

CALIFORNIA COASTAL COMMISSION

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Th 15b

Addendum

July 7, 2009

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item 15b**, Local Coastal Program Amendment
**City of Carlsbad LCP Amendment No 3-07B (Ponto Beachfront
Village Vision Plan)**, for the Commission Meeting of July 8-9, 2009

Staff recommends the following changes be made to the above-referenced staff report. For the Suggested Modifications that are being amended from the original report, additional language is noted with double underlining and language to be deleted is noted with ~~double strikethrough~~.

1. Modify Page 4, Paragraph 3 as follows:

The Mello II Segment Land Use Plan and Implementation Plan were approved in 1981. The Mello II Segment is comprised of 5,500 acres, or approximately 75% of the Coastal Zone City. Unresolved issues remained for the segment regarding preservation of agricultural lands, and protection of steep sensitive slopes. Multiple additional amendments were brought forward, and with the incorporation of the Carlsbad Ranch Specific Plan, the City's LCP was certified by the Commission, and the City obtained permit authority in 1996. In 1998, the Commission approved an additional Master Plan, Poinsettia Properties Specific Plan for a 92-acre portion of the Mello II Segment. This Master Plan included 8 planning areas on 3 parcels which provide the following uses: tourist commercial, mixed use (commercial/tourist/residential), multiple-family residential and small-lot residential and small-lot single family residential resulting in 823 dwelling units, 6.5 acres of mixed residential and commercial development, 101,780 sq. ft. of commercial land uses and 1.4 acres of open space. The plan also allowed for a mix of commercial and residential uses on properties across from South Carlsbad State Beach, subject to the provisions of a specific plan.

2. Modify Page 8, the final paragraph of Suggested Modification #1, as follows:

Wetland delineations shall be prepared and submitted as part of the application for any development at these locations and any other wetlands identified within the Ponto Beachfront Village Vision Plan area in the future, in compliance with certified LCP

Policies and the definitions and boundary descriptions in Section 13577 of the California Code of Regulations to determine the presence of wetland habitat. No impacts to wetland shall occur consistent with the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program policies and the Coastal Act. Wetland buffers shall be consistent with the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program Land Use Plans.

3. Modify Page 8 of the staff report, to completely replace Suggested Modification #3 by adding a new note on Page 6 of Chapter 2 of the Vision Plan as follows:

Add a new note to the Beachfront Resort illustration that reads as follows: “A structural setback of 75 feet from the southerly coastal bluff edge shall be provided and any proposed encroachment into the 75' setback shall be supported by a geotechnical report and shall not result in impacts to the integrity of the coastal bluff, public views, public access, or public recreational opportunities. Development permitted beyond the determined structural setback shall be limited to a 10 – 12 foot public trail and other ancillary, low-impact development such as signage and benches.”

4. Modify Page 9, for the second bullet point of Suggested Modification #5 as follows:

- In the "Unplanned Area" of Ponto, which roughly corresponds to the vacant land area north of Avenida Encinas, specific planning efforts are required. Any modifications to the Land Use and Zoning designations in the "Unplanned Area" to facilitate development are subject to the review and approval of the Coastal Commission as a future local coastal program amendment. Further, as part of this Local Coastal Program amendment for the Unplanned Area ~~any future planning effort~~, the City and developers must consider and document the need for the provision of lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

5. Modify Page 9, Suggested Modification #6 as follows:

Note: A General Plan amendment and Local Coastal Program amendment for the ~~Land Use designation at this site~~ parcels designated as Unplanned Area will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

6. Modify Page 9, Suggested Modification #7 as follows:

Note: A General Plan amendment and Local Coastal Program amendment for the ~~Land Use designation at this site~~ parcels designated as Unplanned Area will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

7. Modify Page 10, Suggested Modification #8 as follows:

The Mixed Use Center is intended to be the core of the Ponto Beachfront Village and should ~~will~~ contain both commercial and multi-family residential uses.

To maximize economic viability for businesses in the Mixed Use Center, both visitor-serving and neighborhood-serving uses and services are intended. The area is central to residents of the Townhome Neighborhood, Live/Work and Mixed Use developments, visitors staying at the three hotels and the surrounding off-site residential neighborhoods. The current General Plan land use designation for the area of the Mixed Use Center located within Area F of the Poinsettia Shores Master Plan is UA Unplanned Area. As such, a General Plan amendment, as well as, a Local Coastal Program amendment will be required for this Unplanned Area before any new development may be approved in this area. ~~The Mixed Use Center is partially located in Area "F" of the Poinsettia Shores Master Plan Area; and as such, and any proposed development will have to be consistent with the standards certified in the previously certified Poinsettia Shores Master Plan.~~

Because the area includes parcels that are designated as ~~is an~~ Unplanned Area, no permitted uses have been established. However, the most desirable uses for the area, as recommended by this Vision Plan, are listed below. ~~Permitted uses for the Mixed Use Center are listed below.~~ Ground floor uses should ~~are required to be~~ retail or service type uses that generate pedestrian traffic, while office or multi-family residential uses may be located on upper floors. ~~The only non-retail or non-service use that may occupy the ground floor in the Mixed Use Center is the. Some sort of A~~ community amenity feature or lower cost public recreational feature, such as an arts/nature/activities center, should be included , and may occupy the ground floor in the Mixed Use Center.

Recommended Uses ~~Permitted Uses~~

~~Only~~ The following specific uses ~~shall be~~ are the most desirable permitted uses for the ground floor development in the Mixed Use Center:

- Bakeries, limited to baking goods for on-site sales only

[...]

The following specific uses are the most desirable permitted uses for the upper floor development in the Mixed Use Center:

- Any uses included permitted on the ground floor in ~~by~~ this Vision Plan

[...]

~~Incidental outdoor dining areas are encouraged, permitted by administrative permit, pursuant to the requirements of the Carlsbad Municipal Code, Section 21.26.013.~~

~~Every use permitted shall be subject to Carlsbad Municipal Code, Section 21.26.020, which includes the requirement that products made incidental to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing, processing and treatment of products permitted herein.~~

Conditional Uses

~~Subject to the Carlsbad Municipal Code, Section 21.26.015, the following uses are conditionally permitted in the Mixed Use Center:~~

- ~~• Restaurants with dancing or entertainment (excluding adult entertainment)~~
- ~~• Package liquor stores (off sale)~~

8. Modify Page 11, Suggested Modification #10 as follows:

A boardwalk trail provides a link between the mixed use developments on either side of the wetland and offers nature interpretation and education opportunities for its users (described in more detail in Section 2.5). The boardwalk trail also serves as the connection to and from the pedestrian path under Carlsbad Boulevard. Access to the boardwalk is provided from the surrounding pedestrian plazas and the Ponto Drive sidewalks, as well as directly from the Carlsbad Boulevard underpass. Because the boardwalk trail is located in or near a sensitive habitat area, measures need to be taken to ensure that no impacts to wetlands will result from the development of this portion of the trail. Impacts to any other sensitive vegetation shall be minimized to the maximum extent practicable.

9. Modify Page 12, Suggested Modification #11 as follows:

2.3.3 Connection with Mass Transit

Given the proximity of the Ponto Beachfront area to the coast and to three major access routes (Coast Highway, Interstate 5, and the Railway), access and measures to support alternate transit shall be provided ~~encouraged~~. Information regarding the location of bus stops, ~~availability of~~ bus schedules, connections to the Poinsettia Train Station through shuttles, etc. shall be identified and provided ~~implemented~~ with any development proposal.

10. Modify Page 12, Suggested Modification #12 as follows:

Landscaping, including street trees, add important visual elements to the street environment and are used to enhance the overall image and pedestrian comfort in the Ponto Beachfront Village. ~~Native or non-invasive plants shall be the only permitted vegetation within the Ponto Beachfront area.~~ The use of native, drought-tolerant plant

materials shall be highly encouraged. No plants listed as invasive by the California Native Plant Society or the California Invasive Plant Council shall be used.

11. Modify Page 12, Suggested Modification #13 as follows:

Update Pages 33-35 of Chapter 2, Section 2.5 - Landscaping - to remove any recommended trees, plants, shrubs, or flowers that are considered invasive by the California Native Plant Society and the California Invasive Plant Council from the recommendations.

12. Modify Page 12, Suggested Modification #14 as follows:

During the design review process, the review authority may interpret these design guidelines with some flexibility in their application to specific projects, as not all design criteria may be workable or appropriate for each project. In some circumstances, one guideline may be relaxed to facilitate compliance with another guideline determined by the review authority to be more important in that particular case. The overall objective is to ensure that the intent and spirit of the design guidelines are followed. However, all proposed development must maintain its consistency with the City's certified ~~LCP~~ Local Coastal Program.

For areas designated as Unplanned, the permitted uses will be determined with a General Plan and Local Coastal Program amendment to modify the Land Use designation to facilitate development. In these circumstances, consistency with the certified Land Use Plans (Mello II and West Batiquitos Lagoon/Sammis Properties Segments) and previously certified Master ~~Plans~~ Plan (Poinsettia Shores Master Plan) shall be the standards of review where applicable. As a part of any future planning effort for areas designated as "Unplanned Area", the City and developers must consider and document the need for the provision of lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

13. Modify Page 13, Suggested Modification #15 as follows:

- Trees and Plants native to the Southern California coast which are ~~and~~ drought tolerant or those which flourish in the region should be selected whenever possible. Plant materials should be selected for their low maintenance qualities. No plants listed as invasive by the California Native Plant Society or the California Invasive Plant Council shall be used. Plants shall be grouped into combinations to support desired design themes and should be grouped based on common environmental conditions, such as soil type, water, sun, temperature limitation, etc.

14. Modify Page 13, Suggested Modification #16 as follows:

The Ponto Beachfront Village Vision Plan area falls within the Coastal Zone. City of Carlsbad's Local Coastal Program (1996) is comprised of five segments, which provide policies and development guidelines for compliance with the Coastal Act. The Ponto Beachfront Village Vision Plan area includes acreage located within the Mello II and the West Batiquitos Lagoon/Sammis Properties Segments Land Use Plans. While the Ponto Beachfront Village Vision Plan is a guidance document for future development in this area, the previously certified standards of review, the Mello II and West Batiquitos Lagoon/Sammis Properties Local Coastal Program Land Use Plans policies and the standards approved in the Poinsettia Shores Master Plan and Poinsettia Properties Specific Plans Plan are not superseded or replaced and remain in effect. Local Coastal Program Segments are required to maintain consistency with the City of Carlsbad's General Plan. A Coastal Development Permit must be obtained prior to development.

15. Modify Page 14, Suggested Modification #19 as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Amendment to Poinsettia Shores Master Plan
- ❖ Coastal Development Permit
- ❖ Improvements Agreement with City
- ❖ Environmental Review
- ❖ Local Coastal Program - Land Use Plan Amendment
- ❖ General Plan Amendment

16. Modify Page 14, Suggested Modification #20 as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Redevelopment Permit
- ❖ Coastal development Permit
- ❖ Rezone
- ❖ Environmental Review
- ❖ Improvements Agreement with City
- ❖ Resource agency permits
- ❖ Local Coastal Program - Land Use Plan Amendment
- ❖ General Plan Amendment

17. Modify Page 26, the first paragraph, as follows:

The southern portion of the Ponto Area is bounded by a coastal bluff transitioning to Batiquitos Lagoon. Both previously certified Master Plans for this area (Batiquitos Lagoon Educational Park, and Poinsettia Shores) included that there would be a geological setback required to separate and protect the coastal bluffs from development. A 45 foot minimum setback was certified as a part of the Poinsettia Shores Master Plan. The Environmental Impact Report (EIR) includes a number of options for setbacks and open space areas associated with these coastal bluffs. The City of Carlsbad certified the EIR with the incorporation of an increased blufftop setback. This option requires a structural setback of generally 75 feet from the bluff edge ~~foot setback~~, with only trails and other low-impact developments such as signage and benches to be allowed in this setback (ref. Exhibit #2, Page 3). However, the Vision Plan fails to identify a minimum geological setback or permitted development within the setbacks for the area closest to the lagoon bluffs. In addition, the City's Master Plan only requires a 45 foot setback. Thus the EIR considered a 75 foot setback, the Master Plan requires a 45 foot setback, and the Vision Plan is silent with respect to a numerical setback. Further, it is not possible at this time to guarantee that even the 75 foot setback will still be considered adequate when an actual project comes forward for review. The inconsistencies in the different setback requirements and the lack of language requiring a site-specific analysis of geological issues result in potential impacts to geological stability, inconsistent with Section 30253 of the Coastal Act.

18. Modify page 30, the last paragraph, continuing on to Page 31 as follows:

As previously discussed, the Ponto Beachfront Village Vision Plan includes invasive species as recommended landscaping plants. The Ponto Beachfront area is located adjacent to Batiquitos Lagoon. The Vision Plan includes invasive plants in the recommended plant palette, such as the Mexican Fan Palm. Vegetation such as the Mexican Fan Palm often out-competes native lagoon vegetation. As such, three modifications are recommended to be included in the Vision Plan. Suggested Modification #12 includes language that limits permitted landscaping to native or non-invasive plants. Further, the language specifies that the use of native, drought-tolerant species are highly encouraged. Suggested Modification #13 requires that the list of acceptable landscaping plants provided in the Vision Plan update, removing any recommended trees, plants, shrubs, or flowers that are considered invasive by the California Native Plant Society or the California Invasive Plant Council. Suggested Modification #15 mirrors that of Suggested Modification #13, but is located in another section of the Vision Plan where landscaping requirements are also discussed. All of these three suggested modifications will promote the viability of the sensitive habitat located surrounding Batiquitos Lagoon, consistent with Section 30240 of the Coastal Act and promote water conservation.

19. Modify Page 31, paragraphs two and three, as follows:

Coastal lagoon bluffs are located on the southern extent of the area included in the Ponto Beachfront Vision Plan. The Vision Plan includes a large scale resort development in the area closest to the existing lagoon bluffs. Standards approved previously through the certification of the Poinsettia Shores Master Plan include a geological setback of 45' for any development. The City Council, through certification of the Ponto Beachfront Village Vision Plan EIR, approved a design that included a general geological setback of 75' feet geological setback, and permitted only public trails, benches, signage, and other low impact development within this setback area. The Vision Plan itself is silent on the required setback for the resort development. It is therefore unclear, when reviewing the Vision Plan, whether the standard of review is the Poinsettia Shore Master Plan, (45'), or the certified EIR (75').

~~Suggested Modification #3 resolved this ambiguity by requiring that all development proposals include a geological setback of at least 75'. The suggested modification further requires that only public trails, benches, signage and other low impact development be permitted within the 75' setback area. The intent of the modification is to make clear that the required setback associated with any future development proposal must be at least 75'. Given that the time line associated with development at this site is unknown, circumstances may change, and along with possible impacts related to sea level rise, the more conservative setback is most consistent with Section 30253 of the Coastal Act.~~

Suggested Modification #3 clarifies the structural and non-structural setbacks required with any proposed development and is similar to the requirements of the City's Resolution certifying the Environmental Impact Report (ref. Exhibit #2, Page 3). The suggested modification requires that a 75 foot structural setback be required with any specific development proposal. The suggested modification requires that a geotechnical report is completed to determine the structural setback necessary to maintain the integrity of the lagoon bluffs; as well as, protect public access, views, and recreational opportunities. The required geotechnical report will accomplish two things. First, given that timeline for development at this location is unknown, the geotechnical report will determine the appropriate setback at the time the development is proposed. This may allow for advances in science, and the potential incorporation of impacts associated with sea level rise. Alternatively, if the report determines that a 75 foot setback is more than adequate, the geotechnical report may result in some flexibility in the structural setback to accommodate variations in development designs. Finally the suggested modification limits development within the lagoon bluff setback to a public access trail and its related ancillary uses (public benches, signage). The suggested modification, therefore, establishes a clear process to determine what the appropriate setback will be at the time a specific development proposal is being reviewed, consistent with the applicable policies of the Coastal Act.



City of Carlsbad

Planning Department

July 6, 2009

RECEIVED

Toni Ross
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego CA 92108

JUL 07 2009
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE LCP MAJOR AMENDMENT NO. 03-07(B) – PONTO BEACHFRONT VILLAGE VISION PLAN

Dear Toni:

We have reviewed the staff report including the suggested modifications and have the following requested revisions indicated in bold strikeout and bold italics. We have provided an explanation/justification at the end of most of the requested revisions. However, many of the requested revisions are merely editorial with the intent of clarifying and or delineating the scope of topic, and no explanation/justification has been included for these minor requested revisions:

1. Modify Page 6 of Chapter 1 - Wetland Delineation and Biology - as follows:

Jurisdictional Waters as defined by U.S. Army Corps of Engineers and California Department of Fish and Game

A wetland delineation and study was conducted in the survey area to identify the location of all "jurisdictional waters," where the U.S. Army Corps of Engineers and the California Department of Fish and Game (CDFG) have some regulation authority.

Any impacts to jurisdictional waters are considered significant and should be avoided. In addition, regulatory agencies often require that a buffer be maintained between jurisdictional wetlands and waters and any development. The buffer can vary, but is typically 100 feet.

[...]

For additional detail, refer to Appendix II-B, "Wetland Delineation report for the Ponto Land Use Strategy and Vision Project" (December 2003) prepared by RECON, which is found in the document, Technical Studies Appendix to Ponto Beach Vision Plan.

Wetlands as Defined by the California Coastal Act

There are two known regions of the Ponto Beachfront Village Vision Plan that contain potential wetland habitat. The first (Figure 1.4) is a 572-foot long drainage averaging three feet wide and originating east of Carlsbad Boulevard at Ponto Drive. The second is a much larger area at the southern portion of the Ponto Beachfront area, separating the Ponto area from the Batiquitos Lagoon. The City's certified LCP Policy 3-1.7 defines wetlands in accordance with the Coastal Act and states:

9



Pursuant to California Public Resources Code Section 30121 and Title 14, California Code of Regulations Section 13577 (b), 'wetland' means lands within the coastal zone, which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetland shall include land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions.

Wetlands shall be delineated following the definitions and boundary descriptions in Section 13577 of the California Code of Regulations.

Wetland delineations shall be prepared and submitted as part of the application for any development at these locations in compliance with certified LCP Policies and the definitions and boundary descriptions in Section 13577 of the California Code of Regulations to determine the presence of wetland habitat. No impacts to wetland ~~can~~ shall occur except as allowed by the California Public Resources Code Section 30233 and ~~adequate buffers will be required, consistent with~~ the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program ~~policies and the Coastal Act Land Use Plans or as otherwise approved by the U.S. Fish and Wildlife Service, California Department of Fish and Game, Army Corps of Engineers, and California Coastal Commission.~~ Wetland buffers shall be consistent with the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program Land Use Plans.

NOTE: We have added a specific reference to the Public Resources Code Section and our certified LCP Land Use Plans as they specifically define the extent of wetlands impacts that are legally allowed and have added "or as otherwise approved" by the collective resource agencies acknowledging that in some unique cases impacts to wetlands may be permitted if the resource agencies, to include the California Coastal Commission, are in concurrence.

3. ~~Modify Page 11 of Chapter 1 Topographical as follows:~~

~~Topography in the Ponto area is generally very gently sloping, although there are some areas with greater elevation change. Figure 1.7 shows elevation contours at 10-foot intervals, areas of relatively low elevation and areas with views. The area south of Avenida Encinas is a bluff area that has excellent views out to Batiquitos Lagoon and the Pacific Ocean. Any proposed development must be setback at least 75 feet from the coastal bluff edge. Public trails and other ancillary, low-impact developments such as signage and benches are the only permissible use within the geological setback areas. Where Ponto Drive intersects Avenida Encinas is a high point; Ponto Drive slopes down into the area of lowest elevations, where the former offramps and underpass for Old Highway 101 were located.~~

NOTE: The reference to a 75 foot bluff edge setback is suggested to be relocated and described in keeping with the language approved by the Carlsbad City Council.

(See New Suggested Modification No. 24)

5. Modify Page 15 of Chapter 1 - Local Coastal Program - as follows:

- Visitor-serving uses (hotel/motel and restaurant) should be established. ***Opportunities to provide A a mix of low-, such as a youth hostel, moderate-, and higher-cost accommodations shall be provided. Lower cost overnight accommodations, such as a youth hostel, shall be encouraged and provided where feasible.***
- In the "Unplanned Area" of Ponto, which roughly corresponds to the vacant land area north of Avenida Encinas, specific planning efforts are required. ***Any modifications to the Land Use and Zoning designations in the "Unplanned Area" to facilitate development are subject to the review and approval of the Coastal Commission as a future local coastal program amendment. Further, as part of this Local Coastal Program amendment for the Unplanned Area any future planning effort, the City and developers must consider and document the need for the provision of lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.***

6. Add the following language as a note to the visual rendering on Page 3 of Chapter 2 - Mixed Use Center - as follows:

Note: A General Plan amendment and Local Coastal Program amendment for the Land Use designation at this site parcels designated as Unplanned Area will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

NOTE: Clarification that a General Plan Amendment is required for all properties that are currently designated as Unplanned Area. This is applicable to several of the requested revisions (Nos. 6, 7, 19, & 20)

7. Add the following language as a note to the visual rendering on Page 7 of Chapter 2 - Townhouse Neighborhood - as follows:

Note: A General Plan amendment and Local Coastal Program amendment for the Land Use designation at this site parcels designated as Unplanned Area will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

8. Modify Page 12 of Chapter 2 Section 2.2 - Land Use - Mixed Use Center - as follows:

The Mixed Use Center is intended to be the core of the Ponto Beachfront Village and ***should*** will contain both commercial and multi-family residential uses.

To maximize economic viability for businesses in the Mixed Use Center, both visitor-serving and neighborhood-serving uses and services are intended. The area is central to residents of the Townhome Neighborhood, Live/Work and Mixed Use developments, visitors staying at the three hotels and the surrounding off-site residential neighborhoods. The current General Plan land use designation for the area ***of the Mixed Use Center located within Area F of the Poinsettia Shores Master Plan*** is UA Unplanned Area. ***As such, a General***

Plan amendment, as well as, a Local Coastal Program amendment will be required for this Unplanned Area before any new development may be approved in this area. The Mixed Use Center is partially located in Area "F" of the Poinsettia Shores Master Plan Area; and as such, and any proposed development will have to be consistent with the standards certified in the previously certified Poinsettia Shores Master Plan.

Because the area includes parcels that are designated as is an Unplanned Area, no permitted uses have been established. However, the most desirable uses for the area, as recommended by this Vision Plan, are listed below. Permitted uses for the Mixed Use Center are listed below. Ground floor uses should are required to be retail or service type uses that generate pedestrian traffic, while office or multi-family residential uses may be located on upper floors. The only non-retail or non-service use that may occupy the ground floor in the Mixed Use Center is the. Some sort of A community amenity feature or lower cost public recreational feature, such as an arts/nature/activities center, should be included, and may occupy the ground floor in the Mixed Use Center.

Recommended Uses Permitted Uses

Only the following specific uses shall be are the most desirable permitted uses for the ground floor development in the Mixed Use Center:

- Bakeries, limited to baking goods for on-site sales only

[...]

The following specific uses are the most desirable permitted uses for the upper floor development in the Mixed Use Center:

- Any uses included permitted on the ground floor in by this Vision Plan

[...]

Incidental outdoor dining areas are encouraged, permitted by administrative permit, pursuant to the requirements of the Carlsbad Municipal Code, Section 21.26.013.

Every use permitted shall be subject to Carlsbad Municipal Code, Section 21.26.020, which includes the requirement that products made incidental to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing, processing and treatment of products permitted herein.

Conditional Uses

Subject to the Carlsbad Municipal Code, Section 21.26.015, the following uses are conditionally permitted in the Mixed Use Center:

- ~~Restaurants with dancing or entertainment (excluding adult entertainment)~~
- ~~Package liquor stores (off-sale)~~

NOTE: The intent is to clarify that only a portion of the Mixed Use Center character area, corresponding to Area F of the Poinsettia Shores Master Plan, is designated as UA Unplanned Area.

10. Modify Page 26 of Chapter 2, Section 2.3.3 - Boardwalk Trail - as follows:

A boardwalk trail provides a link between the mixed use developments on either side of the wetland and offers nature interpretation and education opportunities for its users (described in more detail in Section 2.5). The boardwalk trail also serves as the connection to and from the pedestrian path under Carlsbad Boulevard. Access to the boardwalk is provided from the surrounding pedestrian plazas and the Ponto Drive sidewalks, as well as directly from the Carlsbad Boulevard underpass. Because the boardwalk trail is located in or near a sensitive habitat area, measures need to be taken to ensure that no impacts to wetlands will result from the development of this portion of the trail. Impacts to any other sensitive vegetation shall be minimized to the maximum extent practicable.

11. Add the following language on Page 27 of Chapter 2, as a new Section - Section 2.3.3 Connection with Mass Transit - as follows:

2.3.3 Connection with Mass Transit

Given the proximity of the Ponto Beachfront area to the coast and to three major access routes (Coast Highway, Interstate 5, and the Railway), access and measures to support alternate transit shall be encouraged. Information regarding the location of bus stops, availability of bus schedules, connections to the Poinsettia Train Station through shuttles, etc. shall be identified and implemented provided with any development proposal.

NOTE: It is the City's intention to clarify that future development within the Ponto Beachfront Village will be required to encourage access to alternative modes of transportation as well as encourage its use through the provision of information regarding location, schedules, and available transportation types.

12. Modify Page 33 of Chapter 2, Section 2.5 - Landscaping - as follows:

Landscaping, including street trees, add important visual elements to the street environment and are used to enhance the overall image and pedestrian comfort in the Ponto Beachfront Village. Native or non-invasive plants shall be the only permitted vegetation within the Ponto Beachfront area.—The use of native, drought-tolerant plant materials shall be highly encouraged. No plants listed as invasive by the California Native Plant Society shall be used.

14. Add the following language to the end of the second paragraph of Page 1 of Chapter 3, Section 3.1 - Administration - as follows:

During the design review process, the review authority may interpret these design guidelines with some flexibility in their application to specific projects, as not all design criteria may be workable or appropriate for each project. In some circumstances, one guideline may be relaxed to facilitate compliance with another guideline determined by the review authority to be more important in that particular case. The overall objective is to ensure that the intent and spirit of the design guidelines are followed. However, all proposed development must maintain its consistency with the City's certified LCP- Local Coastal Program.

15. Modify Page 11 of Chapter 3, Section 3.7 - Landscaping - as follows:

[...]

- Trees and Plants native to the Southern California coast and which are drought tolerant and or those which flourish in the region should be selected whenever possible. Plant materials should be selected for their low maintenance qualities. No plants listed as invasive by the California Native Plant Society shall be used. Plants shall be grouped into combinations to support desired design themes and should be grouped based on common environmental conditions, such as soil type, water, sun, temperature limitation, etc.

16. Modify Page 1 of Chapter 4 -Implementation Plan, Section 4.2 - Existing Regulatory Status - Local Coastal Program - as follows:

The Ponto Beachfront Village Vision Plan area falls within the Coastal Zone. City of Carlsbad's Local Coastal Program (1996) is comprised of five segments, which provide policies and development guidelines for compliance with the Coastal Act. The Ponto Beachfront Village Vision Plan area includes acreage located within the Mello II and the West Batiquitos Lagoon/Sammis Properties Segments Land Use Plans. While the Ponto Beachfront Village Vision Plan is a guidance document for future development in this area, the previously certified standards of review, the Mello II and West Batiquitos Lagoon/Sammis Properties Local Coastal Program Land Use Plans policies and the standards approved in the Poinsettia Shores Master Plan and Poinsettia Properties Specific Plans Plan are not superseded or replaced and remain in effect. Local Coastal Program Segments are required to maintain consistency with the City of Carlsbad's General Plan. A Coastal Development Permit must be obtained prior to development.

19. Modify Page 7 of Chapter 4, Section 4.4 - Project Implementation - Townhouse Neighborhood - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Amendment to Poinsettia Shores Master Plan
- ❖ Coastal Development Permit
- ❖ Improvements Agreement with City
- ❖ Environmental Review
- ❖ Local Coastal Program - Land Use Plan Amendment
- ❖ General Plan Amendment

20. Modify Page 7 of Chapter 4, Section 4.4 - Project Implementation - Mixed Use Center - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Redevelopment Permit
- ❖ Coastal development Permit
- ❖ Rezone
- ❖ Environmental Review
- ❖ Improvements Agreement with City
- ❖ Resource agency permits
- ❖ Local Coastal Program - Land Use Plan Amendment
- ❖ General Plan Amendment

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21. Modify Page 8 of Chapter 4, Section 4.4 - Project Implementation - Beachfront Resort - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Coastal Development Permit (Appealable to the Coastal Commission as shown on the Local Coastal Program Permit and Appeal Jurisdiction Map)
- ❖ Improvements Agreement with City
- ❖ Environmental Review

24. **Modify Page 6 of Chapter 2 - Add a new note to the Beachfront Resort illustration that reads as follows: "A structural setback of generally 75 feet from the southerly coastal bluff edge shall be provided. The precise structural setback shall be determined with approval of future development permits. At a minimum, the structural setback shall be consistent with the approved Poinsettia Shores Master Plan. Development within the structural setback shall include and be limited to a 10 - 12 foot public trail and other ancillary, low-impact development such as signage and benches."**

NOTE: This requested revision reflects language adopted by the Carlsbad City Council regarding an increased bluff edge setback, over the minimum specified in the certified Poinsettia Shores Master Plan, in the Resort Hotel Character Area. It further clarifies that a public trail must be provided within the setback area, with any additional development within the setback area limited to low-impact development, such as signage and benches that are ancillary to the public trail.

Please contact Christer Westman at (760) 602-4614 or Gary Barberio, Assistant Planning Director, at (760) 602-4606 if you have any questions regarding our requested revisions.

Sincerely,

Signature on file

SANDRA HOLDER
Community Development Director

c: Debbie Fountain
Don Neu
Gary Barberio
Jane Mobaldi
Christer Westman

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



June 24, 2009

Th15b**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST DISTRICT****SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR LCP
AMENDMENT 3-07B (Ponto Beachfront Village Vision Plan) for Commission
Meeting of July 8-10, 2009**

SYNOPSIS

The subject LCP land use plan amendment was submitted and filed as complete on May 28, 2008. A one-year time extension was granted on August 6, 2008. As such, the last date for Commission action on this item is August 28, 2009. This report addresses portion "B" of the City's LCPA submittal 3-07. Portion "A" (Carlsbad Village) was heard by the Commission at the June, 2009 hearing.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad is proposing to amend two segments within their Land Use Plan to include a reference to a document titled "Ponto Beachfront Village Vision Plan" in their certified Local Coastal Program. The City intends for the Ponto Beachfront Village Vision Plan (Vision Plan) to provide guidance for development of the Ponto area (ref. Exhibits #1,4). The plan presents goals and objectives for development, and provides an implementation strategy and design guidelines for the projects which will implement the vision.

The Vision Plan is intended for use by prospective developers and their consultants, City of Carlsbad staff, and those performing design review on individual projects. The conceptual plan contains a level of detail necessary to visually depict the desired land uses, circulation, and major design components; however, it is recognized that actual development site plans will change.

The City has expressed numerous goals in the Vision Plan, the most important of which include:

- Accommodate a balanced and cohesive mix of local and tourist serving commercial, medium- and high-density residential, mixed use, live/work, and open space land use opportunities that are economically viable.
- Establish a pattern of pedestrian and bicycle accessibility that links the planning areas internally as well as with adjacent existing and planned pedestrian and bicycle facilities.
- Provide expanded beach access
- Establish a mixed use district that encourages local and tourist-oriented retail, commercial, recreational, and residential uses

The Ponto area is located in the most southwesterly portion of the city near the city's southern entrance along Carlsbad Boulevard. It presently contains older homes and businesses, most of which were developed in the county before the city incorporated.

The Ponto Beach area is an approximately 130-acre narrow strip of land, approximately 1/8 mile wide and 1-1/2 miles long, located between Carlsbad Boulevard and the San Diego Northern railroad tracks. Portions of the plan area extend north to Poinsettia Lane and south to La Costa Avenue. The southern boundary includes coastal bluffs that transition to the waters of Batiquitos Lagoon. Approximately 50 of the 130 acres are considered viable for future development.

In order to implement the plan, it is necessary for the City to amend its LCP, in the Mello II and West Batiquitos Lagoon/Sammis Properties segments, to incorporate references to the Vision Plan. However, it is important to note that the plan does not include amendments to the Zoning Ordinance, or modifying any existing land use or zoning within the Ponto Beach region. Individual development projects may still require a combination of changes to the certified land use plan and zoning, require the additional review and approval by the Coastal Commission, as well as individual environmental review and permitting.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending first denial of the land use plan revision as submitted, and then approval of the Vision Plan with several suggested modifications, as referenced in the Mello II and West Batiquitos Lagoon/Sammis Properties Land Use Plan Segments. There are six key concerns raised with the proposed amendment: Lack of low cost visitor serving uses, the delineation of potential wetlands, mass transit linkages, landscaping, geological setbacks, and associated City projects.

The primary concern is that the Vision Plan implies permitted land uses and allowable development types at a portion of the site designated as "Unplanned Area." This leaves some ambiguity in the plan as to whether such uses are actually permitted or only envisioned for these areas. The suggested modifications make it clear that such uses are not actually permitted through the adoption of the Vision Plan. Further, the Commission has previously certified language within the Poinsettia Shores Master Plan requiring the consideration for the provision of lower cost accommodations or recreational facilities at

this location "Area F" (ref. Exhibit #7). The Vision Plan identifies the Unplanned Area for residential and mixed-use, with limited recreational opportunities, thus diminishing the priority for lower cost accommodations and recreational uses as a component of future development.

The second concern is the wetland delineation completed and referenced in the Ponto Beachfront Village Vision Plan. Specifically, the biological report associated with the delineation used the U.S. Army Corps of Engineers/California Department of Fish and Game's "three parameter" method for determining the presence wetlands, and not the "one parameter" definition associated with the Coastal Act (California Code of Regulations Title 14 (14 CCR)). This definition of wetlands is also included in several of the City's certified land use plan segments, including the Mello II segment. Thus, for the purpose of the Coastal Act, a wetland delineation using the one parameter method must be completed before any development may be permitted in these areas.

Additional concerns include the lack of incorporation of mass transit support measures, the listing of invasive plants in the recommended plant lists for landscaping, and unclear recommendations regarding bluff top setbacks. There are two City projects included in the Master Plan: the realignment of Coast Highway/Carlsbad Boulevard and the relocation of utility lines. Both of these sections of the Vision Plan failed to include protection of sensitive resources as a concern associated with such projects.

Staff is recommending a number of suggested modifications to address these concerns. Primarily, these modifications remove land use determinations for the Unplanned Area, and stress the incorporation of lower cost accommodations and recreational uses for this area; Area "F" (ref. Exhibit #7). Additional suggested modifications require applicants to conduct wetland delineations using the Coastal Commission's "one parameter" method, prior to any proposed development. This suggested modification also prohibits impacts to wetlands associated with such proposals. The remaining suggested modifications relate to mass transit, landscaping, geological setbacks, and the protection of non-wetland sensitive habitat. All suggested modifications were developed to eliminate the concerns associated with the proposed LCP amendment and therefore, only as modified can the LCP amendment be found consistent with the Coastal Act.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 7. The findings for denial of the Land Use Plan Amendment as submitted begin on Page 15. The findings for approval of the Land Use Plan Amendment if modified begin on Page 28.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment 3-07B (Ponto Beachfront Vision Plan) may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This LCP amendment affects both the Mello II and the West Batiquitos/Sammis Properties Segments of the City's coastal zone.

The West Batiquitos/Sammis Properties segment was created as a result of 170 acres being annexed to the City of Carlsbad. In October of 1985, the City submitted a LCP segment for this area in the form of the Batiquitos Lagoon Educational Park Master Plan (BLEP). Major Amendment No. 1-94B then modified certain land uses and incorporated a new Poinsettia Shores Master Plan. Key provisions of the master plan development were completion of public access trails overlooking the lagoon, and retention of high priority uses along Carlsbad Blvd./Highway 101.

The Mello II Segment Land Use Plan and Implementation Plan were approved in 1981. The Mello II Segment is comprised of 5,500 acres, or approximately 75% of the City. Unresolved issues remained for the segment regarding preservation of agricultural lands, and protection of steep sensitive slopes. Multiple additional amendments were brought forward, and with the incorporation of the Carlsbad Ranch Specific Plan, the City's LCP was certified by the Commission, and the City obtained permit authority in 1996. In 1998, the Commission approved an additional Master Plan, Poinsettia Properties Specific Plan for a 92-acre portion of the Mello II Segment. This Master Plan included 8 planning areas on 3 parcels which provide the following uses: tourist commercial, mixed use (commercial/tourist/residential), multiple-family residential and small-lot residential and small-lot single family residential resulting in 823 dwelling units, 6.5 acres of mixed residential and commercial development, 101,780 sq. ft. of commercial land uses and 1.4 acres of open space. The plan also allowed for a mix of commercial and residential uses on properties across from South Carlsbad State Beach, subject to the provisions of a specific plan.

Areas F, G, and H of the Poinsettia Shores Master Plan, and Area 1 of Poinsettia Properties Specific Plan are located within the proposed Ponto Beachfront Vision Village Plan (ref. Exhibit #7).

B. STANDARD OF REVIEW

The standard of review for land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

Section 30512

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission certify the Land Use Plan Amendment for the City of Carlsbad LCP Amendment No. 3-07B as submitted.*

STAFF RECOMMENDATION OF DENIAL:

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

RESOLUTION TO DENY CERTIFICATION OF THE LAND USE PLAN AS SUBMITTED:

The Commission hereby denies certification of the Land Use Plan Amendment for the City of Carlsbad as submitted and finds for the reasons discussed below that the submitted Land Use Plan Amendment fails to meet the requirements of and does not conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

II. MOTION II: *I move that the Commission certify the Land Use Plan Amendment for the City of Carlsbad LCP Amendment No. 3-07B if modified in accordance with the suggested changes set forth in the staff report*

STAFF RECOMMENDATION:

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

RESOLUTION TO CERTIFY SUBMITTED LAND USE PLAN AMENDMENT IF MODIFIED AS SUGGESTED:

Subject to the following modifications, the Commission hereby certifies the Land Use Plan Amendment for the City of as submitted and finds for the reasons discussed herein that, if modified as suggested below, the submitted Land Use Plan Amendment will meet the requirements of and conform to the policies of Chapter 3 of the California Coastal Act. Certification of the plan if modified as suggested below complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Land Use Plan Amendments be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Modify Page 6 of Chapter 1 - Wetland Delineation and Biology - as follows:

Jurisdictional Waters as defined by U.S. Army Corps of Engineers and California Department of Fish and Game

A wetland delineation and study was conducted in the survey area to identify the location of all "jurisdictional waters," where the U.S. Army Corps of Engineers and the California Department of Fish and Game (CDFG) have some regulation authority.

Any impacts to jurisdictional waters are considered significant and should be avoided. In addition, regulatory agencies often require that a buffer be maintained between jurisdictional wetlands and waters and any development. The buffer can vary, but is typically 100 feet.

[...]

For additional detail, refer to Appendix II-B, "Wetland Delineation report for the Ponto Land Use Strategy and Vision Project" (December 2003) prepared by RECON, which is found in the document, Technical Studies Appendix to Ponto Beach Vision Plan.

Wetlands as Defined by the California Coastal Act

There are two known regions of the Ponto Beachfront Village Vision Plan that contain potential wetland habitat. The first (Figure 1.4) is a 572-foot long drainage averaging three feet wide and originating east of Carlsbad Boulevard at Ponto Drive. The second is a much larger area at the southern portion of the Ponto Beachfront area, separating the Ponto area from the Batiquitos Lagoon. The City's certified LCP Policy 3-1.7 defines wetlands in accordance with the Coastal Act and states:

Pursuant to California Public Resources Code Section 30121 and Title 14, California Code of Regulations Section 13577 (b), 'wetland' means lands within the coastal zone, which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetland shall include land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface

water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions.

Wetlands shall be delineated following the definitions and boundary descriptions in Section 13577 of the California Code of Regulations.

Wetland delineations shall be prepared and submitted as part of the application for any development at these locations in compliance with certified LCP Policies and the definitions and boundary descriptions in Section 13577 of the California Code of Regulations to determine the presence of wetland habitat. No impacts to wetland can occur, and adequate buffers will be required, consistent with the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program policies and the Coastal Act.

2. Modify Page 7 of Chapter 1 - Vegetation - as follows:

The area envisioned for future development in this Ponto Beachfront Vision Plan does not currently contain sensitive vegetation communities, except an area between the Carlsbad Boulevard traffic lanes and the narrow drainage channel discussed in the Wetland Delineation section above. Environmentally Sensitive Habitat Areas (ESHA) determinations must be made on a case-by-case basis when a development is proposed. The area of sensitive habitat that would currently be considered significant and need mitigation if impacted by realignment of Carlsbad Boulevard and pedestrian circulation paths includes a narrow strip of "Disturbed Coastal Sage Scrub" located in the median of Carlsbad Boulevard. Impacts to the disturbed coastal sage scrub shall be minimized to the maximum extent practicable. In the Coastal Zone, the mitigation ratio for Coastal sage scrub is 2:1. Mitigation shall be completed consistent with the City's certified Local Coastal Program.

3. Modify Page 11 of Chapter 1 - Topographical - as follows:

Topography in the Ponto area is generally very gently sloping, although there are some areas with greater elevation change. Figure 1.7 shows elevation contours at 10-foot intervals, areas of relatively low elevation and areas with views. The area south of Avenida Encinas is a bluff area that has excellent views out to Batiquitos Lagoon and the Pacific Ocean. Any proposed development must be setback at least 75 feet from the coastal bluff edge. Public trails and other ancillary, low-impact developments such as signage and benches are the only permissible use within the geological setback areas. Where Ponto Drive intersects Avenida Encinas is a high point; Ponto Drive slopes down into the area of lowest elevations, where the former offramps and underpass for Old Highway 101 were located.

4. Modify Page 15 of Chapter 1 - Carlsbad Boulevard Re-Alignment Study - as follows:

The preferred alignment and the resulting community amenities are discussed further and shown in Chapter 2. Discussion of alternatives, and benefits shall be further evaluated when the realignment of Carlsbad Boulevard is reviewed for a coastal development permit. The graphic depictions and discussion of alternative alignments for Carlsbad Boulevard being considered at this time are found in Appendix I-B of this document.

5. Modify Page 15 of Chapter 1 - Local Coastal Program - as follows:

- Visitor-serving uses (hotel/motel and restaurant) should be established. A mix of low-, moderate-, and higher cost accommodations shall be provided. Lower cost overnight accommodations, such as a youth hostel, shall be encouraged and provided where feasible.

- In the "Unplanned Area" of Ponto, which roughly corresponds to the vacant land area north of Avenida Encinas, specific planning efforts are required. Any modifications to the Land Use and Zoning designations in the "Unplanned Area" to facilitate development are subject to the review and approval of the Coastal Commission as a future local coastal program amendment. Further, as part of any future planning effort, the City and developers must consider and document the need for the provision of lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

6. Add the following language as a note to the visual rendering on Page 3 of Chapter 2 - Mixed Use Center - as follows:

Note: A Local Coastal Program amendment for the Land Use designation at this site will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

7. Add the following language as a note to the visual rendering on Page 7 of Chapter 2 - Townhouse Neighborhood - as follows:

Note: A Local Coastal Program amendment for the Land Use designation at this site will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

8. Modify Page 12 of Chapter 2 Section 2.2 - Land Use - Mixed Use Center - as follows:

The Mixed Use Center is intended to be the core of the Ponto Beachfront Village and ~~should will~~ contain both commercial and multi-family residential uses.

To maximize economic viability for businesses in the Mixed Use Center, both visitor-serving and neighborhood-serving uses and services are intended. The area is central to residents of the Townhome Neighborhood, Live/Work and Mixed Use developments, visitors staying at the three hotels and the surrounding off-site residential neighborhoods. The current General Plan land use designation for this area is UA Unplanned Area. As such, a General Plan amendment, as well as, a Local Coastal Program amendment will be required before any new development may be approved in this area. The Mixed Use Center is partially located in Area "F" of the Poinsettia Shores Master Plan Area; and as such, any proposed development will have to be consistent with the standards certified in the previously certified Poinsettia Shores Master Plan.

Because the area is an Unplanned Area, no permitted uses have been established. However, the most desirable uses for the area, as recommended by this Vision Plan, are listed below. ~~Permitted uses for the Mixed Use Center are listed below.~~ Ground floor uses ~~should are required to~~ be retail or service type uses that generate pedestrian traffic, while office or multi-family residential uses may be located on upper floors. ~~The only non-retail or non-service use that may occupy the ground floor in the Mixed Use Center is the.~~ Some sort of community amenity feature or lower cost public recreational feature, such as an arts/nature/activities center, should be included.

Recommended Uses ~~Permitted Uses~~

~~Only~~ The following specific uses shall be the most desirable ~~permitted~~ uses for the ground floor development in the Mixed Use Center:

- Bakeries, limited to baking goods for on-site sales only

[...]

The following specific uses are the most desirable ~~permitted~~ uses for the upper floor development in the Mixed Use Center:

- Any uses included ~~permitted~~ on the ground floor ~~in~~ by this Vision Plan

[...]

~~Incidental outdoor dining areas are permitted by administrative permit, pursuant to the requirements of the Carlsbad Municipal Code, Section 21.26.013.~~

~~Every use permitted shall be subject to Carlsbad Municipal Code, Section 21.26.020, which includes the requirement that products made incidental to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing, processing and treatment of products permitted herein.~~

Conditional Uses

~~Subject to the Carlsbad Municipal Code, Section 21.26.015, the following uses are conditionally permitted in the Mixed Use Center:~~

- ~~• Restaurants with dancing or entertainment (excluding adult entertainment)~~
- ~~• Package liquor stores (off sale)~~

9. Modify Page 17 of Chapter 2 - Section 2.2 - Townhouse Neighborhood - as follows:

The Townhouse Neighborhood is intended for multi-family homes in condominium ownership with a minimum density of 15 dwelling units per acre and a maximum density of 23 dwelling units per acre, with a Growth Management Control Point of 19 dwelling units per acre. However, the current General Plan land use designation for this area is UA - Unplanned Area; and, as such, a General Plan amendment, as well as a Local Coastal Program amendment, will be required before any new development may be approved in this area. The Townhome Neighborhood is located in Area "F" of the Poinsettia Shores Master Plan Area; and, as such, any proposed development will have to be consistent with the standards certified in the Poinsettia Shores Master Plan and the West Batiquitos/Sammis Properties LCP.

Because the area is an Unplanned Area, no permitted uses have been established. However the recommended uses for the area, as determined by this Vision Plan are listed below:

Recommended Uses ~~Permitted Uses~~

- Multiple dwellings
- Accessory buildings, but not to include guest houses or accessory living quarters.

10. Modify Page 26 of Chapter 2, Section 2.3.3 - Boardwalk Trail - as follows:

A boardwalk trail provides a link between the mixed use developments on either side of the wetland and offers nature interpretation and education opportunities for its users (described in more detail in Section 2.5). The boardwalk trail also serves as the connection to and from the pedestrian path under Carlsbad Boulevard. Access to the boardwalk is provided from the surrounding pedestrian plazas and the Ponto Drive sidewalks, as well as directly from the Carlsbad Boulevard underpass. Because the boardwalk trail is located in a sensitive habitat area, measures need to be taken to ensure that no impacts to wetlands will result from the development of this portion of

the trail. Impacts to any other sensitive vegetation shall be minimized to the maximum extent practicable.

11. Add the following language on Page 27 of Chapter 2, as a new Section - Section 2.3.3 Connection with Mass Transit - as follows:

2.3.3 Connection with Mass Transit

Given the proximity of the Ponto Beachfront area to the coast and to three major access routes (Coast Highway, Interstate 5, and the Railway), access and measures to support alternate transit shall be encouraged. Bus stops, availability of bus schedules, connections to the Poinsettia Train Station through shuttles, etc. shall be identified and implemented with any development proposal.

12. Modify Page 33 of Chapter 2, Section 2.5 - Landscaping - as follows:

Landscaping, including street trees, add important visual elements to the street environment and are used to enhance the overall image and pedestrian comfort in the Ponto Beachfront Village. Native or non-invasive plants shall be the only permitted vegetation within the Ponto Beachfront area. The use of native, drought-tolerant plant materials shall be highly encouraged.

13. Update Pages 33-35 of Chapter 2, Section 2.5 - Landscaping - to remove any recommended trees, plants, shrubs, or flowers that are considered invasive by the California Native Plant Society from the recommendations.

14. Add the following language to the end of the second paragraph of Page 1 of Chapter 3, Section 3.1 - Administration - as follows:

During the design review process, the review authority may interpret these design guidelines with some flexibility in their application to specific projects, as not all design criteria may be workable or appropriate for each project. In some circumstances, one guideline may be relaxed to facilitate compliance with another guideline determined by the review authority to be more important in that particular case. The overall objective is to ensure that the intent and spirit of the design guidelines are followed. However, all proposed development must maintain its consistency with the City's certified LCP.

For areas designated as Unplanned, the permitted uses will be determined with a General Plan and Local Coastal Program amendment to modify the Land Use designation to facilitate development. In these circumstances, consistency with the certified Land Use Plans (Mello II and West Batiquitos Lagoon/Sammis Properties Segments) and previously certified Master Plans (Poinsettia Shores Master Plan) shall be the standards of review where applicable. As a part of any future planning effort, the City and developers must consider and document the need for the provision of

lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

15. Modify Page 11 of Chapter 3, Section 3.7 - Landscaping - as follows:

[...]

- Trees and Plants native to the Southern California coast and drought tolerant ~~or those which flourish in the region~~ should be selected whenever possible. Plant materials should be selected for their low maintenance qualities. No plants listed as invasive by the California Native Plant Society shall be used. Plants shall be grouped into combinations to support desired design themes and should be grouped based on common environmental conditions, such as soil type, water, sun, temperature limitation, etc.

16. Modify Page 1 of Chapter 4 -Implementation Plan, Section 4.2 - Existing Regulatory Status - Local Coastal Program - as follows:

The Ponto Beachfront Village Vision Plan area falls within the Coastal Zone. City of Carlsbad's Local Coastal Program (1996) is comprised of five segments, which provide policies and development guidelines for compliance with the Coastal Act. The Ponto Beachfront Village Vision Plan area includes acreage located within the Mello II and the West Batiquitos Lagoon/Sammis Properties Segments Land Use Plans. While the Ponto Beachfront Village Vision Plan is a guidance document for future development in this area, the previously certified standards of review, the Mello II and West Batiquitos Lagoon/Sammis Properties Land Use Plan policies and the standards approved in the Poinsettia Shores and Poinsettia Properties Specific Plans are not superseded or replaced and remain in effect. Local Coastal Program Segments are required to maintain consistency with the City of Carlsbad's General Plan. A Coastal Development Permit must be obtained prior to development.

17. Modify Page 4 of Chapter 4, Section 4.2 - Regulatory Status - Existing Specific Plans/ Master Plans - as follows:

Existing Specific Plans / Master Plans (reference Appendix 1-C)

18. Modify Page 5 of Chapter 4, Section 4.4 - Project Implementation - as follows:

- ❖ Areas of private development that are under jurisdiction of the U.S. Army Corps of Engineers, Coastal Commission, and California Department of Fish and Game will need to obtain permits from those agencies for identified jurisdictional impacts, including:
 - 401 Water Quality Certification
 - 404 Clean Water Act Permit
 - 1602 Streambed Alteration Agreement)combines previous 1601 and 1603)

- Coastal Development Permit

19. Modify Page 7 of Chapter 4, Section 4.4 - Project Implementation - Townhouse Neighborhood - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Amendment to Poinsettia Shores Master Plan
- ❖ Coastal Development Permit
- ❖ Improvements Agreement with City
- ❖ Environmental Review
- ❖ Local Coastal Program - Land Use Plan Amendment

20. Modify Page 7 of Chapter 4, Section 4.4 - Project Implementation - Mixed Use Center - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Redevelopment Permit
- ❖ Coastal development Permit
- ❖ Rezone
- ❖ Environmental Review
- ❖ Improvements Agreement with City
- ❖ Resource agency permits
- ❖ Local Coastal Program - Land Use Plan Amendment

21. Modify Page 8 of Chapter 4, Section 4.4 - Project Implementation - Beachfront Resort - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Coastal development Permit (Appealable to the Coastal Commission)
- ❖ Improvements Agreement with City
- ❖ Environmental Review

22. Modify Page 9 of Chapter 4, Section 4.5 - Infrastructure - Utility Relocation - as follows:

[...]

It is very important that the relocation of utility lines be done in a comprehensive manner that considers long term development of all properties and does not simply benefit one or two property owners in the short term. The comprehensive plan for

utility relocation should include minimizing potential impacts to coastal resources consistent with the certified Local Coastal Program.

23. Compile the previously certified policies for Planning Area 1 of the Poinsettia Properties Specific Plan, and Areas F, G, and H of the Poinsettia Shores Master Plan and incorporate them as Appendix 1-C to the Ponto Beachfront Village Vision Plan.

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE CITY OF CARLSBAD LAND USE PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

Recognizing its potential for redevelopment and its prime coastal location across from the state campgrounds and near new single-family neighborhoods, the City of Carlsbad decided to create a "vision plan" for the area to direct future development in the Ponto area. With input from property owners, nearby residents, and other interested persons, the Vision Plan was prepared. The City is therefore proposing to amend their its certified Land Use Plan, to include a reference to a document titled "Ponto Beachfront Village Vision Plan" in two segments of their certified Local Coastal Program. The City intends for the Vision Plan to provide guidance for development of the Ponto Area (ref. Exhibit #'s 1, 3, 4). The plan presents goals and objectives for development, and provides an implementation strategy and design guidelines for the projects with will implement the vision.

The Ponto Beach area is an approximately 130-acre narrow strip of land, approximately 1/8 mile wide and 1-1/2 miles long, located between Carlsbad Boulevard and the San Diego Northern railroad tracks. Portions of the plan area extend north to Poinsettia Lane and south to La Costa Avenue. The southern boundary includes coastal bluffs that transition to the waters of Batiquitos Lagoon at the southern end. Approximately 50 of the 130 acres are considered viable for future development.

The 50 acres (ref. Exhibit #1,3) consist of the older Ponto area which is also included portions of the South Carlsbad Coastal Redevelopment area, one small, vacant parcel located within the boundaries of the Poinsettia Properties Specific Plan, and several vacant properties located in the Poinsettia Shores Master Plan. Both the Poinsettia Properties Specific Plan and the Poinsettia Shores Master Plan have been previously reviewed and certified by the Coastal Commission via an amendment to the City's LCP.

The intent of the Vision Plan is to create a mixed use, active pedestrian and bicycle oriented area with a strong sense of place, village atmosphere, and unique character of design. Because of its prime location at the southern gateway to the city and across from the beach and campgrounds, it could become a vibrant part of the city, providing amenities for city residents as well as visitors.

The Vision Plan breaks up the Ponto area into three sections (ref. Exhibit #4). The northern-most section is comprised of two hotels and a live-work neighborhood. The

central portion of the development is comprised of a townhouse neighborhood and a mixed use center with a public recreation component. This is the only portion of the Vision Plan that will require additional review by the Commission. Currently this area has an Unplanned Area land use designation. In order to facilitate any type of development in this portion of the Ponto area, an LCP amendment modifying the land use will have to be brought forward to the Commission for review and approval.

The southernmost portion of the area is envisioned as a beachfront resort, including both hotel and timeshare units. Both of these would be considered permitted uses based on the existing land use and zoning, however, this portion of the Vision Plan is adjacent to wetlands, and located between the first coastal sea and the road, and therefore any Coastal Development Permit issued by the City for this location would be appealable to the Coastal Commission.

C. NONCONFORMITY OF THE LAND USE PLAN AMENDMENT WITH CHAPTER 3

1. General Findings for Denial

The City of Carlsbad is proposing to include by reference a document that includes goals, permitted uses, design guidelines, and collaborative public improvements (utilities, realignment of Coast Highway) for the Ponto Beachfront area. The document, as included in the LCP only by reference, does not supersede or replace any previously approved components of the City's certified LCP, including both land use policies, master plan standards, specific plan standards, or zoning ordinances. The document does, however, include additional development standards and goals for the Ponto Beach area.

This area is west of Interstate-5, and east of Coast Highway, located directly inland of South Carlsbad State Beach. The Vision Plan separates the Ponto Beachfront area into three regions. The northernmost region includes three major land uses: Live-work mixed use development, Hotel/Commercial, and Hotel or Residential uses, these recommended land uses are all consistent with the underlying land use designations: Medium-High Residential/Travel/Recreational Commercial, Travel/Recreational Commercial, and Medium High Residential respectively (ref. Exhibit #5).

The central portion of the Vision Plan includes mixed uses and townhome developments as the recommended uses. The existing land use designation carries a Non-Residential Reserve (NRR) General Plan designation, and is considered an "Unplanned Area" (ref. Exhibit #5).

The southern portion of the area includes a large scale Resort Hotel. This use has been identified at this location in the two previous Master Plans approved for this area (Batiqitos Lagoon Educational Park and Poinsettia Shores Master Plans).

The general Vision Plan promotes a diverse mix of land uses, some of which are visitor serving and thus can be considered high priority. If future development follows the

Vision Plan, there will be an addition of three hotels, a comprehensive trail system, and potential commercial tourist uses on this 50-acre coastal area. Again, the Ponto Beachfront Village Vision Plan does not change any land use designations or underlying zoning, and does not supersede the previously approved Master Plans/Specific Plans, all previously approved policies remaining relevant. The new Vision Plan will be used solely as a guidance document for the City and developers to consider appropriate types of development in this area. That being said, a number of concerns remain regarding some of the recommendations included in the Vision Plan.

There are six primary concerns raised for the Ponto Beachfront Village Vision Plan: Lack of low cost visitor-serving uses, potential impacts to wetlands, mass transit amenities, landscaping, geological setbacks, and associated City projects.

2. Specific Findings for Denial

A. High-Priority Uses - Lower Cost Visitor Accommodations in "Area F"

The Coastal Act has numerous policies promoting public access to the beach and state:

Section 30210

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

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The City of Carlsbad has included a policy directly addressing the Ponto Beach area, and its future uses, and states:

Mello II Policy 6-9

The South Carlsbad State Beach Campground should be considered for conversion to a day use beach and upland park if other adequate campground facilities can be developed nearby.

Mixed use development (i.e. residential and recreational-commercial) shall be permitted by right on properties fronting Carlsbad Boulevard across from South Carlsbad State Beach (See exhibit 4.9, Page 76). This policy applies only where not in conflict with the agricultural policies of the LCP.

The primary concern raised is associated with the central segment of the Vision Plan (ref. Exhibit #'s 4, 5, 7). At this location, recommended uses include townhomes and mixed-use developments. In the mixed use area, ground floor uses are required to be retail or service type uses that generate pedestrian traffic, while office or multi-family residential uses may be located on the upper floors. Some non-retail may occupy the ground floors but is limited to a community amenity such as arts/nature/activities center. In the townhouse portion of the segment, the permitted uses are limited to multiple dwelling structures, and accessory buildings. The concern raised is that this area is designated "Unplanned" in the LUP and the Vision Plan does not replace this existing designation, thus; no specific uses should be *required*, as that would be inconsistent with the applicable LUP designation.

While a possible interpretation of the City's adoption of this Vision Plan might be to conclude that the City wants to designate uses in this area now, City representatives have specifically indicated this is not the case and the Vision Plan does call for a future LCP amendment to define permitted uses. To the general reader, this can be confusing. In addition, if the City had indicated that it was seeking to identify permitted uses at this time, the Commission would reject it because there has been no evidence presented that would support the elimination of these areas for some lower cost overnight accommodations or public recreational amenities in the future. The Commission's past action of the Poinsettia Shores Master Plan specifically called for such an assessment and none has been submitted to date.

As further background, the Master Plan for this location that was certified during initial review of the City's LCP in 1985 designated this site for Travel Service Commercial. In 1996, the Poinsettia Shores Master Plan was certified as part of the City's LCP, and replaced the land use designation as an "Unplanned Area." In an attempt to maintain a lower-cost visitor-serving component at this location the Commission, through a suggested modification, required language within the Master Plan that would serve to protect this type of use. The language in the Poinsettia Shores Master Plan, for this location, "Area F," is listed below:

Planning Area F - Planning Area F is located at the far northwest corner of the Master Plan area west of the AT&SF Railroad Right-of-way. This Planning Area has a gross area of 11 acres and a net developable area of 10.7 acres.

Planning Area F carries a Non-Residential Reserve (NRR) General Plan designation. Planning Area F is an "unplanned" area, for which land uses will be determined at a later date, when more specific planning is carried out for areas west of the railroad right-of-way. A future Major Master Plan Amendment will be required prior to further development approvals for Planning Area F, and shall include an LCP Amendment with associated environmental review, if determined necessary.

The intent of the NRR designation is not to limit the range of potential future uses entirely to non-residential, however, since the City's current general plan does not contain an "unplanned" designation, NRR was determined to be appropriate at this time. In the future, if the Local Coastal Program Amendment has not been processed, and the City develops an "unplanned" General Plan designation, then the site would likely be redesignated as "unplanned." Future uses include, but are not limited to: commercial, residential, office, and other uses, subject to future review and approval.

As part of any future planning effort, the City and Developer must consider and document the need for the provision of lower cost accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

[Emphasis added]

The Ponto Beachfront Village Vision Plan, as proposed by the City, includes some similar language in its introduction, stating:

In the "Unplanned Area" of Ponto, which roughly corresponds to the vacant land area north of Avenida Encinas, specific planning efforts are required. The intent is not to limit uses to entirely non-residential. Future uses could include commercial, residential, office and others. **Consider the need for lower cost visitor or recreational facilities on west side of the rail road tracks.** [Emphasis Added]

The two sets of language are similar; however, there is a distinct difference. The Poinsettia Shores Master Plan area includes "lower cost accommodations" in the language and the Vision Plan does not. Furthermore, the Vision Plan does not list any type, including lower cost visitor accommodations, as a permitted use in this area. The

need for lower cost accommodations has been well documented by the Commission, and is promoted in Sections 30210, 30213, 30221, and 30222 of the Coastal Act. The removal of the above stated language, including removal of lower cost accommodations as a "permitted use," is inconsistent with the Coastal Act.

Moreover, of the three areas within the Vision Plan recommended for visitor accommodations, none contain a lower cost component, or a lower cost accommodations recommendation. The Ponto Beachfront area is an area that could be considered as a high-priority location for lower cost overnight accommodations. While located across the street from a State Park (South Carlsbad State Park) containing camping facilities, during peak summer months, the campground is consistently at capacity. Developing additional lower cost accommodations such as a youth hostel would further promote budget-minded travelers to this location. Moreover, Policy 6-9 in the Mello II Segment of the City's certified land use plan, states that the South Carlsbad State Beach should be converted to day use. If at, any time in the future, this State Beach campground is converted to day use sites, the market and the need for low cost overnights accommodations will be significantly amplified. Thus the Vision Plan, as proposed by the City, cannot be found consistent with the Coastal Act.

B. Potential Impacts to Wetlands

The Coastal Act has numerous policies that serve to protect marine based biological resources and state:

Section 30230

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

Section 30231

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

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

The City of Carlsbad Mello Segment Land Use Plan also contains policies pertaining to sensitive habitat that state:

Mello II Policy 3-1.2 - Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Mello II Policy 3-1.7 - Wetlands

Pursuant to California Public Resources Code Section 30121 and Title 14, California Code of Regulations Section 13577 (b), 'wetland' means lands within the coastal zone, which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetland shall include land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions.

Wetlands shall be delineated following the definitions and boundary descriptions in Section 13577 of the California Code of Regulations.

[...]

Mello II Policy 3-1.12 Buffers and Fuel Modification Zones

Buffers shall be required between all preserved habitat area and development. Minimum buffer widths shall be provided as follows:

- a. 100 ft. for wetlands
- b. 50 ft. for riparian areas
- c. 20 ft. for all other native habitats

[...]

West Batiquitos Lagoon/Sammis Properties Policy 3 - Environmentally Sensitive Habitats

(1) Batiquitos Lagoon Special Treatment Overlay - The wetlands as defined and determined by CDFG and FWS shall be constrained from development. Pursuant to Section 30233 (c) (Public Resources Code) any alteration of the wetlands shall be limited to minor incidental public facilities, restorative measures, and nature studies. Furthermore, any alteration of the wetlands must be approved by the City of Carlsbad and the Coastal Commission. The latter because it will retain Coastal Development Permit jurisdiction. In addition, any wetland alteration will require federal approval through an Army Corps of Engineers (COE) permit.

(2) Wetlands Buffer - The Lagoon Special Treatment Overlay shall include a buffer area outside the wetlands boundary as mapped by CDFG and FWS. The buffer shall be of sufficient width (minimum 100 feet unless approved by the Coastal Commission or its successor as part of the Coastal Development Permit) so as to provide a transition habitat as well as provide a protective area to reduce possible disruptive impacts to the lagoon's wildlife and habitats. No development shall occur within the wetlands buffer except for the lateral public access trail described in Policy A1C above.

The second significant concern associated with the proposed Vision Plan relates to potential impacts to wetlands. The Coastal Act as well as the City's certified Land Use Plan, contains several policies protecting wetlands. These policies prohibit impacts to wetlands associated with private development. The proposed Vision Plan does include language protecting "jurisdictional" wetland habitats and makes reference to a biological survey/report completed for the area. The biological report identified areas of jurisdictional wetlands, as defined by the US Army Corps of Engineers, and California Department of Fish and Game's "three parameter method." The three parameter method requires that all three of the common indicators of wetland habitat (hydric soils, hydrophytes, and the presence of surface water or saturated substrate at some time during each year) be present. However, the Coastal Act employs the "one parameter method," and therefore, only requires that one of these common wetland indicators be present at any given time. The discrepancy between the two methods usually results in drastically dissimilar wetland delineations. This would be further exacerbated when attempting to

determine an adequate buffer area. Without surveying the potential wetland habitats using the methodology endorsed by the Commission, impacts to wetlands, both direct and indirect, to may be caused in this area, inconsistent with the Coastal Act.

C. Use of Mass Transit Facilities

The Coastal Act Section 30253 pertains to transit and states:

Section 30253

New Development shall:

- (1) Minimize risk to life and property in areas of high geologic, flood, and fire hazard
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...
- (4) **Minimize energy consumption and vehicle miles traveled**
[Emphasis added]

The City of Carlsbad's Mello II land segment, Policy 7-9 directly relates to mass transit facilities on Carlsbad Boulevard and states:

Mello II Policy 7-9 South Carlsbad State Beach: Parking

Parking facilities are entirely inadequate in the vicinity of the South Carlsbad State Beach. To remedy this problem, the 20-acre site (APN 210-09-7) located between Carlsbad Boulevard and the railroad at the junction of Palomar Airport Road shall be developed for parking facilities of approximately 1,500 spaces. When this facility becomes heavily utilized, jitney service should be initiated between the parking area and designated points along Carlsbad Boulevard.

The Ponto Beachfront Village Vision Plan includes numerous improvements associated with maximizing pedestrian- and bicycle-oriented travel. Bikes lanes and walking paths are an integral component of the Vision Plan. Both of these potential improvements would promote people getting out of their cars, thus reducing vehicle miles driven, consistent with Section 30250 of the Coastal Act. However, the Vision Plan fails to address the potential linkage to mass transit, or the incorporation of ancillary mass transit uses. The Ponto Area is located in close proximity to Interstate-5, the Pacific Coast Highway/Carlsbad Boulevard, and the Poinsettia Rail Station, thus opportunities to link residential, commercial and recreational developments to mass transit should be promoted. Furthermore, Mello II Policy 7-9, requires the construction of a 1,500 space parking lot to be developed just a few miles north of the Ponto region. The policy further

requires that when this facility becomes heavily utilized, "jitney service", a multi-passenger public transportation vehicle, should be initiated between the parking area and designated points along Carlsbad Boulevard.

The Vision Plan does not incorporate shuttle drop-off points or bus stops. The Vision Plan does not recommend that visitor accommodations, or retail/commercial developments provide transit information to visitors. No signage for bus stops or travel linkages are proposed. The Ponto Beachfront Area is located in close proximity to visitor destinations such as Legoland, the Flower Fields, and the biannual Village Street Fair in downtown Carlsbad, resulting in a large potential for mass transit use by visitors. Thus, while the plan does promote pedestrian and bicycle travel, it fails to adequately promote the use of mass transit, inconsistent with section 30250 of the Coastal Act and Mello II Policy 7-9.

D. Landscaping

Section 30230

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

Section 30231

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

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

The City of Carlsbad also has included policies for the protection of sensitive habitat that state:

Mello II Policy 3-1.2 - Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Mello II Policy 3-1.13 Invasive Plants

The use of invasive plant species in the landscaping for developments such as those identified in Table 12 of the HMP shall be prohibited.

West Batiquitos Lagoon/Sammis Properties Policy 5 - Landscaping

In order to guard against introduction of any species which are inherently noxious to or incompatible with adjacent lagoon habitat, drought tolerant plants and native vegetation shall be used in areas of proximity to the wetland, to the maximum extent feasible.

The Vision Plan includes a list of the types of landscaping recommended for developments within the Ponto Region. Mexican Fan Palm is one of the listed types of promoted vegetation. However, the California Native Plant Society lists Mexican Fan Palms as an invasive species. Coastal Act section 30240 protects environmentally sensitive habitat areas and requires that they be protected against significant disruption. In addition, Policy 5 of the West Batiquitos Lagoon/Sammis Properties (a previously approved segment of the Land Use Plan) states:

In order to guard against introduction of any species which are inherently noxious to or incompatible with adjacent lagoon habitat, drought tolerant plants and native vegetation shall be used in areas of proximity to the wetland, to the maximum extent feasible.

By allowing invasive species to be included in the recommended plant palette, the City risks that these species will to the lagoon and other areas with sensitive habitat, causing significant disruption in the health of these native habitat areas. The Vision Plan does include language that promotes the planting of native habitat, but without prohibiting the Prohibition of Invasive Species, the potential for impacts to sensitive habitats is significant, inconsistent with Section 30240 of the Coastal Act.

E. Geological Setbacks

The Coastal Act Section 30253 pertains to geological setbacks and bluff stability and states:

Section 30253

New Development shall:

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

The southern portion of the Ponto Area is bounded by a coastal bluff transitioning to Batiquitos Lagoon. Both previously certified Master Plans for this area (Batiquitos Lagoon Educational Park, and Poinsettia Shores) included that there would be a geological setback required to separate and protect the coastal bluffs from development. A 45 foot minimum setback was certified as a part of the Poinsettia Shores Master Plan. The Environmental Impact Report (EIR) includes a number of options for setbacks and open space areas associated with these coastal bluffs. The City of Carlsbad certified the EIR with the incorporation of an increased blufftop setback. This option requires a 75 foot setback, with only trails and other low-impact developments such as signage and benches to be allowed in this setback. However, the Vision Plan fails to identify a minimum geological setback or permitted development within the setbacks for the area closest to the lagoon bluffs. In addition, the City's Master Plan only requires a 45 foot setback. Thus the EIR considered a 75 foot setback, the Master Plan requires a 45 foot setback, and the Vision Plan is silent with respect to a numerical setback. Further, it is not possible at this time to guarantee that even the 75 foot setback will still be considered adequate when an actual project comes forward for review. The inconsistencies in the different setback requirements and the lack of language requiring a site-specific analysis of geological issues result in potential impacts to geological stability, inconsistent with Section 30253 of the Coastal Act.

F. City Projects

The Coastal Act, Section 30250, addresses impacts associated with public services and states:

Section 30250

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 accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....

The City of Carlsbad Mello II Segment Policy 3-1.2 addressing impacts to sensitive habitat and states:

Mello II Policy 3-1.2 - Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas

As previously stated, because the implementation of the Vision Plan will result in a much higher density of development than currently exists, upgrades to infrastructure, utilities, and flow of traffic were also considered by the Vision Plan. As part of this process, the City reviewed the realignment of Coast Highway/Carlsbad Boulevard and the relocation of utilities. The City should, however, look at the upgraded infrastructure requirement cohesively instead of improving them on a piece-meal basis. However, the goals for upgraded infrastructure within the Vision Plan fail to protect impacts to coastal resources associated with such projects. The Vision Plan does indicate that the highway realignment will result in impacts to coastal sage scrub and the need for mitigation. It does not, however, include that the impacts should be minimized to the extent practicable, the required mitigation ratio, nor does the plan require mitigation to be located in the coastal zone. Further, while the plan includes three alternatives for alignment, and recommends one specific alternative, it does not provide the opportunity to select a different alternative, or modify the realignment to a location not included in the listed alternatives. Again, it is unclear what the time scale will be for these projects to be completed, and, as such, circumstances may change between the certification of the Vision Plan, and the projects' completion.

Further, the proposed utility upgrades, including sewer, gas fuel lines, storm drains, and dry utilities do not include language that would protect any coastal resources, that presently exist or that may exist in the future, from potential impacts. While the City may legitimately feel that the other policies in the City's certified land use plans would be

applicable and would address possible impacts, the adoption of the Vision Plan without clarifying language would be misleading.

G. Conclusions

In conclusion, the Commission finds that the Ponto Beachfront Village Vision Plan will result in significant and widely varying improvements to coastal access. Such improvements include public pedestrian and bicycle trails, three proposed hotel developments, shops, restaurants, a potential nature center, artist studios, and mixed uses resulting in high-density developments promoting alternative transit. However, some concerns regarding the provision of lower-cost accommodations and recreational uses, impacts to wetlands, lack of linkage to mass transit opportunities, landscaping, geological setbacks, and City projects remain. All of these oversights could result in impacts to coastal resources and the Vision Plan, as submitted, is therefore inconsistent with the Coastal Act, and therefore, shall be denied as submitted.

PART V. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LAND USE PLAN AMENDMENT, IF MODIFIED

As previously stated, the Ponto Beachfront Village Vision Plan, as proposed by the City raises six primary concerns. These concerns include: lack of lower cost visitor serving uses, impacts to wetlands, mass transit amenities, landscaping, geological setbacks, and proposed City projects. The Commission has included several suggested modifications. Only with these modifications, the Vision Plan can be found consistent with the Coastal Act.

A. High-Priority Uses - Lower Cost Accommodations in "Area F"

The primary concern raised by the City's Vision Plan is associated with the central portion of the Ponto Beachfront area proposed for townhome and mixed-use developments. The area is currently designated and zoned as an "Unplanned Area". However, the Vision Plan recommends two distinct uses on the site, and lists the associated permitted developments. The history at this location is that it was previously designated for visitor serving uses (Batiquitos Lagoon Educational Park Master Plan). Subsequently, the Poinsettia Shore Master Plan then redesignated the area as an "unplanned area" with the stipulation that the City and Developer must consider and document the need for the provision of lower cost accommodations or recreational facilities (i.e. public park) on the west side of the railroad. The Vision Plan includes that development must be consistent with the Poinsettia Shores Master Plan; however, it includes no discussion of lower cost accommodations.

The Commission has therefore included nine modifications to address this concern. Suggested Modification #5 adds lower cost accommodations, such as a youth hostel, to the list of visitor-serving uses that are included as a general use recommended in the Ponto Beachfront area. Currently, the language simply states that hotel/motel and restaurant uses should be established. As modified, a mix of low-, moderate-, and higher

cost accommodations are included and lower cost accommodations are encouraged. The second related Suggested Modification #6, modifies a visual rendering of the Mixed Use Center to include a note that the land use has not been designated at this site; and, as such, a Local Coastal Program amendment will be required with any proposed development. The note goes on to state that as part of this planning effort, the provision of lower cost accommodations or recreational uses shall be considered. Suggested Modification #7 mirrors the language of Suggested Modification #6 and is included as a note to the visual rendering for the townhouse development area. Both of these suggested modifications were included to make it clear that while the rendering indicates townhome and mixed-use developments at this location, those use recommendations are not final and further planning work is necessary.

In the Vision Plan, various permitted uses associated with the townhome and mixed-use developments are listed. Suggested Modifications #8 and #9 modify the lists of uses from "permitted" to "recommended," given that uses cannot be defined if no land use designation has been established. Again, these modifications will make it clear that while the Vision Plan includes the types of developments the City is most likely to support, there has been no final land use determination at this point. An additional benefit to these modifications is that higher priority uses (such as a youth hostel, low cost accommodations) must now be considered for potential development, as directed by the Commission previously. Suggested Modifications #14, 16, 19, and 20 add that any proposed development will include the processing of a Local Coastal Program Amendment to the administrative process for proposed development within the "Unplanned Area." Suggested Modifications #14 and #16 further state that any LCP amendment to facilitate development on these sites, will be required to be found consistent with the Poinsettia Shores Master Plan, including the consideration of lower cost accommodation or recreational uses.

All of these suggested modifications are intended to make clear to any interested party that the central portion of the Ponto Beachfront Village area does not have a designated land use at this time. The suggested modifications further provide that the policies and standards previously approved within the certified LCP and the Poinsettia Shores Master Plan are still prevailing, and as such the need for low cost accommodations and/or recreational uses at this location must be considered. Therefore, the LCP amendment as modified promotes the opportunity to support broader public access to the coastline, consistent with the Chapter 3 policies of the Coastal Act.

B. Impacts to Wetlands

Ponto Beach is located immediately north of Batiquitos Lagoon, and contains a previously constructed drainage ditch that may now support wetland indicator species, such that the potential for onsite wetland habitat is high. The proposed Vision Plan includes, by reference, a biological report delineating any potential wetland habitat. The report utilized the three parameter method, consistent with US Army Corps of Engineers (ACOE) and California Department of Fish and Game (CDFG) requirements for determining jurisdictional waters and the presence of wetlands. However, wetlands are

determined using a one parameter method in the coastal zone, consistent with the Coastal Act. Therefore, while the report accurately identified wetland habitats for the ACOE and CDFG, it failed to delineate wetlands using standards required by the Coastal Act and its associated regulations. As such, Suggested Modification #'s 1, 18, and 21 have been included to address these concerns. Suggested Modification #1 expands on the plan's provisions for the ACOE/CDFG delineations and adds section, "Wetlands as Defined by the California Coastal Act", and includes language describing how wetlands are delineated consistent with the Coastal Act. The modification also requires that additional biological surveys/reports be completed for any proposed development that may include wetland habitats on site, consistent with the Coastal Commission methodology discussed. Suggested Modification #1 also prohibits impacts to wetlands and requires adequate buffering consistent with the City's certified LCP policies for the Mello II and West Batiquitos Lagoon/Sammis Properties segments.

Suggested Modification #18 requires that areas of private development that contain wetlands within the Coastal Commission's original jurisdiction obtain a Coastal Development Permit from the Coastal Commission. Suggested Modification #20 includes that the development located adjacent to the lagoon and south of Avenida Encinas, is in the Coastal Commission's appeals jurisdiction. All three of the modifications will serve to adequately identify, buffer, and therefore protect all wetland habitats located within the Ponto Beachfront area, consistent with the Coastal Act.

C. Mass Transit Opportunities

The Vision Plan highly promotes and facilitates non-vehicular travel through recommendations for public pedestrian and bike trails throughout the Ponto Beachfront area, connections to the Coastal Rail Trail, and connections to other portions of public trails around Batiquitos Lagoon. However, the Vision Plan fails to incorporate mass transit opportunities into the plan itself. The Ponto Beachfront area is located near Interstate-5, Coast Highway/Carlsbad Boulevard, and the Poinsettia Rail Station. Connections and ancillary facilities should be promoted, given the project's location and its proximity to already established mass transit services. As such, Suggested Modification #11 adds a new Section to Section 2.3 Circulation System. The new section, 2.3.3, titled "Connection with Mass Transit" provides language that encourages measures to support alternative transit opportunities. Recommendations for bus stops, availability of bus schedules, and shuttle connections to the Poinsettia Train Station are all identified as potential methods to further promote the reduction of vehicular miles traveled, and the increase in use of alternative transportation, consistent with section 30250 of the Coastal Act.

D. Prohibition of Invasive Species

As previously discussed, the Ponto Beachfront Village Vision Plan includes invasive species as recommended landscaping plants. The Ponto Beachfront area is located adjacent to Batiquitos Lagoon. The Vision Plan includes invasive plants in the recommended plant palette, such as the Mexican Fan Palm. Vegetation such as the

Mexican Fan Palm often out-competes native lagoon vegetation. As such, three modifications are recommended to be included in the Vision Plan. Suggested Modification #12 includes language that limits permitted landscaping to native or non-invasive plants. Further, the language specifies that the use of native, drought-tolerant species are highly encouraged. Suggested Modification #13 requires that the list of acceptable landscaping plants provided in the Vision Plan update, removing any recommended trees, plants, shrubs, or flowers that are considered invasive by the California Native Plant Society. Suggested Modification #15 mirrors that of Suggested Modification #13, but is located in another section of the Vision Plan where landscaping requirements are also discussed. All of these three suggested modifications will promote the viability of the sensitive habitat located surrounding Batiquitos Lagoon, consistent with Section 30240 of the Coastal Act and promote water conservation.

E. Geotechnical Setbacks

Coastal lagoon bluffs are located on the southern extent of the area included in the Ponto Beachfront Vision Plan. The Vision Plan includes a large scale resort development in the area closest to the existing lagoon bluffs. Standards approved previously through the certification of the Poinsettia Shores Master Plan include a geological setback of 45' for any development. The City Council, through certification of the Ponto Beachfront Village Vision Plan EIR, approved a design that included a 75' geological setback, and permitted only public trails, benches, signage, and other low impact development within this setback area. The Vision Plan itself is silent on the required setback for the resort development. It is therefore unclear, when reviewing the Vision Plan, whether the standard of review is the Poinsettia Shore Master Plan, (45'), or the certified EIR (75').

Suggested Modification #3 resolved this ambiguity by requiring that all development proposals include a geological setback of at least 75'. The suggested modification further requires that only public trails, benches, signage and other low impact development be permitted within the 75' setback area. The intent of the modification is to make clear that the required setback associated with any future development proposal must be at least 75'. Given that the time line associated with development at this site is unknown, circumstances may change, and along with possible impacts related to sea level rise, the more conservative setback is most consistent with Section 30253 of the Coastal Act.

F. City Projects

During the Vision Plan process, the City also reviewed the realignment of Coast Highway/Carlsbad Boulevard, and the upgrading of existing utilities including sewer, gas, storm drain, and dry utilities. The Vision Plan includes language requiring the City to review these projects cohesively and not on a piece-meal basis. The section addressing these projects includes language and figures identifying the location of the upgraded facilities. The section, titled "Infrastructure," however, fails to include any language that requires impacts to sensitive resources be minimized. As such, Suggested Modification #10 requires that when these projects are ultimately reviewed, the plans ensure the minimization of potential impacts to coastal resources, and the suggested modifications

also requires the projects are consistent with the certified Local Coastal Program. By requiring that the projects' be consistent with the certified LCP, not only are impacts required to be minimized, but mitigation values and standards that have already been certified by the Commission as part of this LCP, will be applied to these project. As modified, the Vision Plan can therefore, be found consistent with the Coastal Act.

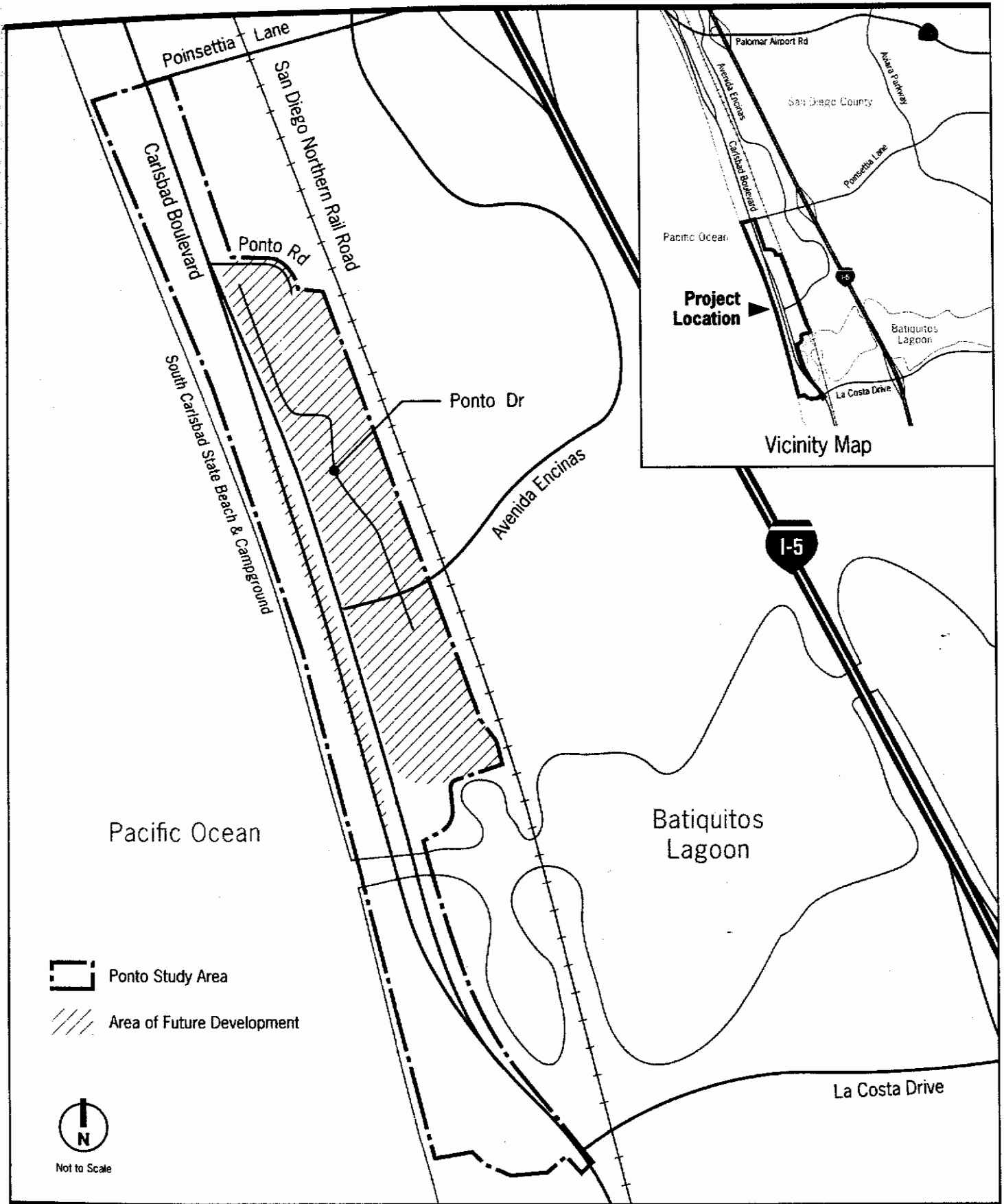
G. Conclusion

In conclusion, the City has made a noteworthy effort to create a plan that will promote an increase in public access and amenities, and create a uniform character in the development of one of the last large vacant coastal areas left in the southern California coastal zone. However, six areas of concerns were raised with respect to the Vision Plan's consistency with the Coastal Act. These six concerns have been discussed above, and several suggested modifications have been recommended to address these concerns. Only with the modifications can coastal resources remain protected to a level consistent with the applicable policies of the Coastal Act.

PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Nevertheless, the Commission is required, in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

The Commission finds that approval of the proposed LCP amendment, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act. However, with the inclusion of the suggested modifications and implementation of the revised land use plan provisions, the adoption would not result in significant impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment, as modified, will not result in any significant adverse environmental impacts.



25101951-1951 ex002.ai
 Environmental Impact

Project Vicinity

Ponto Beachfront Village Vision Plan

EXHIBIT #1

Project Location

LCPA 3-07B Ponto Beachfront Village Vision Plan



California Coastal Commission

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RESOLUTION NO. 2007-303

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, CERTIFYING PROGRAM ENVIRONMENTAL IMPACT REPORT, EIR 05-05, APPROVING THE CANDIDATE FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING GENERAL PLAN AMENDMENT GPA 05-04, LOCAL COASTAL PROGRAM AMENDMENT LCPA 05-01, AND DISCUSSION ITEM DI 05-01 FOR THE PONTO BEACHFRONT VILLAGE VISION PLAN FOR THE AREA GENERALLY LOCATED BETWEEN CARLSBAD BOULEVARD AND SAN DIEGO NORTHERN RAILROAD, NORTH OF BATIQUITOS LAGOON AND SOUTH OF PONTO ROAD.

CASE NAME: PONTO BEACHFRONT VILLAGE VISION PLAN


CASE NO.: EIR 05-05/GPA 05-04/LCPA 05-01/DI 05-01

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did, on September 5th and 19th, 2007, hold a duly noticed public hearing as prescribed by law to consider certification of Environmental Impact Report (EIR 05-05), General Plan Amendment (GPA 05-04), Local Coastal Program Amendment (LCPA 05-01) and Discussion Item (DI 05-01); and

WHEREAS, the City Council of the City of Carlsbad, on the 13th day of November, 2007, held a duly noticed public hearing to consider said Environmental Impact Report, General Plan Amendment, Local Coastal Program Amendment, and Discussion Item and at that time received recommendations, objections, protests, comments of all persons interested in or opposed to EIR 05-05, GPA 05-04, LCPA 05-01, and DI 05-01.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Carlsbad as follows:

1. That the above recitations are true
2. That the recommendation of the **CERTIFICATION** of EIR 05-05 and **ADOPTION** of 1

EXHIBIT #2
Resolution of Approval
LCPA 3-07B Ponto Beachfront Village Vision Plan
 California Coastal Commission

1 Statement of Overriding Considerations, and Mitigation Monitoring and Reporting
2 Program and **APPROVAL** of GPA 05-04 is hereby accepted, approved in concept and shall
3 be included in the third General Plan Amendment of 2007, and LCPA 05-01 and DI 05-01 is
4 **APPROVED** by the City Council and that the findings and conditions of the Planning
5 Commission as set forth in Planning Commission Resolution No. 6338, 6339, 6340, and
6 6341 on file with the City Clerk and made a part hereof by reference are the findings
7 and conditions of the City Council with the following amendments and/or additions to
8 said conditions:

9 a. Mitigation Measure T-1 of the Final Environmental Impact Report for said
10 project shall be revised to read as follows:

11 "T-1: Impacts to the affected intersection shall be mitigated by
12 implementation of the following improvements:

13 La Costa Avenue / Vulcan Avenue: Install traffic signal with La Costa
14 widening to facilitate intersection improvements.

15 Prior to the issuance of a building permit, developers within the Ponto Area
16 shall pay a pro-rata fair share contribution to the La Costa Avenue/Vulcan
17 Avenue improvement. The pro-rata fair share contribution shall be paid to
18 the City of Carlsbad City Engineer prior to the issuance of building permits.
19 The pro-rata fair share contribution may be adjusted by the City of Carlsbad
20 to reflect any changes in estimated construction and land costs (as
21 described in Appendix G-2). The City of Carlsbad will retain the Ponto
22 developers' allocated pro-rata fair share contribution until the City of
23 Encinitas is required to collect said contributions. Developers with existing
24 ADT credits within their Ponto property will be given offsets against their
25 projected ADT's.

26 This intersection is located within the jurisdiction of the City of Encinitas and
27 the improvements to this intersection are already required mitigation as part
28 of the City of Encinitas adopted North 101 Corridor Specific Plan and have
been included in the City of Encinitas Capital Improvement Program (CIP).
Future developers within the Ponto Beachfront Village shall be required to
make a proportionate fair share contribution towards the improvements
listed in Mitigation Measure T-1.

Based on cost estimates from the City of Carlsbad, the proposed road
improvements associated with improving La Costa Avenue from Highway
101 through Vulcan Avenue, including the La Costa Avenue/Highway 101
and La Costa Avenue/Vulcan Avenue intersections, would cost
approximately \$7,352,505. This dollar amount is an estimate based on
current information. Annual adjustments shall be made as described in
Appendix G-2. Calculations for the cost estimate are provided in Appendix
G-2. As shown in Figures 5.6-8 and 5.6-9 the project would contribute 5,003
ADT to this intersection. The future development within the Vision Plan area
shall contribute 27 percent (5,003 ADT/18,300 ADT = 27%) of the total cost,
or \$1,985,176 ($\$7,352,505 \times 0.27 = \$1,985,176$). This amount would be
divided up among the future developments within the Ponto Beachfront

1 Village Vision Plan area based on the traffic they contribute to the
2 intersection. "

3 b. The following development guidelines as recommended by the Planning
4 Commission in Planning Commission Resolution No. 6338 are not
5 approved by the City Council and shall not be added to the Ponto
6 Beachfront Village Vision Plan:

7 "2b. Parking Garages shall be underground unless proven to be
8 technically or financially infeasible."

9 "2g. Any hotel on the southernmost Resort Hotel Character Area parcel
10 shall incorporate an ocean view restaurant."

11 c. The following development guideline as recommended by the Planning
12 Commission in Planning Commission Resolution No.6341, Condition 2h
13 shall be amended to read as follows:

14 ~~"The Character Areas within the Ponto Beachfront Village Vision Plan
15 shall be revised to reflect the enhanced structural setback of generally 75
16 feet from the southerly bluff edge as referred to in the "Increased
17 Recreational Amenities/Green Space Alternative (Figure 6.6)" of the Ponto
18 Beachfront Village Vision Plan Final Environmental Impact Report with
19 the inclusion of a 10 to 12 foot public trail, and with approval of the precise
20 structural setback to be determined with approval of future development
21 permits."~~

22 d The following amendment is approved to the permitted accessory uses
23 language for the Beachfront Resort within the Ponto Beachfront Village
24 Vision Plan to read as follows:

25 "Accessory uses developed as an integral part of the hotel to serve hotel
26 guests, but accessible to the public, and generally small in scale (ie., less
27 than 2500 to 3000 square feet per accessory use), such as apparel and
28 accessories, beauty and barber shops, dry cleaning, laundry pickup
service only, florist, novelty and/or souvenir store, travel agency."

e. The Introduction Section (Chapter 1) of the Ponto Beachfront Village
Vision Plan shall be amended to read as follows:

"CHAPTER 1: INTRODUCTION

SECTION 1.1: INTENT & BACKGROUND

The Ponto Beachfront Village Vision Plan is intended to provide
guidance for development of the Ponto area, as directed by the
City of Carlsbad's General Plan and the South Carlsbad Coastal
Redevelopment Area Project Redevelopment Plan. The Plan sets
forth a Vision of what Ponto could be; presents goals and
objectives that support the Vision; and provides an implementation

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strategy and design guidelines for the projects that will implement the Vision.

The Vision Plan is intended for use by prospective developers and their consultants, City of Carlsbad staff, and those performing design review on individual projects. The conceptual site plan contains a level of detail necessary to visually depict the desired land uses, circulation, and major design components; however, it is recognized that actual development site plans will change, which is acceptable if the goals and objectives of the Vision Plan are still achieved.

PROJECT GOALS & OBJECTIVES

The City recognizes the importance of the Ponto area relative to the City of Carlsbad. Its prime coastal location at the City's south edge, across from a State Park beach campground and near new single-family neighborhoods, offers the opportunity for the Ponto area to become an integral and vibrant part of Carlsbad, providing amenities for both tourists and City residents.

The City's Goals and Objectives for the Ponto Beachfront Village Vision Plan are:

- Establish the Southern Coastal Gateway to the City.
- Accommodate a balanced and cohesive mix of local and tourist serving commercial, medium- and high-density residential, mixed use, live/work, and open space land use opportunities that are economically viable and support the implementation of these goals.
- Provide site design guidelines that require street scenes and site plans to respect pedestrian scale and express a cohesive and high-quality architectural theme.
- Establish a pattern of pedestrian and bicycle accessibility that links the planning areas internally as well as with adjacent existing and planned pedestrian and bicycle facilities.
- Provide expanded beach access.
- Establish a mixed use district that encourages local and tourist-oriented retail, commercial, recreational and residential uses.
- Require landscape architecture that celebrates the historic past and horticultural heritage of the City.
- Assure that public facilities and services meet the requirements of the Growth Management Plan.

- Conform with the General Plan, Amended Zone 9 and 22 Local Facilities Management Plans (LFMP), applicable City ordinances, regulations and policies

STUDY AREA

The Ponto study area is an approximately 130-acre relatively narrow strip of land, approximately 1/8 mile wide and 1-1/2 miles long, located between Carlsbad Boulevard and tracks for the San Diego Northern Railroad. Portions of the Plan area extend north to Poinsettia Lane and south to La Costa Avenue. For purposes of this Ponto Beachfront Village Vision Plan, however, the area considered viable for future development is much smaller. It consists of approximately 50 acres, with its northern limit at Ponto Drive and its southern limit at the Batiquitos Lagoon (Figure 1.1).

GENERAL PLAN

The City of Carlsbad General Plan identifies Ponto as an area with special considerations and directs its development to be consistent with the goals, objectives and guidelines set forth within the Ponto Vision and Land Use Strategy Plan (the Plan). Submittal of a Site Development Plan and other applicable discretionary permit applications are required, which will include review for consistency with the intent of this Ponto Beachfront Village Vision Plan and its Design Guidelines. The Plan's Design Guidelines supplement and are subject to existing regulatory controls, including the zoning standards adopted by the City of Carlsbad. The site plans are all illustrative and set forth guidelines and a vision. If the actual site plan for a specific development achieves the goals, objectives, guidelines and intent of the Vision Plan, it shall be consistent with this Plan.

REDEVELOPMENT AREA PLAN

As seen in Figure 1.2, a portion of the Ponto study area is within the South Carlsbad Coastal Redevelopment Area (SCCRA), which was established in July 2000. The SCCRA Redevelopment Plan gives the Carlsbad Housing and Redevelopment Commission the legal authority to use various powers to achieve the Redevelopment Plan's goals and objectives.

A complete list of the original twelve goals for the Redevelopment Plan is found in Appendix 1-A of this document; however, the overall intent can be summarized as follows:

- Strengthen and stimulate the economic base
- Enhance commercial and recreation functions
- Increase amenities to benefit the public

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- o Increase and improve the affordable housing supply
- o Assure quality design in the area's development

Development of the Ponto Beachfront Village Vision Plan is the first step toward achieving the Redevelopment Area's overall intent.

PLAN ORGANIZATION

This Ponto Beachfront Vision Plan is organized into the following chapters:

Chapter 1: Introduction

This Chapter provides an overview of the Plan, including intent and purpose, Plan goals and objectives, background information on study area conditions, the planning process and public outreach activities, and how this Plan fits within the City of Carlsbad's regulatory environment.

Chapter 2: Ponto Vision

This Chapter defines the Vision for the Ponto area and presents the subarea land use themes, circulation patterns for vehicles, pedestrians, and bicycles, parking, streetscape and gateways, and desired Plan amenities. The site plans, including the specific land uses and development design, set forth within the Plan are illustrative and are provided as an example as to how the Vision for the area may be achieved. Alternate site plans may be consistent with the Plan if the goals and objectives and general intent of the Vision for the area are achieved.

Chapter 3: Design Guidelines

Design guidelines are provided for the subarea types: resort/hotel; mixed use/commercial; townhouse neighborhood and live/work areas. The guidelines address site planning factors, parking and circulation, architecture, landscaping, signage and public spaces/amenities.

Chapter 4: Implementation Program

This Chapter details the permit and entitlement process to develop individual properties within the Plan area and describes the general process phasing to implement various components of the Plan. "

- 3 The Housing and Redevelopment Director and/or Planning Director are hereby directed to make the amendments to the appropriate documents as set forth above.


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PASSED AND ADOPTED at a regular meeting of the City Council of the
City of Carlsbad on the 4th day of December, 2007, by the
following vote, to wit:

AYES: Council Members Lewis, Kulchin, Hall, Packard and Nygård.

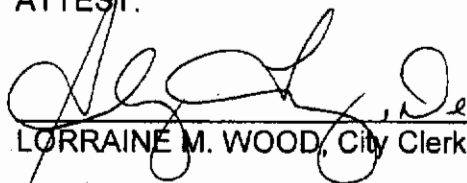
NOES: None.

ABSENT: None.



CLAUDE A. LEWIS, Mayor

ATTEST:



LORRAINE M. WOOD, City Clerk

(SEAL)



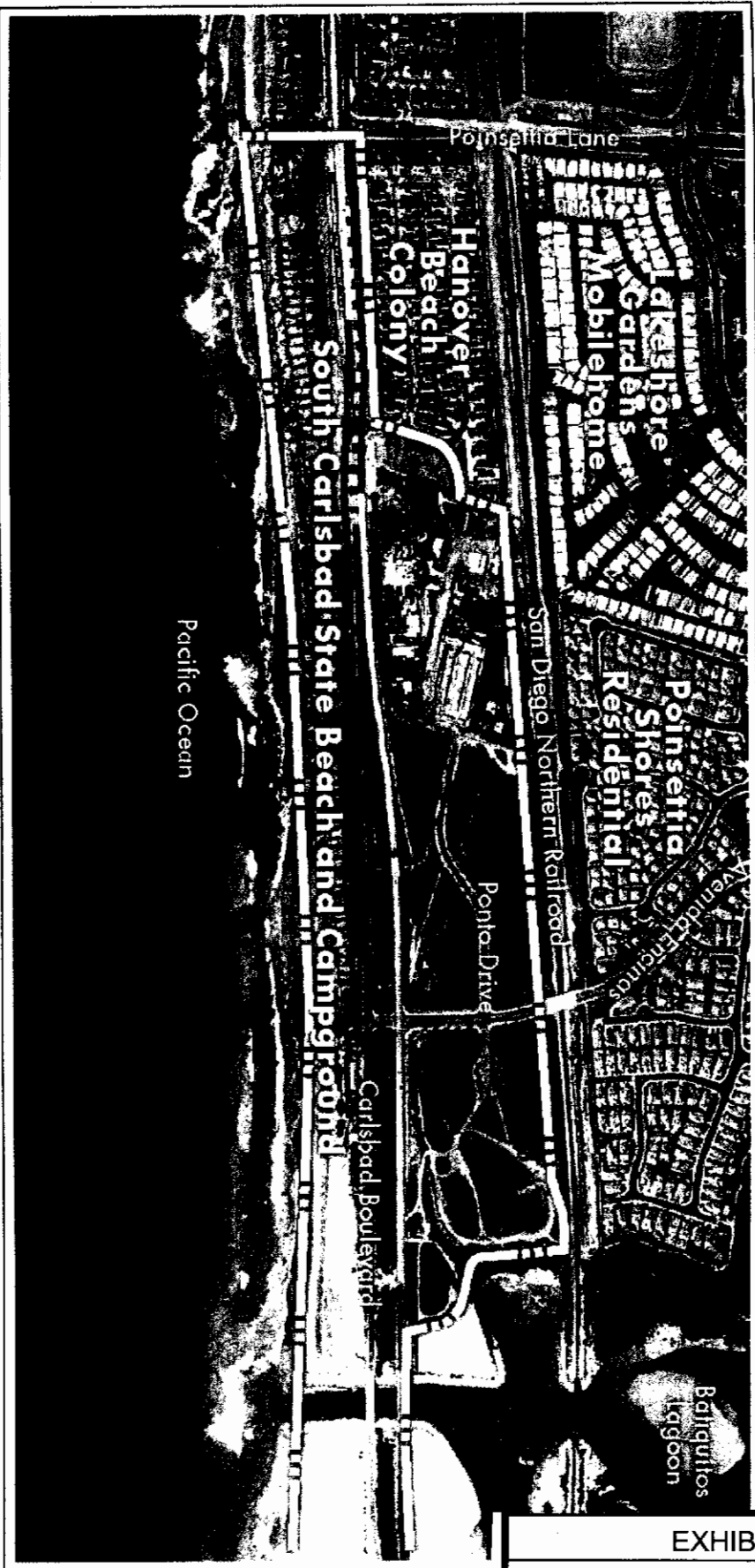


FIGURE 1.3 SURROUNDING LAND USES

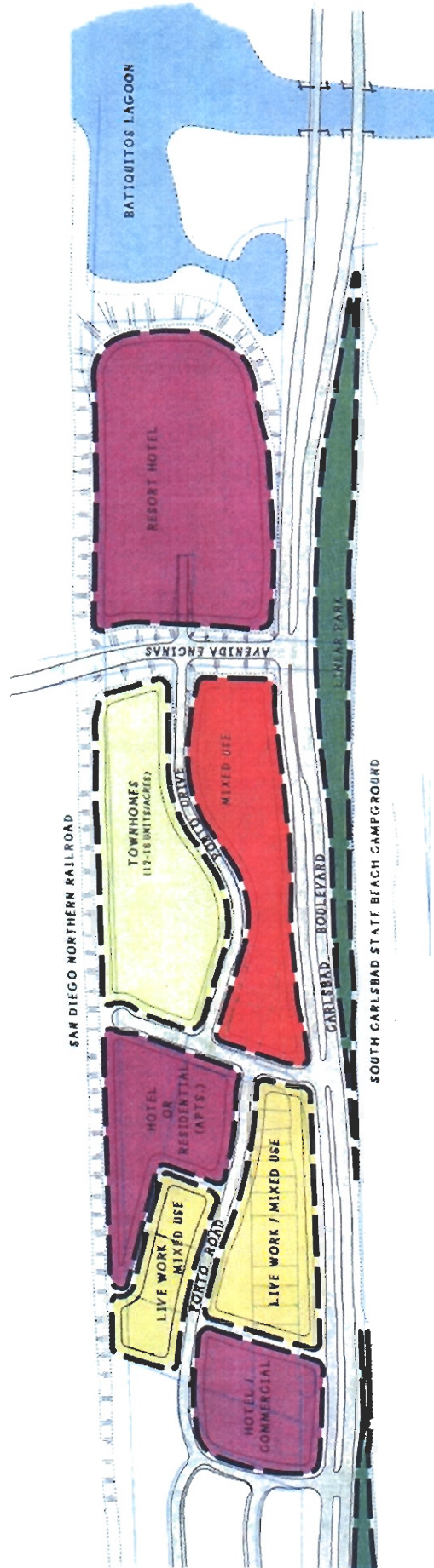
EXHIBIT #3

Surrounding Land Uses

LCPA 3-07B Ponto Beachfront Village Vision Plan



California Coastal Commission



SECTION E.2.2 PONTO BEACHFRONT VILLAGE LAND USE THEMES

EXHIBIT #4	
Proposed Land Use Themes	
LCPA 3-07B Ponto Beachfront Village Vision Plan	
California Coastal Commission	

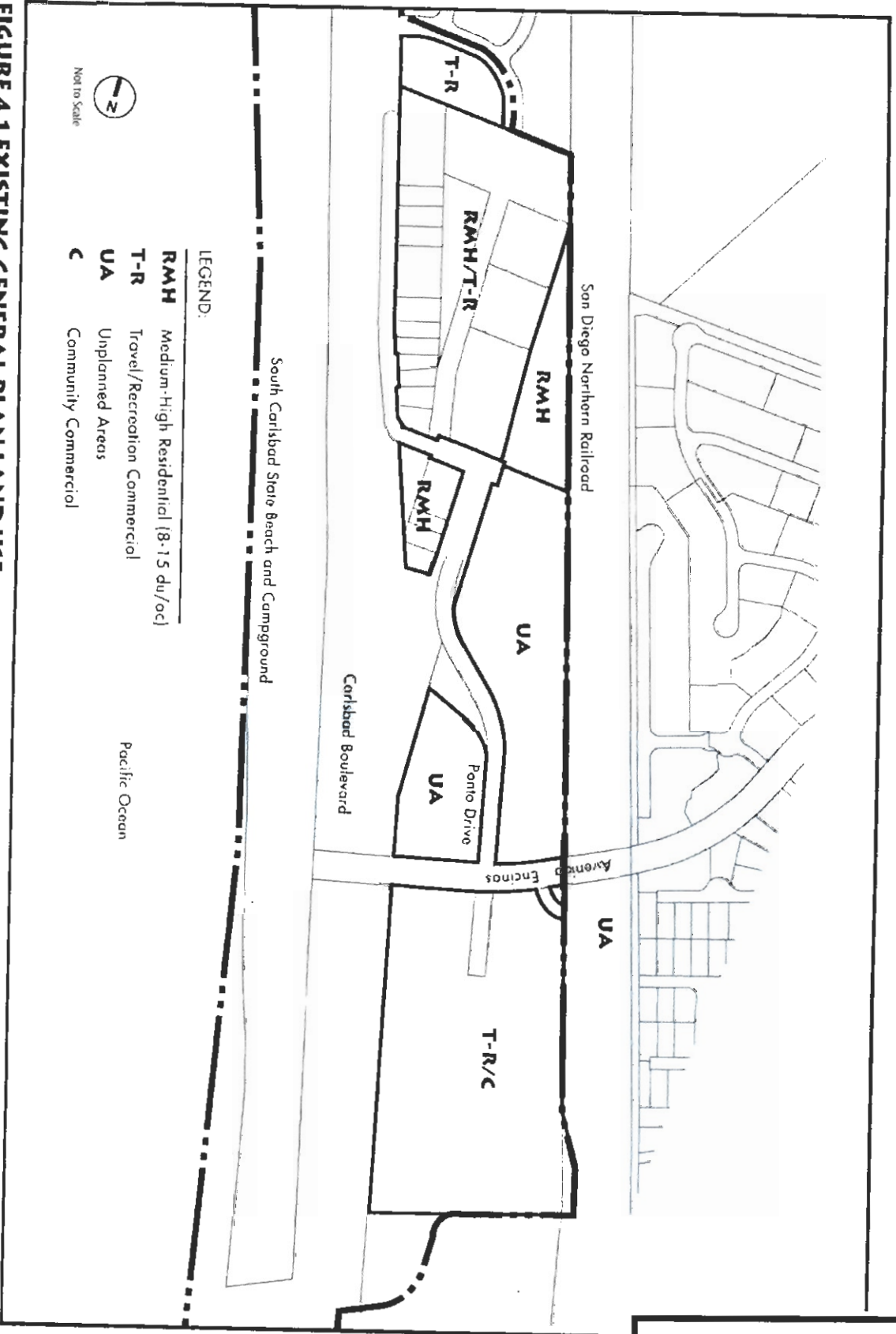


FIGURE 4.1 EXISTING GENERAL PLAN LAND USE

EXHIBIT #5

Underlying Land Use Designations

LCPA 3-07B Ponto Beachfront Village Vision Plan

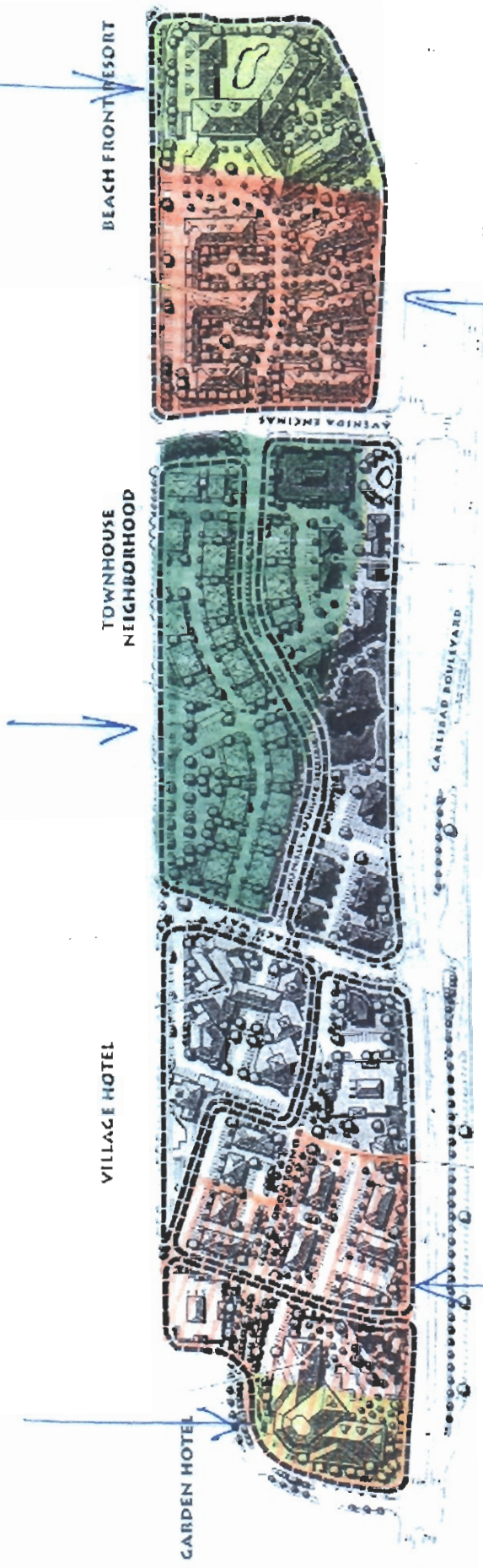
California Coastal Commission



Poinsetta Properties
AREA 1 (one)

Poinsetta Stores
Area F

Poinsetta
Stores
Area H



MIXED USE CENTER

LIVE WORK NEIGHBORHOOD

EXHIBIT 2.1 PONTO BEACHFRONT VILLAGE CHARACTER AREAS

Poinsetta Stores
Area G

HILTON CARLSBAD
(DASHED ORANGE)

EXHIBIT #7
 Overlay of Vision Plan and
 existing Master Plan areas
 LCPA #3-07B Ponto Beachfront Village
 Vision Plan
 California Coastal Commission