.e., development applications) pursuant to Sec. 15168 (c) (3) of the CEQA Guidelines set forth below.

> *"(c) Use with Later Activities. Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.*
>
> > *(3) An agency shall incorporate feasible mitigation measures and alternatives developed in the Program EIR into subsequent actions in the program."*

Class II impacts and associated mitigation measures substantiating the above finding, are listed for each site under the "Class II Impact" sections of this report.

2.4 Project Alternatives

CEQA FINDING #3: The project alternatives not chosen are either not feasible, not environmentally preferable or not as beneficial as the proposed project.

For each site, the EIR evaluated alternative zone districts that would facilitate the purpose of the rezoning effort (i.e., minimize industrialization of the South Coast) and offer environmental advantages in one or more issue areas. Certain zone districts were eliminated from consideration as speculative, remote, or infeasible due to the following:

1) Non-compliance with Coastal Act and basic Coastal Land Use Plan (CLUP) policies and regulations;
2) Non-conformance with the intent of the Board Resolution initiating the rezoning effort;
3) Incompatibility with surrounding land use patterns; and/or
4) Environmental or service constraints.

Analysis of alternative zone districts not chosen for approval, or not carried forward in the environmental analysis are summarized for each site under the "Impact and Mitigation" and "Alternative Not Analyzed" sections of this report, respectively.

2.5 Benefits of the Project

CEQA FINDING #4: Benefits of the Project.

The analysis in section 3 of the EIR indicates that removal of the seven oil and gas processing, transportation, and storage facilities located along the South Coast would provide the County with long-term benefits in the issue areas of air quality, visual resources, geology, public safety hazards, water resources, and recreation. Moreover, a notable land use benefit would result on the South Coast from the elimination of industrial uses in areas surrounded by recreation, residential or agricultural uses. These beneficial impacts, however, are partially offset by the adverse impacts associated with new recreational, residential, or agricultural development at the seven sites.

Aside from the effects of facility removal, there are long-term effects related to future development under the recommended zone districts. As identified in the EIR (Section 6.2), these long-term beneficial effects would be improved recreational opportunities along the South Coast and potentially increased agricultural viability. Listed below are the beneficial impacts of the project as extracted from the EIR's Impact Summary Tables.

Air Quality

4-A. Impact: Reduction in emissions of organic gases, NO_x SO_x, CO and TSP for termination of operations at the facilities.

Site: All sites except Shell Molino.

Biology

4-B. Impact: Cessation of exposure of biota to emissions of air and water pollutants; to potential hazards of accidents; to possible soil and groundwater contamination as facilities are shut down and removed.

Site: All sites.

4-C. Impacts: Potentially increased habitat available after sites of facilities are restored.

Site: All sites.

Geology

4-D. Impact: Elimination of seismic hazards from offshore oil and gas processing facilities, when facilities are dismantled and removed.

Site: All sites.

4-E. Impact: Elimination of incompatible industrial land uses at nonconsolidated sites, when existing facilities are removed.

Site: All sites.

4-F. Impact: Increased recreational opportunities.

Site: Ellwood Processing only.

4-G. Impact: Increased prime agricultural land designated by zoning.

Site: Dos Pueblos only.

Noise

4-H. Impact: Removal of noise emitting souirces as facilities are shut down and removed from sites.

Site: All sites.

Safety and Public Hazards

4-I. Impact: Elimination of the chance of an accidental spill, tank or pipeline failure, and fire or explosion at an existing facility.

Site: All sites except Shell Molino.

4-J. Impact: Elimination of the risks associated with the handling and transport of LPGs/NGLs.

Site: Ellwood Processing and Phillips Tajiguas.

Visual

4-K. Impact: Elimination of visual intrusions associated with offshore oil and gas facilities, when existing facilities are removed.

Site: All sites.

Water Resources

4-L. Impact: Cessation of chronic releases of water pollutants, elimination of potential adverse effects of accidents, elimination of potential adverse effects of possible soil or groundwater contamination, and removal of impermeable surfaces that contribute to increased runoff as facilities are shut down and removed.

Site: All sites.

2.6 Statement of Overriding Considerations

CEQA FINDING #5: The unavoidable significant impacts of the project are found to be acceptable due to overriding considerations.

Pursuant to section 15093 of CEQA, the decision maker is required to balance the benefits of a proposed project against its unavoidable environmental impacts. Where significant effects are identified in the EIR the agency must state in writing the reasons to support its action of approval.

The land use zone designation amendments are designed to minimize industrialization along the South Coast and to achieve more orderly development pursuant to sound land-use planning principles. The amendments are intended to phase out older, unnecessary oil and gas processing, storage, and transportation facilities which are not consistent with the Local Coastal Program.

The acceptability of impacts is determined by evaluating the relative merits and adverse effects of the recommended land use/zoning designation compared to development under the existing M-CD zone district.

The context of the Program EIR limits the analysis to a comparison of uses of new development permitted. This comparison revealed that while it is true that significant impacts may occur under the recommended land use/zoning designation, most of the impacts would also occur under the existing land use/zone designation at the same or greater levels. Thus, reductions in the magnitude of impacts may be achieved in some issue areas under the recommended land use/zone designations. Additionally, the beneficial effects in land use, air quality, biology, geology, noise, safety and public hazards, visual, and water resources provide environmental offsets. Because of these facts, the relative environmental consequences of the recommended land use/zone designations amendments are more acceptable than existing land uses.

In addition to the overall CEQA findings listed above staff also recommends that the Planning Commission find the recommended land use designations and zoning districts are:

> **Consistent with the intent and purpose of the South Coast Consolidation Policy findings.**

policy\scrzbs.sr

ATTACHMENT C

Motion carried.

The City Council recessed to a break at 8:03 p.m. and reconvened at 8:11 p.m.

7. Status Report on City of Carpinteria Oil and Gas Regulations.

Recommendation: Consider the options presented and direct staff as determined appropriate.

Dave Durflinger, City Manager, provided introductory remarks. He noted that letters were received earlier in the day from Venoco and the California Independent Petroleum Association, and copies were provided to the City Council.

Vice Mayor Carty disclosed that he was contacted by and met with Ian Levitt.

Jackie Campbell, Community Development Director, presented the staff report and PowerPoint presentation.

Jena Shoaf, Deputy City Attorney, presented implementation options for the alternatives presented for oil and gas regulations in Carpinteria.

Councilmember Clark noted that under the Coastal Dependency Designation he could see where drilling onshore to get offshore would be coastal dependent. He inquired whether drilling onshore to go onshore would be considered coastal dependent. Ms. Campbell responded it would be certified in the Local Coastal Program as a permitted use in the Zoning Code. She noted that at some point the City found it to be coastal dependent and the Coastal Commission certified the City's regulations. She also noted that the County of Santa Barbara's Zoning Code ordinance also allows onshore drilling onto onshore resources as a permitted use in the MCD Zone.

Councilmember Clark noted there was discussion regarding litigation and implementation of Development Standards under Option 4. He inquired whether the adoption of development standards would be subject to taking even though the City could apply the same standards during a development application. Peter Brown, City Attorney, responded that the City Attorney's office tried to point out issues where legal challenges could be brought forward and stated that the zoning ordinance type of regulation dealing with physical or environmental based impacts are more of a general approach and raises less specific legal issues.

Vera Benson, representing the Carpinteria Valley Association (CVA), a grassroots organization formed 50 years ago, stated they have worked to protect and preserve the small beach town character of Carpinteria. She noted that their efforts included involvement in proposals such as the Humboldt Oil Refinery that was proposed in the Bluffs and the original Paredon project, as well as the acquisition and preservation of the Carpinteria Bluffs Preserve. She stated that CVA remains concerned about the industrial use of the 55-acre Venoco site located adjacent to City Hall, the Seal Sanctuary, the Carpinteria Bluffs, residential neighborhoods on the west side, and sufficient recreation use. She noted that CVA appreciates the work that went into developing the options presented by staff, and she urged the City to take a proactive approach to planning for the future of these areas. She expressed her support of Option 2 which gives the City the most flexible in terms of determining the future uses of this site. She noted that the City initiated the planning effort for this area in 1998 when it launched the Bluffs Zero Study and Planned Development. She also noted that in 2003 the City adopted Policy LU-3K, which called for completion of this study. She stated the CVA was urging the City Council to complete the Bluffs Zero Study and planning effort, and engage the public in a process to chart the City's future. She also stated the CVA was urging the City to enact an emergency ordinance to ensure that any future uses in this area do not undermine or conflict with this planning effort.

Ian Levitt, Vice President of Venoco Southern California responsible for operations including Carpinteria, stated he is a resident of Carpinteria. He also stated he was representing Venoco and its over 50 employees who live and work in the City. He expressed his disappointment in seeing this issue on the agenda and Venoco was only given four days notice regarding this meeting. He expressed his opinion that this item was a direct attack on Venoco's development application, which was recently deemed complete by the City. He stated the City Council should allow the application process to continue through the proper channels and not bypass established procedures. He noted that in 2010 Venoco initiated Measure J to attempt to expedite the approval process for the first Paredon application. He stated Venoco was criticized for not following the approval process and they acknowledged this was a mistake. He noted that in June 2013 Venoco submitted a revised project application in an attempt to follow the City's process. He asked the City Council to consider allowing the process to continue. He stated that Venoco feared that the proposed changes to oil and gas regulations in the City at this time was a direct result of Venoco's new application. He stated that the regulatory process should be free of bias or prejudice to ensure due process and equal rights. He also stated that Venoco has been a good neighbor and corporate citizen in Carpinteria for more than 15 years and they value their relationship with the community. He further stated that Venoco is a leader in community outreach, and they give hundreds of volunteer hours each year and thousands of dollars to Carpinteria and Santa Barbara non-profit organizations. He noted that Venoco is one of the largest property taxpayers in Santa Barbara County and they pay the City of Carpinteria approximately $250,000 per year in lease rentals. He stated that Venoco has a history of safe and reliable oil and gas operations, many of which are in populated areas. He noted that Venoco is regarded as a premier operator by State and Federal regulators, and in 2012 Venoco was awarded three of six Statewide awards from the DOG for the safe operation of their leases. He noted that four of the five options presented in the staff report would either prohibit or restrict oil and gas development, and any broad attempt to restrict oil drilling or reduce pump operations would force Venoco to take all measures necessary to protect its property and investment interests. He stated that Venoco was requesting that the City Council take time to carefully review the options and take input from all major stakeholders and community members. He suggested that the discussion should focus on facts and not fears, and allow the discretionary review process to take its course.

Larry Huskins, Carpinteria resident and Operations Manager for Venoco, stated he had the opportunity in his oil and gas career to work in many areas and he believed Carpinteria is one of the safest and best run operations in the world. He noted they have won numerous awards from Dogger State-run affiliation, as well as Federal awards for offshore platform. He stated they would be happy to provide tours for any of the facilities for City staff and Council members. He expressed concern with the possibility of litigation and stated he believed the local taxpayers would not want to fund the litigation associated with this application. He encouraged the City Council to consider these types of issues when moving forward on which option to select. He referred to a case in Hermosa Beach that has been in litigation over several years regarding a similar situation when they changed standards and regulations part way through an application. He stated he believed one of the key issues that will come out in the environmental impact report will show some of the benign affects from an environmental and safety perspective for Carpinteria, and he expressed his hope that the report will shed some light on some of the issues that need to be discussed.

Bob Poole stated he worked for Western States Petroleum Association for nine years and he had the most unpopular job in the State by representing offshore oil. He indicated he wanted to continue with his discussion of the hypocrisy theme. He stated it appeared the measure, discussed in the previous agenda item, was trying to ban existing production. He further stated that the State of California has the most stringent environmental regulations worldwide with the California Environmental Quality Act (CEQA); however, one of the options being proposed is to bypass that regulation. He noted that CEQA is designed to analyze potential impacts and let the community make decisions on a case-by-case basis. He questioned whether this was something the City Council should consider instead of trying to ban importing oil from overseas. He noted that everyone drives cars and are sustained in this economy. He also noted that oil was here and they had the most stringent regulations and the best technology to do it in the most environmentally, sustainable, and efficient manner.

Vice Mayor Carty addressed Mr. Poole and inquired how much of the oil produced in California stays in California. Mr. Pool responded that all of the oil produced in California stays in California. He stated there is a law against exporting crude oil out of California. He also stated that since the oil embargo in 1975, special permission is needed from the President to export oil out of the State of California.

Chris Collier, representing the Coastal Energy Alliance, stated they represent 300 companies in Ventura, Santa Barbara, and Los Angeles Counties, including oil producers, vendors, suppliers, trade labor associations, and folks affected by local economic decisions. He also stated cities are known for being leaders worldwide as far as their processes to keep things clean. He asked the City Council to not prohibit oil and gas operations in Carpinteria. He stated that the City's planning process is fair and balanced government, and the City Council had the opportunity to review and approve items on a case-by-case basis. He urged the City Council not to proceed with the ban on oil and gas operations.

Sandra Burkaart, representing Western States Petroleum Association (WSPA), stated they are a trade association representing companies that account for the bulk of petroleum exploration, production, refining, transport, and marketing in California and five other western states. She noted that members include crude oil producers who account for 80 percent of the oil produced in California. She expressed concern with the lack of stakeholder participation in this process with less than one week's notice provided to the public and with no attempt to contact affected stakeholders in order to determine how these recommendations may potentially affect the industry. She stated that WSPA and its members would welcome the opportunity to meet with City staff to discuss the potential zoning changes and offer input. She noted that all aspects of oil and gas exploration and production are currently stringently regulated by the Department of Conservation and the Division of Oil Gas and Geothermal Resources, as well as local, State, and Federal agencies including the County of Santa Barbara and the Santa Barbara County Air Pollution Control District. She also noted that regulations governing well construction, worker safety, land use, air and water quality, and other activities have been in place for decades. She commented that prohibiting all oil and gas production would not be prudent given the stringent level of regulation currently in place. She noted that the staff report suggested amending the zoning code to prohibit onshore drilling in the MCD zone, and she stated that this action would raise Constitutionality concern under the Regulatory Takings Doctrine. She stated that a ban that deprives landowners in the MCD District of their investment-backed expectations would expose the City to considerable liability. She also stated that WSPA and its members are committed to working with the City to better understand and address any concerns. She submitted for the record a letter from WSPA's legal counsel discussing the regulatory takings issue.

Andy Caldwell, representing CDLAB, stated he would characterize this item as prejudice, over-reach, and exposure. He also stated he believed the City Council was trying to prejudge an application for a land use and he suggested the courts do not look kindly on that. He further stated he believed the City Council was over-reaching in terms of trying to make a statement. He suggested that typically when people try to over-reach, the law of unintended consequences comes in and this was where the exposure comes with regard to liability. He stated that this was necessary because a Class 1 impact is needed under CEQA and three Councilmembers need to make the determination of no overriding consideration. He also stated that the process needed to go through the State Lands and Coastal Commission. He questioned exposing the City to unnecessary litigation in order to make a statement when the City Council already has discretionary authority to deny projects. He noted that he recently wrote a column about Linda Krop and Hannah-Beth Jackson who he believes have fought against oil projects in the County and the region; however, there was one deal they could not pass up that dealt with PXP. He suggested the City Council should keep options open, not incur the liability, not over-reach, and not pre-judge this project.

Linda Krop, Chief Counsel of the Environmental Defense Center, stated she was speaking on behalf of the Carpinteria Valley Association, Sierra Club, Los Padres Chapter, and Get Oil Out. She also stated that these organizations have been working for decades to protect Carpinteria from the risks and impacts of oil development, and worked hard to ensure the preservation of the Carpinteria Bluffs. She noted that their clients' members live, work, and recreate in this area, and many serve as docents in the Seal Sanctuary. She also noted they were aware of the conflicts between the aging oil and gas facilities and the surrounding neighborhoods and land uses. She indicated they supported the City's work on the Bluffs Zero Study initiated in 1998, and they urged the City to resume work on the study so that a forward-looking plan could be developed for this area that fits the City's current vision and is compatible with the surrounding land uses and environment. She stated that their clients support Option 2, which would result in a new land use and zoning designation for this property. She also stated that the benefits would include the City and the residents having the opportunity to come up with a plan that would reflect current community goals and vision. She further stated that Option 2 complies with the land use existing policy in the City's General Plan and Local Coastal Plan. She commented that as a legislative act the City would be afforded discretion and flexibility in crafting a plan that meets the community's needs, existing uses would be allowed to continue as legal nonconforming uses, future uses would have to be consistent with the new zoning, and the City would be insulated from liability. She noted that zoning decisions are legislative acts and will be upheld by the courts so long as they are rationally related to a local agency's interest. She stated that these types of decisions are within the City's police power and land use authority. She referred to the Hermosa Beach case, which was upheld as a legislative action banning all oil and drilling in the City. She stated that existing uses will be allowed to continue thereby providing economic value to the landowners, and the City had no need to worry about incurring liability for takings. She indicated that her group agreed with the staff report in that the City has the authority to enact oil and gas land use regulations, and such actions are not preempted by State law. She stated that in addition to the Attorney General's opinion, the courts have upheld the authority for local agencies to regulate and ban certain types of land uses including oil and gas development. She stated that her group urged the City Council to move forward with Option 2 in order to advance the City's interest while providing ample legal protection. She indicated that this option was consistent with Land Use Policy 3K and would be similar to the action taken by the County of Santa Barbara in 1990 when it rezoned several oil and gas sites from Industrial to Recreation, Residential, and Agricultural uses. She also urged the City to enact an urgency ordinance to ensure the integrity of this planning effort.

Jim Taylor stated that if the City's elected representatives could not decide whether and where to allow a new highly industrial activity to take place, then what good is the City.

Ted Rhodes, President of the Citizens for the Carpinteria Bluffs, stated he was speaking as an individual and he encouraged the City Council to pursue Option 2 as outlined in the staff report. He also stated that Option 2 would lead to a new zoning and a new plan within the City limits that is currently occupied by an aging oil and gas facility. He asked the audience for a show of hands of who would support the same option. He stated he would support having a few more weeks to allow the community to absorb the report. He noted that in 1997 he served as the Co-Chair in heading up a Land Use Growth and Management Task Force as part of the Visioning 2020. He stated that the community came together to look at the future and there was much community interest expressed about the property presently involved in Bluffs Zero to eventually be converted to more recreational use or other less intense uses. He also stated they did not realize when Chevron abandoned the property that Venoco was going to continue with that operation. He commented that oil and gas development on the shore in Carpinteria and Summerland might have made good sense 100 years ago; however, health safety risks and dangers that continue to accompany this industry would no longer make this type of industry appropriate or compatible with the small town values and natural assets. He noted that Carpinteria has been an oil town for years; however, Carpinteria was no longer the oil town it once was. He stated that people come to visit Carpinteria to enjoy its natural assets, including surf breaks, beaches, and bluffs. He stated that land use designation such as Coastal Industrial District and Coastal Dependency Industry no longer made sense among Concha Loma and Arbol Verde neighborhoods, the Seal Sanctuary, and the Carpinteria Bluffs Preserve. He suggested that now was the time for planning and zoning Bluffs Zero and coming up with alternate zoning such as recreational and visitor serving that make more sense and better reflects community vision and goals.

Susan Allen commended staff for doing an outstanding job of providing background history and discussion in the staff report because it would give the City Council and the public a clear picture. She stated that they were dealing with a document that is over 50 years old and three pages long. She also stated that options included taking no action in the discretionary review process. She noted that the current operating permit is over 50 years old and times and the community have changed. She questioned what other business in town is allowed to operate 24 hours a day with little regulation. She stated that the community experiences heavy truck and boat traffic, hauling of toxic materials, and noise and lighting with little or no regulation or information available to the City or its residents. She referred to a letter from the County of Santa Barbara Environmental Health Services received by Dave Moore dated April 16, 2014 regarding inspection of the Venoco property that was prompted by Mr. Moore's inquiry which revealed that four hazardous materials were present at the facility but were not disclosed to the HMBP. She stated that hazardous materials were located at the yard across Dump Road and no fines were imposed for lack of reporting. She also stated that complaints are fielded by many agencies, which create a murky protocol for the community. She commented that Venoco forced an election on the community with Measure J and the results were a vote of 70 percent. She stated that at the time of the election few people realized that the Paredon project included fracking. She also stated that with the concerns regarding fracking she believed the results would be the same or greater. She suggested the City Council adopt oil and gas drilling development and operating standards as part of the M-GD Zone District. She stated that the oil industry has resisted all attempts to allow updates to the permit that pre-dates the City, and the permit precludes the City from oversight and allowing access to information about what is occurring on the property. She noted that when Venoco decided the two odorant facilities needed to be upgraded and consolidated, they walked away from that project when the City determined the need for a complete environmental review, thus opening their operating permit. She stated that after years of unpermitted offloading of natural gas twice a week with noise and odors affecting nearby neighborhoods, the gas company decided to cease operations rather that obtain the necessary permits. She stated that since the 1990's, the City has regularly updated its various plans and has kept the needs of the community in mind.

Arturo Tello spoke in support of Option 2. He also stated that he sympathized with the speakers regarding the process. He noted that other speakers said the oil industry is the most highly regulated; however, as Susan Allen indicated, the City is not included as overseers. He commented that the City had a very outdated plan. He suggested the City Council consider at the very least Option 4 and move ahead with updating the City's regulations and take some of the oversight locally.

Kathleen Reddington stated she hoped and knew the City Council agreed they represent Carpinteria. She also stated it was time everyone looked at Option 2 as something that is good for the community. She expressed that she understood it was also important to keep an industry; however, she believed they have a better industry to keep. She asked the City Council to consider Option 2 as 70 percent of the people did a few years ago for the City's economic growth.

Miguel Checca expressed his support for Option 2 and for the City to rezone the Coastal Industry oil areas to a type of zoning more acceptable to the community such as recreational, residential, visitor serving, commercial, etc. He spoke in regards to the 50,000-foot high view comment and stated that oil and gas extraction is one of the most destructive human activities worldwide. He stated that these activities pose catastrophic risks and contribute to global climate change. He also stated that fossil carbon must stay in its original geologic formations as nature intended. He further stated that the community has the right to protect itself from petroleum extraction risks, and to do its part towards reducing fossil carbon exacerbation global climate change.

Doug White expressed his concern that the City Council was receiving a certain amount of pressure from the opposing side and threats of litigation. He stated that the City Council and past City Councils had the vision to see what is good about Carpinteria and to try to protect it. He noted that he has lived in the area since 1957, and he stated he would hate to see it scarred by drilling on this particular property. He stated it would be better if the City Council would consider rezoning the property to make it more in line with the real potential of Carpinteria as a recreational and tourist destination. He urged the City Council to consider Option 2 which would protect the City from liability to a certain extent and leave an important step down the road toward taking this piece of property and using for a future that is more in line with Carpinteria's richness, geology, and geography with beautiful views and recreational potential.

Giti White stated it was ironic to hear the oil industry extol CEQA after trying to circumvent in Carpinteria with the defeated Measure J. She encouraged the City Council to consider Option 1 because she believed it would be the right thing to do and because she respects the City Council's discretion. She stated that this option would prohibit onshore oil drilling in the MCD zone district. She commented that taking this position would be consistent with the Carpinteria General Plan, which did not contemplate onshore drilling from this area. She stated that a prohibition of onshore drilling adopts the most protective stance towards ensuring the safety of the Bluffs Open Spaces and increasingly developed residential communities that surround the zone district. She noted that the City Council has the discretion as elected officials despite the threats they are receiving. She commented that should the City Council not be able to come to consensus on prohibiting onshore drilling in the MCD Zone District, she would then encourage the City Council to consider adopting Option 2 for the rezone and redesignation of the MCD CDI properties, which could reduce the impacts associated with these industrial properties.

Councilmember Clark referred to Mr. Caldwell's remarks where he discussed litigation exposure and a statement to the effect that the best way to go would be to go through the normal development procedure. He also referred to comments made that should the City Council not like the project or the environmental impact report, the City Council could reject the environmental impact report or not accept the statement of overriding consideration and therefore deny the project. He inquired regarding the City's exposure to litigation should the City Council take this route. Mr. Brown responded he could not say there is no litigation exposure in that scenario. He noted there was a well-developed case law that deals with CEQA and addresses the City Council's obligations under CEQA and rights to evaluate evidence and make determinations. He noted that the environmental document for the current Paredon project has not been prepared because the project was only recently deemed complete. He noted it was true as Mr. Caldwell stated that a Class 1 impact is determined to arise from a project and CEQA provides that the impact must be overridden by a statement of overriding consideration.

Councilmember Clark inquired whether the City would be immune from litigation in denying a project based on the environmental impact report. Mr. Brown responded that the City is never immune from litigation. Councilmember Clark stated it appeared Options 1, 2, 3, 4, and 5 could end in potential litigation. Mr. Brown responded that staff attempted to point out where there are areas of potential litigation exposure, and some of those were mentioned in the letters that were filed and by some of the speakers that evening. He stated that depending on the steps that the City Council ultimately decides to choose, litigation exposure could potentially be greater or less and it would be a question of takings issues, pre-emption issues, and police powers issues.

Mayor Stein inquired regarding Mr. Levitt's comment that he only had four days to review this item. Mr. Durflinger responded that the City Council made its request in March and staff contacted Steve Gray to inform him that this matter was requested and would be coming forward at some point. He stated it was true that for this particular meeting staff informed Venoco that this item was on this agenda and there would be a staff report presented. Mayor Stein commented that this was typical of all agenda items and there was a noticing time limit. Mr. Durflinger responded that this was correct and there was the assumption this would be the first step. He stated that if the City Council chooses an option and further directs staff, there will be opportunities to meet with the landowner for discussion.

The City Council discussed continuing this item in order to provide more time to review the information.

Vice Mayor Carty expressed his desire to hear additional comments from Mr. Levitt. Mayor Stein suggested that Mr. Levitt provide his additional comments in written form. He also suggested continuing this item to November 10. Ms. Campbell noted she would not be present at the November 10 City Council meeting.

Vice Mayor Carty expressed his support for Option 4.

Councilmember Shaw inquired whether Options 4 and 5 could be combined because staff was working on developing standards for the new code and that could be brought into the discretionary. Mr. Durflinger responded this was correct.

Councilmember Clark noted the City Council received much input from the public regarding Option 2. He asked staff to provide additional information regarding this option in order to assist the City Council in making its decision.

Motion by Councilmember Shaw to move this particular matter forward to the November 10 meeting.

Mr. Durflinger noted that since Ms. Campbell would not be present at the November 10 meeting, he suggested that staff would recommend continuing this matter to November 24.

Amended motion by Councilmember Shaw, seconded by Councilmember Clark, to continue this matter to November 24, 2014.

Upon voice vote, motion carried unanimously.

The City Council recessed to a break at 9:38 p.m. and reconvened at 9:40 p.m.

VENOCO, INC.

RECEIVED
NOV 21 2014

November 21, 2014
(Via Hand Delivery)

To the Honorable Mayor Bradley Stein and
Members of the Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, California 93013

Re: NOVEMBER 24, 2014 AGENDA ITEM NO. 5 - Proposed Oil and Gas Regulations

Mayor Stein and Fellow Members of the City Council:

Venoco, Inc. ("Venoco") submits the following comments for your consideration regarding the proposed City of Carpinteria ("City") Oil and Gas Regulations ("Regulations"). Venoco appreciates your time and requests that you carefully review this information before taking any action to further restrict oil and gas development and current operations in the City. In addition, we incorporate our comments submitted previously in our letter dated October 13, 2014, an additional copy of which is attached hereto.

At the City Council ("Council") meeting on October 13, 2014, the Council began discussions regarding possible methods to restrict oil and gas drilling and operations within the City. As the owner of the Carpinteria Oil and Gas Production Facility ("CPF"), Venoco is the only oil and gas company operating within City limits and most likely the only business entity directly impacted by the City's proposed Regulations.

A primary focus of the October 13 meeting was the potential litigation risk related to the Regulations, and letters submitted by oil industry representatives emphasized that issue. (See letters dated October 13, 2014 submitted by Western States Petroleum Association and California Independent Petroleum Association.) The likelihood of litigation cannot be ignored. Venoco has substantial holdings in Carpinteria which are now at stake. Venoco not only owns the 55 acres of land and operates the CPF with average yearly revenues of millions of dollars, it also holds a State Lands Commission ("SLC") lease granting Venoco the right to access offshore oil reserves with an estimated potential gross sales revenue of two billion dollars. With these known assets in jeopardy, any broad attempt to restrict oil and gas drilling or restrict CPF operations would force Venoco to take all measures necessary to protect its property and investment interests. There is no doubt that litigation would be costly and time consuming for not only the City, but Venoco as well. It is Venoco's preference to stay out of court and we hope that the City recognizes that Venoco is raising the potential for litigation as a reluctant option, and not a threat.

It would be Venoco's preference that the conversation about potential oil and gas development at the CPF focus on an educated discussion about facts and current science. Perhaps through these discussions we can dispel the fears that appear to be driving the City's proposed Regulations.

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Current Facts and Science:

Venoco is Committed to Safety

Venoco has safely operated the CPF for over fifteen years and is continually committed to conducting operations with full concern for, and safeguarding of, the environment, employees and the public. Operational characteristics, pollution prevention procedures, and safety procedures conform to or exceed all applicable requirements. Our company places great emphasis on its safety measures especially because the CPF is in close proximity to City Hall and local residents.

In fact, there have been no significant safety or environmental incidents since Venoco took over operations at the CPF. The CPF contains numerous safety devices designed to protect employees and the local community. If any one device is triggered the CPF shuts down automatically. Further, at least two employees are on duty at the facility at all times in part to ensure safety measures are followed and the facility operates without incident. Operating safely will continue to be Venoco's number one priority while exploring and extracting reserves in its Paredon Project ("Paredon").

The CFP is the Best Location for Paredon

Venoco purchased the CPF and an adjacent offshore SLC oil and gas lease in 1998 with the intent to access the reserves underlying our property. Venoco has spent substantial resources and time developing Paredon. In the Paredon application, Venoco is requesting to first drill one exploratory onshore well with multilateral sidetracks. The well will be drilled and tested and if, and only if, substantial reserves are discovered would Venoco possibly proceed to the second phase of Paredon by drilling additional wells into offshore reserves.

Venoco is pursuing this onshore to offshore drilling technique because it is our belief that it is environmentally preferable. While accessing the Paredon reserves from offshore may be possible, Venoco's preliminary review indicates that potential environmental impacts associated with an offshore drilling operation are more numerous than those associated with Paredon as proposed. Further, accessing the offshore resources from a location other than the CPF was considered and rejected partially due to the lack of availability of existing infrastructure within reasonable distance from the reserves. Siting Paredon at the CPF complies with applicable State statutes. The Coastal Act promotes Venoco's expansion at the CPF facility in favor of other locations when it states "coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites." See Public Resources Code Section 30260.

Advancements in technology are continual and recent advancements in directional drilling allow offshore oil reserves to be safely accessed from onshore locations. Extended reach drilling will allow Venoco to access resources offshore from a single land-based rig. Over the past 3 years, Venoco has drilled 13 similar onshore to offshore wells in Ventura County without incident or complaints from nearby communities. Rather than incurring the environmental risks of marine infrastructure construction, onshore directional drilling eliminates the need to drill through the ocean floor, and prevents associated impacts to the marine environment.

While it may be frustrating to certain Council members and citizens that drilling from the CPF is preferable, it ultimately is the **best** location from which to access these resources.

Paredon Drilling Will Not Penetrate the Aquifer

Certain Council members and citizens have expressed concern that Paredon will result in contamination of the aquifer(s) underlying the CPF. Concern over whether oil and gas drilling can cause damage to underlying aquifers was magnified and sensationalized during the recent Yes on Measure P campaign. Venoco is confident that the Environmental Impact Report for Paredon will demonstrate that the proposed wells will not penetrate the aquifer. Groundwater aquifers in the Carpinteria basin do not extend beneath the CPF nor will any of the planned wells intersect the aquifer at any time. Groundwater aquifers in this particular location lie to the north of the 101 freeway and have no hydrologic communication with the targeted reservoir or any other rocks penetrated by the well paths.

Further, the potential for impairment of water quality as a result of produced water injection is infinitesimal. Any produced water would be treated and re-injected at a depth below 5,000 feet, which is over 3,500 feet below the base of fresh water in the aquifer. The water is re-injected at a pressure low enough to prevent any chance of additional stress on the rock formations and prevents fracturing, release and migration of the produced water upward into the overlying aquifer. California DOGGR regulations and methods protecting underground sources of drinking water, including casing and sealing measures and allowable injection pressures, would be strictly followed to ensure that injected fluids are confined to the intended injection zone.

Local Crude Oil Production is Better for the Environment

California depends on fossil fuels for transportation, local industry, and the heating of our homes, among many other things. Although consuming over 1.6 million barrels of oil per day, California only produces approximately 600,000 barrels locally. The shortfall of one million plus barrels of oil is imported by ship, by train or by truck. No interstate oil pipeline for transporting crude oil into California exists. Importing oil does not only further contribute to fossil fuel usage and greenhouse gas emissions but is also a safety hazard. Producing oil locally places us one step closer to oil independence while benefiting our local economy.

The City Should Not Pursue Option 2:

The Timing is Not Right

Based on our conversations with City staff, the Staff Report, and on public recommendations from various local environmental groups, it appears the Council may direct staff to pursue what is referred to as "Option 2" – a rezone and re-designation of the M-CD/CDI properties in the City. Pursuing Option 2 could result in a General Plan/Local Coastal Plan ("GP/LCP") amendment and zone change to abolish or otherwise modify the M-CD/CDI land use classifications to some less industrial use. More importantly to Venoco, Option 2 threatens to effectively put an end to Paredon, while severely limiting the operations at the CPF by making it a nonconforming use.

Respectfully, pursuing Option 2 is not appropriate at this time. The CPF has been a part of Carpinteria since the 1960s and has helped shaped the community. The existing facility is of great value to Venoco, the State, and the local community and Venoco plans to operate the CPF for many years to come. Toward that end, the community should be aware that re-designating the CDI land use designation will not result in the decommissioning of the CPF in the near term without Venoco receiving substantial compensation. Independent third party analysis and forecasting predicts that the CPF has a remaining economic lifetime exceeding twenty-five (25) years..

If the CPF became a nonconforming use, Venoco would be restricted in its operations. While safety updates could continue, the facility would otherwise be restricted from construction or upgrades that may be desired to keep up with technological advancements that may benefit the community. Turning the CPF into a nonconforming use places the facility in an inflexible cage and is unnecessary. The day for CPF decommissioning will come and Venoco is willing to work with the Counsel and the community in this regard. In the meantime, Venoco asks that the General Plan and Zoning remain the same so that Venoco can operate within the community as a partner rather than an outlier thus giving Paredon due consideration without bias.

Further, pursuing Option 2 at this time while the Paredon application is also under consideration is unduly costly and repetitive for the City and Venoco. Venoco will continue to process its Paredon application which will surely result in discussions regarding the community's desire for such a use, its compatibility with surrounding uses, conditions and regulations that mitigate project impacts and its benefit to the community. Let us focus on the real issue here, Paredon, and let the discretionary review process take its course.

Option 2 Conflicts with the Coastal Act

As the Staff Report prepared for the November 24, 2014 hearing indicates, any amendment to the LCP would require Coastal Commission certification. Venoco questions whether an LCP amendment eliminating the Coastal Dependent Industry land use designation within Carpentaria is consistent with the Coastal Act. The Coastal Act places a preference on coastal dependent industry as a needed and necessary part of California's economy. For example, the Coastal Act states "[c]oastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth . . . " (Public Resources Code § 30255). Also, Section 30262 indicates that oil and gas development shall be permitted if certain conditions, which Venoco satisfies, are met. Accordingly, the Coastal Act emphasizes that it may be necessary to accommodate oil and gas development within the coastal zone in order to protect the economic development of the State despite potential environmental impacts.

CPF and Paredon Benefit the Community:

Venoco wants to emphasize that there are a significant amount of constituents in Carpinteria that support our operations. While those who oppose our activities are often more vocal and grass root environmental organizations are well mobilized in this town, they are not the only voice. Venoco is valued in this community and our company wishes to expand and continue this relationship for years to come. Venoco is a good neighbor, employer and corporate citizen. Venoco cares about this community and has demonstrated its commitment through volunteer efforts, financial support and public outreach. In the past 10 years, Venoco has contributed over five million dollars to the Santa Barbara and Ventura County communities. Venoco is a consistent supporter of organizations such as the Carpinteria Education Foundation, Girls and Boys Clubs, Girls Inc., Santa Barbara Scholarship Foundation, the Unity Shoppe and many others. This support will expand with our continued success. For example, the total revenue of Paredon could be over two billion dollars, much of which would find its way into the local economy. Over the lifetime of the project, the City of Carpinteria and County of Santa Barbara could benefit from a projected eighty million dollars each in royalty payments alone.

Venoco is continually willing to work with the Council and City staff to enhance reasonable standards and regulations for the CPF and for oil and gas drilling as suggested by Option 4. In addition, Venoco is flexible and willing to enter into discussions with the City regarding the parameters of Paredon. It is in the best interests of Venoco and the City to start these discussions in the immediate future.

Thus, Venoco urges the City to take no action at this time and to allow Paredon's discretionary review process to run its course. During this important process, the Council, its staff and the public will be provided with invaluable information, including a comprehensive EIR. All stakeholders will be provided the opportunity to assess the relevant scientific information about the CPF and oil and gas drilling in the Paredon Field. Venoco will participate in this process with an open mind and willingness to incorporate the City's and community members' desires into facility operations and the Paredon Project. Venoco is committed to ensuring that only safe and responsible oil and gas development occurs. To that end, if such development requires additional regulations to restrict certain aspects or methods of oil and gas drilling, Venoco would support reasonable regulations.

Venoco appreciates the opportunity to provide these comments to the Council. Venoco is passionate about continuing our operations in Carpinteria and working with the community to ensure that only safe and responsible oil and gas development occurs. Venoco looks forward to discussing these comments with you further as this process continues.

Sincerely,

I Livett

Ian Livett
Vice President, Southern California
Venoco, Inc.

Cc: Dave Durflinger
Jackie Campbell
Jena Shoaf, City Attorney's Office

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VENOCO, INC

October 13, 2014

(Via Hand Delivery)

To the Honorable Mayor Bradley Stein and
Members of the Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, California 93013

Re: Agenda Item 7, October 13, 2014--Proposed Oil and Gas Regulations

Mayor Stein and Fellow Members of the City Council:

Venoco, Inc. ("Venoco") submits the following comments for your consideration on Agenda Item No. 7 - City of Carpinteria ("City") Oil and Gas Regulations. Venoco appreciates your time and requests that you carefully review this information before taking any action to further restrict oil and gas operations in the City.

Venoco is the owner of the Carpinteria Oil and Gas Production Facility ("CPF") and the only oil and gas company operating within the City. Venoco has been safely operating the CPF in the City for over fifteen years and prides itself on being a good neighbor and corporate citizen. Venoco cares about this community and has demonstrated its commitment through financial support and outreach. The people of Venoco expect to continue this relationship for years to come.

Venoco purchased the CPF in 1998 with the knowledge that substantial petroleum reserves lay beneath the CPF and extend off-shore. Accordingly, Venoco first submitted its Paredon Project (or "Project") to the State Lands Commission in December 2001 and to the City in August 2004. Processing of that application continued until 2009, when Venoco decided that seeking voter approval of the Project was a more efficient way to ensure the Project's future.

Venoco now understands that the community and this Council felt Venoco was trying to bypass the appropriate public review and hearing process. Venoco acknowledges its mistake in this regard. Consequently, Venoco filed a revised Project application in June 2013 in a sincere attempt to renew and, this time, follow the City process to its conclusion.

The City's Community Development Department recently deemed Venoco's renewed application for the Paredon Project complete. The Project proposes to develop hydrocarbon resources from Venoco's CPF by drilling *one exploratory well* incorporating multiple sidetracks. If the exploratory well

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is successful, Venoco intends to proceed to the second phase of the Project to delineate and develop up to 20 production wells from one location on the CPF. The second phase of the Project would likely require a Local Coastal Plan amendment and accordingly, additional approvals from the City and the Coastal Commission. Venoco also plans to upgrade the facilities at the CPF for the purpose of developing and producing oil and natural gas from the Paredon field, which is estimated to contain recoverable reserves of approximately 20.5 million barrels of sweet oil and 30.8 billion standard cubic feet of sweet natural gas. Such reserves could result in revenue for Venoco, the State of California, the County of Santa Barbara and the City in excess of two billion dollars ($2,000,000,000.00) based on today's oil prices. It is expected that the Paredon reservoir can be fully and safely developed from the CPF using existing drilling techniques that do not involve hydraulic fracturing stimulation and without the need to construct new offshore platforms. It is Venoco's belief that once the EIR has been completed, it will clearly demonstrate that the impacts to local citizens and the environment will be very minimal and can be easily mitigated.

Unfortunately, it appears the City is exploring ways to prevent Venoco from achieving its mutually beneficial business plans. Venoco cannot help but feel that the City's consideration of additional oil and gas regulations within the City is a direct and targeted response to Venoco's Paredon Project application with no real foundation based on scientific evidence of an impact to public safety or threat to the environment. The Staff Report proposes five options for the Council to consider. Four of those options outline methods by which the City can attempt to either prohibit or further restrict oil and gas development. The fifth option presented is to maintain the status quo by taking no action and following the discretionary review process which Venoco urges you to consider. Venoco is part of an already heavily regulated industry and the only energy company that will be affected by additional City regulations. Especially given Venoco's intention to implement the Paredon Project, Venoco cannot support any options or suggestions in the City's Staff Report that further restrict Venoco's current or planned operations.

More specifically, the Staff Report presents one option which would result in a complete ban of onshore oil and gas drilling in the M-CD zone. This option goes beyond even the far reaching restrictions proposed in Santa Barbara County's Measure P to include not only "High-Intensity Petroleum Operations" but all oil and gas drilling of any kind. Implementing such a measure would be excessive and deny Venoco its ability to use the CPF property as it intends.

Venoco's research indicates that the reserves under the CPF onshore property, and extending offshore, are plentiful. Extracting those resources from *onshore* wells is the environmentally superior option. Venoco does not want to, and should not have to, explore offshore drilling alternatives. Should the City wish to have an informed discussion about the various drilling methods and the desire to regulate or eliminate certain methods, Venoco is happy to be part of that conversation. However, any broad attempt to prohibit all oil and gas drilling will, necessarily, result in Venoco protecting its valuable property interests.

A land use regulation that goes too far may effect a taking of property requiring just compensation, even if it does not deprive the owner of all economically beneficial use of its land. *Lockaway Storage* *v. Alameda*, (2013) 216 Cal.App.4th 161, 183, citing *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 617. When a taking is neither a permanent physical invasion nor a deprivation of all economically beneficial use of the property, courts consider (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation interfered with distinct investment backed expectations, and (3) the character of the government action. *Penn Central Transportation Company v. City of New York* (1978) 438 U.S. 104. As Venoco has always intended to develop onshore drilling at the CPF, it is concerned that eliminating or severely restricting Venoco's oil and gas operations would deprive Venoco of the return on its investment that it reasonably expected from its intended use. *Lockaway Storage*, 216 Cal.App.4th 161, 185.

Perhaps the most troubling aspect of the Staff Report is the suggestion that the City Council has the option to proceed with an *urgency* interim ordinance under Government Code section 65858 to essentially place a moratorium on oil and gas drilling. While Government Code section 65858 does allow a city to adopt an interim ordinance that prohibits any *uses* which may be in conflict with a general plan the city is considering within a reasonable time, as the Staff Report correctly states, such an ordinance cannot be adopted without (1) legislative findings that there is a *current and immediate threat* to the public, health, safety, or welfare" *and* (2) a finding that the *approval of* additional entitlements for use which are required in order to comply with a zoning ordinance *would result in that threat* to public health, safety, or welfare. (Govt Code § 65858, emphasis added). "Limiting the reach of an interim ordinance to those situations where actual approval of an entitlement for use is imminent is consistent with the purpose of interim controls." *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1417.

An urgency interim ordinance is *not* an appropriate measure for the City to even consider at this time. Even assuming drilling could reasonably be considered a threat to the public's health or safety, there are no current or immediate plans of oil and gas drilling within the City. The application for Venoco's Paredon Project was just deemed complete last month and the City is now only beginning the process of selecting an Environmental Impact Report ("EIR") consultant. Venoco anticipates the EIR process will take approximately a year to complete. Only then will the subsequent public hearing process commence.

Further, choosing to pass an urgency interim ordinance halting oil and gas drilling will not stop the processing of the Paredon Project application. Once a permitted use is identified by the applicable zoning ordinance the procedure for processing a development application is established by state laws other than zoning. The power to establish uses does not include the power to fix procedures for processing development applications. *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1416-17.

Should the City Council choose to pass such an interim ordinance, Venoco believes the ordinance would require Coastal Commission certification. An urgency interim ordinance cannot circumvent the certification requirement and change the permitted use of a zone acknowledged in the Local Coastal Program when that modification would (1) conflict with the California Coastal Commission Act or (2) eliminate rather than restrict a previously certified use, as this is outside the scope of the

City's authority. (See *Conway v. City of Imperial Beach* (1997) 52 Cal.App.4th 78; Public Resources Code § 30005(a).) As acknowledged in the City's Staff Report, the California Coastal Act recognizes and gives priority to the importance of coastal-dependent industrial facilities and the social and economic value they contribute to the State (Public Resources § 30250).

Venoco requests that the City carefully and fully analyze its planning options for oil and gas development within the City. Whether the City ultimately chooses to adopt further regulations via standard ordinance or council sponsored initiative, the input of all stakeholders, including state and federal regulators, must be solicited, evaluated and balanced.

Therefore, Venoco urges the City to take no action at this time and allow the Paredon Project discretionary review process to run its course. During this important process, the Council, its staff and the public will be provided with invaluable information, including an EIR, as well as the opportunity to assess all relevant information and seek further comment from Venoco as the applicant. With this essential information, the City can develop and refine mitigation measures and conditions of approval to ensure the Paredon Project is consistent with the M-CD zoning and the City's General Plan/Local Coastal Land Use Plan. Perhaps most importantly, this discretionary review process will allow Venoco time to work with the City and the community of Carpinteria to ensure only safe and responsible oil and gas development occurs.

Venoco appreciates the opportunity to provide these comments on the proposed City of Carpinteria oil and gas regulations. As a vital stakeholder in this process, Venoco looks forward to discussing its comments with you further as this process continues.

Sincerely,

I Livett

Ian Livett
Vice President, Southern California
Venoco, Inc.

cc: Dave Durflinger
Jackie Campbell
Jean Shoaf, City Attorney's Office

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environmental
DEFENSE CENTER

November 21, 2014

NOV 2 1 2014

Mayor Brad Stein
Carpinteria City Council
5775 Carpinteria Avenue
Carpinteria, CA 93013

Re: City of Carpinteria Oil and Gas Regulations

Dear Mayor Stein and City Councilmembers:

This letter is submitted by the Environmental Defense Center ("EDC") on behalf of the Carpinteria Valley Association, Sierra Club Los Padres Chapter, and Get Oil Out! in response to the options proposed for consideration of oil and gas regulations within the City of Carpinteria ("City"). These comments are intended to supplement our letter dated November 9, 2014, in support of Option 2 (rezone of the M-CD/CDI properties). In particular, this letter will respond to the October 13, 2014 letter submitted by the Western States Petroleum Association ("WSPA"), which was included in the packet prepared for your November 24, 2014 hearing (hereinafter referred to as "WSPA letter").

The WSPA letter cites several cases for the proposition that action by the City to prohibit onshore drilling in the M-CD zone would result in an unconstitutional taking. As noted in our November 9, 2014 letter, however, it is common for cities to ban activities that they believe are in conflict with the public health, safety and welfare. See, for example, *Metromedia, Inc. v. City of San Diego* (1980) 26 Cal.3d 848. These bans have included prohibitions against oil and gas drilling. *See Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal.App.4th 534; *Higgins v. City of Santa Monica* (1964) 62 Cal.2d 24; *Beverly Oil Co. v. City of Los Angeles* (1953) 40 Cal.2d 552; *Pacific Palisades Assn. v. City of Huntington Beach* (1925) 196 Cal. 211.

WSPA's letter inexplicably overlooks all of these clearly relevant cases and instead cites other court decisions for the proposition that, in this case, the City's potential regulation of oil and gas development within its borders would be unconstitutional. In fact, these cases either do not apply or they confirm the City's authority to exercise its regulatory authority by rezoning the M-CD/CDI properties to a more compatible use.

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WSPA's letter acknowledges the factors that will be considered when a court determines whether a regulation goes "too far" and results in a taking, citing *Penn Central Transportation Company v. City of New York*, 438 U.S. 104 (1978). As noted in our November 9, 2014 letter, this is the seminal "partial takings" case which will apply to a decision by the City to rezone the Carpinteria M-CD/CDI properties. In that case, the Supreme Court held that a city ordinance protecting a historic landmark and prohibiting development of an office building was constitutional and did *not* result in a taking.

WSPA cites *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001) for the proposition that "a State may not evade the duty to compensate on the premise that the landowner is left with a token interest." WSPA letter at p. 2. WSPA conveniently left off the next two sentences, however, which included the court's holding that "This is not the situation of the landowner in this case, however. A regulation permitting a landowner to build a substantial residence on an 18-acre parcel does not leave the property 'economically idle.'" *Id.* at 631. In that case, the State's Coastal Resource Management Program limited development on coastal marshes and wetlands. Although the effect of this program and related regulations reduced the development potential of the property to one residence, the court noted that the property's remaining development value was $200,000. The court noted that construction of even one residence provided "significant worth" for the property owner, and thus found that the regulation did *not* result in a taking. *Id.* at 632. The *Palazzolo* case is consistent with a long line of "partial takings" cases that focus on the value of the property that is left for the landowner in determining whether property rights have been taken. *See, e.g., Keystone Bituminous Coal Ass'n v. DeBenedictis* (1987) 480 U.S. 470. ***In the matter pending before the City, there are many zoning designations available that will provide significant value for the property owner.***

WSPA cites *Yee v. Escondido*, 503 U.S. 519 (1992) for the proposition that "compensation for regulatory taking is required if 'considerations such as the purpose of the regulation or the extent to which it deprives the owner of the economic use of the property suggest that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole'." WSPA letter at p. 2. In fact, the emphasis in that case was reversed, in that the U.S. Supreme Court held that compensation is required "*only*" if such considerations suggest that a single property owner is unfairly bearing a burden that should be borne by the public as a whole, thus showing how narrow the circumstances are in which compensation is required. *Id.* at 523. WSPA conveniently left out this part of the quote. The court in *Yee* found that the rent control ordinance in question did *not* constitute a taking.[1] ***In the matter regarding Carpinteria's oil and gas regulations, the City is being asked to consider designations that are compatible with the surrounding community while still providing economic use of the property.***

WSPA cites *Avenida San Juan Partnership v. San Clemente*, 201 Cal.App.4th 1256 (2011) for the principle that a rezone adopted by a City may result in a taking if the effect of the rezone is to "allow for a lesser degree of development than was previously permissible." WSPA letter at p. 2. This statement misrepresents the holding of the case. The reason the court found a taking in this case was not because the rezone allowed for "a lesser degree of development," but

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[1] Specifically, the court found that the ordinance did not result in a physical taking.

rather because the rezone left the property with "zero value." *Id.* at 1273 (the rezone required a minimum lot size of 20 acres, but the property in question was less than 20 acres and thus could not be developed).[2] ***Option 2 would not cause a taking because the City is asked to adopt a zoning designation that provides more than "zero value."***

Koontz v. St. Johns River Water Mgmt. District, 133 S.Ct. 2586 (2013) is improperly cited because the case did not involve a "regulatory taking" claim. Instead, the case addressed a financial condition imposed on a specific development project. The court in that case found that the financial condition was excessive and thus did not meet the requirements of *Nollan* and *Dolan*, which require that – *in a quasi-adjudicatory context* – exactions on new development proposals must demonstrate a nexus to the project's impact and must be roughly proportional to that impact. In the court's own words, the decision only applies to actions in which "owners apply for land-use permits." 133 S.Ct. at 2594; *see Nollan v. California Coastal Comm'n,* 483 U.S. 825 (1987); *Dolan v. City of Tigard,* 512 U.S. 374 (1994). The court specifically pointed out that the case was not subject to the *Penn Central* test which applies to regulatory actions. *Id.* at 2600 ("In this case, moreover, petitioner does not ask us to hold that the government can commit a *regulatory* taking by directing someone to spend money. As a result, we need not apply *Penn Central* 's 'essentially ad hoc, factual inquir[y]'"). ***The Koontz case thus has no relevance to a regulatory action such as Option 2.***

Lockaway Storage v. Alameda, 216 Cal.App.4th 161 (2013), is also inapplicable to the issue at hand. In that case, the voters approved an initiative that would have prohibited development of plaintiff's project; however, the court found that the plaintiff qualified for an exemption under the terms of the initiative because the developer had secured discretionary permits prior to the effective date of the measure. This decision did not invalid the measure itself, or its application to a proposed development project absent the exemption. ***This case is irrelevant to Option 2, which would not interfere with vested rights and would allow existing operations to continue.***

Finally, WSPA cites *Vacation Village, Inc. v. Clark County*, 497 F.3d 902 (9th Cir. 2007) for the principle that a regulation capping building heights and limiting the use of airspace amounted to a taking. WSPA letter at p. 2. In that case, the County enacted ordinances limiting building height due to concerns about interference with nearby airport operations. In reviewing one of the ordinances, which imposed phased height limits based on proximity to the runway, the court applied the *Penn Central* factors and found *no taking* under federal constitutional law. 497 F.3d at 915. The court did, however, find a taking under Nevada state law which provides landowners with property rights in airspace regardless of avigation easements. 497 F.3d at 917-918. With respect to the other ordinance, which designated 1.25 acres of the plaintiff's property as a "runway protection zone" and thus limited the uses to a parking lot, water area or landscaping, the court applied the *Penn Central* factors and found *no taking*. *Id.* at 919. ***This case***

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[2] In addition, the court found that the rezone resulted in illegal spot zoning because it had the discriminatory effect of allowing less development on the parcel in question, in comparison to the surrounding parcels. As the court pointed out, "there is no question that the owners' parcel is a one–house–per–20–acre island in a two-to-six-house-per-acre sea." *Id.* at 1269. In the matter pending before the City, there is no risk of spot zoning because there are no similarly situated parcels that would be granted additional development rights.

affirms the authority of the City under the federal constitution to regulate land uses in order to protect the public health, safety and welfare.

In conclusion, an accurate reading of these cases confirms that Option 2 would not result in a valid taking claim against the City. Rezoning the M-CD/CDI properties would allow the existing uses to continue. The land will not be "economically idle." Furthermore, the City has the authority to select a new zoning designation that both reflects the community's interests and provides value to the property owner. Until the City reviews its options for rezoning the properties, it is not only speculative, but it is also insulting, to assume that the City will select a designation that will deprive the owner of its property rights and cause a taking.

Accordingly, we urge the City Council to proceed with the "Bluffs 0" study so that the City may consider a range of options for rezoning the M-CD/CDI properties. Just as the County rezoned five oil and gas properties in 1990 without incurring any taking liability, we have confidence that the City will choose an appropriate designation following thorough public and environmental review.

Thank you for your consideration of these comments.

Sincerely,

Ldakp

Linda Krop,
Chief Counsel

cc: Carpinteria Valley Association
Sierra Club Los Padres Chapter
Get Oil Out!
Citizens for the Carpinteria Bluffs

[The concluding paragraph should restate the recommendation.]

Sincerely,

[Name],
[Title]

LEAGUE OF WOMEN VOTERS OF SANTA BARBARA

NOV 24 2014

November 24, 2014

To: Carpinteria City Council

Re: Carpinteria Oil and Gas Regulations

The Santa Barbara League of Women Voters believes there is no need to reiterate the reasons to prohibit oil drilling in the area currently zoned M-CD. The environmental impact study for the original Paredon project did a thorough job of analyzing the reasons why production is not appropriate in a location that restricts coastal access and is close to residences and the natural resource of a seal rookery. Then the vote on Measure J demonstrated overwhelming public approval of such a prohibition.

The League of Women Voters was part of the opposition to Measure J because we have long standing policies that support good land use planning and the protection of the environment Applying these policies to the choices described in the staff report, we prefer legislative option 2 - rezone and redesignate the area in question to more appropriate categories. Option 2 gives the city an opportunity to consider what really is the best use of this bluff top property. The Bluffs 0 study - updated as needed – would provide a good foundation for making that determination.

We note that the City of Goleta rezoned the location of its oil processing facility at Ellwood. The property is now zoned for recreation. Goleta is also considering the adoption of a procedure to terminate nonconforming uses after a period of time.

Carpinteria's Local Coastal Plan acknowledges that the current oil and gas facilities are incompatible with established residential neighborhoods. The League urges you to change the zoning and designation of the area in question and make them consistent with the LCP.

Susan Shank, co-President, Program and Action

Contact: Jean Holmes, jeanholmes@earthlink.net

VIA EMAIL

Monday, November 24, 2014

Honorable Mayor Brad Stein
City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013

Re: City of Carpinteria Oil & Gas Regulations

Dear Mayor Stein,

Not even a month ago 51% of Carpinteria voters rejected Measure P because they were opposed to a wholesale shutdown of the county's oil and gas industry. Four years ago, 70% of Carpinteria voters rejected Measure J because they were opposed to projects maneuvering around the city's trusted, and respected planning process.

I believe there is a common denominator here. Voters trust a thorough planning and review process conducted by the elected officials in whom they've given their trust and with whom they have high confidence. Measure P and Measure J would have effectively removed the elected leaders of our community from the planning and review equation, and this does not sit well with voters from Carpinteria to Santa Maria.

Moreover, any attempt to re-zone property in the City of Carpinteria, property that has historically been used safely for oil and gas processing, which is a coastal dependent use of the property, and therefore consistent with Coastal Commission policies, would create significant legal issues for the City, and of course paid for by city taxpayers. Perhaps the City would prevail in defending such council action, perhaps not. Regardless, the expense to the general fund would be severe, and potentially crippling.

There isn't a voter in Carpinteria who believes the current city council would approve a risky, incompatible enhanced use of the industrial property in question. Indeed, it i's also beyond the realm of probability that a future council would do so in light of the prevalent environmental protection priorities inherent in the Carpinteria body politic. Therefore, to move forward with such an extreme, and draconian course of action would be a risky, costly, and radical solution in search of a problem.

I respectfully suggest your council take no action (option #5) with respect to this issue, and instead focus your collective attention, and efforts on other matters of a higher priority to the people of Carpinteria. Some of those issues include fully funded law enforcement, park acquisitions, transportation infrastructure investment, and of course economic vitality.

Thank you and best regards,

Joe Armendariz
Executive Director
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