

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



October 12, 2010

W 15a

ADDENDUM

TO: Commissioners and Interested Persons

FROM: South Coast District Staff

SUBJECT: City of Huntington Beach Local Coastal Program Amendment 2-10 (Parkside IP amendment), Item No. W 15a, scheduled for hearing on Wednesday, October 13, 2010 in Oceanside.

1. **City's Concerns with Suggested Modification No.1: Archaeological/Cultural Resources**

The staff recommendation for the IP amendment includes a suggested modification that would require, in cases where the likelihood for the presence of significant archaeological resources on a site is high, subsurface investigation to more completely characterize the type and extent of archeological resources present on a site, prior to any further development being considered at that site. Since subsurface excavation requires a coastal development permit, the process for developing a site, where archeological resources are a significant issue, involves at least two coastal development permits, one to implement an Archaeological Research Design (ARD), and, once the ARD is implemented and results are known, one for further site development. The intent of the suggested modification, and this multi-step process, is to gain a better understanding of the presence of archaeological resources on site in advance of further development, such that the full range of mitigation options is available to decision makers. This in turn would allow for greater protection for any archaeological resources revealed through implementation of the ARD. The range of mitigation options includes in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space. Requiring a coastal development permit to implement an ARD would provide a basis to guide future development such that reasonable mitigation would be required, a standard that is established under Coastal Act Section 30244.

The City has expressed concerns with this suggested modification. The City's concerns include:

- 1) The suggested modification would be creating a new process that is not called for in the City's LUP (see policy C 5.1.4) and has not been required elsewhere;
- 2) Coastal development permits are discretionary actions which are subject to CEQA. Thus, the City asserts, the suggested modification would result in a

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piecemeal approach to a project, which is expressly prohibited under CEQA. The City asserts that this resulting dual process is onerous for the City, the Community, and the property owner.

3) The City believes that application of the CEQA process to a project results in adequate protections to archaeological resources that may be discovered on a site proposed for development.

In response to the City's concern identified in number 1 above, the City's certified LUP policy C 5.1.4 states:

*Policy C5.1.4 – A **completed archeological research design shall be submitted along with any application for a coastal development permit for development within any area containing archeological or paleontological resources.** The research design shall determine the significance of any artifacts uncovered and make recommendations for preservation. Significance will be based on the requirements of the California Register of Historical Resources criteria, and prepared based on the following criteria: [emphasis added]*

- a) Contain a discussion of important research topics that can be addresses; and*
- b) Be reviewed by at least three (3) County-certified archeologists (peer review committee).*
- c) The State Office of Historic Preservation and the Native American Heritage Commission shall review the research design.*
- d) The research design shall be developed in conjunction with affected Native American groups.*
- e) The permittee shall comply with the requirements of the peer review committee to assure compliance with the mitigation measures required by the archeological research design.*

With regard to the first concern described above, Commission staff interprets “a completed archeological research design” to mean an approved and implemented ARD, which is consistent with the suggested modification.

With regard to the second concern described above, Commission staff does not agree that requiring a separate coastal development permit for an ARD creates the CEQA issue raised by the City. The prohibition of “piecemealing” a project is intended to insure that the overall project and its potential impacts are considered together. Commission staff believes that requiring a separate coastal development permit for an ARD produces a better understanding of what resources may exist on a site. And that by requiring that level of review prior to making development decisions augments, and does not conflict with, the CEQA process. Other potential resource impacts (such as biological resources for example) can be discerned by methods that do not involve work that constitutes development, and thus those impacts can be identified and evaluated

without needing a coastal development permit. However, where the likelihood for the presence of archaeological resources on a site is high, subsurface work that constitutes development is necessary to ascertain the extent of resources present. Thus, to get a full understanding of potential impacts, a coastal development permit is necessary.

Finally, the Commission doesn't agree that it is appropriate to rely solely on the CEQA process to assure that archaeological resources are identified and afforded adequate mitigation; Coastal Act and Local Coastal Program requirements related to archeological resources must also be met. In the Commission's experience, a more complete characterization of the kind and extent of archeological resources is needed than is often considered through the CEQA process and should be considered in advance of site planning efforts. In past instances, the Commission has approved development, only to have it discovered later that a far greater magnitude of resources are present on a site, but the range of mitigation options have been limited by project approvals. The Commission has found it much more difficult to protect the resources "after the fact." Therefore, staff continues to support the suggested modification as outlined in the staff report.

2. STATUS OF RELATED Coastal Development Permit APPLICATION 5-09-182 REGARDING ARCHAEOLOGY

As referenced in the first complete paragraph on page 11 of the Implementation Plan Amendment staff report, a related coastal development permit application has been submitted for the subject site (5-09-182, Shea Homes). That coastal development permit application was deemed complete on August 18, 2010 and will be heard at a future Commission hearing. The ARD submitted with the permit application indicates that there are three mapped archaeological sites on the project site. Although two of the three sites are disputed, the ARD states that significant resources are likely to occur within the third site (ORA-83/86/144, "The Cogged Stone Site"). Therefore, development included in that application has the potential to impact significant archaeological resources.

As noted in the staff report, the Parkside area is currently an area of deferred certification within the City of Huntington Beach. Upon certification of the Implementation Plan amendment for the subject site (currently before the Commission), the area would become part of the area subject to City's permit issuing authority. Because the site is located between the sea and the first public road paralleling the sea, the subject Parkside site is also located within the Commission's appeals jurisdiction.

Section 13546 of the California Code of Administrative Regulations recognizes that there may be permit applications that have received local approval that have not been voted upon by the Commission at the time a Local Coastal Program becomes effective. In such cases, Section 13546 allows an applicant to either, 1) return the application to

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the local government for review under the certified LCP, or, 2) proceed with Commission review for consistency with the certified LCP.

However, pursuant to Section 13544.5 of the California Code of Regulations, the subject site would not be an “effectively certified” area unless and until, the Commission approves an Implementation Plan amendment for the area, the City Council formally accepts any suggested modifications the Commission finds necessary to assure that the Implementation Plan, as amended, is consistent with and adequate to carry out the certified Land Use Plan, the Executive Director of the Commission determines in writing that the local government’s action is legally adequate, and the Executive Director’s determination is reported to the Commission and the Commission concurs with the Executive Director’s determination.

The pending coastal development permit for the Parkside site (5-09-182) was deemed complete on August 18, 2010, which requires Commission action by February 14, 2011. That deadline could be extended at the request of the applicant to May 5, 2011. The deadline for the Commission to act on the Parkside Implementation Plan amendment (HNB LCPA 2-10) is July 19, 2011. Thus, as it stands now, the coastal development permit application will likely be acted on by the Commission after the Implementation Plan amendment has been acted on by the Commission, but likely prior to its effective certification. That is to say the City would likely not have permit issuing authority for the area until after the Commission has acted on the permit application. The standard of review, in this case (i.e. prior to effective certification), will be the Coastal Act. However, any recent Commission action (such as action on the IP amendment) would provide strong guidance.

In this case, the permit application (5-09-182, Shea) has been deemed complete prior to processing a coastal development permit for the ARD. Thus, the ARD has not yet been implemented. The ARD submitted with the permit application states that significant resources are likely to occur on the subject site. The project proponent of coastal development permit application 5-09-182 has expressed concerns with regard to how Suggested Modification No. 1 regarding archaeological resources will effect that permit application.

3. Recommended Change to the Water Quality Suggested Modification

The following change should be made to Suggested Modification No. 3 Water Quality (found at the bottom of page 6 and top of page 7 in the staff report:

[changes to the modification from the language as it appears in the staff report are shown in ~~bold, double underline, double strike through~~ for deletions and **BOLD CAPITALS** for additions.

Suggested Modification No. 2: Water Quality

Modify proposed new Section 230.82 C as follows:

C. Water Quality. Every use must comply with rules, regulations and standards of the Federal government, State and Regional Water Quality Control Boards, **Orange County Municipal NPDES Storm Water Permit (Santa Ana Regional Water Quality Control Board Order No. R8-2009-0030, dated May 22, 2009, or any amendment to or re-issuance thereof), and the City of Huntington Beach Municipal Codes including Chapters 14.24, 14.25, and 17.05, and the California Coastal Act where applicable.** An applicant for a zoning permit, ~~or a~~ building permit, **or a coastal development permit** must demonstrate compliance with aforementioned rules, regulations and standards **prior to permit approval.** General Plan and Local Coastal Program Goals, Objectives and Policies shall be incorporated into water quality management programs prepared for development projects as applicable and to the maximum extent practicable. **A Water Quality Management Plan, prepared by a REGISTERED CALIFORNIA CIVIL ENGINEER, ~~California Professional Engineer, Professional Geologist or Engineering Geologist, or California-licensed Landscape Architect,~~ shall be required for all projects that may adversely impact water quality (including, but not limited to projects identified in the Orange County Municipal NPDES Storm Water Permit as priority development projects and projects creating more than 2500 square feet of impervious surface that are within 200 feet of, or drain directly to, Resource Protection Areas, and/or waterbodies listed on the Clean Water Act Section 303(d) list of impaired waters).**

This change, reflected above, was requested by the City to make the language consistent with the City's local model WQMP (which is based on their municipal stormwater program and the NPDES permit), which specifies a Registered California Civil Engineer must review individual project Water Quality Management Plans.

4. Letters Received

Attached are six letters received regarding Huntington Beach LCPA 2-10 (Parkside IP Amendment). The six letters support the staff recommendation.

Also attached is one ex-parte communication form received regarding this item.

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GARDEN GROVE, CA 92846-0779

Office: (714) 840-4388
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Fax: ~~(714) 840-5895~~
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5, 2010

NEW Tel./Fax
Tel: 714-840-4388
Fax: 714-840-5895

TO SHERILYNN SARB
Ca Coastal Comm
200 OCEANGATE STE 1000
LONG BEACH CA 90802-4302

RECEIVED
South Coast Regional

OCT 6 - 2010

IN RE: OCT 2010 MEETING
ITEM 15a
CITY OF HUNTINGTON BEACH LCP AMENDMENT
NO. HNB-MAJ-2-10 (Parkside)

CALIFORNIA
COASTAL COMMISSION

Dear Ms Sarb

WE ARE RESIDENTS OF HUNTINGTON BEACH LIVING IN THE IMMEDIATE VICINITY OF THE PROPOSED PARKSIDE DEVELOPMENT, AND PLEASE NOTE THAT WE SUPPORT THE STAFF RECOMMENDATION REGARDING THIS PROJECT.

THANK YOU



RAYMOND SHERRARD
4701 Los Patos Ave
Huntington Beach, Ca 92649
714 840 4388



SANDRA SHERRARD

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CALIFORNIA COASTAL COMMISSION
attn: Sherilyn Sarb
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

FAX (562) 590-5084

RECEIVED
South Coast Region

OCT 6 - 2010

CALIFORNIA
COASTAL COMMISSION

I support the staff recommendation for:

**October 2010 meeting item # 15a. City of Huntington Beach
LCP Amendment No. HNB-MAJ-2-10 (Parkside)**

Richard K. Moore
17672 Crestmoor Lane
Huntington Beach, CA 92649



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10/08/2010 12:01 PM FROM: Fax TO: 15625905084 PAGE: 001 OF 001

W-15a.

*David E. Hamilton
5401 Kenilworth Drive
Huntington Beach, CA 92649
Phone: (714) 840-8901
E-mail: de.hamilton@verizon.net*

October 8, 2010

California Coastal Commission

c/o: Teresa Henry
200 Occangate 10th Floor
Long Beach, CA 90802
Fax letter: (562) 590-5084

RE: City of Huntington Beach, LCP Amendment No. HNB-MAJ-2-10 (Shea/Parkside),
Item **W-15a.** on the October 2010 agenda

Dear Commissioners,

This is a plea for the Commission to support the Commission's staff recommendation to **DENY** the subject IP Amendment as submitted by the City of Huntington Beach and to **APPROVE** the IP Amendment request with suggested modifications.

Writing as an active supporter of the Coastal Act, this Amendment request will be most in conformance with the Coastal Act *only* if fully modified as recommended by the Commission's staff.

Furthermore, I caution the Commission to be wary of any change of wording—no matter how seemingly minor—to its staff's suggested modifications that might be put forward by either the City or Shea Homes. As a long-time resident of the City, I, quite frankly, don't trust the City to request amending its LCP supposedly for one project when such amendment would advantageously affect other projects in the coastal zone that the City favors. Please be skeptical and ascertain the true motives underlying any City request. The City's contentiousness toward the Coastal Act and Coastal Commission deliberations has been stated publicly.

Thank you.

Sincerely,

David E. Hamilton
California Homeowner

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10/06/2010 09:38 7149657873

AIM MAIL CENTER

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October 4, 2010

CALIFORNIA COASTAL COMMISSION
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
Attn: Sherilyn Sarb, South Coast Deputy Director (Orange County)

Re: October CCC Meeting Agenda Item 15a

Dear Commissioners,

We, the Cabrillo Wetlands Conservancy, support the California Coastal Commission Staff recommendations for the October 13-15, 2010 meeting Item # 15a City of Huntington Beach LCP Amendment No. HNB-MAJ-2-10 (Parkside).

Sincerely,



Mary Jo Baretich, President
Cabrillo Wetlands Conservancy, Inc.
21752 Pacific Coast Highway #23A
Huntington Beach, CA 92646

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FROM : SCALISE REALTY-THE BROKERS GP FAX NO. : 8409047

Oct. 04 2010 10:32PM P1

DATE: OCTOBER 4, 2010

TO: CALIFORNIA COASTAL COMMISSION

FAX: (562) 590-5084

No. Pages including Cover 1

**IRENE SCALISE
SCALISE REALTY**

**The Brokers Group – Member
18682 Beach Blvd. #165
Huntington Beach, CA. 92648
Phone (714) 840-8571
FAX (714) 840-9047**

COMMENTS: I AM SUPPORTING STAFF
RECOMMENDATION FOR OCTOBER 10 MEETING
ITEM 15A CITY OF HUNTINGTON BEACH LCP
AMENDMENT #HNB-MAJ-2510 PARKSIDE

Huntington Beach Local Coastal Program Amendment 2-10
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OCT-5-2010 10:48A FROM:

7148402329

TO: 15625905084

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ENDORSEMENTS

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Sierra Club
Angeles Chapter
Surfrider Foundation

October 5, 2010

Coastal Commission
Teresa Henry
200 Oceangate #1000
Long Beach, Ca 90802-4316

RE: City of Huntington Beach LCP Amendment No. HNB-MAI-2-10
(Parkside), item W-15a on the October 2010 agenda

Dear Chairwoman Neely and Commissioners,

The Bolsa Chica Land Trust supports the staff recommendation to DENY the IP Amendment as submitted by the City and to APPROVE the IP Amendment request with suggested modifications.

The Land Trust is a strong supporter of the Coastal Act. This Amendment request will be in conformance with the Coastal Act only if modified as recommended.

Thank you.

Sincerely,

Handwritten signature of Connie Boardman in cursive script.
Connie Boardman
President

Huntington Beach Local Coastal Program Amendment 2-10
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South Coast Region

OCT 12 2010

CALIFORNIA
COASTAL COMMISSION

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: Agenda Item W15.a. City of Huntington Beach LCP Amendment No.
HNB-MAJ-2-10 (Parkside)

Time/Date of communication: October 7, 2010, 4:00 pm

Location of communication: Oceanside City Hall

Person(s) initiating communication: Dave Grubb, speaking for Bolsa Chica Land Trust.

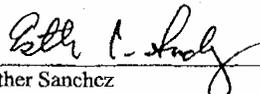
Person(s) receiving communication: Esther Sanchez.

Type of communication: Meeting

The Bolsa Chica Land Trust supports the staff recommendation. Requiring a separate CDP for an Archaeological Research Design (ARD) prior to project consideration is especially important. This should help prevent future fiascoes similar to the Hearthsides Homes Brightwater project whereby preliminary archaeological work did not disclose the very significant resources uncovered/destroyed by project grading.

This ARD CDP requirement should be considered for other LCPAs in order to improve protections statewide for Coastal Zone archaeological resources.

Date: October 7, 2010



Esther Sanchez

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**W 15a**

September 29, 2010

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, South Coast Deputy Director (Orange County)
Teresa Henry, District Manager
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Meg Vaughn, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 2-10 to the City of Huntington Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the October 13-15, 2010 meeting in Oceanside).

SUMMARY OF LCP AMENDMENT REQUEST NO. 2-10

Request by the City of Huntington Beach to amend the Implementation Plan (IP) portion of the Local Coastal Program (LCP) by amending the zoning map for the approximately 50 acre area known as the "Parkside" side, and zoning text amendment intended to implement the LUP changes approved under LCPA 1-06, regarding the Parkside site, as well as zoning text changes that will apply throughout the City of Huntington Beach Coastal Zone. The Implementation Plan amendment is proposed via City Council Resolution No. 2009-28 and as reflected in the following Ordinances: Nos. 3831, 3832, 3833, 3834, and 3835, each of which is attached to the submittal resolution.

The issues raised by the amendment request are the lack of implementation for the archaeological/cultural resources policies of the certified Land Use Plan and insufficient implementation to carry out the biological resources and water quality protection policies of the certified Land Use Plan. Staff is recommending suggested modifications to bring the proposed Implementation Plan amendment into conformity with the policies of the certified Land Use Plan.

Local Coastal Program Amendment 2-10 affects only the Implementation Plan portion of the certified LCP. No changes are proposed to the Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan **as submitted**.
Approve the amendment request to the Implementation Plan **if modified as recommended**.

The proposed amendment, if modified as recommended, would be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motions to accomplish this recommendation are found on pages 3 and 4.**

STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementation Plan is conformance with and adequacy to carry out the provisions of the certified Huntington Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The City Council held public hearings on the LCPA on June 15, 2009 and June 1, 2009. The City made all staff reports related to this LCPA available for public review in the City Clerk's Office and on the City website. Notice of the public hearing was published in a local newspaper of general circulation. City staff has summarized public comments as follows: "Briefly stated, however, there were 28 speakers at the June 1, 2009 City Council hearing: 9 speakers spoke in support of the project, 17 speakers spoke in opposition, 2 speakers did not voice support or opposition to the project itself (one made a recommendation regarding traffic signal improvements on Graham; one indicated good points had been made on both sides). In addition to the coastal concerns raised as listed in Section 3 above [regarding specifically the Parkside project coastal concerns raised at the June 1, 2009 City Council hearing included: potential changes to ground water levels associated with already built levee improvements and associated effects on adjacent wetlands; potential impacts to wetlands from development of the site in general, water quality, impacts to sensitive species, loss of open space and proposed entry monumentation], other comments focused on flood protection, traffic impacts, subsidence, dewatering, adequacy of environmental documentation, secondary access, and elevations changes. There were no speakers at the June 15, 2009 City Council meeting at which the Ordinances were approved with a second reading."

EXHIBITS

1. City Council Resolution No. 2009-28
2. Ordinance No. 3831 – Zoning Map Amendment No. 96-5R
3. Ordinance No. 3832 – Amending Chapter 210 Residential Districts
4. Ordinance No. 3833 – Amending Chapter 216 Coastal Conservation
5. Ordinance No. 3834 – Amending Chapter 221 Coastal Zone Overlay District
6. Ordinance No. 3835 – Amending Chapter 230 Site Standards

7. Vicinity Map
8. LUPA 1-06 Suggested Modifications
9. LUP Figures C-6 and C-6a

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov and at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn in the Long Beach office at (562) 590-5071. The City of Huntington Beach contact for this LCPA is Mary Beth Broeren who can be contacted at (714) 536-5271.

I. STAFF RECOMMENDATION

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. Denial of the IP Amendment as Submitted

MOTION: *I move that the Commission reject the Implementation Plan Amendment No. 2-10 for the City of Huntington Beach as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PLAN AS SUBMITTED:

The Commission hereby denies certification of the Implementation Plan Amendment No. 2-10 submitted for the City of Huntington Beach and adopts the findings set forth below on grounds that the Implementation Plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan as submitted

B. Approval of the IP Amendment with Suggested Modifications

MOTION: *I move that the Commission certify the Implementation Plan Amendment No. 2-10 for the City of Huntington Beach if it is modified as suggested by staff.*

STAFF RECOMMENDATION:

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

RESOLUTION TO CERTIFY THE IMPLEMENTATION PLAN WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Plan Amendment 2-10 for the City of Huntington Beach if modified as suggested and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. SUGGESTED MODIFICATIONS

Certification of City of Huntington Beach LCP Amendment Request No. 2-10 is subject to the following modifications.

The Commission's suggested additions are shown in **bold, underlined text**.

The Commission's suggested deletions are shown in underlined, strike out text.

Suggested Modification No. 1: Archaeological/Cultural Resources

Add new subsection 230.82 E to Chapter 230 Site Standards as follows:

Section 230.82 E

Archaeological/Cultural Resources. Within the coastal zone, applications for grading or any other development that has the potential to impact significant archaeological/cultural resources shall be preceded by a coastal development

permit application for implementation of an Archaeological Research Design (ARD). This is required when the project site contains a mapped archaeological site, when the potential for the presence of archaeological/cultural resources is revealed through the CEQA process, and/or when archaeological/cultural resources are otherwise known or reasonably suspected to be present. A coastal development permit is required to implement an ARD when such implementation involves development (e.g. trenching, test pits, etc.). No development, including grading, may proceed at the site until the ARD, as reflected in an approved coastal development permit, is fully implemented. Subsequent development at the site shall be subject to approval of a coastal development permit and shall be guided by the results of the approved ARD.

Archaeological Research Design (ARD). The ARD shall be designed and carried out with the goal of determining the full extent of the on-site archaeological/cultural resources and shall include, but not be limited to, postulation of a site theory regarding the archaeological and cultural history and pre-history of the site, investigation methods to be implemented in order to locate and identify all archaeological/cultural resources on site (including but not limited to trenching and test pits), and a recognition that alternative investigation methods and mitigation may become necessary should resources be revealed that indicate a deviation from the initially espoused site theory. The ARD shall include a Mitigation Plan based on comprehensive consideration of a full range of mitigation options based upon the archaeological/cultural resources discovered on site as a result of the investigation. The approved ARD shall be fully implemented prior to submittal of any coastal development permit application for subsequent grading or other development of the site. The ARD shall also include recommendations for subsequent construction phase monitoring and mitigation should additional archaeological/cultural resources be discovered.

The ARD shall be prepared in accordance with current professional practice, in consultation with appropriate Native American groups as identified by the Native American Heritage Commission (NAHC), NAHC, and the State Historic Preservation Officer, subject to peer review, approval by the City of Huntington Beach, and, if the application is appealed, approval by the Coastal Commission. The peer review committee shall be convened in accordance with current professional practice and shall be comprised of qualified archaeologists.

Mitigation Plan. The ARD shall include appropriate mitigation measures to ensure that archaeological/cultural resources will not be adversely impacted. These mitigation measures shall be contained within a Mitigation Plan. The Mitigation Plan shall include an analysis of a full range of options from in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space. The Mitigation Plan shall include a good faith effort to avoid impacts to archaeological/cultural resources through methods such as, but not limited to,

project redesign, capping, and placing an open space designation over cultural resource areas.

A coastal development permit application for any subsequent development at the site shall include the submittal of evidence that the approved ARD, including all mitigation, has been fully implemented. The coastal development permit for subsequent development of the site shall include the requirement for a Monitoring Plan for archaeological and Native American monitoring during any site grading, utility trenching or any other development activity that has the potential to uncover or otherwise disturb archaeological/cultural resources as well as appropriate mitigation measures for any additional resources that are found. The Monitoring Plan shall specify that archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and Native American monitor(s) with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC) shall be utilized. The Monitoring Plan shall include, but not be limited to: 1) procedures for selecting archaeological and Native American monitors; 2) monitoring methods; 3) procedures that will be followed if additional or unexpected archaeological/cultural resources are encountered during development of the site including, but not limited to, temporary cessation of development activities until appropriate mitigation is determined.

Furthermore, the Monitoring Plan shall specify that sufficient archaeological and Native American monitors must be provided to assure that all activity that has the potential to uncover or otherwise disturb cultural deposits will be monitored at all times while those activities are occurring. The Monitoring Plan shall be on-going until grading activities have reached sterile soil.

The subsequent mitigation plan shall be prepared in consultation with Native American Heritage Commission (NAHC), Native American tribal group(s) that have ancestral ties to the area as determined by the NAHC, and the State Historic Preservation Officer, subject to peer review.

All required plans shall be consistent with the City of Huntington Beach General Plan and Local Coastal Program and in accordance with current professional practice, including but not limited to that of the California Office of Historic Preservation and the Native American Heritage Commission, and shall be subject to the review and approval of the City of Huntington Beach and, if appealed, the Coastal Commission.

Suggested Modification No. 2: Water Quality

Modify proposed new Section 230.82 C as follows:

C. Water Quality. Every use must comply with rules, regulations and standards of the Federal government, State and Regional Water Quality Control Boards, **Orange County Municipal NPDES Storm Water Permit (Santa Ana Regional Water Quality Control Board Order No. R8-2009-0030, dated May 22, 2009, or any amendment to or re-issuance thereof), and the City of Huntington Beach Municipal Codes including Chapters 14.24, 14.25, and 17.05, and the California Coastal Act where applicable.** An applicant for a zoning permit, ~~or a~~ building permit, **or a coastal development permit** must demonstrate compliance with aforementioned rules, regulations and standards **prior to permit approval.** General Plan and Local Coastal Program Goals, Objectives and Policies shall be incorporated into water quality management programs prepared for development projects as applicable and to the maximum extent practicable. **A Water Quality Management Plan, prepared by a California Professional Engineer, Professional Geologist or Engineering Geologist, or California-licensed Landscape Architect, shall be required for all projects that may adversely impact water quality (including, but not limited to projects identified in the Orange County Municipal NPDES Storm Water Permit as priority development projects and projects creating more than 2500 square feet of impervious surface that are within 200 feet of, or drain directly to, Resource Protection Areas, and/or waterbodies listed on the Clean Water Act Section 303(d) list of impaired waters).**

Suggested Modification No. 3: Chapter 221 Coastal Zone Overlay District

Make the following modifications to proposed new Section 221.10 to Chapter 221 CZ Coastal Zone Overlay District

221.10 Requirements for New Development Adjacent to ~~Environmentally Sensitive Habitat Area (ESHA)~~ **Resource Protection Area**

As a condition of new development adjacent to a resource protection area, which includes any wetland, Environmentally Sensitive Habitat Areas (ESHA), associated buffers, land zoned Coastal Conservation, as the same are defined in the City's Local Coastal Program, an applicant shall comply with the requirements listed below.

The requirements shall be applicable to **all** lots within new subdivisions as well as development proposed on existing lots **within and/or** adjacent to ~~an ESHA, wetlands, associated buffer,~~ resource protection areas. ~~or land zoned Coastal Conservation, unless otherwise indicated.~~

- A. Landscape Plan shall be prepared that prohibits the planting, naturalization or persistence of invasive plants, and encourages low-water-**use** plants, and plants primarily native to coastal Orange County.
- B. Domestic Animal Control Plan ... no change
- C. Pest Management Control Plan ... no change

- D. ~~All~~ **Street** lighting, exterior residential lighting and recreational lighting adjacent to resource protection areas shall ~~minimize impacts to wildlife~~ **not significantly disrupt habitat values** within the resource protection areas.
- E. Covenants, Conditions and Restrictions (CC&Rs) in a form approved by the Office of the City Attorney shall be recorded specifying that **the requirements and restrictions of this Section apply.** ~~landscaping for individual housing lots and recreation areas that are directly adjacent to a resource protection area shall not include any exotic invasive plant species.~~ The CC&Rs shall be binding on each of the lots, shall run with the land affected by the subdivision and shall be included or incorporated by reference in every deed transferring one or more of the lots in the subdivision.
- F. The project applicant shall provide any buyer of a housing unit within the CZ Overlay District an information packet that explains the sensitivity of the natural habitats within or adjacent to the project site and the need to minimize impacts on the designated resource protection area(s), and the prohibition on landscaping that includes exotic invasive plant species ~~on lots that are directly adjacent to a resource protection area.~~ The information packet shall include a copy of the Domestic Animal Control Plan and Pest Management Plan and be required for all sales of housing units pursuant to the CC&Rs.
- G. Protective fencing or barriers ... no change
- H. Uses allowed adjacent to designated **wetlands and** Environmentally Sensitive Habitat Areas shall assure the continuance of the habitat value and function of preserved and restored wetlands and ESHA.

Suggested Modification No. 4: Chapter 216 Coastal Conservation District

Modify proposed subsection 216.04 H Definitions as follows:

- I. Resource Protection Area. Any area that consists of **any of the following:** wetlands, Environmentally Sensitive Habitat Areas, ~~or a~~ **buffer areas** (as **these terms are** defined in the **Glossary of the City's certified Land Use Plan)** ~~Local Coastal Program~~ **and/or land that is zoned Coastal Conservation.**

Suggested Modification No. 5: Chapter 203 Definitions

Add the following definition to Chapter 203 Definitions, Section 203.06 Definitions (in alphabetical order):

Resource Protection Area. Within the coastal zone, any area that consists of any of the following: wetlands, Environmentally Sensitive Habitat Areas,

buffer areas (as these terms are defined in the Glossary of the City's certified Land Use Plan), and/or land that is zoned Coastal Conservation.

III. FINDINGS

The following findings support the Commission's denial as submitted and approval of the proposed LCP Implementation Plan amendment if modified. The Commission hereby finds and declares as follows:

A. Amendment Description

The City of Huntington Beach has requested an amendment to the Implementation Plan (IP) portion of the certified Local Coastal Program (LCP). The primary document comprising the City's certified Implementation Plan is the City's Zoning and Subdivision Ordinance (ZSO), but the certified IP also includes a number of specific plans. All changes proposed under this amendment effect the ZSO. The City's current amendment submittal is intended to establish the zoning for the area known as the Parkside site. It is also intended to provide implementation for the changes to the City's certified Land Use Plan Amendment (LUPA) adopted pursuant to LUPA 1-06. LUPA 1-06 specifically addressed the Parkside site as well as some Land Use Plan (LUP) text and policies that apply City-wide. The Parkside site has been an area of deferred certification within the City. Approval of this Implementation Plan amendment would result in effective certification for the Parkside area.

As stated by the City, the proposed Implementation Plan amendment is intended to 1) establish the zoning at the 50 acre site known as Parkside that mirrors the land use designations approved by the Coastal Commission for the site under LUPA 1-06; and, 2) to amend the City's Implementation Plan to incorporate various changes to bring the IP into conformance with the certified Land Use Plan as modified by approved LUPA 1-06.

LUPA 1-06 established Subarea 4-K to address land use issues at the Parkside site. To implement the standards contained in Subarea 4-K of Table C-2 of the certified Land Use Plan, the proposed amendment would modify ZSO Chapters 210, 216, and 221. To implement the new and modified public access, recreation, water quality and ESHA policies of the Land Use Plan that are effective citywide, the amendment proposes changes to Chapter 210 Residential District, Chapter 216 Coastal Conservation District, Chapter 221 Coastal Zone Overlay District, and Chapter 230 Site Standards District of the ZSO.

More specifically, the Implementation Plan is proposed to be amended in the following ways:

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- Amend Chapter 210 Residential Districts to reference the Subarea 4K requirements applicable to the Parkside Property.
- Amend Chapter 216 Coastal Conservation District to reference the Subarea 4K requirements applicable to the Parkside property, to add additional performance standards for Coastal Conservation zoned areas throughout the City’s coastal zone, and to add consistency language.
- Amend Chapter 221 Coastal Zone Overlay District to add a new section for Resource Protection Requirements for New Development and add a phasing requirement, both of which would apply throughout the City’s coastal zone.
- Amend Chapter 230 Site Standards to incorporate a development requirement to comply with federal, state, regional and local water quality regulations. This added language would be applicable throughout the City.

In addition, the proposed amendment would modify the Zoning Map to establish zoning at the Parkside site such that it is consistent with the Land Use Plan map approved under LUP LCPA 1-06 (see exhibit 9). To implement the land use maps reflected in LUP Figures C-6 and C-6a, the City proposes changes to the certified Zoning Map. Changes proposed to the zoning map are: 1) the RL Low Density Residential District zone is proposed to implement the land use designation Low Density Residential; and, 2) the Coastal Conservation District zone is proposed to implement the land use designation Open Space – Conservation. The zoning map changes are reflected in City Ordinance No. 3831. The land use designations approved under LUPA 1-06 and reflected in the approved LUP map for the site include the following acreages:

<u>Land Use Designation</u>	<u>Acreage</u>
Low Density Residential	26.4
Open Space – Conservation	23.1

Accordingly, the zoning map would be changed to establish 26.4 acres as Low Density Residential with Floodplain and Coastal Zone Overlays (RL-FP2-CZ) in the area with the certified land use designation of Residential Low Density; and 23.1 acres as Coastal Conservation with Floodplain and Coastal Zone Overlays (CC-FP2-CZ) in the area with the certified land use designation of Open Space - Conservation.

Parkside Location

The proposed zoning map changes will affect the approximately 50 acre site known as the Parkside site. The Parkside site address is 17301 Graham Street in the City of Huntington Beach. It is bounded by Graham Street to the east, the East Garden Grove-Wintersburg Flood Control Channel to the South, undeveloped and open space to the west, and existing residential uses to the north. The site is located just northeast and inland of the Bolsa Chica Ecological Reserve. It is located east of the Brightwater development which includes significant open space and public trails. Between Brightwater and the subject site lie two undeveloped parcels, each approximately 6-acres, which are adjacent to the

southern end of Bolsa Chica Road. The coastal zone boundary in this area lies along the northern and eastern (Graham Street) boundaries of the subject site. (See exhibit 7 for a vicinity map).

A related coastal development permit application has been submitted for the subject site (5-09-182, Shea Homes). It was deemed complete on August 18, 2010 and will be heard at a future Commission hearing.

B. Description of Previously Approved LUPA 1-06 (Parkside)

City of Huntington Beach Land Use Plan amendment 1-06 (Parkside), approved by the Coastal Commission on November 14, 2007, established, among other things, a new Subarea 4-K on the existing Table C-2 (Community District and Subarea Schedule) within the certified LUP (Coastal Element).

One section within the City's certified LUP is the Technical Synopsis. The Technical Synopsis is an area-by-area description of each segment of the City's coastal zone. This section includes the descriptions of the existing land use designations. It also includes, after a narrative description of the sub-areas, Table C-2. Table C-2 is titled "Community District and Sub-area Schedule" and it provides greater specificity of what is allowed and encouraged within each subdistrict. This greater level of specificity provides a more detailed, site specific description than would be provided if the land use designation or general policies were considered alone. Table C-2 provides language on how general policies and designations would apply to specific sub areas of the coastal zone. Taken all together, these work well as the standard for development in the coastal zone.

LUPA 1-06 modifications to Table C-2 incorporated specific descriptions of standards that apply within the 50 acre Parkside site. These are contained within the new Subarea 4-K language. The IP amendment proposes to establish measures to implement the standards created within Subarea 4-K of the LUP.

In addition, approval of LUPA 1-06 added new LUP policies that applied throughout the City's coastal zone. These added policies address public access, recreation, and water quality. Other modifications were made to existing water quality and environmentally sensitive habitat polices. New LUP figures (Figure C-6 and Figure C-6a) were modified and added to reflect the new land use designations at the Parkside site. Finally, modifications were made to update LUP background language regarding the Parkside site as well as some additional descriptive language elsewhere in the LUP. The suggested modifications approved under LUPA 1-06 are attached as Exhibit 8.

C. Findings for Denial of Implementation Plan Amendment 2-10 as Submitted

The standard of review for amendments to the Implementation Plan (IP) of a certified Local Coastal Program (LCP) is whether the Implementation Plan, as amended by the

proposed amendment, will be in conformance with and adequate to carry out, the policies of the certified Land Use Plan (LUP).

1. Archaeological/Cultural Resources

The certified Land Use Plan includes the following goals, objectives, and policies regarding Archaeological and Cultural Resources:

Goal C5 – Promote the preservation of significant archaeological and paleontological resources in the Coastal Zone.

Objective C5.1 – Identify and protect, to the maximum extent feasible, significant archaeological, paleontological and historic resources in the coastal zone.

Policy C5.1.1 – Coordinate with the State of California Historic Preservation Office to ensure that archaeological, paleontological and historically significant resources within the Coastal Zone are identified.

Policy C5.1.2 – When new development would adversely impact archeological or paleontological resources within the Coastal Zone, reasonable mitigation measures to minimize impacts shall be required.

Policy C5.1.3 – In the event that any Native American human remains are uncovered, the County Coroner, the Native American Heritage Commission, and the Most Likely Descendants, as designated by the California Native American Heritage Commission, shall be notified. The recommendations of the Most Likely Descendants shall be obtained prior to the disposition of any prehistoric Native American human remains.

Policy C5.1.4 – A completed archeological research design shall be submitted along with any application for a coastal development permit for development within any area containing archeological or paleontological resources. The research design shall determine the significance of any artifacts uncovered and make recommendations for preservation. Significance will be based on the requirements of the California Register of Historical Resources criteria, and prepared based on the following criteria:

- a) Contain a discussion of important research topics that can be addresses; and*
- b) Be reviewed by at least three (3) County-certified archeologists (peer review committee).*
- c) The State Office of Historic Preservation and the Native American Heritage Commission shall review the research design.*
- d) The research design shall be developed in conjunction with affected Native American groups.*

- e) *The permittee shall comply with the requirements of the peer review committee to assure compliance with the mitigation measures required by the archeological research design.*

Policy C5.1.5 – A County-certified paleontologist/archeologist, shall monitor all grading operations where there is a potential to affect cultural or paleontological resources based on the required research design. A Native American monitor shall also monitor grading operations. If grading operations uncover paleontological/archaeological resources, the paleontologist/archeologist or Native American monitor shall suspend all development activity to avoid destruction of resources until a determination can be made as to the significance of the paleontological/archeological resources. If found to be significant, the site(s) shall be tested and preserved until a recovery plan is completed to assure the protection of the paleontological/archeological resources.

When the LUP was amended via LUPA 1-06, a new Subarea 4-K within Table C-2 was added that specifically addresses the Parkside site. Regarding archaeological resources, Subarea 4-K requires that any development plan for the Parkside site include: “Archaeological Research Design consistent with Policies C5.1.1, C5.1.2, C5.1.3, C5.1.4, and C5.1.5 of this Coastal Element.”

However, the City’s certified Implementation Plan contains no standards for implementing the archaeological or cultural resources policies of the LUP. The proposed amendment would not add implementing language to support the policies cited above.

The coastal zone was probably the most densely occupied region in California in pre-historic times. The same amenities which attract people to the coastal zone today, including a mild climate and abundant and varied natural resources, attracted peoples in pre-historic times. As a result, the probability of discovering archaeological materials in the coastal zone is unusually high, and the potential for the destruction of such resources through development is considerable.

If not properly located and designed, development can significantly impact archaeological resources. Excavation or grading commonly performed as part of the site preparation for a project can obliterate archaeological materials, or disturb their provenance to such an extent that the information that could be derived from the knowledge of their relative position would be permanently lost. Development can also impact archaeological resources by compacting the archaeological materials, or by changing their chemical composition. As so many archaeological sites have been destroyed or damaged as a result of man-made developments or natural processes, the remaining sites, even those that that may be less rich in archaeological materials, have become increasingly valuable. Additionally, because archaeological sites if studied collectively may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

Archaeological sites also have great cultural and religious significance for contemporary Native Americans and their destruction or desecration is of great concern to the Native American Community.

Significant archaeological sites are known to exist within the Huntington Beach coastal zone. This is true in the area of the Bolsa Chica wetlands and surrounding mesas. The Bolsa Chica wetland area is surrounded by the City of Huntington Beach. Although there are few large segments of undeveloped land left within the Huntington Beach coastal zone (other than those in permanent open space such as the Huntington Beach Wetlands near the Santa Ana river and Harriet Weider Regional Park located on the Huntington Beach mesa, adjacent to and downcoast of the Bolsa Chica wetlands), there are some still remaining.

The 150 acre area of the Palm Goldenwest Specific Plan is an example of a remaining largely undeveloped land area. Although the area has been in oil production for many decades, the area is expected to be developed over the next twenty years. The specific plan approved for this area does not include details regarding the potential for the presence of archaeological/cultural resources at the site. The two, six acre sites located on the eastern side of the terminus of Bolsa Chica Road are under consideration for possible future development. In addition, other sites within the Huntington Beach coastal zone may re-develop. For example the Downtown Specific Plan area encourages consolidation of entire blocks and half-blocks. When future development occurs in areas such these, the consideration of the potential for archaeological/cultural resources may be appropriate.

In order for archaeological resources to be protected, as required by the LUP policies cited above, they must first be identified. Several types of information can indicate the potential a particular parcel has for containing archaeological resources. These include the pattern of known archaeological sites as catalogued by the regional information centers of The California Archaeological Inventory; specific studies of the parcel that may have been done under CEQA, and the characteristics of the terrain, landform and vegetation surrounding the site.

As cited above, the certified LUP includes many policies and standards requiring the protection of archaeological resources. However, currently there is no implementation language in the certified Implementation Plan to carry out the archaeological resources policies of the certified land use plan. Moreover, the proposed amendment does not propose to add any archaeological implementation language. Without any supporting implementation language to carry out the LUP policies intended to assure protection of archaeological/cultural resources within the coastal zone, there is no assurance that these policies will be effectively carried out. Thus, the protection of archaeological/cultural resources is not assured. Consequently, the Implementation Plan amendment as proposed cannot be found to be consistent with or adequate to carry out the certified Land Use Plan policies regarding protection of archaeological/cultural resources. Therefore, the proposed Implementation Plan amendment must be denied as submitted.

2. Wetland & Environmentally Sensitive Habitat Areas (ESHA)

The certified Land Use Plan includes the following goals, objectives, and policies regarding protection of wetlands and environmentally sensitive habitat areas (in pertinent part):

Goal C7 – Preserve, enhance and restore, where feasible, environmentally sensitive habitat areas (ESHAs) in the City’s Coastal Zone, including the Bolsa Chica which is within the City’s Sphere of Influence.

Objective C 7.1 – Regulate new development through design review and permit issuance to ensure consistency with Coastal Act requirements and minimize adverse impacts to identified environmentally sensitive habitats and wetland areas.

Policy C 7.1.1 – Evaluate any existing environmental degradation or potential degradation from current or planned storm drain and flood control facilities in wetlands or other sensitive environments. ...

Policy C 7.1.2 – 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. ...

Policy C 7.1.3 – 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.

Policy C 7.1.4 – Require that new development contiguous to wetlands or environmentally sensitive habitat areas include buffer zones. Buffer zones shall be a minimum of one hundred feet setback from the landward edge of the wetland with the exception of the following: ...

Objective C 7.2 – Promote the improvement of the biological productivity and appearance of wetland and environmentally sensitive habitats.

As described in the Land Use Plan policies cited above, the certified LUP limits the amount and types of development that may occur within and adjacent to an environmentally sensitive habitat area (ESHA). Environmentally sensitive area is defined in the certified LUP Glossary as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.” With the ever rising pressure to develop in the southern California coastal zone, preservation of those ESHAs that remain becomes more critical. The ESHA policies of the certified LUP recognize the importance of preserving and protecting these significant resources.

Similarly, wetlands often provide critical habitat, nesting sites, and foraging areas for many species, some of which are threatened or endangered. In addition, wetlands can serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands can serve as natural flood retention areas. Another critical reason for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of wetlands have been lost. The certified LUP policies cited above reflect the importance of protecting and preserving wetlands.

When the LUP was amended via LUPA 1-06, Subarea 4-K within Table C-2 was added that specifically addresses the Parkside site. Regarding wetlands and biological resources, Subarea 4-K requires that any development plan for the Parkside site include a Habitat Management Plan for the Coastal Conservation zoned areas, submittal of a Biological Assessment with any coastal development permit application, and specific standards for buffer zones. In addition, LUPA 1-06 added a coastal zone wide policy requiring that any wetlands or ESHA impacted by unpermitted development be protected as though that development had not occurred.

The Implementation Plan amendment includes language intended to support the changes to the LUP resulting from LUPA 1-06 as well as the previously existing LUP ESHA and wetlands policies. Among the changes proposed is the addition of the definition of a new term "*Resource Protection Area*" to Section 216.04 which provides definitions for Chapter 216 Coastal Conservation District. The proposed definition is:

Resource Protection Area. Any area that consists of wetlands, Environmentally Sensitive Habitat Areas, or a buffer, as are defined in the City's Local Coastal Program.

The addition of this new term is useful in implementing the ESHA and wetland policies of the LUP, in that it makes clear that development within buffer area must be restricted. However, the definition is not comprehensive enough to assure protection of all areas for which protection is necessary to adequately protect ESHA and wetland in that it does not include areas that are zoned Coastal Conservation. If all areas zoned coastal conservation were included within the definition, that would expand the effectiveness of the new term to encompass all avenues where ESHA, wetland or area necessary to support the ESHA or wetland would be encompassed within this single definition. In addition, the proposed addition of this new term falls short in that it is only proposed to be placed within Chapter 216 Coastal Conservation District. However, it is possible that land that meets the definition of a Resource Protection Area may not be zoned Coastal Conservation. Sometimes, a wetland or ESHA is not recognized until land use designation and zoning have already been applied to a site. This shortcoming could be remedied by also placing the new definition within Chapter 203 Definitions which apply citywide. This would assure that any wetland, ESHA, or land necessary to support their habitat continuance could be defined using this term even when not located within a Coastal Conservation zone.

However, neither of these two measures are included within the IP amendment as proposed. Without these two measures the IP amendment is not consistent with or adequate to carry the biological resources policies of the certified Land Use Plan. Therefore, the Implementation Plan amendment must be denied as submitted.

Also, to support the requirements of the LUP with regard to the specific requirements of Subarea 4-K within Table C-2, the proposed amendment includes the addition of new Section 221.10 to Chapter 221 CZ Coastal Zone Overlay District. Proposed Section 221.10 would list the requirements for development adjacent to a Resource Protection Area to include the list of requirements from Subarea 4-K within Table C-2. The list of requirements includes lighting, landscape, domestic animal and pest control plans, and a requirement regarding protective fencing. However, as proposed, these requirements would apply only to those lots within new subdivisions that are immediately adjacent to the RPA. In order to effectively protect an RPA, and to be consistent with the certified LUP, these requirements would need to apply to all lots within a new subdivision. Impacts arising from pests, landscaping, lighting etc do not stop at a lot line boundary. Pests that are not treated appropriately could result in pesticides flowing into the nearby RPA. Likewise landscaping from lots nearby but not necessarily adjacent to the RPA could adversely impact the RPA. Wind can blow seeds across lots and into the nearby RPA. Lighting could adversely impact habitat from nearby, though not adjacent, lots. Application of the requirements only to those lots immediately adjacent to the RPA is not adequate to assure the protection of the wetlands and ESHAs contained in those RPAs. Thus, the IP amendment as proposed is not consistent with or adequate to carry out the biological resources policies of the certified Land Use Plan. Therefore, the Implementation Plan amendment must be denied as submitted.

3. Water Quality

The certified Land Use Plan includes the following goals, objectives, and policies (among others) regarding water and marine resources:

Goal C 6 – Prevent the degradation of marine resources in the Coastal Zone from activities associated with an urban environment.

Objective C 6.1 – Promote measures to mitigate the adverse impacts of human activities on marine organisms and the marine environment through regulation of new development, monitoring of existing development, and retrofitting necessary and feasible.

Policy C 6.1.1 – Require that new development include mitigation measures to enhance water quality, if feasible; and, at a minimum, prevent the degradation of water quality of groundwater basins, wetlands, and surface water.

Policy C 6.1.2 – 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.

Policy C 6.1.3 – 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.

Policy C 6.1.4 – The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain organisms and for the protection of human health shall be maintained and, where feasible, restored.

In addition, Policy C 6.1.6 recognizes the value of watershed based planning efforts in achieving coastal and marine water quality and resource protection goals. This LUP policy recognizes that these goals can be furthered when the City participates in the Orange County Drainage Area Management Plan and implements the Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) permit. This policy also requires a Water Quality Management Plan for all applicable new development and requires that mitigation measures be implemented. In addition, as amended by LUPA 1-06, the certified LUP requires a Water Quality Management Plan with site specific requirements for the Parkside site as well as adding new language to policies that apply throughout the City's coastal zone. These revised policies: 1) establish a preference for site design and source control BMPs, 2) require elimination or minimization of dry weather nuisance flows to the extent practicable, 3) require that directly connected impervious area be minimized, and 4) promote the use of permeable materials for paved areas, when new development is proposed.

The LUP water and marine resources policies are intended, among other things, to assure protection and improvement of water quality within the City's coastal zone. The IP does not currently contain any water quality implementation. To implement the water and marine resources LUP policies, the proposed amendment would add the following language to Chapter 230 Site Standards:

“Water Quality. Every use must comply with rules, regulations and standards of the Federal government, State and Regional Water Quality Control Boards and the City of Huntington Beach Municipal Codes. An applicant for a zoning permit or a building permit must demonstrate compliance with aforementioned rules, regulations and standards. General Plan and Local Coastal Program Goals, Objectives and Policies shall be incorporated into water quality management programs prepared for development projects as applicable and to the maximum extent practicable.”

While the proposed language is clearly an improvement over the existing absence of any water quality implementation text in the existing IP, the language as proposed is too broad

and too vague to maximize effectiveness. In order to assure protection of water and marine resources, the water quality section of the IP must also more specifically identify the standards (NPDES permit number and date, specific sections of the Municipal Code, etc.) with which development must comply. In addition, it should make clear that, in addition to City zoning or building permits, applications for coastal development permits would also trigger the requirements of the water quality policies of the LUP and IP. Finally, in order to implement the LUP water quality policies, standards for when a Water Quality Management Plan is required should be contained within this section of the Implementation Plan. The proposed Implementation Plan amendment does not include the items listed above. As such it will not establish the standards of water and marine resources protection required to carry out the water quality and water and marine resource protection policies of the certified LUP. Thus, the IP amendment as proposed is not consistent with or adequate to carry out the water and marine resources protection policies of the certified Land Use Plan. Therefore, the Implementation Plan amendment must be denied as submitted.

4. Conclusion

As outlined above, the proposed Implementation Plan amendment is not consistent with or adequate to carry out the archaeological/cultural resources, biological resources, or water and marine resources policies of the certified Land Use Plan. Therefore, the Implementation Plan amendment must be denied as proposed.

D. Findings for Approval of Implementation Plan Amendment 2-10 if Modified as Recommended

1. Incorporation of Findings for Denial of Implementation Plan Amendment 2-10 as submitted

The findings for denial of the Implementation Plan amendment as submitted are incorporated as though fully set forth herein.

2. Changes That Are Consistent As Proposed

Most of the changes the City has proposed to implement LUP Amendment 1-06 will adequately carry out the LUP as amended by LUPA 1-06. Below is discussion regarding changes included in the proposed IP amendment that are consistent with and adequate to carry out the policies of the certified Land Use Plan, as submitted.

Cross Reference to Table C-2 Subarea 4K:

Chapter 210 establishes the allowable uses and development standards for all of the residential districts within the City. Section 210.04 is a table that lists the uses allowed (or not allowed) per residential district, the level of local review required for the use (i.e.

allowed outright; subject to Zoning Administrator's approval, or Planning Commission approval), as well as additional provisions that may apply. Additional provisions are identified in their own column by letter. Each lettered "additional provision" is then explained in detail following the use chart.

The City proposes to add "Additional Provision S" to the existing list of additional provisions. Proposed additional provision S would apply to Single Family Residential uses. The proposed additional provision S language is:

(S) See Coastal Element Land Use Plan, Table C-2, for permitted uses, development requirements and restrictions applicable to development within Subarea 4K as depicted in Figures C-6a and C-10 of the Coastal Element Land Use Plan. Subdivision design and development within Subarea 4K shall incorporate the information from the plans and studies required in Table C-2 for development of that Subarea. If there is a conflict between the requirements and restrictions of Table C-2 and other provisions of the Zoning and Subdivision Ordinance, the requirements and restrictions included in Table C-2 shall prevail.

Additional Provision S is a cross reference back to the requirements contained in Table C-2 regarding Subarea 4K. Many of the requirements contained in Table C-2 for Subarea 4K are intended to assure protection of ESHA and wetland at the Parkside site. The requirements also address hazard minimization, water quality enhancement, public access, and visual resources, among other things. In addition, Table C-2 for Subarea 4K of the LUP requires, among other things, preparation of a Habitat Management Plan for the Open Space Conservation designated areas, establishes minimum buffer widths from wetlands and from ESHAs, and requires preparation of Pest Management, Landscape, and Domestic Animal Control plans.

Proposed Additional Provision S would apply to Single Family Residential uses at the Parkside site. The same language proposed as Additional Provision S in Chapter 210 is also proposed to be added to Chapter 216 Coastal Conservation within Section 216.08 Permitted Uses and Structures. There are only two land use designations at the Parkside site: Residential Low Density and Open Space Conservation. These land use designations are implemented with the Residential Low Density zoning district and with the Coastal Conservation zoning district. Thus, placing the cross reference language in these two zone districts is appropriate and will assist in assuring that the site specific standards and requirements of LUP Table C-2 Subarea 4K will be carried out as required. Moreover, this cross reference makes clear that if there is a conflict between Table C-2 of the LUP and the City's Zoning and Subdivision Ordinance (the certified Implementation Plan), the provisions of Table C-2 prevail.

Changes Proposed to Section 216.08

Chapter 216 of the ZSO portion of the certified IP is the Coastal Conservation zone district. Section 216.08 describes Permitted Uses and Structures within the Coastal Conservation

district. The amendment would delete “entrance channels for new or expanded boating facilities” as an allowable use within the Coastal Conservation District. This change is consistent with the recent change to Coastal Act Section 30233 regarding allowable uses within wetlands.

Changes Proposed to Section 216.18

Section 216.18 Performance Standards is proposed to be amended to add new subsections 216.18 A 8, 9, and 10, as follows:

8. *A Habitat Management Plan shall be prepared and carried out for all ESHA, wetland and buffer areas and provide for restoration, enhancement, and perpetual conservation and management. Issues to be addressed include, but are not limited to, methods to assure continuance of a water source to feed all wetland areas, enhancement of habitats and required buffer areas, restoration and enhancement of wetlands and environmentally sensitive habitats and required buffer areas, and fuel modification requirements to address fire hazard and avoid disruption of habitat values in buffers.*

The Habitat Management Plan shall identify goals, objectives and performance standards; procedures and technical specifications for wetland and upland planting; methodology and specifications for removal of exotic species; soil engineering and soil amendment criteria; identification of plant species and density; maintenance measures and schedules; temporary irrigation measures; protective fencing both during construction and post-construction; restoration success criteria; measures to be implemented if success criteria are not met; and long-term adaptive management of the restored areas for a period of not less than 10 years.

9. *Protective fencing or barriers shall be installed along any interface with developed areas, to deter human and pet entrance into all restored and preserved wetland and ESHA buffer areas; however, access to designated passive public recreational use areas shall be protected and visual impact of any barriers from open space areas shall be minimized.*
10. *Conservation easements (or other instruments) that serve to permanently protect the restored areas shall be recorded.*

These additions will assist in implementing the requirements of the LUP regarding the Parkside site and in fact will apply to any Habitat Management Plans required in the Coastal Conservation zone.

In addition, in Chapter 216, the amendment proposes to add new subsection D to Section 216.18 Performance Standards.

216.18 D. Any areas that constituted wetlands or ESHA that are removed, altered, filled or degraded as a result of activities carried out without compliance with

Coastal Act requirements shall be protected as required by the City's Coastal Element Land Use Plan.

This is intended to implement the LUP Policy C 7.2.7. Proposed Section 216.08 contains the identical language of LUP Policy C 7.2.7. Thus, proposed Section 216.18 D accurately reflects the intent of the LUP policy.

The language is also proposed to be added in Chapter 221 Coastal Zone Overlay which applies more broadly than just to CC zoned areas. ESHA and wetland may occur in areas not zoned Coastal Conservation. By placing this language in the Coastal Zone Overlay district in addition to the Coastal Conservation District, it will apply to all sites within the coastal zone. This will assure that all wetland and ESHA, including those that are not located within land zoned coastal conservation, will be protected even if impermissible alterations have occurred.

Changes proposed to ZSO Chapter 221 CZ Coastal Zone Overlay District

The Coastal Zone Overlay District, according to existing language in the certified ZSO, is intended to "provide supplementary provisions and specify permitted uses within the City's Coastal Zone." Three changes are proposed within the Chapter: a new section 221.07 which states that any impermissible alteration to wetlands or ESHA will still be protected as if the impermissible alteration had not occurred; new section 221.10 which establishes requirements for new development adjacent to ESHA; and new Section 221.17 which requires development phasing such that public benefits associated with development be provided prior to or concurrent with the private development. Proposed new section 221.10 is discussed later in this report. The two other proposed new sections of Chapter 221 are as follows:

221.07 Impermissible Alteration

Any area that constitutes wetland or ESHA that has been removed, altered, filled or degraded as a result of activities carried out without compliance with the California Coastal Act requirements shall be protected as required by the City's Local Coastal Program Land Use Plan.

As described above, this is the identical language of LUP Policy C 7.2.7. Thus, proposed Section 221.07 D accurately reflects the intent of the LUP policy.

Section 221.17 Phasing

The provision of public access and recreation benefits associated with private development (such as but not limited to public accessways, public bike paths, habitat restoration and enhancement, etc.) shall be phased such that the public benefit(s) are in place prior to or concurrent with the private development.

This language is intended to implement the LUP Policy C 1.1.3a. Proposed Section 221.17 contains the identical language of LUP Policy C 1.1.3a. Thus, proposed Section 221.17 accurately reflects the intent of the LUP policy.

Zoning Map Amendment

The proposed amendment includes a zoning map for the Parkside site. The Parkside site had been an area of deferred certification and so no certified LCP zoning exists at the site. The amendment proposes to add zoning for the site consistent with the land use designations that were approved for the site under LUPA 1-06. LUPA 1-06 approved a Low Density Residential land use designation for the approximately 26.4 acres on the eastern portion of the site and an Open Space – Conservation land use designation for the approximately 23.1 acres on the western portion of the site. The proposed zoning for the Parkside site, as reflected in the proposed zoning map, includes Low Density Residential (RL-FP2-CZ) for the approximately 26.4 acre eastern portion of the site that corresponds to the area land use designated Low Density Residential. The proposed zoning for the approximately 23.1 acre western portion of the site that corresponds to the area land use designated Open Space – Conservation is Coastal Conservation (CC-FP2-CZ). FP2 indicates the site falls within the Floodplain. CZ indicates the site falls within the coastal zone.

Section 210.02 of the ZSO portion of the certified IP states: “The purpose of the residential district is to implement the General Plan and Local Coastal Program Land Use Plan residential land use designations.” Section 216.02 of the ZSO portion of the certified IP states: “The purpose of the CC Coastal Conservation District is to implement the General Plan land use designation of Open Space: Conservation; and provide for the protection, maintenance, restoration and enhancement of wetlands and environmentally sensitive habitat areas located within the Coastal Zone while allowing for appropriate utilization to occur.” The Commission finds that the proposed zoning for the Parkside site is consistent with and adequate to carry out the certified land use designations for the site.

3. Proposed Changes That Are Consistent If Modified.

a) Archaeological/Cultural Resources

The certified Land Use Plan contains goals, objectives, and policies regarding protection of archaeological/cultural resources. These LUP standards, cited previously, require that significant archaeological resources be identified and protected to the maximum extent feasible. In addition, when the LUP was amended via LUPA 1-06, Subarea 4-K within Table C-2 was added. Subarea 4K specifically addresses the Parkside site, and regarding archaeological resources, requires that any development plan for the Parkside site include: “Archaeological Research Design consistent with Policies C5.1.1, C5.1.2, C5.1.3, C5.1.4, and C5.1.5 of this Coastal Element.”

When development of a site is contemplated where there is a high potential for the presence of archaeological resources, a higher degree of scrutiny is appropriate and necessary. Site development, including preliminary measures such as grading and trenching, can disturb (sometimes irreparably) cultural resources that may be present. Over the course of reviewing projects where archaeological resources have been present, the Commission has found that identifying the presence and significance of resources on a site **prior to** consideration of development proposals to be the far superior course of action. The alternative of simply monitoring for resources during grading has not provided optimum results in terms of protecting resources. If resources are identified up front, a project can be tailored to address the presence of cultural resources. However, in those cases where resources are not discovered until a project has reached the grading stage, it becomes much more difficult to tailor a project in a way that is most protective of resources.

There is a high expectation for the discovery of archaeological resources when a project site contains a mapped archaeological site, when the potential for the presence of archaeological/cultural resources is revealed through the CEQA process, and/or when archaeological/cultural resources are otherwise known or reasonably suspected to be present. In cases where there is a low expectation for resources on site, conditioning the project to be monitored during grading can be sufficient to protect resources. However, in the case where the expectation is high, greater protections must be put in place.

LUP Policy C5 1.4 states, in pertinent part:

A completed archeological research design shall be submitted along with any application for a coastal development permit for development within any area containing archeological or paleontological resources. The research design shall determine the significance of any artifacts uncovered and make recommendations for preservation. Significance will be based on the requirements of the California Register of Historical Resources criteria, and prepared based on the following criteria:

In order to discover whether or not resources are in fact present, and to know the level of significance of any resources found on site, an Archaeological Research Design (ARD) must be prepared and implemented prior to review of the site's contemplated development. Policy C5.1.4 of the City's certified LUP requires that a completed ARD be submitted along with any application for a coastal development permit for development within any area containing archaeological resources. An ARD that has been fully implemented and carried out (i.e. completed) is required by the certified LUP. It is important that the ARD be fully implemented prior to consideration of future development in order to be able to tailor development based on the results of the ARD. A development decision that is most protective of the resource cannot be made without the necessary information regarding presence and significance of on-site resources. That information only results when an approved ARD has been fully implemented for the specific project site.

The goal of the required ARD is to determine the full extent of the on-site archaeological/cultural resources. Thus, the ARD would need to include: postulation of a site theory regarding the archaeological and cultural history and pre-history of the site, investigation methods to be implemented in order to locate and identify all archaeological/cultural resources on site (including, but not limited to, trenching and test pits), and a recognition that alternative investigation methods and mitigation may become necessary should resources be revealed that indicate a deviation from the initially espoused site theory. Furthermore, in order to assure protection of on-site archaeological resources, the ARD must include a Mitigation Plan based on comprehensive consideration of a full range of mitigation options based upon the archaeological/cultural resources discovered on site as a result of the investigation. Moreover, the ARD would also need to include recommendations for subsequent construction phase monitoring and mitigation should additional archaeological/cultural resources be discovered.

As required by LUP Policy C 5.1.4, an ARD must be subject to peer review. A peer review team should be comprised of three, county certified professional archaeologists. Peer review assures that the ARD will be prepared in accordance with current professional practice and allows additional scholarly input which could enrich the ARD. In addition, the ARD should be prepared in consultation with Native American groups as identified by the Native American Heritage Commission.

The ARD must also include a mitigation plan based on the findings of the site investigation and the conclusions drawn from it. The mitigation plan must include an analysis of a full range of options from in-situ preservation, recovery, and/or relocation to an area that will be retained in permanent open space in order to be most protective of resources. Further, the Mitigation Plan must include a good faith effort to avoid impacts to archaeological/cultural resources through methods such as, but not limited to, project redesign, capping, and placing an open space designation over cultural resource areas.

In order to discover the extent and significance of any archaeological resources that may be present on a site where there is a high expectation the resources, sub-surface work including trenching and test pits must be conducted. Trenching and test-pits constitute development as defined by the City's certified LUP. Thus, a coastal development permit would be required for implementation of the ARD. Any future development of the site must be guided by the results of the approved and implemented ARD to assure that archaeological resources are protected to the maximum extent feasible.

As described previously, the certified Implementation Plan does not include any supporting implementation for the LUP archaeological resources policies. Furthermore, the proposed amendment does not propose to add any archaeological resources implementation standards. For that reason, the IP amendment was denied as submitted. However, if the amendment were modified to include specific standards for implementing the LUP archaeological policies, the amendment could be found to be consistent with and adequate to carry out the policies of the certified LUP.

If the amendment is modified as suggested to include a requirement that an ARD be prepared and implemented for sites with a high expectation for the presence of archaeological resources, and that standards for preparation and implementation of the ARD be included in the Implementation Plan, and any subsequent development contemplated for that site be guided by the results of the ARD, the amendment could be found to be consistent with and adequate to carry out the archaeological protection policies of the certified LUP. Therefore, the Commission finds that only if modified as suggested (Suggested Modification No. 1), is the proposed amendment consistent with and adequate to carry out the archaeological resources protection policies of the certified LUP.

b) Wetland & ESHA

As cited above in the findings for denial as submitted, the LUP contains a number of policies requiring the protection of wetland and ESHA areas. In addition, the LUP includes ESHA and wetland protection requirements that are specific to the Parkside site. As described previously, most of the changes the City has proposed to implement LUP Amendment 1-06 will adequately carry out the certified LUP as amended by LUPA 1-06. However, as described above in the findings for denial as submitted, three modifications are necessary to make the proposed IP amendment conform with and be adequate to carry out the LUP as amended.

The 23.1 western acres of the Parkside site, which contain the Eucalyptus ESHA and wetland areas, have a certified land use designation of Open Space – Conservation. The zone designation that implements Open Space – Conservation is Coastal Conservation (Chapter 216 in the ZSO). Thus, the proposed amendment includes changes to Chapter 216 of the ZSO which are intended to implement the Parkside LUPA designation of OS-C, as well as some changes to the biological resources policies of the LUP.

A significant change proposed to this section includes the addition of a new term: “Resource Protection Area.” It is proposed to be defined by adding new subsection 216.04 to the definitions section of Chapter 216. The proposed definition is:

216.04 Definitions – (H) Resource Protection Area. Any area that consists of wetlands, Environmentally Sensitive Habitat Areas, or a buffer, as are defined in the City’s Local Coastal Program.

The Glossary of the City’s certified LUP includes the following definitions:

Wetland – *Land which may be covered periodically or permanently with shallow water and includes saltwater marshes, freshwater marshes, open or closed brackish water marshes, mudflats, and fens. Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the*

surface or the land is covered by shallow water. For purposes of this classification¹, wetlands must have one or more of the following attributes:

- 1. At least periodically, the land supports predominantly hydrophytes; or*
- 2. The substrate is predominantly undrained hydric soil; or*
- 3. The substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year.*

Environmentally sensitive habitat area – *Any area in which plant or animal life or their habitats are rare or specially valuable and which could be easily disturbed or degraded by human activities and developments.*

Buffer – *Open space that horizontally separates and protects environmentally sensitive habitat areas from development areas. Buffer areas should be contiguous with the sensitive habitat from development areas. Buffer areas should be contiguous with the sensitive habitat but are not in themselves a part of the environmentally sensitive habitat area to be protected. A typical buffer standard width is 100 feet, but this width may vary depending on the species and habitat to be protected. Buffers may contain limited trail usage and other non-substantial structures such as interpretive signage that serve to reduce the impact of human activities on wildlife. Public trails should not be constructed where construction could have significant adverse affects on the environment or where public access could have significant adverse impacts on habitat.*

Resource Protection Area is not currently a term included in the City's certified LUP. Because the Parkside site includes buffer area within the land use designation of Open Space – Conservation, and the proposed zoning will be, appropriately, Coastal Conservation, adding and defining Resource Protection Area provides a useful tool in implementing the biological resources policies of the certified LUP. It recognizes that area that is not ESHA or wetland (such as buffer areas), but which are necessary to support the continuance of ESHA and wetland, should be considered together with the resource they protect.

However, as proposed the definition for Resource Protection Area does not include all land zoned Coastal Conservation. Land is zoned Coastal Conservation because it is either wetland or ESHA, or it is the necessary buffer area to support the wetland and/or ESHA, or has otherwise been found to be necessary to support wetland and/or ESHA. Thus, it would be appropriate to include all land zoned Coastal Conservation within the definition of Resource Protection Area.

In addition, as proposed, the definition for Resource Protection Area could be made stronger by clarifying that an RPA includes any area that includes any single one of the areas identified in the definition, in addition to any combination of the areas. Also,

¹ “Classification of Wetlands and Deep-Water habitats of the United States” by Lewis M. Cowardin, et al, United States Department of the Interior, Fish and Wildlife Service, December 1979. [footnote appears in LUP definition]

including the location of where these terms are defined in the certified LUP (the certified LUP's Glossary) would increase understanding of exactly what is meant by the new RPA term.

Finally, as proposed, the new term would only be added to the Coastal Conservation Chapter 216 text. However, areas that meet the definition of RPA may occur outside land zoned Coastal Conservation. To make clear that this term applies to all land that contains wetland, ESHA, buffer area, and/or land zoned Coastal Conservation, the proposed new term Resource Protection Area should also be added to Chapter 203 Definitions, which provides definitions for all zone districts.

Suggested Modifications 4 and 5 make the changes described above. The Commission finds these modifications are necessary to find the proposed amendment consistent with and adequate to support the certified Land Use Plan biological resources policies.

The proposed amendment would also make changes to Chapter 221 Coastal Zone Overlay District. The Coastal Zone Overlay District, according to existing language in the certified ZSO, is intended to "provide supplementary provisions and specify permitted uses within the City's Coastal Zone." One of the changes proposed within this Chapter is the addition of a new section 221.10 which establishes requirements for new development adjacent to ESHA. Specifically, the proposed new language is as follows:

221.10 Requirements for New Development Adjacent to Environmentally Sensitive Habitat Area (ESHA)

As a condition of new development adjacent to a resource protection area, which includes any wetland, Environmentally Sensitive Habitat Areas (ESHA), associated buffers, land zoned Coastal Conservation, as the same are defined in the City's Local Coastal Program, an applicant shall comply with the requirements listed below.

The requirements shall be applicable to lots within new subdivisions as well as development proposed on existing lots adjacent to an ESHA, wetlands, associated buffer, resource protection areas or land zoned Coastal Conservation, unless otherwise indicated.

- A. Landscape Plan shall be prepared that prohibits the planting, naturalization or persistence of invasive plants, and encourages low-water plants, and plants primarily native to coastal Orange County.*
- B. Domestic Animal Control Plan shall be prepared that details methods to be used to prevent pets from entering any resource protection areas, including but not limited to appropriate fencing and barrier plantings.*
- C. Pest Management Control Plan shall be prepared that, at a minimum, prohibits the use of rodenticides, and restricts the use of pesticides, and*

herbicides in outdoor areas, except necessary Vector Control conducted by the City or County.

- D. All street lighting, exterior residential lighting and recreational lighting adjacent to resource protection areas shall minimize impacts to wildlife within the resource protection areas.*
- E. Covenants, Conditions and Restrictions (CC&Rs) in a form approved by the Office of the City Attorney shall be recorded specifying that landscaping for individual housing lots and recreation areas that are directly adjacent to a resource protection area shall not include any exotic invasive plant species. The CC&Rs shall be binding on each of the lots, shall run with the land affected by the subdivision and shall be included or incorporated by reference in every deed transferring one or more of the lots in the subdivision.*
- F. The project applicant shall provide any buyer of a housing unit within the CZ Overlay District an information packet that explains the sensitivity of the natural habitats within or adjacent to the project site and the need to minimize impacts on the designated resource protection area(s), and the prohibition on landscaping that includes exotic invasive plant species on lots that are directly adjacent to a resource protection area. The information packet shall include a copy of the Domestic Animal Control Plan and Pest Management Plan and be required for all sales of housing units pursuant to the CC&Rs.*
- G. Protective fencing or barriers shall be installed and maintained between the resource protection areas and areas developed for homes or recreational use for the purpose of minimizing human and domestic animal presence in resource protection areas, including restored and preserved wetland and ESHA buffer areas; however, public access to designated passive recreational use areas shall be provided. Visual impacts created from any walls or barriers adjacent to open space conservation and passive recreational use areas shall be minimized through measures such as open fencing/wall design, landscape screening, use of undulating or off-set wall features, etc.*
- H. Uses allowed adjacent to designated Environmentally Sensitive Habitat Areas shall assure the continuance of the habitat value and function of preserved and restored wetlands and ESHA.*

Proposed new subsection 221.10 is intended to implement the standards required at the Parkside site contained in Table C-2 Subarea 4K of the certified Land Use Plan. These include restrictions on pest control, fencing, lighting, domestic animals, landscaping. In addition, this subsection establishes methods by which these requirements will be made known to future owners. Moreover these requirement will not be limited only to the Parkside site, but to all development within the City's coastal zone that is adjacent to Resource Protection Areas. This aspect represents a positive change in the IP.

However, as proposed this language would apply only to those lots within new subdivisions that are immediately adjacent to the RPA. However, things like landscaping and pests don't limit their impacts based on lot lines. Wind can blow invasive seeds from a lot that is not adjacent to the RPA into the RPA. Pests too can encroach across lot lines into the RPA. Likewise, domestic animals that escape their home, even when it is not on a lot immediately adjacent to the RPA, may nonetheless wander from their home into RPA. In cases such as the development currently proposed at the Parkside site, where a new subdivision is proposed adjacent to an RPA, the restrictions necessary to protect and allow continuance of the RPA must apply to all the new lots within the subdivision. If not, the wetlands and ESHA are not protected as required by the biological resources protection policies of the Land Use Plan. However, if the amendment were changed to make clear that the restrictions apply to all lots within new subdivisions, it would be consistent with the biological resource protection policies of the LUP.

In addition, as proposed subsection 221.10 effectively applies to all areas that constitute Resource Protection Areas, although its title is "*Requirements for New Development Adjacent to Environmentally Sensitive Habitat Area (ESHA)*". To make clear the actual intent and effect of the proposed new subsection, the language should be modified to use the term Resource Protection Area in the title and language of the subsection. This will assure that all land that is required to be protected by the biological resources policies of the land use plan will be protected.

Suggested Modification No. 3 makes changes to proposed subsection 221.10 such that the restrictions and requirements contained therein will apply to all lots within new subdivisions and clarifies that these restrictions apply adjacent to all Resource Protection Areas. The Commission finds these modifications are necessary to find the proposed amendment consistent with and adequate to support the certified Land Use Plan biological resources policies.

Therefore, the Commission finds that only if modified as suggested can the proposed amendment be found to be consistent with and adequate to carry out the biological resources protection policies of the certified Land Use Plan.

c) Water Quality

The certified LUP contains water and marine resource policies. These policies include measures intended to improve and enhance water quality. LUPA 1-06 includes water quality standards specific to the Parkside site and also augmented and added policies that apply throughout the City's coastal zone. No water quality implementation currently existing in the City's certified IP. The proposed amendment would add the following language, which is intended to implement the water and marine resources policies of the certified LUP:

230.82 C Water Quality Every use must comply with rules, regulations and standards of the Federal government, State and Regional Water Quality Control

Boards and the City of Huntington Beach Municipal Codes. An applicant for a zoning permit or a building permit must demonstrate compliance with aforementioned rules, regulations and standards. General Plan and Local Coastal Program Goals, Objectives and Policies shall be incorporated into water quality management programs prepared for development projects as applicable and to the maximum extent practicable.

The above language is proposed to be added to Chapter 230 Site Standards of the ZSO portion of the certified Implementation Plan. Chapter 230 contains supplemental land use and development standards that are applicable to sites in all or several districts. The proposed change in this Chapter falls under existing Section 230.82 Performance Standards for All Uses. Section 230.82 currently provides standards for Air Contaminants and requires that every use must comply with the standards of the South Coast Air Quality Management District. In addition, Section 230.82 establishes a prohibition on storage of unsightly objects on vacant lots. The amendment proposes to add the water quality requirements (proposed new subsection C cited above) to this section. The City does have water quality rules and regulations, but they are not part of the certified IP. The City's water quality rules and regulations are contained in City of Huntington Beach Municipal Code Chapters 14.24, 14.25, and 17.05; City of Huntington Beach Local Implementation Program [a water quality document, not the Local Coastal Program document]; Orange County Municipal NPDES Storm Water Permit No. R8-2009-0030; Santa Ana Regional Water Quality Control Board Construction Permit; and Orange County Model Water Quality Management Plan [DAMP].

The proposed water quality implementation language was intended to require consistency with all these documents without actually incorporating the specific documents into the City's LCP. The reason for this is that as technology and understanding of water quality standards improve, these standards are correspondingly updated. Given that there are a number of documents governing water quality standards, and that they are each updated regularly, the City did not feel it would be efficient or effective to incorporate the actual documents or summaries of the actual documents into the LCP because each time one of these documents is updated, an amendment to the City's LCP would be necessary. Instead the goal was to reference each of the water quality documents in the proposed new IP section to make clear that water quality standards would be required with development. Commission staff has considered this reasoning and approach and found it to be acceptable.

However, as proposed the language is too broad and too vague to effectively maximize protection and enhancement of water quality. Also, as proposed the water quality language acknowledges that an applicant for a zoning permit or a building permit must demonstrate compliance with the water quality rules cited, but it does not acknowledge that an applicant for a coastal development permit must also comply with these standards. Finally, in order to implement the LUP water quality policies, standards for when a Water Quality Management Plan is required should be contained within this section of the

Implementation Plan. The proposed Implementation Plan amendment does not include such a standard.

However, if the proposed water quality implementation language were modified to more specifically identify the rules and regulations referenced to which development must conform, such as modifying the language to include the NPDES permit number and date, and to cite the specific sections of the Municipal Code, and acknowledge that development must comply with the versions of those rules as they are from time to time updated, then water quality implementation language would maximize protection and enhancement of water quality. Likewise, if the language were modified to acknowledge that applicants for coastal development permits must demonstrate compliance with the cited water quality rules and regulations, that would assure that development within the coastal zone would include appropriate water quality measures. And if the proposed water quality language were modified to include a standard for when a Water Quality Management Plan is required, then the water quality implementation language would maximize protection and enhancement of water quality as required by the LUP water quality polices.

Therefore, the Commission finds that only if modified as suggested in Suggested Modification No. 2 can the proposed amendment be found to be consistent with and adequate to carry out the biological resources protection policies of the certified Land Use Plan.

E. Conclusion

For the reasons described above, only if modified as suggested can the proposed IP amendment be found to be consistent with and adequate to carry out the policies of the City's certified Land Use Plan. Therefore, the Commission finds that, as modified the proposed Implementation Plan amendment is consistent with and adequate to carry out the provisions of the certified Land Use Plan (LUP).

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.9 of the California Public Resources Code – and the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental impact reports (EIRs), among other things, in connection with their activities and approvals necessary for the preparation and adoption of local coastal programs (LCPs). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required, in approving an LCP submittal, to find that the proposal does conform with the provisions of CEQA, and to base any certification on a specific factual finding supporting the conclusion that the proposal "meets the requirements of [CEQA] Section 21080.5(d)(2)(i) ... , which requires that an activity will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant

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adverse impact which the activity may have on the environment.” 14 C.C.R. Sections 13555(b), 1354(a), and 1354(f). The City of Huntington Beach LCP amendment 2-10 consists of an amendment to the Implementation Plan (IP) only.

As outlined in this staff report, the proposed Implementation Plan amendment as submitted could potentially result in impacts to archaeological resources, biological resources, and water quality. However, if modified as suggested, the IP amendment is in conformity with and adequate to carry out the coastal resource protection policies of the certified LUP. Therefore, the Commission finds that approval of the Implementation Plan amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies City of Huntington Beach LCP amendment request 2-10 if modified as suggested herein.

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RESOLUTION NO. 2009-28

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF HUNTINGTON BEACH ADOPTING LOCAL COASTAL PROGRAM
AMENDMENT NO. 09-01 TO AMEND THE LOCAL COASTAL PROGRAM
IMPLEMENTING ORDINANCES TO REFLECT ZONING MAP AMENDMENT NO.
96-5(R) AMENDING THE ZONING FOR THE REAL PROPERTY GENERALLY
LOCATED ON THE WEST SIDE OF GRAHAM STREET, SOUTH OF
KENILWORTH DRIVE AND ZONING TEXT AMENDMENT NO. 09-05
AMENDING CHAPTERS 210, 216, 221, AND 230 OF THE ZONING SUBDIVISION
ORDINANCE AND REQUESTING CERTIFICATION BY THE CALIFORNIA
COASTAL COMMISSION

WHEREAS, the City Council, after giving notice as prescribed by law, held at least one public hearing on the proposed Huntington Beach Local Coastal Program Amendment No. 09-01, and the City Council finds that the proposed amendment is consistent with the Huntington Beach General Plan, the Certified Huntington Beach Local Coastal Program (including the Land Use Plan), and Chapter 6 of the California Coastal Act;

The City Council of the City of Huntington Beach intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act.

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby resolve as follows:

SECTION 1: That the real property that is the subject of this Resolution is bounded by Graham Street, the East Garden Grove-Wintersburg Flood Control Channel, unincorporated Bolsa Chica, and single-family homes along Kenilworth Drive, and consists of approximately 49.5 acres within the City of Huntington Beach, which includes the approximate 40-acre Area of Deferred Certification (Exhibit A).

SECTION 2: That the Huntington Beach Local Coastal Program Amendment No. 09-001, consisting of Zoning Map Amendment No. 96-5 and Zoning Text Amendment No. 09-05, a copy of which is attached hereto as Exhibits B and C, and incorporated by this reference as though fully set forth herein, is hereby approved.

SECTION 3: That the Huntington Beach Local Coastal Program Implementing Ordinances for the Subject Property is hereby changed from the Area of Deferred Certification to CC (Coastal Conservation) – approximately 23.1 acres and RL (Low Density Residential) – approximately 26.4 acres (Exhibit D).

SECTION 4: That the California Coastal Commission is hereby requested to consider, approve, and certify Huntington Beach Local Coastal Program Amendment No. 09-01.

COASTAL COMMISSION
HNP, LCPA 2-10

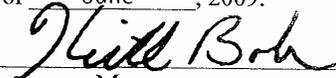
EXHIBIT # 1
PAGE 1 OF 2

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Parkside Implementation Plan Amendment
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Resolution No. 2009-28

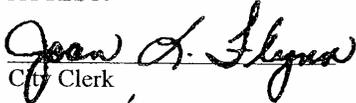
SECTION 5: That pursuant to Section 13551(b) of the Coastal Commission Regulations, Huntington Beach Local Coastal Program Amendment No. 09-01 will take effect automatically upon Coastal Commission approval, as provided in *Public Resources Code* Sections 30512, 30513 and 30519.

PASSED AND ADOPTED by the City Council of the City Huntington Beach at a regular meeting thereof held on the 1st day of June, 2009.



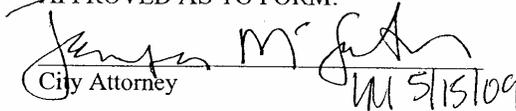
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



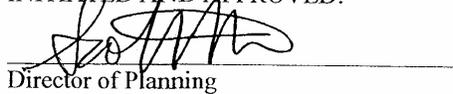
City Attorney
M 5/15/09

REVIEWED AND APPROVED:



City Administrator

INITIATED AND APPROVED:



Director of Planning

EXHIBITS

- A. Vicinity Map.
- B. Zoning Map Amendment No. 96-5(R). *w/ exhibits*
- C. Zoning Text Amendment No. 09-05.
- D. New Zoning Map

Ex. 1
p. 2

Huntington Beach LCPA 2-10
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EXHIBIT 'B'
RESOLUTION 2009-24

ORDINANCE NO. 3831

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING THE HUNTINGTON BEACH ZONING AND SUBDIVISION
ORDINANCE (ZONING MAP AMENDMENT NO. 96-5(R))

WHEREAS, pursuant to the State Planning and Zoning Law, the Huntington Beach City Council has held a public hearing relative to Zoning Map Amendment No. 96-5(R), wherein it has carefully considered all information presented at said hearing, and after due consideration of the findings and all evidence presented to said City Council, the City Council finds that such zone change is proper, and consistent with the General Plan.

WHEREAS, the City Council of the City of Huntington Beach held a public hearing relative to Zoning Map Amendment No. 96-5A on October 21, 2002 changing the base district for approximately 40 acres of real property on the subject site from RL (Low Density Residential) and RL-FP2 (Low Density Residential with a Flood Plain Overlay District) to add the Coastal Zone Overlay District (-CZ) and changing the zoning designation on approximately 8.2 acres of real property on the subject site from RA (Residential Agricultural District) and RL (Low Density Residential District) to OS-PR (Open Space – Park & Recreation Subdistrict).

WHEREAS, the City Council of the City of Huntington Beach held a public hearing relative to Zoning Map Amendment No. 96-5B on October 21, 2002 rezoning approximately 1.6 acres of real property on the subject site previously under county jurisdiction as RL-FP2-CZ (Low Residential District with Floodplain and Coastal Zone Overlay District) and rezoning approximately 3.3 acres of real property on the subject site previously under county jurisdiction as CC-FP2-CZ (Coastal Conservation with Floodplain and Coastal Zone Overlay Districts).

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. The approximately 19.4 acres of real property generally located on the west side of Graham Street, north of the East Garden Grove-Wintersburg Channel and 1500 feet south of Warner Avenue as more particularly described in the legal description and sketch collectively attached hereto as Exhibits "A" and "B" and incorporated by reference as though fully set forth herein is hereby changed from RL (Low Density Residential District) and OS-PR (Open Space – Park and Recreation Subdistrict) to CC (Coastal Conservation District).

SECTION 2. That the Director of Planning is hereby directed to amend Sectional District Map 33 of the Huntington Beach Zoning and Subdivision Ordinance to reflect the changes contained in this ordinance, as depicted in Exhibit "C". The Director of Planning is further directed to file the amended map. A copy of such map, as amended, shall be available for inspection in the Office of the City Clerk.

09-1961.001/33784

Zoning Map Amendment

COASTAL COMMISSION
HN13-LCPA-2-10

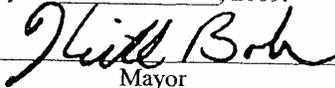
EXHIBIT # 2
PAGE 1 OF 9

Huntington Beach LCPA 2-10
Parkside Implementation Plan Amendment
Page 37

Ordinance No. 3831

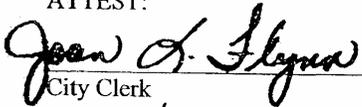
SECTION 4. The Ordinance shall take effect immediately upon certification by the California Coastal Commission.

PASSED AND ADOPTED by the City Council of the City Huntington Beach at a regular meeting thereof held on the 15th day of June, 2009.



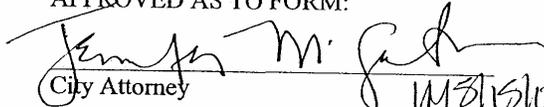
Mayor

ATTEST:



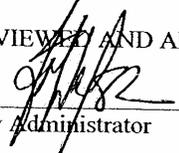
City Clerk

APPROVED AS TO FORM:



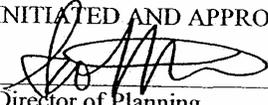
City Attorney M315109

REVIEWED AND APPROVED:



City Administrator

INITIATED AND APPROVED:



Director of Planning

EXHIBITS

- A. Legal description of a portion of the Subject Property to be re-designated as Coastal Conservation.
- B. Sketch of a portion of the Subject Property to be re-designated as Coastal Conservation.
- C. New Zoning Map of the Subject Property

Ex. 2
p. 2

Ordinance No. 3831

EXHIBIT 'B'
RESOLUTION 2009-2

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p 3

EXHIBIT A

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Ordinance No. 3831

EXHIBIT 'B'
RESOLUTION 2009.

EXHIBIT "A"
LEGAL DESCRIPTION

In the City of Huntington Beach, County of Orange, State of California, being all of Parcels "B" and "C" and a portion of Parcel "A" as described in a Grant Deed recorded September 19, 1996 as Instrument No. 19960479182 of Official Records of said County described as follows:

Beginning at a point on the southeasterly boundary of said Grant Deed, lying South 63°40'99" West 1900.27 feet from the southeast corner thereof; thence North 26°19'31" West 301.91 feet to a non-tangent curve concave northerly having a radius of 150.00 feet, a radial line to the beginning of said curve bears South 12°33'55" West; thence easterly 114.75 feet along said curve through a central angle of 43°49'57" to a reverse curve concave southeasterly having a radius of 1250.00 feet; thence northeasterly 119.12 feet along said curve through a central angle of 5°27'36" to a reverse curve concave northwesterly having a radius of 115.00 feet; thence northeasterly 113.82 feet along said curve through a central angle of 56°42'23" to a reverse curve concave southeasterly having a radius of 75.00 feet; thence northeasterly 76.19 feet along said curve through a central angle of 58°12'10" to a reverse curve concave northwesterly having a radius of 400.00 feet; thence northeasterly 102.70 feet along said curve through a central angle of 14°42'36" to a compound curve concave northwesterly having a radius of 110.00 feet; thence northeasterly 54.65 feet along said curve through a central angle of 28°27'58" to a non-tangent curve concave westerly having a radius of 150.00 feet, a radial line to the beginning of said curve bears South 50°08'09" East; thence northerly 277.85 feet along said curve through a central angle of 106°07'55" to a reverse curve concave northeasterly having a radius of 10.00 feet; thence northwesterly 14.56 feet along said curve through a central angle of 83°25'39" to a reverse curve concave westerly having a radius of 100.00 feet; thence northerly 39.81 feet along said curve through a central angle of 22°48'42"; thence tangent from said curve North 5°39'07" West 24.52 feet to a tangent curve concave southwestly having a radius of 165.00 feet; thence northwesterly 127.02 feet along said curve through a central angle of

Revised: October 28, 2008

~~October 16, 2008~~

Page 1 of 2

WO No. 61-15377CX

H&A Legal No. 5113

By: L. Gaston/k. vo

Checked By R. Williams/jl

EX. 2
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EXHIBIT 'B'

RESOLUTION 2009-28

EXHIBIT "A"
LEGAL DESCRIPTION

44°06'28"; thence non-tangent from said curve North 4°27'59" East 48.01 feet to a tangent curve concave westerly having a radius of 100.00 feet; thence northerly 34.65 feet along said curve through a central angle of 19°51'13" to a reverse curve concave easterly having a radius of 67.00 feet; thence northerly 18.47 feet along said curve through a central angle of 15°47'37"; thence tangent from said curve North 0°24'23" East 111.22 feet to the northerly boundary of said Grant Deed; thence along the northerly, westerly and southeasterly boundaries thereof the following ten courses: North 89°35'37" West 668.91 feet, South 0°10'28" West 1120.24 feet, South 89°58'29" West 155.96 feet, South 32°53'40" West 47.24 feet, South 44°49'13" West 172.30 feet, South 57°36'54" West 150.89 feet, South 29°37'51" West 37.58 feet, South 18°07'10" West 231.15 feet, South 26°19'31" East 95.04 feet and North 63°40'29" East 1071.59 feet to the Point of Beginning.

Containing an area of 23.112 acres, more or less.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Lisa K. Gaston, L.S. No. 8299
License Expires: December 31, 2009
Date: _____



Revised: October 28, 2008
~~October 16, 2000~~
Page 2 of 2
WO No. 61-15377CX
H&A Legal No. 5113
By: L. Gaston/k. vo
Checked By R. Williams/jl

*Ex. 2
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Ordinance No. 3831

EXHIBIT 'B'
RESOLUTION 2009-24

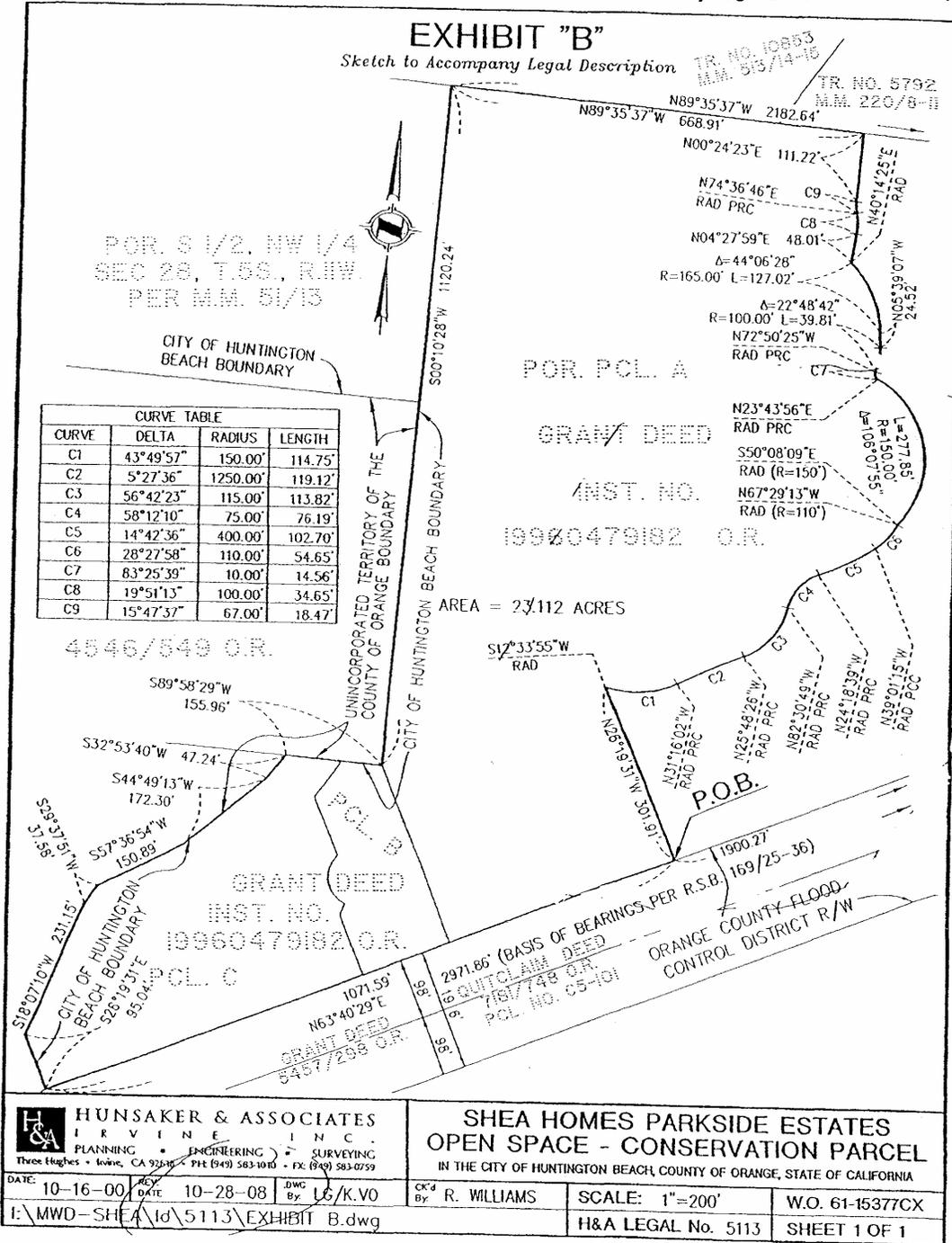
EX-2
p. 4

EXHIBIT B

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EXHIBIT 'B'
 RESOLUTION 2009-28



EX 2
 P 7

Ordinance No. 3831

EXHIBIT 'B'
RESOLUTION 2009-2

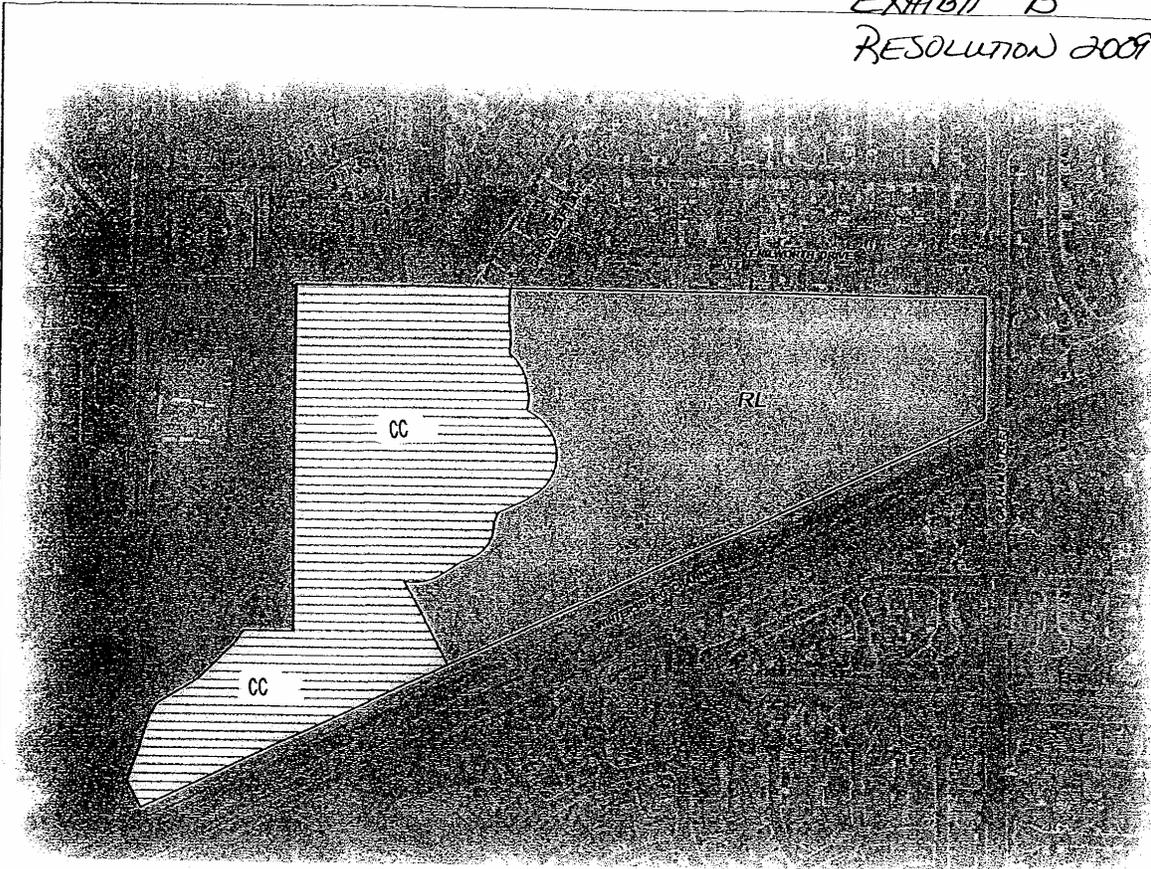
EXHIBIT C

EX 2
P.C.

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Ordinance No. 3831

EXHIBIT 'B'
RESOLUTION 2009-



LEGEND	
<i>RESIDENTIAL</i>	
	RL RESIDENTIAL LOW DENSITY
<i>OPEN SPACE</i>	
	CC COASTAL CONSERVATION

The Zoning designation includes the -FP2 and -CZ suffixes

NEW ZONING MAP

EX 2
P 9

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LEGISLATIVE DRAFT

ORDINANCE NO. 3832

Chapter 210 Residential Districts

(3268-12/94, 3334-6/97, 3410-3/99, 3455-5/00, 3568-9/02, 3706-6/05, 3724-02/06, 3761-2/07)

Sections:

- 210.02 Residential Districts Established
- 210.04 RL, RM, RMH, RH, and RMP Districts: Land Use Controls
- 210.06 RL, RM, RMH, RH, and RMP Districts: Property Development Standards
- 210.08 Development Standards for Senior Projects
- 210.10 Modifications for Affordable Housing
- 210.12 Planned Unit Development Supplemental Standards and Provisions
- 210.14 RMP District Supplemental Development Standards
- 210.16 Review of Plans

210.02 Residential Districts Established

The purpose of the residential districts is to implement the General Plan and Local Coastal Program Land Use Plan residential land use designations. Five (5) residential zoning districts are established by this chapter as follows: (3334-6/97)

- A. The RL Low Density Residential District provides opportunities for single-family residential land use in neighborhoods, subject to appropriate standards. Cluster development is allowed. Maximum density is seven (7) units per acre.
- B. The RM Medium Density Residential District provides opportunities for housing of a more intense nature than single-family detached dwelling units, including duplexes, triplexes, town houses, apartments, multi-dwelling structures, or cluster housing with landscaped open space for residents' use. Single-family homes, such as patio homes, may also be suitable. Maximum density is fifteen (15) units per acre.
- C. The RMH Medium High Density Residential District provides opportunities for a more intensive form of development than is permitted under the medium density designation while setting an upper limit on density that is lower than the most intense and concentrated development permitted in the City. One subdistrict has been identified with unique characteristics where separate development standards shall apply: RMH-A Small Lot. Maximum density is twenty-five (25) units per acre.
- D. The RH High Density Residential District provides opportunities for the most intensive form of residential development allowed in the City, including apartments in garden type complexes and high rise where scenic and view potential exists, subject to appropriate standards and locational requirements. Maximum density is thirty-five (35) units per acre.
- E. The RMP Residential Manufactured Home Park District provides sites for mobile home or manufactured home parks, including parks with rental spaces and parks where spaces are individually owned. Maximum density is nine (9) spaces per acre.

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210.04 RL, RM, RMH, RH, and RMP Districts: Land Use Controls

In the following schedules, letter designations are used as follows:

"P" designates use classifications permitted in residential districts.

"L" designates use classifications subject to certain limitations prescribed by the "Additional Provisions" that follow.

"PC" designates use classifications permitted on approval of a conditional use permit by the Planning Commission.

"ZA" designates use classifications permitted on approval of a conditional use permit by the Zoning Administrator.

"TU" designates use classifications allowed upon approval of a temporary use permit by the Zoning Administrator. (3334-6/97, 3410-3/99)

"P/U" designates that accessory uses are permitted, however, accessory uses are subject to approval of a conditional use permit if the primary use requires a conditional use permit. (3334-6/97, 3410-3/99)

Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Provisions" column refer to provisions following the schedule or located elsewhere in the zoning ordinance. Where letters in parentheses are opposite a use classification heading, referenced provisions shall apply to all use classifications under the heading.

(Rest of page not used)

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P-2

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RL, RM, RMH, RH, and RMP DISTRICTS:
LAND USE CONTROLS

P = Permitted
 L = Limited (see Additional Provisions) (3334-6/97)
 PC = Conditional use permit approved by Planning Commission
 ZA = Conditional use permit approved by Zoning Administrator
 TU = Temporary Use Permit
 P/U = Requires conditional use permit on site of conditional use
 - = Not Permitted

	RL	RM	RMH RH	RMP	Additional Provisions	
Residential Uses					(A)(M)(Q)	(3334-6/97, 3410-3/99)
Day Care, Ltd.	P	P	P	P		
Group Residential	-	-	PC	-		
Multi-family Residential					(B)(C)(D)(R)	(3410-3/99, 3455-5/00)
2 - 4 units	ZA	P	P	-		(3334-6/97, 3410-3/99)
5 - 9 units	ZA	ZA	ZA	-		(3334-6/97, 3410-3/99)
10 or more units	PC	PC	PC	-		(3334-6/97, 3410-3/99)
Manufactured Home Parks	ZA	ZA	-	ZA	(E)(F)	
Residential, Alcohol Recovery, Ltd.	P	P	P	P		
Residential Care, Limited	P	P	P	P		
Single-Family Residential	P	P	P	P	(B)(D)(F)(P)(R)(S)	(3334-6/97, 3410-3/99, 3455-5/00)
Public and Semipublic					(A)(O)	(3334-6/97, 3410-3/99)
Clubs & Lodges	PC	PC	ZA	ZA		(3334-6/97, 3410-3/99)
Day Care, Large-family	L-6	L-6	L-6	L-6		(3334-6/97, 3761-2/07)
Day Care, General	L-1	ZA	ZA	ZA		(3334-6/97, 3410-3/99)
Park & Recreation Facilities	L-2	L-2	L-2	L-2		(3334-6/97, 3410-3/99)
Public Safety Facilities	PC	PC	PC	PC		
Religious Assembly	L-3	PC	PC	PC		(3334-6/97, 3410-3/99)
Residential Care, General	-	L-1	PC	PC		(3334-6/97, 3410-3/99)
Schools, Public or Private	PC	PC	PC	PC		
Utilities, Major	PC	PC	PC	PC		
Utilities, Minor	P	P	P	P		
Commercial						
Communication Facilities	L-5	L-5	L-5	L-5		(3568-9/02)
Horticulture	ZA	ZA	ZA	ZA		(3410-3/99)
Nurseries	ZA	ZA	ZA	ZA		(3410-3/99)
Visitor Accommodations Bed and Breakfast Inns	-	-	L-4	-		(3334-6/97, 3410-3/99)
Accessory Uses	P/U	P/U	P/U	P/U	(A)(G)(H)(I)(L)(M)	(3334-6/97, 3410-3/99)
Temporary Uses					(J)(M)	(3334-6/97, 3410-3/99)
Commercial Filming, Limited	P	P	P	P		
Real Estate Sales	P	P	P	P	(N)	(3334-6/97, 3410-3/99, 3706-6/05)
Personal Property Sales	P	P	P	P		
Street Fairs	TU	TU	TU	TU		
Nonconforming Uses					(K)(L)	

EX 3
P 3

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RL, RM, RMH, RH, and RMP Districts: Additional Provisions

- L-1 A conditional use permit from the Planning Commission is required and only allowed on lots 1.0 acre (gross acreage) or greater fronting an arterial in RL District. (3410-3/99)
- L-2 Public facilities permitted, but a conditional use permit from the Zoning Administrator is required for private noncommercial facilities, including swim clubs and tennis clubs. (3334-6/97, 3410-3/99)
- L-3 A conditional use permit from the Planning Commission is required, and only schools operating in conjunction with religious services are permitted as an accessory use. A General Day Care facility may be allowed as a secondary use, subject to a conditional use permit, if the Planning Commission finds that it would be compatible with adjacent areas and not cause significant traffic impacts. (3334-6/97, 3410-3/99, 3724-02/06)
- L-4 A conditional use permit from the Zoning Administrator is required and only allowed on lots 10,000 sq. ft. or greater in RMH-A subdistrict. See also Section 230.42: Bed and Breakfast Inns. (3334-6/97, 3410-3/99, 3706-6/05)
- L-5 Only wireless communication facilities permitted subject to section 230.96 Wireless Communication Facilities. (3568-9/02)
- L-6 Neighborhood notification is required pursuant to Section 241.24. No architectural plans shall be required. (3761-2/07)
 - (A) Any addition or modification subsequent to the original construction that would result in an increase in the amount of building area, or a structural or architectural alteration to the building exterior, shall require an amendment to the previously approved conditional use permit, if any, or approval of a new conditional use permit. (3334-6/97, 3410-3/99, 3761-2/07)
 - (B) A conditional use permit from the Planning Commission is required for residential uses requesting reduction in standards for senior citizens (See Section 210.08), for affordable housing (See Sections 210.10 and 230.14), or for density bonus (See Section 230.14).
 - (C) A conditional use permit from the Zoning Administrator is required for any multiple family residential development that:
 - (1) abuts an arterial highway;
 - (2) includes a dwelling unit more than 150 feet from a public street; or
 - (3) includes buildings exceeding 25 feet in height. (3334-6/97, 3410-3/99)
 - (D) See Section 210.12: Planned Unit Development Supplemental Standards. In addition, a conditional use permit is required for condominium conversion pursuant to Chapter 235.
 - (E) See Section 210.14: RMP District Supplemental Standards. In addition, Neighborhood Notification pursuant to Chapter 241 is required for the addition of manufactured home space(s) to an existing Manufactured Home Park. (3334-6/97, 3410-3/99, 3706-6/05)
 - (F) See Section 230.16: Manufactured Homes.
 - (G) See Section 230.12: Home Occupation in R Districts.

Ex 3
P 4

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only language to be deleted 4/25/00 Chapter 210 per Ord. No. 3832

- (H) See Section 230.08: Accessory Structures.
- (I) See Section 230.10: Accessory Dwelling Units.

RL, RM, RMH, RH, and RMP Districts: Additional Provisions

- (J) See Section 241.20: Temporary Use Permits.
- (K) See Chapter 236: Nonconforming Uses and Structures.
- (L) See Chapter 233: Signs.
- (M) Tents, trailers, vehicles, or temporary structures shall not be used for dwelling purposes. (3334-6/97, 3410-3/99)
- (N) See Section 230.18: Subdivision Sales Offices and Model Homes. (3334-6/97, 3410-3/99)
- (O) Limited to facilities on sites of fewer than 2 acres. (3334-6/97, 3410-3/99)
- (P) See Section 230.22: Residential Infill Lot Developments. (3334-6/97, 3410-3/99)
- (Q) See Section 230.20: Payment of Parkland Dedication In-Lieu Fee. (3410-3/99)
- (R) Small lot development standards for RM, RMH, and RH Districts. A conditional use permit from the Planning Commission is required for small lot residential subdivisions, including condominium maps for detached single family dwellings. See also Section 230.24: Small Lot Development Standards. (3455-5/00)
- (S) See Coastal Element Land Use Plan, Table C-2, for permitted uses, development requirements and restrictions applicable to development within Subarea 4K as depicted in Figures C-6a and C-10 of the Coastal Element Land Use Plan. Subdivision design and development within Subarea 4K shall incorporate the information from the plans and studies required in Table C-2 for development of that Subarea. If there is a conflict between the requirements and restrictions of Table C-2 and other provisions of the Zoning and Subdivision Ordinance, the requirements and restrictions included in Table C-2 shall prevail.

210.06 RL, RM, RMH, RH, and RMP Districts: Property Development Standards

The following schedule prescribes development standards for residential zoning districts and subdistricts designated on the zoning map. The columns establish basic requirements for permitted and conditional uses; letters in parentheses in the "Additional Provisions" column refer to "Additional Development Standards" following the schedule.

In calculating the number of units permitted on the site, density is calculated on the basis of net site area. Fractional numbers shall be rounded down to the nearest whole number except that one dwelling unit may be allowed on a legally created lot complying with minimum lot area. All required setbacks shall be measured from ultimate right-of-way and in accordance with the definitions set forth in Chapter 203, Definitions.

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Any new parcel created pursuant to Title 25, Subdivisions, shall comply with the minimum building site requirements of the district in which the parcel is located unless approved as a part of a Planned Unit Development.

Property Development Standards for Residential Districts

	RL	RM	RMH-A Subdistrict	RMH	RH	RMP	Additional Provisions	
Minimum Building Site	6,000	6,000	2,500	6,000	6,000	10 ac.	(A)(B)(C)	(3410-399)
Width (ft.)	60	60	25	60	60	N/A		(3334-697, 3410-399)
Cul de sac frontage	45	45	-	45	45	N/A		(3334-697, 3410-399)
Minimum Setbacks							(D)(R)	(3334-697, 3410-399)
Front (ft.)	15	15	12	10	10	10	(E)(F)	(3334-697, 3410-399)
Side (ft.)	3;5	3;5	3;5	3;5	3;5	-	(G)(I)(J)	(3334-697, 3410-399)
Street Side (ft.)	6;10	6;10	5	6;10	6;10	10	(H)	(3334-697, 3410-399)
Rear (ft.)	10	10	7.5	10	10	-	(I)(J)	
Accessory Structure							(U)	(3334-697, 3410-399)
Garage							(K)	(3334-697, 3410-399)
Projections into Setbacks							(L)(R)	(3334-697, 3410-399)
Maximum Height (ft.)								
Dwellings	35	35	35	35	35	20	(M)	(3334-697, 3410-399)
Accessory Structures	15	15	15	15	15	15	(M)(R)	(3410-399)
Maximum Floor Area Ratio (FAR)	-	-	1.0	-	-	-		(3334-697, 3410-399)
Minimum Lot Area per Dwelling Unit (sq. ft.)	6,000	2,904	*	1,742	1,244	-		(3410-399)
Maximum Lot Coverage (%)	50	50	50	50	50	75	(V)	(3334-697, 3410-399)
Minimum Floor Area							(N)	(3334-697, 3410-399)
Minimum Usable Open Space							(O)	
Courts							(P)	(3334-697, 3410-399)
Accessibility within Dwellings							(Q)	(3410-399)
Waterfront Lots							(R)	(3334-697, 3410-399)
Landscaping			See Chapter 232				(S)	(3334-697, 3410-399)
Fences and Walls			See Section 230.88					
Lighting							(T)	(3334-697, 3410-399)
Underground Utilities			See Chapter 17.64					
Screening of Mechanical Equipment			See Section 230.76					
Refuse Storage Areas			See Section 230.78					(3410-399)
Antenna			See Section 230.80					(3410-399)
Performance Standards			See Section 230.82					
Off-Street Parking and Loading			See Chapter 231					
Signs			See Chapter 233					
Nonconforming Structures			See Chapter 236					
Accessory Structures			See Chapter 230.08					(3706-605)

* Lots 50 feet or less in width = 1 unit per 25 feet of frontage
 Lots greater than 50 feet in width = 1 unit per 1,900 square feet
 N/A = Not applicable

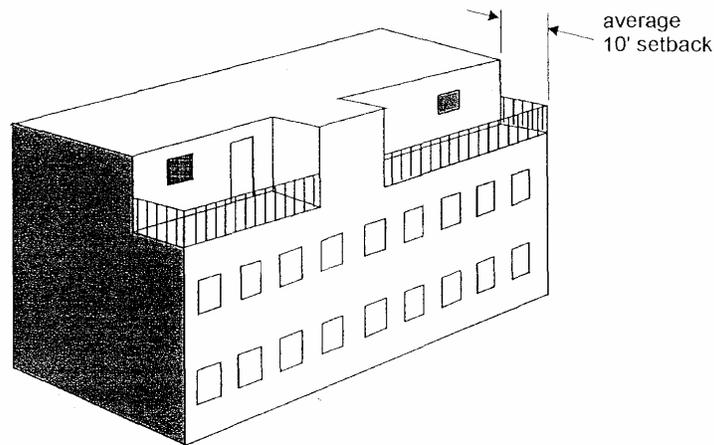
EX 3
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Parkside Implementation Plan Amendment
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RL, RM, RMH, RH, and RMP Districts: Additional Development Standards

- (A) See Section 230.62: Building Site Required and Section 230.64: Development on Substandard Lots.
- (B) See Section 230.66: Development on Lots Divided by District Boundaries.
- (C) The minimum lot area shall be 12,000 square feet for General Day Care, General Residential Care, and Public or Private Schools, except minimum lot area for General Day Care in the RL district shall be one (1) gross acre. (3334-6/97, 3410-3/99)
- (D) Building Separation. The minimum spacing between buildings including manufactured home units shall be 10 feet. (3334-6/97, 3410-3/99)
- (E) Variable Front Setback for Multi-family Projects. Projects with more than 4 units in the RM District, more than 8 units in the RMH District, or more than 14 units in the RH District shall provide a minimum setback of 15 feet from any public right-of-way. Minimum 50% of the garages shall be set back 20 feet from the front property line. (See Section 210.12B.) (3334-6/97, 3410-3/99)
- (F) Upper-story Setbacks for Multi-family Structures. The covered portion of all stories above the second story in any multi-family structure shall be set back an average of 10 feet from the second floor front facade (see Exhibit). (3334-6/97, 3410-3/99)



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UPPER STORY SETBACK

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RL, RM, RMH, RH, and RMP Districts: Additional Development Standards

(G) Interior Side Setback

- (1) In the RL, RM, RMH, including RMH-A subdistrict, and RH Districts, interior side setbacks shall be minimum 10% of lot width, but not less than 3 feet and need not exceed 5 feet, except as stated below. (3334-6/97, 3410-3/99)
- (2) For projects in the RM, RMH, including RMH-A subdistrict, and RH Districts adjoining an RL District, interior side setbacks shall be at least:
 - (a) 10 feet for units in single-story or two-story buildings.
 - (b) 14 feet for units above two stories.

Subject to approval of a conditional use permit, the Zoning Administrator or the Planning Commission, may approve upper-story setbacks in lieu of an increased side setback if the second and third stories are set back the required distance. (3334-6/97, 3410-3/99)

(H) Street Side Setbacks

- (1) In the RL, RM, RMH (excluding RMH-A subdistrict), and RH districts, the street side yard shall be 20 percent of the lot width, minimum 6 feet and need not exceed 10 feet. (3334-6/97, 3410-3/99)
- (2) In the RMH-A subdistrict, street side setback shall be minimum 5 feet. (3410-3/99)
- (3) For projects with 10 or more multi-family units (including RMH-A subdistrict), the street side setback shall be the same as the front setback. (3334-6/97, 3410-3/99)

(I) Building Walls Exceeding 25 Feet in Height. The required interior side or rear setback adjoining a building wall exceeding 25 feet in height, excluding any portion of a roof, and located on a lot 45 feet wide or greater, shall be increased three feet over the basic requirement. (3334-6/97, 3410-3/99)

(J) Zero Side or Rear Setback.

- (1) A zero interior side setback may be permitted provided that the opposite side setback on the same lot is minimum 20% of the lot width, not less than 5 feet, and need not exceed 10 feet, and shall be subject to the requirements listed in subsection (3) below. (3334-6/97, 3410-3/99)
- (2) A zero rear setback may be permitted provided that the opposite rear setback for the adjacent lot is either zero or a minimum of 10 feet, and subject to the requirements listed in subsection (3) below. (3334-6/97, 3410-3/99)

(Rest of page not used)

*No change to
the rest of Chapter 210*

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LEGISLATIVE DRAFT

ORDINANCE NO. 3833

Chapter 216 CC Coastal Conservation District

(3326-5/96)

Sections:

216.02	Purpose
216.04	Definitions
216.06	Designation of the Project Area
216.08	Permitted Uses and Structures
216.10	Economically Viable Use Determination
216.12	Prohibited Principal Uses and Structures
216.14	Required Permits/Agreements
216.16	Required Consideration of Alternatives
216.18	Performance Standards
216.20	Required Findings

216.02 Purpose

The purpose of the CC Coastal Conservation District is to implement the General Plan and Local Coastal Program land use designation of Open Space: Conservation; and provide for the protection, maintenance, restoration and enhancement of wetlands and environmentally sensitive habitat areas located within the Coastal Zone while allowing for appropriate utilization to occur.

The CC District specifies permitted uses within areas with a CC zoning designation, consistent with the California Coastal Act of 1976 (Division 20 of the Public Resources Code), the General Plan and the Local Coastal Program Land Use Plan. (3326-5/96)

The application of the CC District is not intended to authorize, and shall not be construed as authorizing the City of Huntington Beach to exercise its power in a manner which will take or damage private property for public use. This zoning ordinance is not intended to increase or decrease the rights of any owner of property under the constitution of the State of California or the United States. (3326-5/96)

216.04 Definitions (3326-5/96)

- A. Energy Facility. Any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy. (3326-5/96)

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- B. Environmentally Sensitive (Habitat) Area. A wetland or any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. (3326-5/96)
- C. Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, social, and technological factors. (3326-5/96)
- D. Functional Capacity. The ability of an environmentally sensitive area to be self-sustaining and to maintain natural species diversity. (3326-5/96)
- E. Significant Disruption. Having a substantial adverse effect upon the functional capacity. (3326-5/96)
- F. Wetland. 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 (3326-5/96)
- G. Coastal-dependent Development or Use: Any development or use which requires a site on, or adjacent to, the sea to be able to function at all. (3326-5/96)
- H. Resource Protection Area. Any area that consists of wetlands, Environmentally Sensitive Habitat Areas, or a buffer, as are defined in the City's Local Coastal Program.

216.06 Designation of the Project Area

Development or subdivision of any parcel in whole or in part within the CC District shall be permitted only pursuant to an overall development plan for the entirety of all parcels that are geographically contiguous and in common ownership at the time of application. For purposes of determining common ownership pursuant to this Chapter, parcels which are owned in fee, as well as parcels subject to existing purchase options, shall be treated as commonly owned. Consistent with Government Code Section 66424, property shall be considered as contiguous pursuant to this Chapter even if separated by roads, streets, utility easements or railroad rights-of-way. (3326-5/96)

216.08 Permitted Uses and Structures

- A. The following principal uses and structures shall be permitted in the CC District where no feasible, less environmentally damaging alternative exists and where feasible mitigation measures have been provided and are subject to issuance of a conditional use permit by the Zoning Administrator. Said permit

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shall insure that the uses are developed in a manner compatible with the purpose of this District. Such permitted uses are: (3326-5/96)

1. Incidental public service projects such as, but not limited to, burying cables and pipes. (3326-5/96)
 2. Maintenance of existing streets and utility structures. (3326-5/96)
- B. The extension of Hamilton Avenue shall be permitted between Beach Boulevard and Newland Street. The precise alignment of Hamilton Avenue shall not be approved without documentation that the least environmentally damaging feasible alternative is the chosen alternative. Before the precise alignment of Hamilton Avenue can be approved, an environmental impact report shall be certified which addresses the alternative alignments for Hamilton Avenue and the mitigation needs generated from each alternative. The alternatives analysis shall include, at a minimum, the following:
1. Placing the roadway in an alignment which is most protective of wetland habitats, including the construction of the road on pilings or bridging the road over the wetlands, and
 2. Limiting the width of the roadway by narrowing lanes and eliminating shoulders, and
 3. Requiring full mitigation for any impacted wetlands.

No net loss of wetland shall occur. Any wetland which is filled or reduced in productivity by the project will be replaced by restoring otherwise degraded or non-functioning wetland as close as feasible to the project site. (3326-5/96)

- C. The following uses and structures may be permitted in the CC District subject to Planning Commission approval of a conditional use permit where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided. (3326-5/96)
1. New or expanded energy and coastal-dependent industrial facilities where no feasible, less environmentally damaging alternative exists and where consistent with the study titled *Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976* (re-adopted by the California Coastal Commission December 1985). (3326-5/96)
 2. Diking, dredging and filling which are necessary for the protection, maintenance, restoration or enhancement of the environmentally sensitive habitat area's functional capacity. (3326-5/96)

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3. Flood Control Facilities.

- a. Maintenance of existing modified flood control facilities where the primary purpose is to maintain existing flood control capacity and where such maintenance is necessary for public safety or to protect existing development where there is no other feasible method for protecting structures in the flood plain. No maintenance activities shall be permitted which have the effect of draining wetlands.
(3326-5/96)

Maintenance activities may include: Maintenance dredging of less than 100,000 cubic yards within a 12 month period; lining of existing in-place artificial channels; increasing the height of existing levees; or changes in the cross section of the interior channel to accommodate the design capacity of existing channels when no widening of the top dimensions or widening of the outer levees is required.
(3326-5/96)

- b. Only in conjunction with restoration plans, new flood control facilities where necessary for public safety and to protect existing development where there is no other feasible method for protecting structures in the flood plain.
(3326-5/96)

4. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
(3326-5/96)
5. Pedestrian trails and observation platforms for passive nature study; i.e., bird watching and the study of flora and fauna native to the site. Such uses may be located within an environmentally sensitive habitat area provided that said use(s) are immediately adjacent to the area's peripheral edge.
(3326-5/96)
6. Maintaining existing, or restoring previously dredged depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
(3326-5/96)
- ~~7. In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities, if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed twenty five percent (25%) of the degraded wetland.~~
(3326-5/96)
87. Nature study, aquaculture, or similar resource dependent activities.
(3326-5/96)

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98. Habitat restoration projects. (3326-5/96)
109. For the portion of any parcel which is not designated Conservation under the certified land use plan, any use authorized by and in conformance with the CV District. (3326-5/96)
110. In addition to the above uses, coastal dependent industrial facilities shall also be allowed even where inconsistent with other provisions of the certified Local Coastal Program if: (3326-5/96)
- a. To locate elsewhere is infeasible or causes greater environmental damage and, (3326-5/96)
 - b. To do otherwise would adversely affect the public welfare and, (3326-5/96)
 - c. Adverse environmental effects are mitigated to the maximum extent feasible and (3326-5/96)
 - d. Where findings consistent with Section 216.20 can be made. (3326-5/96)

D. Permitted uses, development requirements and restrictions applicable to development within Subarea 4K as depicted in Figure Figures C-6a and C-10 of the Coastal Element I and Use Plan are provided in the Coastal Element Land Use Plan, Table C-2. Subdivision design and development within Subarea 4K shall incorporate the information from the plans and studies required in Table C-2 for development of that Subarea. If there is a conflict between the requirements and restrictions of Table C-2 c. and other provisions of the Zoning and Subdivision Ordinance, the requirements and restrictions included in Table C-2 shall prevail.

216.10 Economically Viable Use Determination.

- A. Any applicant that proposes a use other than one permitted in the CC District based on the contention that the uses permitted in this district will not provide an economically viable use of his or her property shall apply for an economic viability determination in conjunction with their coastal development permit application. The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information: (3326-5/96)
- 1. The date the applicant purchased or otherwise acquired the property, and from whom. (3326-5/96)
 - 2. The purchase price paid by the applicant for the property. (3326-5/96)

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3. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time. (3326-5/96)
 4. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition. (3326-5/96)
 5. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection 4 above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition. (3326-5/96)
 6. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates. (3326-5/96)
 7. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased. (3326-5/96)
 8. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware. (3326-5/96)
 9. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price. (3326-5/96)
 10. The applicant's costs associated with the ownership of the property, annualized for each of the last five (5) calendar years, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs. (3326-5/96)
 11. Apart from any rent received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five (5) calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income. (3326-5/96)
- B. The decision-making authority shall hold a public hearing on any application for an economically viable use determination. Prior to approving a coastal development permit for a use other than one provided for in the CC District, the decision-making authority shall make the following findings: (3326-5/96)

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1. Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the CC District would not provide an economically viable use of the applicant's property. (3326-5/96)
2. Restricting the use of the applicant's property to the uses provided for in the CC District would interfere with the applicant's reasonable investment-backed expectations. (3326-5/96)

The findings adopted by the decision-making authority shall identify the evidence supporting the findings. (3326-5/96)

- C. Where the decision-making authority finds that the uses provided for in the CC District would not provide an economically viable use, and that restricting the use of the applicant's property to these uses would interfere with their reasonable investment backed expectations, the uses provided for in the visitor serving commercial zoning district may be allowed as a conditional use and in the area located west of Newland Street and north of the Orange County Flood Channel only, the uses provided for in the IL Limited Industrial District may be allowed as a conditional use. A specific development proposal for a visitor serving commercial use or limited industrial use, may be denied, however, if a feasible less environmentally damaging visitor serving commercial or limited industrial alternative also would provide the applicant with an economically viable use. In addition to the other Performance Standards of Section 216.18 applicable to projects in the CC District, such a visitor serving commercial or limited industrial use shall be subject to the following development standards:

1. The area in which visitor serving commercial or limited industrial uses shall be permitted shall be the minimum amount necessary to provide the applicant with an economically viable use of his or her property. (3326-5/96)
2. The portion of the project involving visitor serving commercial or limited industrial uses shall also be subject to the standards of the CV District or the IL District. (3326-5/96)
3. Access through wetlands or environmentally sensitive habitat areas to an area proposed for visitor serving commercial or limited industrial uses shall only be allowed if necessary to provide an economically viable use of the overall development plan area. (3326-5/96)

216.12 Prohibited Principal Uses and Structures

Any principal use or structure not expressly permitted is prohibited herein. (3326-5/96)

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216.14 Required Permits/Agreements

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Before the application can be considered complete, the project shall receive the following state and federal regulatory permits/agreements or a statement from the regulatory body that said permit/agreement is inapplicable. The required regulatory permits/agreements shall be forwarded to the Director prior to the submittal of said project to a decision making body. (3326-5/96)

- A. United States Army Corps of Engineers Section 404 and Section 10 permits; (3326-5/96)
- B. California Department of Fish and Game 1601 - 1603 agreements; (3326-5/96)
- C. State Water Resource Control Board (permit depends on the operation); (3326-5/96)
- D. Regional Water Quality Control Board (permit depends on the operation); (3326-5/96)
- E. A permit from the California State Lands Commission may also be required. (3326-5/96)

216.16 Required Consideration of Alternatives

Before any application is accepted for processing, the applicant shall provide topographic, vegetative, hydrologic and soil information prepared by a qualified professional which identifies the extent of the wetlands on the property. This submittal shall also include an analysis of alternatives to the proposed project and an assessment of how the proposed project is the least environmentally damaging alternative. The analysis of alternatives shall include an assessment of how the proposed project will impact all adjacent wetlands and environmentally sensitive habitat areas, including those within the overall development plan area. (3326-5/96)

216.18 Performance Standards

Before the coastal development permit can be issued, the project shall comply with the following standards to the satisfaction of the Director: (3326-5/96)

- A. Wetlands and environmentally sensitive habitat areas that are designated for preservation after a permit hearing granting project approval on the property shall be preserved through a conservation easement, deed restriction or other similar mechanism consistent with Public Resources Code Section 30010. Such easements or restrictions need not authorize any public right of access or use. Exclusive use and possession of the area may remain with the applicant. (3326-5/96)
 - 1. All feasible mitigation measures shall be incorporated into projects to minimize adverse environmental effects. (3326-5/96)

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- a. If the project involves dredging, mitigation measures must include the following: (3326-5/96)
- (1) Dredging and spoils disposal must be planned and carried out to avoid significant disruption to wetland habitats and to water circulation; (3326-5/96)
 - (2) Limitations may be imposed on the timing of the operation, the type of operation, the quantity of dredged material removed, and the location of the spoil site; (3326-5/96)
 - (3) Dredge spoils suitable for beach replenishment shall, where feasible, be transported to appropriate beaches or into suitable longshore current systems; (3326-5/96)
 - (4) Other mitigation measures may include opening up areas to tidal action, removing dikes, improving tidal flushing, or other restoration measures. (3326-5/96)
- b. If the project involves diking or filling of a wetland, the following minimum mitigation measures shall apply. These mitigation measures shall not be required for temporary or short-term fill or diking if a bond or other evidence of financial responsibility is provided to assure that restoration will be accomplished in the shortest feasible time. (3326-5/96)
- (1) If an appropriate restoration site is available, the applicant shall submit a detailed restoration plan to the Director which includes provisions for purchase and restoration of an equivalent area of equal or greater biological productivity and dedication of the land to a public agency or otherwise permanently restricting its use for open space purposes. The site shall be purchased before the dike or fill development may proceed. (3326-5/96)
 - (2) The applicant may, in some cases, be permitted to open equivalent areas to tidal action or provide other sources of surface water. This method of mitigation is appropriate if the applicant already owns filled, diked areas which themselves are not environmentally sensitive habitat areas but may become so, if such areas were opened to tidal action or provided with other sources of surface water. (3326-5/96)
 - (3) If no appropriate restoration sites under options (1) and (2) are available, the applicant shall pay an in-lieu fee, determined by the City Council, which shall be of sufficient value to an appropriate public agency for the purchase and

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restoration of an area of equivalent productive value, or
equivalent surface area. (3326-5/96)

- c. The third option above shall be allowed only if the applicant is unable to find a willing seller of a potential restoration site. Since the public agency may also face difficulties in acquiring appropriate sites, the in-lieu fee shall reflect the additional costs of acquisition, including litigation and attorney's fees, as well as the cost of restoration, relocation and other costs. If the public agency's restoration project is not already approved by the Coastal Commission, the public agency may need to be a co-applicant for a coastal development permit to provide adequate assurance that conditions can be imposed to assure that the purchase of the mitigation site shall occur prior to the issuance of the permit. In addition, such restoration shall occur in the same general region (e.g., within the same stream, lake, or estuary where the fill occurred). (3326-5/96)
2. Any areas where vegetation is temporarily removed shall be replanted with a native or an adaptable species in a quantity and quality equal to the vegetation removed. (3326-5/96)
3. Pedestrian trails, observation platforms and other incidental structures shall be designed to reduce disturbance of wildlife and vegetation; examples of improvements so designed would be elevated walkways and viewing platforms, and vegetative and structural barriers to decrease disturbances from permitted uses and inhibit internal access. (3326-5/96)
4. Passive nature study uses shall include a program to control litter; examples include litter containers and "no littering" signs posted in the project area. (3326-5/96)
5. Environmentally sensitive habitat areas shall be restored and enhanced to lessen the risk of flood damage to adjacent properties. (3326-5/96)
6. Any construction, alteration or other improvement shall generally be carried out between September 15 and April 15 to avoid disturbing rare, threatened, or endangered species which utilize the area for nesting. This requirement shall not apply if it can be demonstrated to the satisfaction of the Director that no such disturbance would occur, in which case construction shall be timed to cause the least disturbance to wetland dependent species; e.g., migratory waterfowl and shorebirds. (3326-5/96)
7. Construction/maintenance activities shall be carried out in areas of minimal size. Preconstruction topography shall be restored subsequent

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to the conclusion of the project unless such topography is to be altered to conform with an approved restoration project. (3326-5/96)

8. A Habitat Management Plan shall be prepared and carried out for all ESHA, wetland and buffer areas and provide for restoration, enhancement, and perpetual conservation and management. Issues to be addressed include, but are not limited to, methods to assure continuance of a water source to feed all wetland areas, enhancement of habitats and required buffer areas, restoration and enhancement of wetlands and environmentally sensitive habitats and required buffer areas, and fuel modification requirements to address fire hazard and avoid disruption of habitat values in buffers.

The Habitat Management Plan shall identify goals, objectives and performance standards; procedures and technical specifications for wetland and upland planting; methodology and specifications for removal of exotic species; soil engineering and soil amendment criteria; identification of plant species and density; maintenance measures and schedules; temporary irrigation measures; protective fencing both during construction and post-construction; restoration success criteria; measures to be implemented if success criteria are not met; and long-term adaptive management of the restored areas for a period of not less than 10 years.

9. Protective fencing or barriers shall be installed along any interface with developed areas, to deter human and pet entrance into all restored and preserved wetland and ESHA buffer areas; however, access to designated passive public recreational use areas shall be protected and visual impact of any barriers from open space areas shall be minimized.

10. Conservation easements (or other instruments) that serve to permanently protect the restored areas shall be recorded.

B. The applicant shall demonstrate that the functional capacity is maintained or augmented through the criteria set out below unless relieved of any one or more of these requirements by the California Department of Fish and Game, and that the project does not significantly: (3326-5/96)

1. Alter existing plant and animal populations in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance and composition are essentially unchanged as a result of the project; (3326-5/96)

2. Harm or destroy a species or habitat that is rare or endangered; (3326-5/96)

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3. Harm a species or habitat that is essential to the natural biological function of a wetland or estuary; (3326-5/96)
 4. Reduce consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of a wetland or estuarian ecosystem. (3326-5/96)
- C. If the proposed project involves restoration of a degraded wetland, the applicant shall comply with California Public Resources Code Sections 30411 and 30233 to the satisfaction of the Director. (3326-5/96)
- D. Any areas that constituted wetlands or ESHA that are removed, altered, filled or degraded as the result of activities carried out without compliance with Coastal Act requirements shall be protected as required by the City's Coastal Element Land Use Plan.

216.20 Required Findings

It is the intent of this section to ensure an environment which is suitable for the self-perpetuation of environmentally sensitive habitat areas. (3326-5/96)

- A. Prior to energy production facilities being approved, the approving authority shall make the following finding with statement of facts: (3326-5/96)
 1. Provision has been made for enhancement of a significant portion of the project area, to ensure preservation of plant and wildlife species. (3326-5/96)
- B. Prior to coastal dependent industrial facilities being approved, the approving authority shall make the following findings with statement of facts: (3326-5/96)
 1. Alternative locations are infeasible or more environmentally damaging. (3326-5/96)
 2. To locate the construction or expansion elsewhere would adversely affect the public welfare. (3326-5/96)
 3. Adverse environmental effects are mitigated to the maximum extent feasible consistent with Section 216.18. (3326-5/96)
 4. Siting is consistent with the study titled *Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976* (re-adopted by the California Coastal Commission December 1985). (3326-5/96)
 5. For expansion of the Southern California Edison Plant within the area designated Industrial Energy Production/Conservation only: (3326-5/96)

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- a. Not less than two and one-half (2 1/2) acres of wetlands southeasterly of Magnolia Street are permanently protected by conservation easements, dedications or other similar mechanisms for each acre of wetlands filled, and a program acceptable to the Department of Fish and Game is implemented to assure long term habitat enhancement or restoration of these protected wetlands. Vehicular access shall be prohibited in the wetland mitigation area protected by conservation easement or similar mechanism, and
(3326-5/96)

- b. The infeasibility of expanding inland to the area known as the Rotary Mud Dump site (also known as the Ascon Landfill/NESI site), or other inland location, unless the Energy Commission has determined such expansion infeasible during or before the Notice of Intention proceedings.
(3326-5/96)

- C. For any other project the applicant shall establish and the approving authority shall find that the functional capacity of the environmentally sensitive habitat area is being maintained.
(3326-5/96)

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LEGISLATIVE DRAFT - ORDINANCE NO. 3834

Chapter 221 CZ Coastal Zone Overlay District

Sections:

- 221.02 Coastal Zone Overlay District Established
- 221.04 Zoning Map Designator
- 221.06 Requirements for Coastal Development Permit
- ~~221.07 Impermissible Alteration~~
- 221.08 Land Use Controls
- 221.10 ~~Repealed~~ ⁽³³³⁴⁾ Resource Protection Requirements for New Development Adjacent to Environmentally Sensitive Habitat Area (ESHA)
- 221.12 Coastal Access and Public Use Areas, Signs Required
- 221.14 Preservation of Visual Resources
- 221.16 Community Facilities
- ~~221.17 Phasing~~
- 221.18 Diking, Dredging, and Filling
- 221.20 Hazards
- 221.22 Buffer Requirements
- 221.24 Energy Facilities
- 221.26 Residential Density Limitations
- 221.28 Maximum Height
- 221.30 Off-Street Parking Requirements
- 221.32 Landscaping
- 221.34 Signs
- 221.36 Public Access Implementation

221.02 Coastal Zone Overlay District Established

The purpose of the CZ Coastal Zone Overlay District is to provide supplementary provisions and specify permitted uses within the City's Coastal Zone, consistent with the California Coastal Act of 1976 (Division 20 of the Public Resources Code), the General Plan, and the Local Coastal Program Land Use Plan. ⁽³³³⁴⁾

221.04 Zoning Map Designator

The Zoning Map shall show all property subject to the provisions of this chapter by adding a "-CZ" designator to the base district designator.

221.06 Requirements for Coastal Development Permit

Any development in a CZ Overlay District shall require a Coastal Development Permit issued pursuant to Chapter 245 unless the development is exempt.

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221.07 Impermissible Alteration

Any area that constitutes wetlands or ESHA that has been removed, altered, filled or degraded as a result of activities carried out without compliance with the California Coastal Act requirements shall be protected as required by the City's Local Coastal Program Land Use Plan.

221.08 Land Use Controls

The land use controls for the CZ Overlay District shall be those of the base district with which the CZ Overlay District is combined. Where conflicts arise, the provisions of this chapter shall govern.

221.10 Repealed ~~(3334)~~ Requirements for New Development Adjacent to Environmentally Sensitive Habitat Area

As a condition of new development adjacent to a resource protection area, which includes any wetland, Environmentally Sensitive Habitat Area (ESHA), associated buffers, land zoned Coastal Conservation, as the same are defined in the City's Local Coastal Program, an applicant shall comply with the requirements listed below.

These requirements shall be applicable to lots within new subdivisions as well as development proposed on existing lots adjacent to an ESHA, wetlands, associated buffers, resource protection areas or land zoned Coastal Conservation, unless otherwise indicated.

- A. Landscape Plan shall be prepared that prohibits the planting, naturalization or persistence of invasive plants, and encourages low-water plants, and plants primarily native to coastal Orange County.
- B. Domestic Animal Control Plan shall be prepared that details methods to be used to prevent pets from entering any resource protection areas, including but not limited to appropriate fencing and barrier plantings.
- C. Pest Management Plan shall be prepared that, at a minimum, prohibits the use of rodenticides, and restricts the use of pesticides, and herbicides in outdoor areas, except necessary Vector Control conducted by the City or County.
- D. All street lighting, exterior residential lighting and recreational lighting adjacent to resource protection areas shall minimize impacts to wildlife within the resource protection areas.
- E. Covenants, Conditions and Restriction (CC&Rs) in a form approved by the Office of the City Attorney shall be recorded specifying that landscaping for individual housing lots and recreation areas that are directly adjacent to a resource protection area shall not include any exotic invasive plant species. The CC&Rs shall be binding on each of the lots, shall run with the land affected by the subdivision and shall be included or incorporated by reference in every deed transferring one or more of the lots in the subdivision.

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F. The project applicant shall provide any buyer of a housing unit within the CZ Overlay District an information packet that explains the sensitivity of the natural habitats within or adjacent to the project site and the need to minimize impacts on the designated resource protection area(s), and the prohibition on landscaping that includes exotic invasive plant species on lots that are directly adjacent to a resource protection area. The information packet shall include a copy of the Domestic Animal Control Plan and Pest Management Plan and be required for all sales of housing units pursuant to the CC&Rs.

G. Protective fencing or barriers shall be installed and maintained between the resource protection areas and areas developed for homes or recreational use for the purpose of minimizing human and domestic animal presence in resource protection areas, including restored and preserved wetland and ESHA buffer areas; however, public access to designated passive recreational use areas shall be provided. Visual impacts created from any walls or barriers adjacent to open space conservation and passive recreational use areas shall be minimized through measures such as open fencing/wall design, landscape screening, use of undulating or off-set wall features, etc.

H. Uses allowed adjacent to designated Environmentally Sensitive Habitat Areas shall assure the continuance of the habitat value and function of preserved and restored wetlands and ESHA.

221.12 Coastal Access and Public Use Areas, Signs Required

As a condition of new development on lots on or adjacent to recreation areas, public accessways, public use areas, trails, bikeways or the shoreline, or in conjunction with dedications of lateral or vertical access, the applicant shall provide signs identifying the public access and public use areas.

221.14 Preservation of Visual Resources

- A. An applicant proposing new development shall provide the Director with an evaluation of the project's visual impact, and incorporate in its design, to the satisfaction of the Director, the following elements:
 - 1. Preservation of public views to and from the bluffs, to the shoreline and ocean, and to the wetlands;
 - 2. Preservation of existing mature trees to the maximum extent feasible.
- B. Any alteration of the natural landform of the bluffs seaward of Pacific Coast Highway including grading and the development of parking lots shall be prohibited.

Alterations necessary for development of public trails and stabilization of bluffs may be permitted subject to approval of a coastal development permit. (3334)

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221.16 Community Facilities

Prior to the issuance of a coastal development permit, the Director shall determine that adequate public services and facilities will be available to serve the proposed development, consistent with the General Plan.

221.17 Phasing

The provision of public access and recreation benefits associated with private development (such as but not limited to public accessways, public bike paths, habitat restoration and enhancement, etc.) shall be phased such that the public benefit(s) are in place prior to or concurrent with the private development but not later than occupation of any of the private development.

221.18 Diking, Dredging, and Filling

Diking, dredging or filling shall be permitted only where there is no feasible, less environmentally-damaging alternative and where feasible mitigation measures have been provided, consistent with the Coastal Conservation District in Chapter 216. (3334)

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221.20 Hazards

As a condition of new development, the applicant shall be required to submit a report evaluating geologic, seismic, flood and fire hazards, and shall be designed to:

- A. Comply with all recommendations and provisions contained in the Alquist-Priolo Special Studies Zones Act (California Public Resources Code Chapter 7.5) for identified seismic hazards.
- B. Comply with all provisions relating to the FP Floodplain Overlay District, if applicable.
- C. Comply with all provisions relating to Methane Districts as defined in Chapter 17.04.
- D. Development in Subarea 4K as depicted in Figures C-6a, and C-10 of the Coastal Element Land Use Plan, shall comply with the approved Hazard Mitigation and Flood Protection Plan required in Table C-2 of the Coastal Element Land Use Plan.

221.22 Buffer Requirements

As a condition of development adjacent to environmentally-sensitive habitats delineated in the General Plan and, for development in the coastal zone, environmentally-sensitive habitats identified in the Local Coastal Program, a minimum 100-foot buffer from the edge of the habitat as determined by a site specific biological assessment area shall be provided. In the case of substantial development or significantly increased human impacts, a wider buffer may be required in accordance with an analysis of the factors identified in A through C below. If the existing development or site configuration cannot accommodate a 100-foot buffer, then the buffer shall be reviewed by the California Department of Fish and Game and designed to:

- A. Protect the functional relationship between wetland and adjacent upland;
- B. Ensure that the most sensitive species will not be disturbed significantly by permitted development, based on habitat requirements of both resident and migratory species, and the short- and long-term adaptability of various species to the presence of human beings; and
- C. Allow for interception of any additional material eroded as a result of the proposed development, based on soil, vegetation, slope and runoff characteristics, and impervious surface coverage.

221.24 Energy Facilities

New, modified or expanded energy facilities shall comply with the following requirements:

- A. Oil extraction operations shall be located where there are no other feasible, less environmentally-damaging locations based on the following priority, with the first location being the most preferable.

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1. Existing consolidated islands;
 2. New consolidated islands;
 3. Existing oil extraction sites;
 4. New sites outside the coastal zone; and
 5. New sites within the coastal zone.
- B. New pipelines shall be underground and:
1. Be consolidated in existing pipeline corridors and shall avoid recreation areas and environmentally- sensitive habitat areas unless there is no feasible, less environmentally-damaging, alternative location;
 2. Incorporate automatic shutoff valves to isolate any segments carrying hazardous liquids; ⁽³³³⁴⁾
 3. Be constructed with erosion control measures and without the use of any chemical herbicides;
 4. Shall mitigate to the maximum extent feasible adverse environmental impacts; and ⁽³³³⁴⁾
 5. Shall not jeopardize public, health, safety or welfare. ⁽³³³⁴⁾
- C. New oil separation and treatment facilities shall be permitted only if:
1. It is infeasible to utilize excess capacity of existing facilities; and
 2. The location and design of the site is consistent with other provisions of the CZ Overlay District and other applicable requirements.

221.26 Residential Density Limitations

The density limitations of the base district shall apply to property subject to a CZ Overlay District.

221.28 Maximum Height

- A. The maximum height limits within the CZ Overlay District are 35 feet for a residential structure and 50 feet for a commercial structure, or the base district height limit, whichever is lower.
- B. All rooftop mechanical devices, except for solar panels ,which may be permitted to exceed the height limit under Section 230.72, shall be set back and screened so that they are not visible.

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221.30 Off-Street Parking Requirements

All development shall comply with the off-street parking requirements of Chapter 231. (3334)

221.32 Landscaping

All projects within the CZ Overlay District shall comply with the landscape improvement requirements of Chapter 232 unless exempt, and the requirements of Section 221.10.

221.34 Signs

All signs shall comply with Chapter 233.

221.36 Public Access Implementation (3334)

- A. Purpose. The purpose of this Section includes the following:
1. To achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act codified at section 30000 through 30900 of the California Public Resources Code. Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners;
 2. To implement the public access and recreation policies of Chapter 3 of the Coastal Act (Section 30210 - 30255); and
 3. To implement the certified land use plan of the Local Coastal Program which is required by Section 30500(a) of the Coastal Act to include a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.
 4. In achieving these purposes, this ordinance shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution.
- B. Definitions. The following definitions shall govern the implementation of the public access requirements of the Coastal Act and this public access ordinance.
1. Development. The placement or erection of any solid material or structure on land, in or under water; discharge or disposal of any materials; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to Section 66410 of the Government Code, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such

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land by a public agency for public recreational use; and change in the intensity of use of water, or access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation.

As used in this section "structure" includes but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

2. New development. For purposes of implementing the public access requirements of Public Resources Code Section 30212 and of this section, "new development" includes "development" as defined in subsection 1 above except the following:
 - a. Structures destroyed by natural disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster; provided that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and is sited in the same location on the affected property as the destroyed structure. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.
 - b. Demolition and Reconstruction. The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
 - c. Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.
 - d. Repair and Maintenance. Repair and maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.
 - e. Reconstruction and Repair. The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification in design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.

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3. Sea. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.
4. Types of Public Access and Recreation.
 - a. Lateral public access: provides public access and use along or parallel to the sea.
 - b. Blufftop access: provides public access and coastal viewing along a coastal blufftop area.
 - c. Vertical access: provides a public access connection between the first public road, trail, or public use area nearest the sea and the publicly owned tidelands or established access.
 - d. Trail Access: provides public access along a coastal recreational path, including to and along lakes, rivers, streams, freshwater marshes, flood control channels/features, significant habitat and open space areas or similar resource areas, and which also may link inland recreational facilities to the shoreline.
 - e. Recreational Access: provides public access to coastal recreational resources through means other than those listed above, including but not limited to parking facilities, viewing platforms and blufftop parks.
5. Character of Accessway Use.
 - a. Pass and Repass: Refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Sections O and R establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.
 - b. Passive Recreational Use: Refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.
 - c. Active Recreational Use: Refers to the right of the public to conduct the full range of beach-oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.

*No Changes to the remainder of
221 Chapter 221*

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EXHIBIT 'C'
RESOLUTION 2009-28

ORDINANCE NO. 3835

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 230 OF THE HUNTINGTON BEACH ZONING
CODE RELATING TO SITE STANDARDS

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Chapter 230 of the Huntington Beach Zoning Code is hereby amended by amending Section 230.82 to read as follows:

230.82 Performance Standards For All Uses

- A. Applicability and Compliance. The development standards set forth in this section apply to every use classification in every zoning district unless otherwise specifically provided. The Director may require evidence of ability to comply with development standards before issuing an entitlement.
- B. Air Contaminants. Every use must comply with rules, regulations and standards of the South Coast Air Quality Management District (SCAQMD). An applicant for a zoning permit or a use, activity, or process requiring SCAQMD approval of a permit to construct must file a copy of the SCAQMD permit with the Director. An applicant for a use, activity, or process that requires SCAQMD approval of a permit to operate must file a copy of such permit with the Director within 30 days of its approval.
- C. Water Quality. Every use must comply with rules, regulations and standards of the Federal government, State and Regional Water Quality Control Boards and the City of Huntington Beach Municipal Codes. An applicant for a zoning permit or a building permit must demonstrate compliance with aforementioned rules, regulations and standards. General Plan and Local Coastal Program Goals, Objectives and Policies shall be incorporated into water quality management programs prepared for development projects as applicable and to the maximum extent practicable.
- D. Storage On Vacant Lot. A person may not store, park, place, or allow to remain in any part of a vacant lot any unsightly object. This does not apply to building materials or equipment for use on the site during the time a valid building permit is in effect for construction on the premises.

* Section 230.82 needs subsection C
language proposed to be added
to 230 Chapter 230 per Ord. No. 3835

No further changes proposed to
230 Chapter 230

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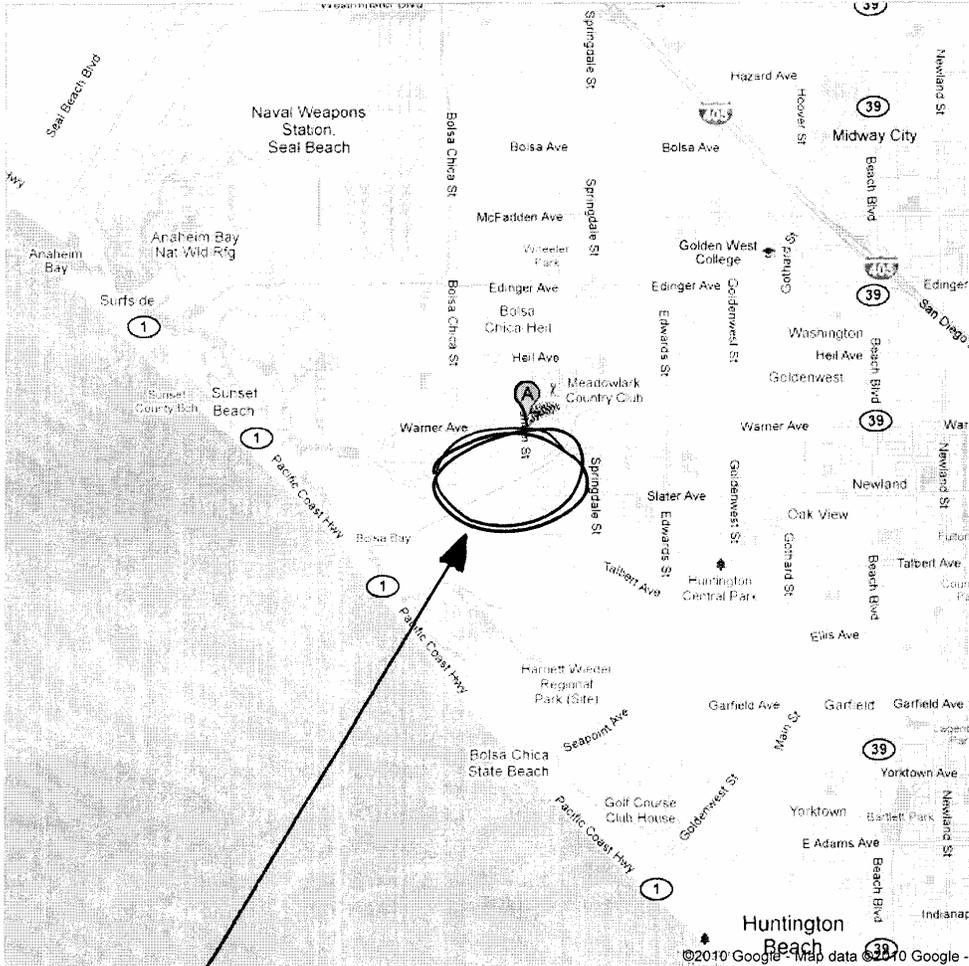
Graham St. and Warner Ave., Huntington Beach, CA - Google Maps

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Google maps

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Parkside Site

NEIGHBORHOOD
MAP

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Huntington Beach LCP Land Use Plan Amendment 1-06 (Parkside)
Approved Suggested Modifications

II. SUGGESTED MODIFICATIONS

Certification of City of Huntington Beach LCP Amendment Request No. 1-06 is subject to the following modifications.

The City's existing language is shown in plain text.

The City's proposed additions are shown in **bold text**.

The City's proposed deletions are shown in ~~plain text, strike-out~~.

The Commission staff's original (November 2007) suggested additions are shown in ***bold, italic, underlined text***.

The Commission staff's original (November 2007) suggested deletions are shown in ***bold, italic, underlined, strike out text***.

Additions to the November 2007 staff recommendation made by the Commission at the public hearing are shown in ***bold, italic, double underlined text***.

Deletions to the November 2007 staff recommendation made by the Commission at the public hearing are shown in ***bold, italic, double underlined, double strike out text***.

Staff Note: Three corrections are made where, due to typos, existing certified LUP language was left out. The corrections are: 1) replacing the word "residential" in suggested modification No. 1, 2) replacing the sub-section "Public" in the table in suggested modification No. 2, and, 3) inserting the hyphen in the land use category titles Open Space – Conservation and Open Space – Parks throughout.

LAND USE PLAN SUGGESTED MODIFICATIONS:

SUGGESTED MODIFICATION NO. 1

Sub-Area Descriptions and Land Use Plan

The City's certified and proposed Land Use Plan (LUP) language, on page IV-C-11, under the heading: Zone 2 – Bolsa Chica, shall be modified as follows:

Existing Land Uses

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Inland (Pacific Coast Highway and areas north to the Coastal Zone boundary.)
The majority of Zone 2, the Bolsa Chica, is located outside the City's corporate boundary, within the County of Orange. The area is in the City's Sphere of Influence ... A ~~44~~ **50** acre area between **Los Patos the residential development along Kenilworth Drive** and the **East Garden Grove** Wintersburg Flood Control Channel **is vacant and** includes a small section of the Bolsa Chica bluffs.

Coastal (Seaward of Pacific Coast Highway)

...

Coastal Element Land Use Plan

Inland (Pacific Coast Highway and areas north to the Coastal Zone boundary.)

The Coastal Element does not present a land use plan for the Bolsa Chica. The land area north of the Bolsa Chica, within the City's corporate and Coastal Zone boundaries, is built out consistent with its Coastal Element designation of low density **residential**. The area west of the Bolsa Chica is also developed consistent with the Coastal Element Land Use designation of low density residential and multi-family residential. The vacant 44-acre area next to the Wintersburg Flood Control Channel retains its existing designation as an "Area of Deferred Certification." Prior to development of the site, an amendment to the City's Local Coastal Program will be required, subject to Coastal Commission approval; the amendment would take effect upon Commission certification. Portions of this zone are included in the Community District/Sub-area Schedule as sub-areas 4G and 4J. **The Coastal Element land use designation for the vacant 45-acre area next to the East Garden Grove Wintersburg Flood Control Channel was recently certified as RL-7 (Low Density Residential) and OS-P (Open Space - Park). In addition, approximately 5 acres of land was annexed from the County of Orange into the City of Huntington Beach. This area is designated RL-7 (Low Density Residential) and OS-C (Open Space - Conservation).**

The fifty (50) acre area (including the 5 acre area annexed by the City in 2004) adjacent to and immediately north of the East Garden Grove/Wintersburg Flood Control Channel and adjacent to and immediately west of Graham Street is land use designated Residential and Open Space - Conservation. (See Figure C-6a)

There are wetlands, a Eucalyptus Grove that is an Environmentally Sensitive Habitat Area because it provides important raptor habitat, and buffer areas, and intermingled raptor foraging habitat at this site. These areas are designated Open Space - Conservation.

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The Wintersburg Channel Bikeway is identified at this site on the north levee of the flood control channel in the Commuter Bikeways Strategic Plan, which is the regional bikeways plan for Orange County (See page IV-C-49 and figure C-14).

SUGGESTED MODIFICATION No. 2

The table titled Zone 2 – Land Use Designations, on page IV-C-11, shall be modified as follows:

Zone 2 – Land Use Designations	
Residential	RL- Z or RM or RH
Open Space	OS-P OS-S <u>OS-C</u>
<u>Public</u>	<u>P</u>
"White Hole"	Area of Deferred Certification
Zone 2 – Specific Plan Areas	
None	
Zone 2 – General Plan Overlays	
4G, 4J, <u>4K</u>	

SUGGESTED MODIFICATION NO. 3

Figure C-6 of the City's Land Use Plan shall be modified to reflect the change in the City's corporate boundary and to accurately reflect the correct areas of the certified land use designations (Residential and Open Space Conservation) for the area.

SUGGESTED MODIFICATION NO. 4

New Figure C-6a shall be added to the City's Land Use Plan, which shall be a land use plan of the Parkside site and shall depict the approved land use designations on the site as shown on ~~3rd~~ **4th** revised exhibit NN.

SUGGESTED MODIFICATION NO. 5

Add new subarea 4-K to table C-2 (Community District and Subarea Schedule) as depicted below:

<u>Subarea</u>	<u>Characteristic</u>	<u>Standards and Principles</u>
<u>4-K</u>	<u>Permitted Uses</u>	<u>Categories: Residential (R-L or R-M) Open Space Conservation (OS-C)</u>

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		<u>See Figure C-6a</u>
	<u>Density/Intensity</u>	<u>Residential</u> <u>Maximum of fifteen (15) dwelling units per acre.</u>
	<u>Design and Development</u>	<p><u>See Figure C-6a</u></p> <p><u>A development plan for this area shall concentrate and cluster residential units in the northeastern portion of the site and include, consistent with the land use designations and Coastal Element policies, the following required information (all required information must be prepared or updated no more than one year prior to submittal of a coastal development permit application):</u></p> <p><u>1. A Public Access Plan, including, but not limited to the following features:</u></p> <ul style="list-style-type: none"> ❖ <u>Class I Bikeway (paved off-road bikeway; for use by bicyclists, walkers, joggers, roller skaters, and strollers) along the north levee of the flood control channel. If a wall between residential development and the Bikeway is allowed it shall include design features such as landscaped screening, non-linear footprint, decorative design elements and/or other features to soften the visual impact as viewed from the Bikeway.</u> ❖ <u>Public vista point with views toward the Bolsa Chica and ocean consistent with Coastal Element policies C 4.1.3, C 4.2.1, and C 4.2.3.</u> ❖ <u>All streets shall be ungated, public streets available to the general public for parking, vehicular, pedestrian, and bicycle access. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited.</u> ❖ <u>Public access trails to the Class I Bikeway,</u>

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		<p><u>open space and to and within the subdivision, connecting with trails to the Bolsa Chica area and beach beyond.</u></p> <ul style="list-style-type: none">❖ <u>Public access signage.</u>❖ <u>When privacy walls associated with residential development are located adjacent to public areas they shall be placed on the private property, and visual impacts created by the walls shall be minimized through measures such as open fencing/wall design, landscaped screening, use of an undulating or off-set wall footprint, or decorative wall features (such as artistic imprints, etc.), or a combination of these measures</u> <p><u>2. Habitat Management Plan for all ESHA, wetland, and buffer areas and other areas designated Open Space-Conservation that provides for their restoration and perpetual conservation and management. Issues to be addressed include, but are not limited to, methods to assure continuance of a water source to feed all wetland areas, enhancement of habitats and required buffer areas, restoration and enhancement of wetlands and environmentally sensitive habitats and required buffer areas, and fuel modification requirements to address fire hazard and avoid disruption of habitat values in buffers.</u></p> <p><u>3. Archaeological Research Design consistent with Policies C5.1.1, C5.1.2, C5.1.3, C5.1.4, and C5.1.5 of this Coastal Element.</u></p> <p><u>4. Water Quality Management Program consistent with the Water and Marine Resources policies of this Coastal Element. If development of the parcel creates significant amounts of directly connected impervious surface (more than 10%) or increases the volume and velocity of runoff from the site to adjacent coastal waters, the development shall include a treatment control BMP or suite of BMPs that will eliminate, or minimize to the maximum extent practicable, dry weather flow generated by site development to adjacent coastal waters and treat runoff from at least the 85th</u></p>
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		<p><u>percentile storm event based on the design criteria of the California Association of Stormwater Agencies (CASQA) BMP handbooks, with at least a 24 hour detention time. Natural Treatment Systems such as wetland detention systems are preferred since they provide additional habitat benefits, reliability and aesthetic values.</u></p> <p><u>5. Pest Management Plan that, at a minimum, prohibits the use of rodenticides, and restricts the use of pesticides, and herbicides in outdoor areas, except necessary Vector Control conducted by the City or County.</u></p> <p><u>6. Landscape Plan for non-Open Space Conservation areas that prohibits the planting, naturalization, or persistence of invasive plants, and encourages low-water use plants, and plants primarily native to coastal Orange County.</u></p> <p><u>7. Biological Assessment of the entire site.</u></p> <p><u>8. Wetland delineation of the entire site.</u></p> <p><u>9. Domestic animal control plan that details methods to be used to prevent pets from entering the Open Space-Conservation areas. Methods to be used include, but are not limited to, appropriate fencing and barrier plantings.</u></p> <p><u>10. Hazard Mitigation and Flood Protection Plan, including but not limited to, the following features:</u></p> <ul style="list-style-type: none">❖ <u>Demonstration that site hazards including flood and liquefaction hazards are mitigated;</u>❖ <u>Minimization/mitigation of flood hazard shall include the placement of a FEMA-certifiable, vegetated flood protection levee that achieves hazard mitigation goals and is the most protective of coastal resources including wetland and ESHA;</u>❖ <u>Assurance of the continuance,</u>
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		<p><u>restoration and enhancement of the wetlands and ESHA.</u></p> <p><u>Residential:</u></p> <p><u>Residential development, including appurtenant development such as roads and private open space, is not allowed within any wetland, ESHA, or required buffer areas and area designated Open Space-Conservation.</u></p> <p><u>Uses consistent with the Open Space-Parks designation are allowed in the residential area.</u></p> <p><u>All development shall assure the continuance of the habitat value and function of preserved and restored wetlands and environmentally sensitive habitat areas within the area designated Open Space-Conservation.</u></p> <p><u>Open Space-Conservation:</u></p> <p><u>A. Wetlands:</u></p> <p><u>Only those uses described in Coastal Element Policy C 6.1.20 shall be allowed within existing and restored wetlands.</u></p> <p><u>All development shall assure the continuance of the habitat value and function of wetlands.</u></p> <p><u>Wetland Buffer Area:</u></p> <p><u>A buffer area is required along the perimeter of wetlands to provide a separation between development impacts and habitat areas and to function as transitional habitat. The buffer shall be of sufficient size to ensure the biological integrity and preservation of the wetland the buffer is designed to protect.</u></p> <p><u>A minimum buffer width of 100 feet shall be established.</u></p> <p><u>Uses allowed within the wetland buffer are limited to:</u></p> <p>1) <u>those uses allowed within wetlands per Coastal</u></p>
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		<p><u>Element Policy C 6.1.20:</u></p> <p>2) <u>a vegetated flood protection levee is a potential allowable use if, due to siting and design constraints, location in the wetland buffer is unavoidable, and the levee is the most protective of coastal resources including wetland and ESHA;</u></p> <p>3) <u>No active park uses (e.g. tot lots, playing fields, picnic tables, bike paths, etc.) shall be allowed within 100 feet of wetlands preserved in the Open Space Conservation area.</u></p> <p><u>B. Environmentally Sensitive Habitat Areas:</u> <u>Only uses dependent on the resource shall be allowed.</u></p> <p><u>Environmentally Sensitive Habitat Areas (ESHA) Buffer Areas:</u> <u>A variable width buffer area is required along the perimeter of the ESHA and is required to be of sufficient size to ensure the biological integrity and preservation of the ESHA the buffer is designed to protect.</u></p> <p><u>A minimum buffer width of 100 meters (328 feet) 297 to 650 feet shall be established between all residential development or active park use and raptor habitat within the eucalyptus groves.</u></p> <p><u>Uses allowed within the ESHA buffer are limited to:</u></p> <p>1) <u>uses dependent on the resource;</u> 2) <u>wetland and upland habitat restoration and management;</u> 3) <u>vegetated flood protection levee that is the most protective of coastal resources including wetland and ESHA;</u> 4) <u>within the northern grove ESHA buffer only – passive park use may be allowed if it is more than 150 feet from the ESHA, but only when it is outside all wetland and wetland buffer areas, and does not include any uses that would be disruptive to the ESHA. Uses allowed within the passive park areas shall be limited to:</u></p>
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		<p>a) <u>nature trails and benches for passive recreation, education, and nature study;</u> b) <u>habitat enhancement, restoration, creation and management.</u></p> <p>5) <u>within the southern grove ESHA buffer only - a water quality Natural Treatment System may be allowed so long as it is located in an area that is most protective of coastal resources and at least 246 feet from the ESHA.</u></p> <p>56) <u>In addition to the 400 meter required ESHA buffer described above, grading shall be prohibited within 500 feet of an occupied raptor nest during the breeding season (considered to be from February 15 through August 31);</u></p> <p>C. Other Areas Designated Open Space Conservation</p> <p>Uses allowed within areas designated Open Space Conservation other than wetland and ESHA areas and their buffers are limited to:</p> <p>1. Water Quality Natural Treatment System; 2. Passive recreational uses such as trails and benches for education and nature study; 3. Habitat enhancement, restoration, creation and management.</p> <p><u>D.C. Habitat Management Plan shall be prepared for all areas designated Open Space-Conservation which shall include restoration and enhancement of delineated wetlands, wetland and habitat mitigation, and establishment of appropriate buffers from development.</u></p> <p>E.</p> <p><u>D. Protective Fencing: Protective fencing or barriers shall be installed along any interface with developed areas, to deter human and pet entrance into all restored and preserved wetland and ESHA buffer areas.</u></p>
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SUGGESTED MODIFICATION No. 6

On page IV-C-60 and IV-C-61, under the heading Visual Resources, The Bolsa Chica Mesas, revise to include visual resources within Parkside area as follows:

The northwestern side of the Bolsa Chica Ecological Reserve includes bluffs that rise to an upland area known as the Bolsa Chica Mesa. These bluffs are primarily under the County's jurisdiction (only a small part of the bluff lies in the City) but are within the City's Sphere of Influence for potential future annexation. The mesas constitute a significant scenic resource within the City's coastal Zone. **The 50 acre site (located west of and adjacent to Graham Street and north of and adjacent to the East Garden Grove Wintersburg Orange County flood Control Channel) known as the "Parkside" site affords an excellent opportunity to provide a public vista point. A public vista point in this location would provide excellent public views toward the Bolsa Chica and ocean. Use of the public vista point will be enhanced with construction of the Class I bike path along the flood control channel and public trails throughout the Parkside site.**

SUGGESTED MODIFICATION NO. 7

On page IV-C-70 add the following language in the first paragraph under the heading Environmentally Sensitive Habitats, to include reference to the wetland and Eucalyptus ESHA on the Parkside site:

... The City's Coastal Element identifies **two three** "environmentally sensitive habitat areas" within the City: 1) the Huntington Beach wetland areas, and 2) the California least tern nesting sanctuary, **and 3) the wetlands and Eucalyptus ESHA on the Parkside site.** (See Figure C-21 **for location of No. 1 and 2.**) The Coastal Element includes policies to protect and enhance environmentally sensitive habitat areas in accordance with the Coastal Act.

Also, on page IV-C-72 add the following new section describing the Eucalyptus ESHA and wetlands on the Parkside site, after the paragraph titled California Least Tern Nesting Sanctuary:

Parkside Eucalyptus ESHA and Wetlands (See Figure C 6a)

Historically, this site was part of the extensive Bolsa Chica Wetlands system and was part of the Santa Ana River/Bolsa Chica complex. In the late 1890s the Bolsa Chica Gun Club completed a dam with tide gates, which eliminated tidal influence, separating fresh water from salt water. In the 1930s, agricultural ditches began to limit fresh water on the site, and in

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1959, the East Garden Grove-Wintersburg Flood Control Channel isolated the site hydrologically. Nevertheless, wetland areas remain present at the site. There are existing and previously delineated wetlands, and areas that have been filled without authorization and are capable of being restored. These areas as well as their buffer areas are designated Open Space-Conservation, and uses allowed within these areas are limited.

In addition, on the site's southwestern boundary, at the base of the bluff, is a line of Eucalyptus trees that continues offsite to the west. These trees are used by raptors for nesting, roosting, and as a base from which to forage. The trees within this "eucalyptus grove" within or adjacent to the subject site's western boundary constitute an environmentally sensitive habitat area (ESHA) due to the important ecosystem functions they provide to a suite of raptor species. The Eucalyptus trees along the southern edge of the Bolsa Chica mesa are used for perching, roosting, or nesting by at least 12 of the 17 species of raptors that are known to occur at Bolsa Chica. Although it is known as the "eucalyptus grove", it also includes several palm trees and pine trees that are also used by raptors and herons. None of the trees are part of a native plant community. Nevertheless, this eucalyptus grove has been recognized as ESHA by multiple agencies since the late 1970's (USFWS, 1979; CDFG 1982, 1985) not because it is part of a native ecosystem, or because the trees in and of themselves warrant protection, but because of the important ecosystem functions it provides. Some of the raptors known to use the grove include the white tailed kite, sharp-shinned hawk, Cooper's hawk, and osprey. Many of these species are dependent on both the Bolsa Chica wetlands and the nearby upland areas for their food. These Eucalyptus trees were recognized as ESHA by the Coastal Commission prior to its 2006 certification of this section of this LCP, most recently in the context of the Coastal Commission's approval of the adjacent Brightwater development (coastal development permit 5-05-020).

The Eucalyptus grove in the northwest corner of the site, although separated from the rest of the trees by a gap of about 650 feet, provides the same types of ecological functions ~~services~~ as do the rest of the trees bordering the mesa. At least ten species of raptors have been observed in this grove and Cooper's hawks, a California Species of Special Concern, nested there in 2005 and 2006. Due to the important ecosystem functions of providing perching, roosting and nesting opportunities for a variety of raptors, these trees also constitute ESHA. These areas as well as their buffer areas ~~and intermingled foraging areas~~ are designated Open Space-Conservation, and uses allowed within these areas are limited.

The wetlands, Eucalyptus ESHA areas, and buffer areas ~~and intermingled~~

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~~raptor foraging areas, are designated Open Space-Conservation to assure they are adequately protected.~~

SUGGESTED MODIFICATION NO. 8

Add the following policy to the certified Land Use Plan, on page IV-C-100 as new policy C 1.1.3a:

C 1.1.3a

The provision of public access and recreation benefits associated with private development (such as but not limited to public access ways, public bike paths, habitat restoration and enhancement, etc.) shall be phased such that the public benefit(s) are in place prior to or concurrent with the private development but not later than occupation of any of the private development.

SUGGESTED MODIFICATION NO. 9

Add the following policy to the certified Land Use Plan, on page IV-C-105 as new policy C 2.4.7:

C 2.4.7

The streets of new residential subdivisions between the sea and the first public road shall be constructed and maintained as open to the general public for vehicular, bicycle, and pedestrian access. General public parking shall be provided on all streets throughout the entire subdivision. Private entrance gates and private streets shall be prohibited. All public entry controls (e.g. gates, gate/guard houses, guards, signage, etc.) and restrictions on use by the general public (e.g. preferential parking districts, resident-only parking periods/permits, etc.) associated with any streets or parking areas shall be prohibited.

SUGGESTED MODIFICATION NO. 10

Modify the following existing LUP Water and Marine Resources policies as follows:

C 6.1.6

(modify third and fourth paragraph)

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The City shall require that new development and redevelopment, as appropriate, employ nonstructural Best Management Practices (BMPs) and structural BMPs designed to minimize the volume, velocity and pollutant load of stormwater runoff, prior to runoff discharge into stormwater conveyance systems, receiving waters and/or other sensitive areas. **All development shall include effective site design and source control BMPs. When the combination of site design and source control BMPs is not sufficient to protect water quality, structural treatment BMPs along with site design and source control measures shall be required.** BMPs should be selected based on efficacy at mitigating pollutants of concern associated with respective development types.

To this end, the City shall continue implementation of the Municipal **Non-Point Source Stormwater** National Pollution Discharge Elimination System (NDPES) **standards program permit (Santa Ana Regional Water Quality Control Board Order No. R8-2002-0010, dated January 18, 2002, or any amendment to or re-issuance thereof)** of which the City is a co-permittee with the County of Orange through the Santa Ana Regional Water Quality Control Board. Per program parameters, continue to require a Water Quality Management Plan for all applicable new development and redevelopment in the Coastal Zone, ...

C 6.1.16

Encourage the Orange County Sanitation District to accept dry weather nuisance flows into the sewer treatment system prior to discharge. **New developments shall be designed and constructed to minimize or eliminate dry weather nuisance flows to the maximum extent practicable.**

C 6.1.25

Require that new development and redevelopment minimize the creation of impervious areas, **especially directly connected impervious areas**, and, where feasible, reduce the extent of existing unnecessary impervious areas, and incorporate adequate mitigation to minimize the alteration of natural streams and/or interference with surface water flow. **The use of permeable materials for roads, sidewalks and other paved areas shall be incorporated into new development to the maximum extent practicable.**

Add new policy C 6.1.30

Natural or vegetated treatment systems (e.g. bio-swales, vegetative buffers, constructed or artificial wetlands) that mimic natural drainage patterns are preferred for new developments over

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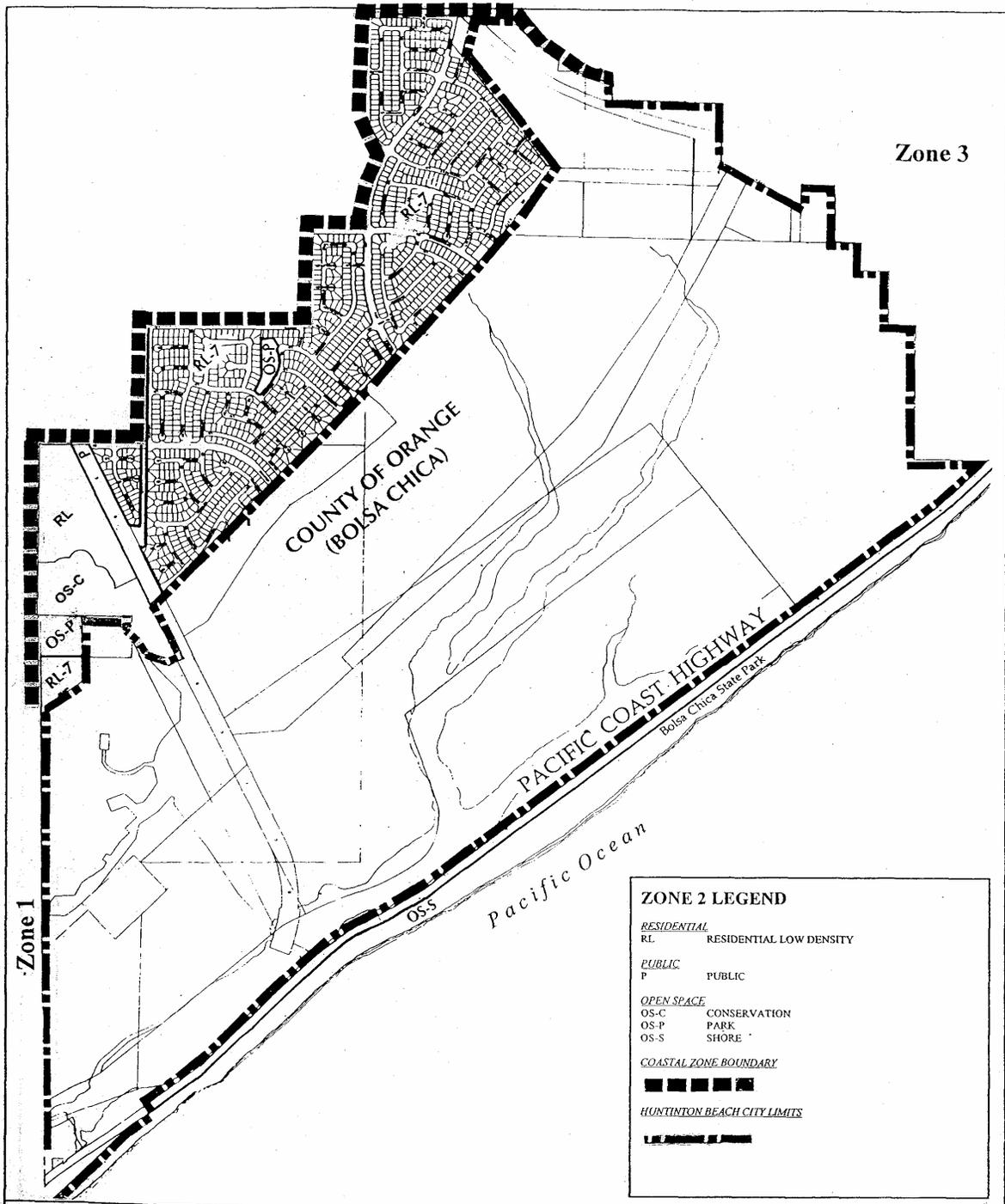
mechanical treatment systems or BMPs (e.g. water quality treatment plants, storm drain inlet filters).

SUGGESTED MODIFICATION NO. 11

Add the following policy to the certified Land Use Plan, on page IV-C-123, as new policy C 7.2.7

Any areas that constituted wetlands or ESHA that have been removed, altered, filled or degraded as the result of activities carried out without compliance with Coastal Act requirements shall be protected as required by the policies in this Land Use Plan.

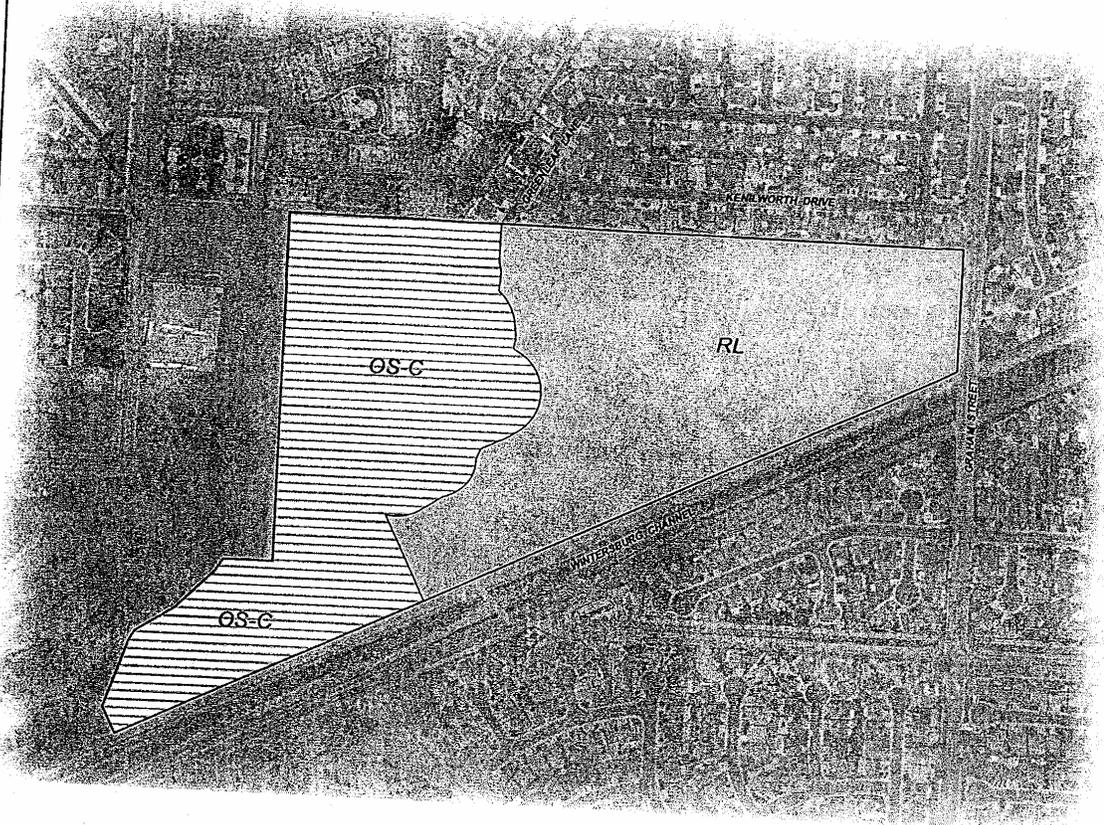
EX. 8



HUNTINGTON BEACH COASTAL ZONE
 ZONE 2 LAND USE PLAN
 CITY OF HUNTINGTON BEACH COASTAL ELEMENT

COASTAL COMMISSION
 HUNTINGTON BEACH LCPA 2-10
 EXHIBIT 9
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NORTH
 FIGURE C-6



LEGEND

	<u>RESIDENTIAL</u>
RL	RESIDENTIAL LOW DENSITY
	<u>OPEN SPACE</u>
OS-C	CONSERVATION

PARKSIDE ESTATES
LAND USE PLAN

CITY OF HUNTINGTON BEACH COASTAL ELEMENT

NORTH
FIGURE C-6a

IV-C-22

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