

CALIFORNIA COASTAL COMMISSION

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



April 22, 2010

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR LCP
AMENDMENT NO. 1-09A (Seascape) for Commission Meeting of May 12-14,
2010**

SYNOPSIS

The subject LCP land use plan and implementation plan amendment was submitted and filed as complete on July 13, 2009. A one-year time extension was granted on October 11, 2009. As such, the last date for Commission action on this item is October 13, 2010.

This staff report addresses one of two of the components submitted by the City for Local Coastal Program Amendment (LCPA) 1-09 (A&B). The other component 1-09(B) was approved by the Commission at its October, 2009 hearing.

SUMMARY OF AMENDMENT REQUEST

The subject LCP amendment proposes to: 1) change the land use designation from Residential Low-Medium Density (RLM) to Residential Low-Medium Density and Open Space (OS) and 2) change the zoning designation from Limited Control (L-C) to One-Family Residential (R-1) and Open Space (OS) on the affected property to accommodate 12 residential lots, two open space lots, and 1 private street lot to facilitate the construction of 12 single-family homes.

The project site, consisting of two parcels totaling 5.05 acres of previously agricultural land committed to greenhouse use, is located east of Black Rail Road and north of Avena Court (ref. Exhibit #1). It is bounded to the north by single-family homes, to the south by condominium development, to the east by open space associated with the Aviara Municipal Golf Course, and to the west by a single-family home and active palm tree nursery. Approximately 1.77 acres of the site (35%) is constrained by an SDG&E power line easement, which bisects the site diagonally. The site has been previously used for agricultural operation and was once developed with several greenhouse facilities. There

is no native habitat on the site; all agricultural operations have been terminated and all greenhouses have since been removed.

The “open space” acreage is proposed to consist of a large grassy play area, a decomposed granite walking path and native landscaping. The grassy area (non-native) is encumbered by an open space easement for existing utility lines (1.77 acres), and thus revegetating this area with native plants was not feasible. However, the easement area does provide passive recreational opportunities.

While the subject site doesn’t contain any sensitive habitat, the project is located adjacent to an area designated as “hardline preserve” in the City’s certified Habitat Management Plan, and thus, the project does present some concerns regarding indirect impacts to sensitive resources. As proposed, the project includes all the “adjacency standards” required for projects located in direct proximity to ESHA (occupied coastal sage). These adjacency standards include: appropriate fencing, lighting, signage, and predator and exotic species control. The project also incorporates a 60 foot wide fire suppression zone, and requires native, fire-resistant planting within this fire buffer.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed LCP amendment as submitted. The proposed modifications under review at this time are only the changes to land use and zoning designations on site. However, these changes directly facilitate a specific development, and as such, the development envelope established by the project, including potential impacts to sensitive resources, shall be reviewed as well. The proposed amendment includes modifying a five acre site to accommodate the development of 12 single family homes. There are no sensitive resources on the site, and thus there is no potential for direct impacts to sensitive habitat. That being said, the project is located adjacent to a hardline preserve area, and thus, the project will be subject to the HMP “adjacency standards”, a 20 foot biological buffer, a 60 foot fire suppression zone, and a plant palette comprised predominantly of native plants. Additionally the project will improve an existing unimproved public access trail, thus enhancing public access. The project addresses any and all concerns associated with subject LCP amendment, and, thus, can be found consistent with the Coastal Act as proposed.

The appropriate resolutions and motions begin on Page 5. The findings for approval of the Land Use Plan Amendment as submitted begin on Page 9. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 12.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment 1-09A may be obtained from Toni Ross, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

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

The Mello II Segment Land Use Plan and Implementation Plan were approved in 1981. The Mello II Segment is comprised of 5,500 acres, or approximately 75% of the City. Unresolved issues remained for the segment regarding preservation of agricultural lands, and protection of steep sensitive slopes. Multiple additional amendments were brought forward, and, with the incorporation of the Carlsbad Ranch Specific Plan, the City's LCP was certified by the Commission, and the City obtained permit authority in 1996.

Furthermore, the proposed LUP amendment is located in an area also protected through the City's Habitat Management Plan (HMP). The Carlsbad HMP was prepared to satisfy the requirements of a federal Habitat Conservation Plan (HCP), and as a subarea plan of the regional Multiple Habitat Conservation Plan (MHCP). The MHCP study area involves approximately 186 square miles in northwestern San Diego County. This area includes the coastal cities of Carlsbad, Encinitas, Solana Beach and Oceanside, as well as the inland cities of Vista and San Marcos and several independent special districts. The participating local governments and other entities will implement their portions of the MHCP through individual subarea plans such as the Carlsbad HMP. Once approved, the MHCP and its subarea plans replace interim restrictions placed by the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) on impacts to coastal sage scrub and gnatcatchers within that geographical area, and allow the incidental take of the gnatcatcher and other covered species as specified in the plan.

In its action on City of Carlsbad LCP Amendment No. 1-03B in July 2003, the Commission certified the HMP as part of the LCP and found it to meet the requirements of Sections 30240 and 30250 of the Coastal Act despite some impacts to environmentally sensitive habitat area (ESHA). The Commission found that, pursuant to Sections 30007.5 and 30200(b), certification of the HMP with suggested modifications was most protective of significant coastal resources, through conflict resolution. Since certification of the HMP/LCP Amendment, the Commission has approved several LCP amendments similar

to that proposed which would modify the land use designations from residential, to clustered residential on a portion of the lot(s) and the remainder becoming open space, and to rezone parcels from the Limited Control (LC) Zone to Residential Density Multiple (RD-M) and Open Space (OS).

B. STANDARD OF REVIEW

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

Section 30512

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

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION:** *I move that the Commission certify the Land Use Plan Amendment 1-09A for the City of Carlsbad as submitted.*

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolution and

findings. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY LAND USE PLAN AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Land Use Plan Amendment for the City of Carlsbad as submitted and adopts the findings set forth below on grounds that the land use plan will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan.

II. MOTION: *I move that the Commission reject the Implementation Program Amendment 1-09A for the City of Carlsbad as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies the Implementation Program for the City of Carlsbad as submitted and adopts the findings set forth below on grounds that the Implementation Program conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program will meet the requirements of 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 Program on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

**PART III. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LAND
USE PLAN AMENDMENT, AS SUBMITTED**

A. AMENDMENT DESCRIPTION

The subject LCP amendment proposes to: 1) change the land use designation from Residential Low-Medium Density (RLM) to Residential Low-Medium Density and Open Space (OS) and 2) change the zoning designation from Limited Control (L-C) to One-Family Residential (R-1) and Open Space (OS) on the affected property to accommodate 12 residential lots, two open space lots, and 1 private street lot to facilitate the construction of 12 single-family homes.

The project site, consisting of two parcels totaling 5.05 acres of previously agricultural land committed to greenhouse use, is located east of Black Rail Road and north of Avena Court (ref. Exhibit #1). It is bounded to the north by single-family homes, to the south by condominium development, to the east by open space associated with the Aviara Municipal Golf Course, and to the west by a single-family home and active palm tree nursery. Approximately 1.77 acres of the site (35%) is constrained by an SDG&E power line easement, which bisects the site diagonally. The site has been previously used for agricultural operation and was once developed with several greenhouse facilities. There is no native habitat on the site; all agricultural operations have been terminated and all greenhouses have since been removed.

The “open space” acreage is proposed to consist of a large grassy play area, a decomposed granite walking path and native landscaping. The grassy area (non-native) is encumbered by an open space easement for existing utility lines (1.77 acres), and thus revegetating this area with native plants was not feasible. However, the easement area does provide passive recreational opportunities.

While the subject site doesn’t contain any sensitive habitat, the project is located adjacent to an area designated as “hardline preserve” in the City’s certified Habitat Management Plan, and thus, the project does present some concerns regarding indirect impacts to sensitive resources. As proposed, the project includes all the “adjacency standards” required for projects located in direct proximity to ESHA (occupied coastal sage). These adjacency standards include: appropriate fencing, lighting, signage, and predator and exotic species control. The project also incorporates a 60 foot wide fire suppression zone, and requires native, fire-resistant planting within this fire buffer.

**B. CONFORMITY OF THE CITY OF CARLSBAD LAND USE PLAN
WITH CHAPTER 3**

1. Environmentally Sensitive Habitat Areas. The Coastal Act provides:

Section 30240.

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

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

2. Preservation of Prime Agricultural Lands. The Coastal Act provides:

Section 30241

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30241.5

(a) If the viability of existing agricultural uses is an issue pursuant to subdivision

(1) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

(2) An analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of the filing of a proposed local coastal program or an amendment to any local coastal program.

For purposes of this subdivision, "area" means a geographic area of sufficient size to provide an accurate evaluation of the economic feasibility of agricultural uses for those lands included in the local coastal program or in the proposed amendment to a certified local coastal program.

(b) The economic feasibility evaluation required by subdivision (a) shall be submitted to the commission, by the local government, as part of its submittal of a local coastal program or an amendment to any local coastal program. If the local government determines that it does not have the staff with the necessary expertise to conduct the economic feasibility evaluation, the evaluation may be conducted under agreement with the local government by a consultant selected jointly by local government and the executive director of the commission.

Section 30242

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Section 30250

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed

areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

3. Findings for Approval. The Commission finds, for the specific reasons detailed below, that the land use plan conforms with Chapter 3 of the Coastal Act.

The certified City of Carlsbad LCP land use plan (LUP) has been amended to incorporate the City's Habitat Management Plan (HMP). The HMP was developed to meet the requirements of the Coastal Act, the Endangered Species Act and the Natural Communities Conservation Planning (NCCP) process. The certified LUP includes Coastal Act Section 30240 as applicable standards of review for development within and adjacent to environmentally sensitive habitat areas. The property is subject to the preservation standards of the Habitat Management Plan (HMP) and, as a property within the Coastal Zone, is subject to additional HMP conservation standards for development within the Coastal Zone.

The proposed amendment before the Commission includes only the modifications to the land use and zoning designations on site and not the specific development. As proposed, the subject site will modify the land use designation from Residential Low-Medium Density (RLM) to Residential Low-Medium Density and Open Space (OS), thereby clustering the development on the lot. The proposed amendment will also modify the zoning designation from Limited Control (L-C) to One-Family Residential (R-1) and Open Space (OS). For both portions of the lot, the open space area corresponds directly to the existing SDG&E utility easement.

The lot itself is comprised solely of disturbed agricultural lands; there is no native or sensitive habitat on the site. Thus, the new land use designations that will facilitate development of the site can be found consistent with the Coastal Act provisions related to a project's direct impacts to sensitive resources, as no such impacts are expected with these new designations. That being said, Section 30240(b) also requires that development adjacent to environmentally sensitive habitat areas and parks and recreation areas shall not significantly degrade those areas. The site is located adjacent to an HMP hardline area. A "hardline" can be described as a site within the City that contained sensitive vegetation at the time of the HMP certification but that was also the subject of proposed development at that time. In this case, the proposed development in the hardline area was the Aviara Municipal Golf Course. The golf course has been completed for a number of years, and the open space area contains quality habitat consisting, at least in part, of environmentally sensitive habitat so that any LUP amendment applying to this site must be consistent with Coastal Act Section 30240(b). In addition, any proposed development on the site will be subject to the requirements of the HMP which requires that any development adjacent to a "hardline" be subject to standards defined as "adjacency standards." Adjacency standards include requiring appropriate fencing, lighting, signage, and predator and exotic species control. Thus, any development that could take place after certification of this LCP amendment must address all of these components. The development proposed for this site has in fact

addressed all of these requirements and includes a 20' habitat buffer, a 60' fire suppression zone, and a predominantly native plant palette, with the exception of the portion of the lot located within the utility easement. The proposed project is also providing an improved trail connecting the Aviara golf course open space area (which also contains trails) with an existing public trail (ref. Exhibit #4). Even if the project currently proposed for this property is not constructed, all of these LCP provisions would apply to any development that could be permitted at this site once this LCP amendment has been certified.

The project site was historically used for agricultural practices, so although these practices are not currently economically viable, the site is still subject to mitigation requirements for the conversion of agricultural lands in the coastal zone. The proposed LCP amendment would allow the conversion of these agricultural lands to more urban uses. The Commission has, however, previously certified policies for the conversion of agricultural lands as a component of the City's LCP. These policies would apply to any proposed development on the site, and, in this case, the currently proposed development includes mitigation for the conversion of agricultural lands to other uses of \$10,000 per acre (totaling \$50,000). Thus, although the LUP amendment facilitates the conversion of agricultural land, existing LCP provisions ensure that this conversion will still only be allowed consistent with the applicable provisions of the Coastal Act.

In conclusion, due to existing LCP policies, the proposed changes to the land use designations will be consistent with Chapter 3 of the Coastal Act because any proposed development will still be subject to requirements to protect sensitive habitats, enhance public access, promote native landscaping, provide adequate buffers and brush management, and provide in lieu mitigation for the conversion of agricultural land into urban development. As such, the proposed amendment does not raise any biological concerns and can be found consistent, as submitted, with the Coastal Act.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

In association with the land use redesignation described above, the subject LCP amendment proposes to change the zoning designation from Limited Control (L-C) to One-Family Residential (R-1) and Open Space (OS) on this five acre site.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The project site is being modified from Limited Control (L-C) to Residential (R-1) and Open Space (OS). The subject site is also subject to the requirements of the Coastal Agricultural Overlay Zone, and the Coastal Resource Protection Overlay Zone in the City's certified LCP.

a) Purpose and Intent of the Ordinance.

1. Open Space Zone. To provide for open space and recreational uses which have been deemed necessary for the aesthetically attractive and orderly growth of the community. It is used in conjunction with publicly owned property such as parks, open space, recreation areas, civic centers and other public facilities of a similar nature. The zone also designates high priority resource areas at time of development that, when combined would create a logical open space system for the community.

2. Coastal Agricultural Overlay Zone. The intent and purpose of the Coastal Agricultural Overlay Zone (CA) was established to implement Sections 30170 (f), 30171 (b), 30241, 30242, and 30250 of the Coastal Act. This zone recognizes agriculture as a priority use under the Coastal Act and protects that use by establishing mechanisms to assure the continued and renewed agricultural use of agricultural lands. The City's Local Coastal Program recognizes that long-term agriculture may not be feasible and established agriculture as an interim use. Therefore, this zone allows urban development of such lands if specific findings are made or mitigation measures are undertaken.

3. Coastal Resource Protection Overlay Zone. The intent and purpose of the Coastal Resource Overlay Zone is to supplement the underlying zoning with additional resource protective regulations to preserve, protect, and enhance habitat resource values.

b) Major Provisions of the Ordinance.

1. Open Space Zoning. The Open Space zone allows the following uses and structures: beaches and shoreline recreation, bicycle paths, horse trails, open space easements, public parks, City picnic areas and playgrounds, public access easements, scenic and slope easements, transportation rights-of-way, vista points, agricultural uses (field and seed crops, truck crops, horticultural crops, orchards and vineyards, pasture and rangeland, tree farms and fallow lands). Permitted accessory uses and structures include public restrooms, clubhouses, parking areas, barbecue and fire pits, playground equipment, stairways, patios, changing rooms, pool filtering equipment, fencing and other accessory uses required for the conduct of the permitted uses. Uses allowed by conditional use permit include group or organized camps, marinas, playfields and athletic fields, public facilities, recreational campgrounds, public stables and riding academies, golf courses, swimming pools, tennis courts, private playgrounds and picnic areas, other related cultural, entertainment and recreational activities and facilities and stands for the display and sale of aquaculture products grown on the premises. There is no minimum lot area established for the open space zone. No building or structure in the zone shall exceed thirty-five feet in height unless a higher elevation is approved as a conditional use permit by the Planning Commission.

2. Coastal Agricultural Overlay Zone. This overlay details the allowable uses within agriculturally zoned lands, and further requires that conversion of these lands to urban uses be required to provide one of the following: provide documentation that

agriculture is no longer a viable use on the site; provide 1:1 preservation of prime agricultural land within the coastal zone; or provide in lieu mitigation fees for the conversion of agricultural land.

3. Coastal Resource Protection Overlay Zone. The major provisions of the ordinance include a series of development standards incorporated to provide adequate protection of sensitive resources including provisions for preservation of steep slopes, preservation of Coastal sage scrub and southern maritime chaparral, requires conservation easements, restoration of disturbed areas within designated open space and the provision for sufficient brush management.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). In the case of the subject LCP amendment, the City's Zoning Code serves as the Implementation Program for the Mello II segment of the LCP. The Carlsbad LCP has also been amended to incorporate the City's Habitat Management Plan (HMP).

In this case, the subject amendment will modify the site from a zoning designation that is used to provide an interim zone for areas where planning for future development has not been determined, to residential and open space designations to facilitate a specific development that has now been proposed. The open space area is not proposed for the preservation of habitat, as is often the case for sites within the City's HMP. In this case, the change to open space coincides with an existing utility easement. Because this easement prevents development for over an acre of the site, a zoning designation is necessary to reflect this restriction. In the majority of other LCP amendments reviewed by the Coastal Commission, the open space designation is proposed to preserve sensitive habitat on the site, and thus additional measures are necessary to insure protection of these resources. Such measures include a Property Analysis Report (PAR), a conservation easement, an identified habitat manager, and monitoring reports. All of these components were to be addressed in greater detail as a component of the City's Implementation Plan for the HMP. It was the intent of the City to provide an Implementation Plan for the HMP through an LCP amendment within a year of the City's HMP approval in 2003. Unfortunately, the one-year goal has not been met and an Implementation Plan has not yet been approved.

The City first submitted the second portion of the HMP - Implementation Plan in April of 2006 in an attempt to address these requirements. However, Commission staff did not feel the City adequately addressed all the concerns for implementing such a large-scale program. Presently, Commission staff and the City are working cooperatively to develop an implementation plan that will adequately address any potential, short- or long-term, impacts to coastal resources.

One of the major goals of HMP implementation will be to establish a separate open space zone or overlay for the long-term preservation of the habitat areas, and that will restrict

uses of those areas to resource dependent uses, which designation would be more restrictive and protective of coastal resources than the current open space zone certified in the LCP (and as described above). However, in this case, the open space is not for conservation of sensitive habitat, thus the traditional open space designation is the most appropriate.

Additionally, the property is also regulated by both the Coastal Resource Protection Overlay Zone (CRPZ), and the Coastal Agricultural Overlay Zone (CAZ). The CRPA identified five areas where additional protection efforts are necessary, including: steep slopes, drainage/erosion, slope stability, seismic hazards and floodplain development. The site doesn't contain steep slopes, there are no seismic or slope stability concerns, and the project is not located in a floodplain. Thus, the only applicable component is adequate drainage/erosion measures. While this is not directly related to the Commission's review of the subject Implementation Plan amendment, the required coastal development permit will be subject to these requirements. The project currently proposed for this site includes BMPs to address any drainage/erosion concerns, and any CDP issued for development on this site would similarly have to take these considerations into account.

As previously discussed, the CAZ requires that conversion of agricultural lands to urban uses be required to provide one of the following: provide documentation that agriculture is no longer a viable use on the site; provide 1:1 preservation of prime agricultural land within the coastal zone; or provide in lieu mitigation fees for the conversion of agricultural land. The proposed Implementation Plan amendment will facilitate the conversion of agricultural land to more urban uses, but any proposed development will still be subject to these CAZ requirements. The applicant for the project currently proposed for this site will be required to provide \$50,000 for mitigation of agricultural land conversion, when its CDP is processed. Thus, although the proposed Implementation Plan amendment, would facilitate the conversion of agricultural land, existing LCP requirements that would apply to any subsequent development on-site would ensure that such development is consistent with the requirements included in the Coastal Resource Protection and the Coastal Agricultural overlay zones.

It is important to note that during the Commission's review of the proposed LCP amendment, the City identified an additional planning document that has yet to be certified by the Commission. The City's staff report found that the proposed amendment is consistent with the policies of Specific Plan 20. This plan is one of the many specific plans and master plans (zoning documents) that the City has developed to better implement its development goals and desired development standards. Many of these plans are incorporated into the City's LCP, including the Carlsbad Ranch Specific Plan, the Poinsettia Shores Master Plan, and the Village Redevelopment Master Plan, to name a few. Traditionally, if a Specific or Master Plan includes properties in the coastal zone, the Commission is provided an opportunity to review the zoning document for consistency with the Coastal Act and the City's certified LCP and determine if the plan should become a certified component of their implementation plan. To date, the Commission has not reviewed Specific Plan 20. While it may not be necessary to

incorporate this plan into the City's LCP, it would be prudent of the City to address this simultaneously with the large-scale update of its LCP currently being undertaken by the City. Because Specific Plan 20 is not part of the certified LCP, the Commission did not consider whether the proposed LCP Amendment was consistent with this specific plan. Its review was based on whether the proposed LUP Amendments were consistent with Chapter 3 of the Coastal Act and whether the Implementation Plan Amendments were adequate to implement the certified LUP.

In conclusion, the subject site is modifying the zoning on the property from a "holding zone" designation to one that facilitates development. While this change in zoning will facilitate development of the site, any proposed development on the site must still be consistent with the LCP. The site does not contain any sensitive resources and the LCP requires protection of adjacent sensitive habitat, so any resulting development must be conditioned to meet this requirement. The proposed IP Amendment is therefore adequate to carry out the policies contained in the HMP and Mello II Segment (collectively the LUP), and thus, shall be approved as submitted.

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

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. 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 CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b). The proposed land use and zoning amendments will not result in adverse impacts on coastal resources or public access. The Commission finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the LCP amendment may have on the environment. Therefore, in terms of CEQA review, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.

EXHIBIT 1

RESOLUTION NO. 2009-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, APPROVING A GENERAL PLAN AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO CHANGE THE GENERAL PLAN AND LOCAL COASTAL PROGRAM LAND USE DESIGNATIONS FROM RESIDENTIAL LOW-MEDIUM DENSITY (RLM, 0-4 DU/AC) TO RESIDENTIAL LOW-MEDIUM DENSITY (RLM, 0-4 DU/AC) AND OPEN SPACE (OS), AND THE LOCAL COASTAL PROGRAM ZONING DESIGNATION FROM LIMITED CONTROL (L-C) TO ONE-FAMILY RESIDENTIAL (R-1) AND OPEN SPACE (OS), AND A SITE DEVELOPMENT PLAN TO CONSTRUCT TWO (2) SECOND DWELLING UNITS TO MEET THE AFFORDABLE HOUSING REQUIREMENT ON A 5.05 ACRE PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF BLACK RAIL ROAD AND AVENA COURT EAST WITHIN THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND LOCAL FACILITIES MANAGEMENT ZONE 20.

CASE NAME: SEASCAPE

CASE NO.: GPA 05-11/LCPA 05-06/SDP 05-12


The City Council of the City of Carlsbad, California, does hereby resolve as follows:

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did, on November 5, 2008, hold a duly noticed public hearing as prescribed by law to consider the Mitigated Negative Declaration and Mitigation Monitoring and Reporting program, as referenced in Planning Commission Resolution No. 6498, General Plan Amendment GPA 05-11, according to Exhibit "GPA 05-11" attached to Planning Commission Resolution No. 6499 and incorporated herein by reference, and Local Coastal Program Amendment LCPA 05-06, according to Exhibit "LCPA 05-06" attached to Planning Commission Resolution No. 6501 and incorporated herein by reference, to change the General Plan and Local Coastal Program Land Use designations from Residential Low-Medium Density (RLM, 0-4 du/ac) to Residential Low-Medium Density (RLM, 0-4 du/ac) and Open Space (OS), and the Local Coastal Program Zoning designation from Limited Control (L-C) to One-Family Residential (R-1) and Open Space (OS), and a Site Development Plan to construct two (2) second dwelling units to meet the affordable housing requirement, and the Planning Commission Resolution No. 6504, to construct two (2) second dwelling units to meet the affordable housing requirement, and the Planning

EXHIBIT #1

Resolution of Approval

LCPA #1-09A Seascape

 California Coastal Commission

1 Commission Resolutions No. 6498, 6499, 6501, and 6504 recommending to the City Council
2 that they be approved; and

3 WHEREAS, the City Council of the City of Carlsbad, on the 6th day of
4 January, 2008, held a duly noticed public hearing to consider said Mitigated
5 Negative Declaration and Mitigation Monitoring and Reporting Program, General Plan
6 Amendment, Local Coastal Program Amendment, and Site Development Plan; and

7 WHEREAS, at said public hearing, upon hearing and considering all testimony
8 and arguments, if any, of all persons desiring to be heard, the City Council considered all factors
9 relating to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program,
10 General Plan Amendment, Local Coastal Program Amendment, and Site Development Plan.

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

13 1. That the above recitations are true and correct.

14 2. That the recommendation of the Planning Commission for the adoption of
15 a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and the
16 approval of a Local Coastal Program Amendment and Site Development Plan are adopted and
17 approved, and that the findings and conditions of the Planning Commission contained in
Planning Commission Resolutions No. 6498, 6501, and 6504 on file with the City Clerk and
incorporated herein by reference, are the findings and conditions of the City Council.

18 3. That the application for a General Plan Amendment to change the Land
19 Use designation from Residential Low-Medium Density (RLM, 0-4 du/ac) to Residential Low-
20 Medium Density (RLM, 0-4 du/ac) and Open Space (OS) on a 5.05 acre site generally located
21 on the northeast corner of Black Rail Road and Avena Court East, as shown in Planning
Commission Resolution No. 6499, is hereby accepted, approved in concept, and shall be
formally approved with GPA Batch No. 1 of 2009.

22 4. That the approval of LCPA 05-06 shall not become effective until it is
23 approved by the California Coastal Commission and the California Coastal Commission's
approval becomes effective.

24 5. This action is final the date this resolution is adopted by the City Council
25 and is subject to the approval of the LCPA 05-06 by the California Coastal Commission. The
Provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review"
shall apply:

26 ///

27 ///

1 "NOTICE TO APPLICANT"

2 The time within which judicial review of this decision must be sought is governed by Code of
3 Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by
4 Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking review must be
5 filed in the appropriate court not later than the nineteenth day following the date on which this
6 decision becomes final; however, if within ten days after the decision becomes final a request
7 for the record of the deposit in an amount sufficient to cover the estimated cost or preparation of
8 such record, the time within which such petition may be filed in court is extended to not later
9 than the thirtieth day following the date on which the record is either personally delivered or
10 mailed to the party, or his attorney of record, if he has one. A written request for the preparation
11 of the record of the proceedings shall be filed with the City Clerk, City of Carlsbad, 1200
12 Carlsbad Village Drive, Carlsbad, CA. 92008."

13 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
14 Carlsbad on the 6th day of January 2009, by the following vote, to wit:

15 AYES: Council Members Lewis, Kulchin, Hall, Packard and Blackburn.

16 NOES: None.

17 ABSENT: None.

18 *Signature on file*

19 *Signature on file*

20 CLAUDE A. LEWIS, Mayor

21 ATTEST:

22 *Signature on file*

23 LORRAINE M. WOOD, City Clerk

24 (SEAL)

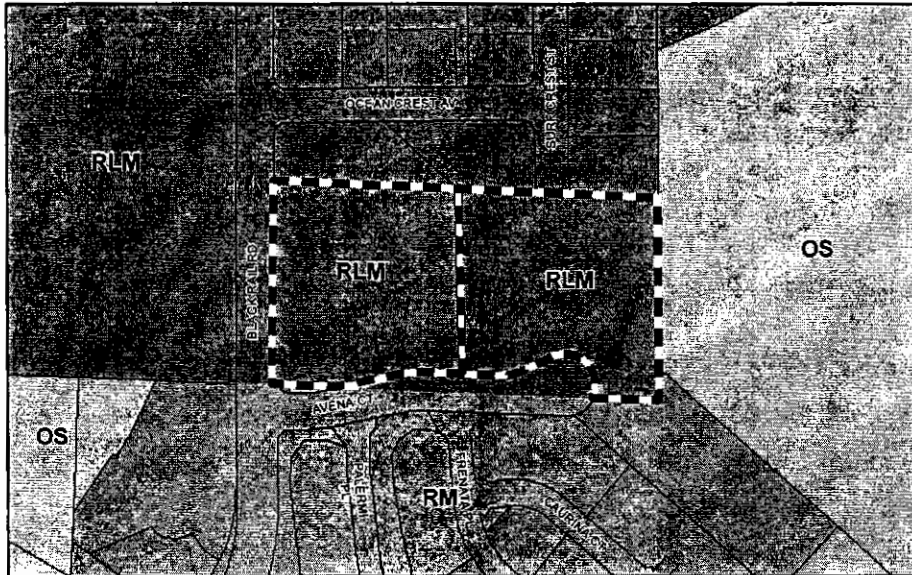


LCPA 05-06 (Land Use)

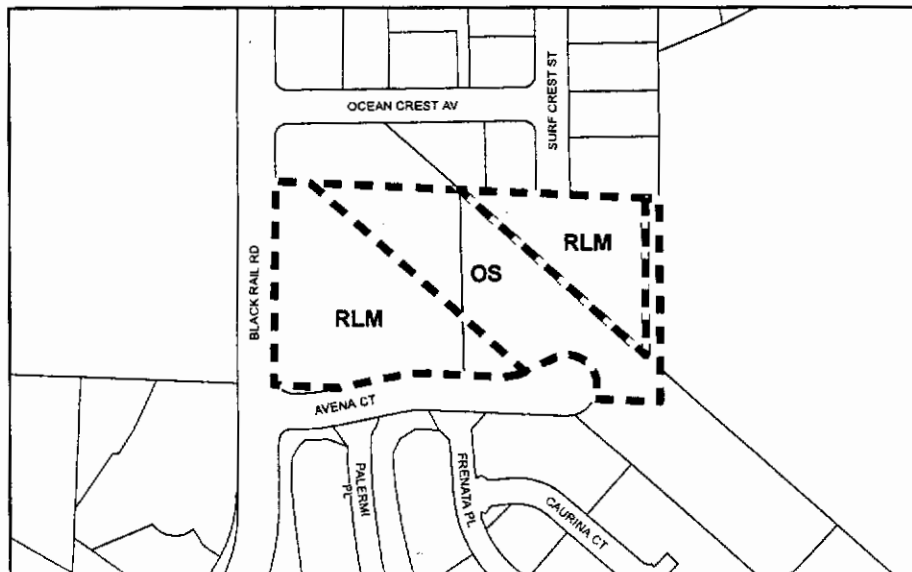
Exhibit "LCPA 05-06"

November 5, 2008

Seascape



EXISTING



PROPOSED

Related Case File No(s):			
GPA 05-11/ ZC 05-10/ CT 05-18/ PUD 05-14/ SDP 05-12/ CDP 05-37/ HDP 06-02/ HMP 07-09			
LCPA Land Use Designation Changes			
	Property	From:	To:
A.	215-040-09	RLM	RLM/OS
B.	215-040-11	RLM	RLM/OS

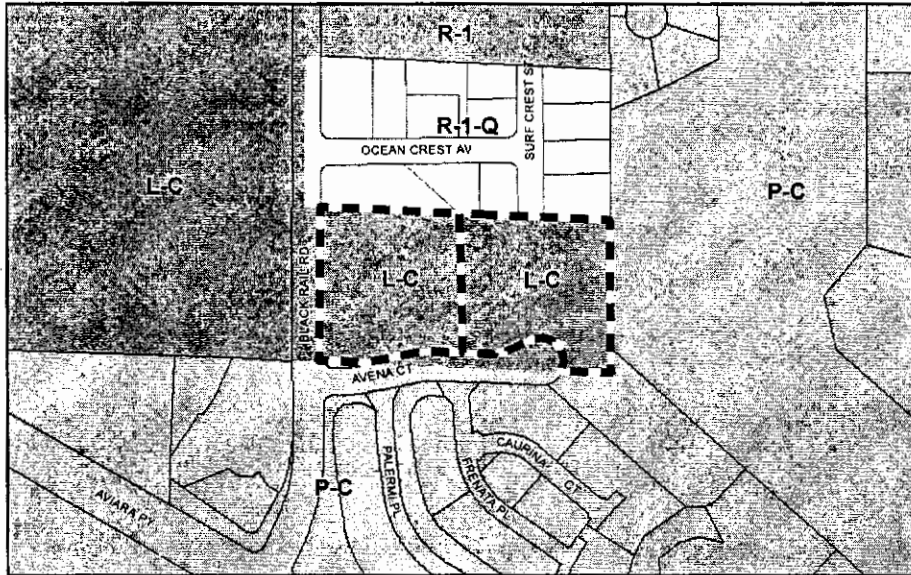
EXHIBIT #2

Changes to Land Use

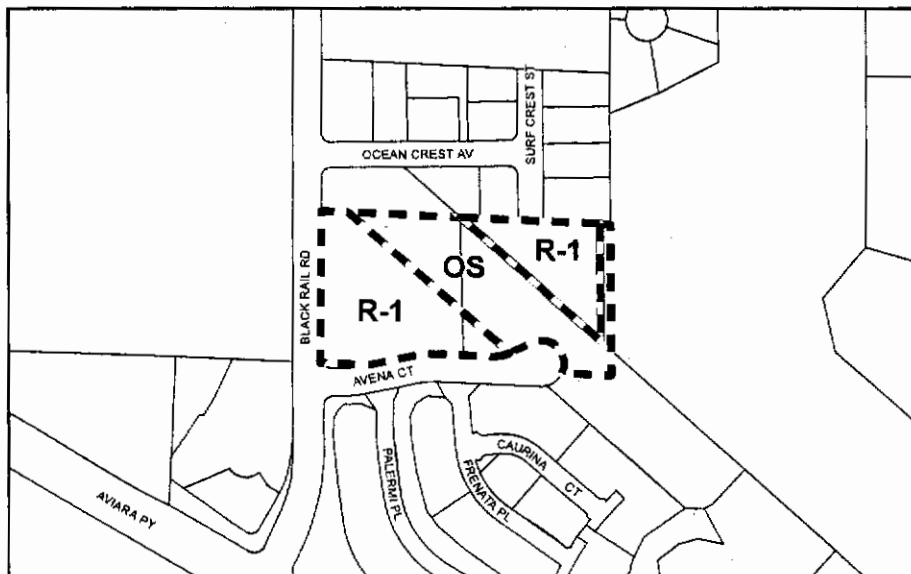
LCPA #1-09A Seascape

LCPA 05-06 (Zoning)

Exhibit "LCPA 05-06"
November 5, 2008
Seascape



EXISTING



PROPOSED

Related Case File No(s):			
GPA 05-11/ ZC 05-10/ CT 05-18/ PUD 05-14/ SDP 05-12/ CDP 05-37/ HDP 06-02/ HMP 07-09			
LCPA Zoning Designation Changes			
Property	From:	To:	
A. 215-040-09	L-C	R-1/OS	
B. 215-040-11	L-C	R-1/OS	

EXHIBIT #3

Changes to Zoning

LCPA #1-09A Seascape

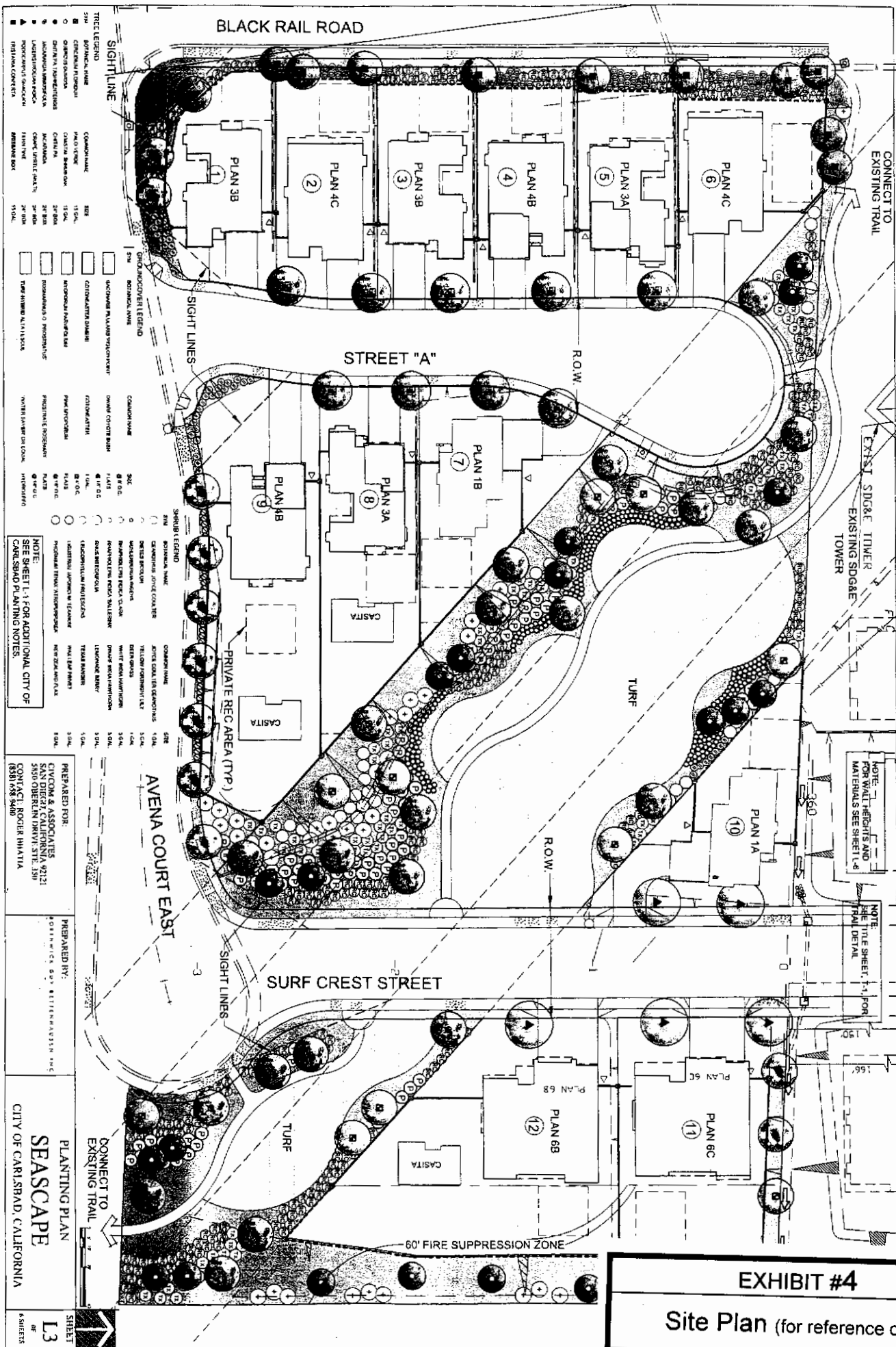


EXHIBIT #4

Site Plan (for reference only)

LCPA #1-09A Seascape

