

**CALIFORNIA COASTAL COMMISSION**

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



February 23, 2012

**W12f**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF DEL MAR MAJOR LCP  
AMENDMENT NO. 1-11 (Wetland Setbacks) for Commission Meeting of March  
7-9, 2012**

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**SYNOPSIS**

The subject LCP amendment was filed on February 7, 2011; it consists only of a change to the City's certified implementation plan. The item involves a single amendment request which addresses the establishment of wetland buffers. The Commission granted a one year extension of time to review the matter on March 9, 2011. The date by which the Commission must take action is the March 2012 hearing.

**SUMMARY OF AMENDMENT REQUEST**

The proposed amendment consists of one change to the City's certified Implementing Ordinances, specifically Subsection 30.53.100 of the Lagoon Overlay Zone, to delete a phrase regarding the process for authorization of reduced wetland setbacks or buffers. The City's certified Land Use Plan and Zoning Code/Implementation Plan both include extensive provisions regarding development proposals adjacent to or in wetland areas. Among those provisions is a requirement that a buffer area be provided between new development and the boundaries of identified wetlands. The current language of the code section provides for the City's Planning Commission to not only confer with the State Department of Fish and Game ("DFG") on proposals for reduced wetland buffers but to also *defer* to DFG's recommendations. The proposed amendment would eliminate the automatic deferral to the resource agency's recommendation for a reduced buffer.

**SUMMARY OF STAFF RECOMMENDATION**

The proposed IP amendment addresses a significant resource protection measure, the establishment of critical wetland buffers and could therefore potentially be a concern. The applicable ordinance, the Lagoon Overlay Zone, is composed of properties which are located directly in, or in proximity to, the Los Penasquitos and San Dieguito Lagoons. The City of Del Mar's certified land use plan contains detailed resource protection

standards and the certified implementation plan, as amended, will still provide adequate measures to carry out the certified land use plan. The City proposed amendment revises one element of the process in authorizing a reduced wetland setback but it is not a material change. The ordinance, as amended, would eliminate a provision which requires the City's Planning Commission to accept a reduced wetland buffer, if such a reduction is recommended by the State Department of Fish & Game. The City believes this provision is inappropriate and staff recommends the Commission concur. A coordination process between the City and the State Department of Fish and Game is retained and concurrence by DFG is also required for any wetland buffer reduction. Therefore, the Commission finds that the proposed LCP amendment may be approved as submitted.

The appropriate resolution and motion may be found on Page 4 of the staff report. The findings for approval, as submitted, of the Implementation Plan Amendment also begin on Page 4.

**ADDITIONAL INFORMATION**

Further information on the Del Mar LCP Amendment No. 1-11 may be obtained from Deborah Lee, District Manager, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

In May 1991, the City of Del Mar submitted its Land Use Plan (LUP) for Commission action. The Commission denied the LUP as submitted, but approved it with suggested modifications in September, 1991. The City did not accept the suggested modifications within six months, so the City resubmitted the same documents and the Commission again approved the LUP with suggested modifications in June, 1992. This time, the City Council did adopt the modifications within the prescribed time and the Commission effectively certified the LUP in March, 1993. The Implementation Plan was approved with suggested modifications on March 13, 2001. On September 11, 2001, the Commission concurred with the Executive Director's determination to effectively certify the City of Del Mar Local Coastal Program.

The certified LCP was first amended in 2002 to incorporate the city's MSCP Subarea Plan. A second LCP amendment, referenced as Garden del Mar, was approved with suggested modifications in March 2009 for the redesignation and rezoning of the property at the southeast corner of Camino del Mar and 10th Street. The amendment (DMR-MAJ-1-08) allowed for a mix of commercial uses at the site and the Commission wanted to ensure that a ground-floor restaurant use would be included along the Camino del Mar frontage. A third amendment, referenced Del Mar LCPA #1-09, was approved with suggested modifications in July 2010 and addressed Common, Shared and Off-site Parking Regulations.

### **B. STANDARD OF REVIEW**

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 reject the Implementation Program Amendment for the City of Del Mar LCP Amendment No. 1-11 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 AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment for the City of Del Mar as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment 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 Amendment 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 DEL MAR IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

The proposed amendment consists of one change to the City's certified Implementing Ordinances, specifically Subsection 30.53.100 of the Lagoon Overlay Zone, to delete a phrase regarding the process for authorization of reduced wetland setbacks or buffers. The City's certified Land Use Plan and Zoning Code/Implementation Plan both include extensive provisions regarding development proposals adjacent to or in wetland areas. Among those provisions is a requirement that a buffer area be provided between new development and the boundaries of identified wetlands. The current language of the code section provides for the City's Planning Commission to not only confer with the State

Department of Fish and Game (“DFG”) on proposals for reduced wetland buffers but to also *defer* to DFG’s recommendations. The pertinent phrase is contained in Section 30.53.100 which addresses “Provisions of Wetland Buffers”; in sub-section B.1.b. of that provision, the certified language presently reads:

“When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall consider *and defer to* any recommendations provided by representatives of the California Department of Fish and Game.” (emphasis added)

The City believes this provision for an automatic deferral to another agency is inappropriate and the proposed amendment will solely strike the three word phrase from the overlay zone. The proposed revision would still retain the consultation measure with DFG in any request for a reduced wetland buffer.

## **B. SUMMARY FINDINGS FOR APPROVAL**

The proposed IP amendment addresses a potentially significant resource protection matter, the establishment of critical wetland buffers. The applicable ordinance, the Lagoon Overlay Zone, is composed of properties which are located directly in, or in proximity to, the Los Penasquitos and San Dieguito Lagoons. The City of Del Mar’s certified land use plan contains detailed resource protection standards and the certified implementation plan, as amended, will still provide adequate measures to carry out the certified land use plan. The City proposed amendment revises one element of the process in authorizing a reduced wetland setback but it is not a material change. The critical coordination process between the City and the State Department of Fish and Game is retained. Therefore, the Commission finds that the proposed LCP amendment is consistent with, and adequate to carry out, the certified land use plan.

## **C. SPECIFIC 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.

1) **Purpose and Intent of the Ordinance**. The purpose of the Lagoon Overlay Zone is to protect the wetland resources of the City’s lagoon areas and their sensitive upland habitats by requiring that all development activities taking place in the zone are designed and implemented in a manner that is consistent with wetland habitat protection and enhancement.

2) **Major Provisions of the Ordinance**. The Lagoon Overlay Zone contains extensive provisions; the most significant are:

- Specific definitions, consistent with the Coastal Act, for wetlands and wetland buffers;
- Development review process;
- Permitted uses;

- Provision of wetland buffers;
- Application of open space deed restrictions, conservation and/or open space easements to conserve the wetlands and buffer areas; and
- Grading controls, water quality BMPs and maintenance provisions.

3) **Adequacy of the Ordinance to Implement the Certified LUP.**

As cited above, the standard of review for the approval of any implementation plan component or amendment is conformity with, and the ability to adequately carry out, the certified land use plan. The certified City of Del Mar Land Use Plan contains extensive provisions on wetland protection, including the establishment of requisite buffers to protect such areas.

Specifically, **Section D., WETLAND PRESERVATION – GOALS AND POLICIES**, found in **Chapter VI – SENSITIVE LANDS** of the certified land use plan, states the following:

**GOAL VI-B:**

Preserve, protect and, where feasible, enhance the wetland areas of Del Mar.

**Policies:**

**VI-3** Ensure the protection of the wetlands of the Los Penasquitos Lagoon and San Dieguito Lagoon and their sensitive upland habitat by requiring that all development activities taking place in lagoon and uplands areas, designated on the Lagoon Overlay Zone Map (Figure VI-B), conform to the wetland preservation regulations of this chapter. In addition, the City shall implement the Bluff, Slope and Canyon Overlay Zone regulations of the Land Use Plan to protect sensitive wetland habitat from the impacts of upland development which lies outside of the Lagoon Overlay Zone but within the watershed of San Dieguito and Los Penasquitos Lagoons.

**WETLAND PRESERVATION REGULATIONS**

1. **Definitions.** For purposes of this chapter, “wetlands” and “wetland buffers” shall be defined as follows: [...]

“**Wetland Buffer**”: Lands which provide a buffer between human development/activity and wetland areas and which serve to protect the environmental and functional habitat values of the wetland, or lands which are integrally important in supporting the full range of the wetland and adjacent upland biological community.

[...]

## 5. Provision of Wetland Buffers.

- a. To protect wetland areas, all new construction projects which are located on property which includes or lies in proximity to wetland habitat, as shown in Figure VI-B, shall include the provision of a continuous wetland buffer. The buffer shall be 100-feet in width with permitted uses in the wetland buffer limited to those cited in Wetland Regulation #3 of this Chapter. The buffer shall be measured landward from the boundary of wetlands as delineated pursuant to the requirements of this chapter.
- b. A wetland buffer of less than 100 feet in width shall be allowed only when, due to physical constraints such as the size and dimensions of the property, such buffer of a lesser width will protect the resources of the adjacent wetlands, based on site-specific factors. Such factors shall include, but not be limited to, the type and size of the development proposed; mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials between the proposed development and wetland boundaries; or other similar factors which will serve to contribute to the purposes of a wetland buffer area. Proposals for mitigation measures for wetland buffers less than 100 feet in width shall be referred to representatives of the California Department of Fish and Game for a recommendation. In no event shall the wetland buffer be less than 50-feet in width.

The provision of a wetland buffer of less than 100-feet in width which, pursuant to this policy, has been authorized for one aspect of a development proposal, shall not be construed as an authorization to provide a buffer of less than 100-feet in width for other aspects of such proposal which have not been specifically enumerated in the required findings set forth herein.  
(emphasis added)

In addition to these highlighted excerpts, the certified Wetland Preservation Regulations of the land use plan also specify the permitted uses in both wetland areas and wetland buffers, limiting such uses to aquaculture; scientific research, educational or recreational uses; wetland restoration projects; and the placement of improvements necessary to provide protection, preservation or enhancement of the adjoining wetlands. The certified land use plan further contains detailed provisions for the delineation of wetlands in applications, requiring consultation with both DFG and the U.S. Fish & Wildlife Service in those determinations. The regulations specify that wetlands and their buffers be permanently conserved by open space deed restrictions and/or conservation easements; require the provision of drainage and erosion control measures; and mandate retention of the maximum amount of native vegetation on a site.

All of these provisions reflect the resource protection standards established in Chapter 3 of the Coastal Act and are typical of those in most certified LCPs. For the City of Del Mar, these certified land use plan policies are primarily implemented by the certified Lagoon Overlay and Bluff, Slope and Canyon Overlay Zones. The Lagoon Overlay Zone

is comprised in Chapter 30.53 of the City's Municipal Code and was certified as part of the City's Implementation Plan. Chapter 30.53 essentially replicates and codifies the Wetlands Preservation Regulations of the certified land use plan; it provides for the definition of wetlands, consistent with the Coastal Act, and wetland buffers and it specifies the permitted uses in both areas. The Overlay Zone establishes a development review process that requires an applicant to obtain both a conditional use permit and coastal development permit from the Planning Commission.

As part of that regulatory review, the policies of the certified implementation plan are considered and **Section 30.53.100, Provision of Wetland Buffers**, states the following:

- A. To protect wetland areas, all new development projects, which are located on property which includes or lies in proximity to wetland habitat, as defined in this Chapter, shall include the provision of a continuous wetland buffer. Unless otherwise specified herein, the wetland buffer shall be a minimum of 100 feet in width. The wetland buffer shall be measured landward from the boundary of wetlands as delineated on plans required pursuant to the application submittal requirements of this Chapter.
- B. **A wetland buffer of less than 100 feet in width shall be allowed only with the concurrence of the California Department of Fish and Game** and when the Planning Commission makes the following findings:
  1. That the physical characteristics of the site, such as the size and dimensions of the property are adequate to protect the resources of the adjacent wetlands, based on site-specific factors.
    - a. **When making such a finding, the Planning Commission shall, in consultation with the California Department of Fish and Game,** consider site-specific factors such as the type and size of the development proposed; the mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials which may exist between the proposed development and wetland areas; the need for upland transitional habitat; or other similar factors which will serve to contribute to the purposes of a wetland buffer area.
    - b. **When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall consider *and defer to* any recommendations provided by representatives of the California Department of Fish and Game.**
- C. In no event shall a wetland buffer be reduced to a width of less than 50 feet.
- D. Authorization which has been granted by the Planning Commission to provide a wetland buffer of less than 100 feet for one aspect of a development proposal, shall not be construed as an authorization to provide a buffer of less than 100 feet in width for other aspects of the proposal unless such



authorization has been specifically enumerated in the findings required pursuant to this Section. (emphasis added)

As noted above, Section 30.53.100 of the Lagoon Overlay Zone essentially restates and codifies the Wetland Preservation Regulations of the certified land use plan. The City's proposed amendment solely seeks to eliminate the phrase "*and defer to*" in sub-section B.1.b. of the code section which would require the Planning Commission to automatically accept the recommendation of the State Department of Fish and Game for a reduced wetland buffer. The City believes this is inappropriate and, in some instances, the Planning Commission might want to implement more restrictive measures and not reduce the wetland buffer.

For most of the jurisdictions in San Diego County with certified LCPs, there is a minimum 100 foot wetland buffer specified in their respective land use plans and ordinances. In some instances, jurisdictions also make provisions for expanded buffers on a case-by-case basis. In all cases, a minimum 100 ft. wetland buffer is recommended; however, some of the certified LCPs make provision for possible reductions in the 100 ft. wetland buffer, again to consider site-specific constraints and needs. Additionally, in all the certified LCPs, the delineation of wetlands and the establishment of wetland buffers involves some coordination and/or consultation with the State Department of Fish & Game, at a minimum.

The City's amended ordinance retains the coordination review and consultative process with DFG for all elements of its regulatory review affecting a proposed development in or adjacent to wetlands. In addition, the certified ordinance still provides in sub-section B that a wetland buffer of less than 100 feet in width may only be allowed with the concurrence of DFG and provides that, in no event, shall a wetland buffer be reduced to a width less than 50 feet. These provisions, as amended solely to eliminate a deferral for a reduced wetlands buffer based on a DFG recommendation, remain fully consistent with the certified land use plan and provide strong resource protection measures for wetlands and their buffers. The Commission therefore finds that the proposed implementation plan amendment conforms with, and is adequate to carry out, the certified land use plan and therefore may be approved as submitted.

#### **PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. 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 an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with

CEQA provisions. At the local level, the City found the code amendment was exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines. Based on the Commission's review, the LCP amendment will not have any significant adverse effects on the environment and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms with CEQA provisions.

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**SOLANA BEACH**  
**DEL MAR**  
**GARDENS**

92075

92014

**SAN DIEGO**  
 92130

**DEL MAR**

- SEE HI
- 1 COLINA LINDA
  - 2 LADERA LINDA
  - 3 LADERA LINDA WY

- SEE G6
- 1 PLACE MONACO
  - 2 PLACE SAINT TROPEZ

*Del Mar CA 92014  
 geographic location*

RESOLUTION NO. 2010- 67

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING AN AMENDMENT TO SUBSUBSECTION B.1.b OF SECTION 30.53.100 OF THE DEL MAR LOCAL COASTAL PROGRAM IMPLEMENTING ORDINANCES REGARDING CONSIDERATION OF RECOMMENDATIONS FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME ON PROPOSALS FOR REDUCED WETLAND SETBACKS.

WHEREAS, the entirety of the corporate boundaries of the City of Del Mar are within the Coastal Zone, as determined under the California Coastal Act, California Public Resources Code, Division 20; and

WHEREAS, pursuant to Section 30500 et. seq. of Chapter 6 of Division 20 of the Public Resources Code, local jurisdictions are encouraged to prepare and submit Local Coastal Programs (LCPs) for the purpose of local implementation of the California Coastal Act; and

WHEREAS, pursuant to Chapter 6, Division 20 of the Public Resources Code and Chapter 8, Division 5.5 of Title 14 of the California Code of Regulations, the City of Del Mar prepared a Del Mar Local Coastal Program, consisting of a Land Use Plan and Implementing Ordinances, with the Land Use Plan integrated within the Del Mar Community (General) Plan; and

WHEREAS, the Land Use Plan and Implementing Ordinance segments of the LCP have been certified by the California Coastal Commission; and

WHEREAS, the Local Coastal Program Land Use Plan and Implementing Ordinance segments include regulations for the provision of wetland buffers for new and redevelopment projects; and

WHEREAS, pursuant to Chapter 6, Division 20 of the Public Resources Code and Chapter 8, Division 5.5 of Title 14 of the California Code of Regulations, the City of Del Mar has prepared an amendment to Sub subsection B.1.b of Section 30.53.100 of the Del Mar Local Coastal Program Implementing Ordinances regarding consideration of recommendations from the California Department of Fish and Game on proposals for reduced wetland setbacks for new or redevelopment projects; and

WHEREAS, public notice and distribution of the draft amendment to the Local Coastal Program Implementing Ordinances was provided with a six-week public review period, per Section 13515 of Chapter 8, Title 14 of the California Code of Regulations; and

*Del Mar LCPA #11  
City Resolution*

WHEREAS, during the preparation of the amendments to the Del Mar Local Coastal Program, the City has coordinated with and been assisted by Coastal Commission staff, per Section 13516, Chapter 8, Title 14 of the California Code of Regulations; and

WHEREAS, the Planning Commission of the City of Del Mar conducted a duly-noticed public hearing on the proposed amendments to the Local Coastal Program on June 14, 2010, at which time the Planning Commission considered public testimony and correspondence, and a staff report dated June 8, 2010; and

WHEREAS, at the conclusion of the June 8, 2010 hearing, the Planning Commission adopted Resolution No. PC-10-05 recommending that the City Council approve the proposed amendment to the Local Coastal Program Implementing Ordinances and further recommending that the LCP amendment(s) be submitted to the California Coastal Commission for certification; and

WHEREAS, on September 20, 2010, the City Council conducted a duly noticed public hearing on the proposed amendment to the Local Coastal Program Implementing Ordinances and considered public testimony, correspondence, and the staff reports submitted to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, that it is intended that the amendment to the Del Mar Local Coastal Program Implementing Ordinances, LCPA-10-01, be approved, as shown below.

LCP Amendment proposal:

Subsubsection B.1.b of Section 30.53.100 of the Del Mar Local Coastal Program Implementing Ordinances is amended to read as follows:

b. When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall consider any recommendations provided by representatives of the California Department of Fish and Game.

AND BE IT FURTHER RESOLVED that City of Del Mar Local Coastal Program Amendment LCPA-10-01, be carried out in a manner fully conforming with the California Coastal Act, Division 20 of the California Public Resources Code.

AND BE IT FURTHER RESOLVED that the Planning and Community Development Director of the City of Del Mar is hereby directed to submit copies of the proposed amendments to the Del Mar Local Coastal Program and other material as required, to the California Coastal Commission for consideration of approval and

*Handwritten notes:*  
11/18/10  
C. J. [unclear]  
[unclear]

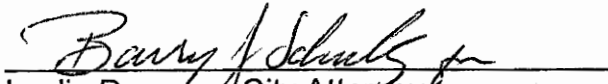
certification, pursuant to Article 2, Chapter 6 and Article 1, Chapter 7 of Division 20 of the Public Resources Code; and Chapters 6 and 8, Division 5.5, Title 14 of the California Code of Regulations.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20<sup>th</sup> day of September 2010.



RICHARD EARNEST, Mayor  
City of Del Mar

APPROVED AS TO FORM:

  
Leslie Devaney, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, MERCEDES MARTIN, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution 2010-67, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 20<sup>th</sup> day of September 2010, by the following vote:

AYES: Mayor Earnest, Deputy Mayor Mosier, Councilmembers Crawford and Hilliard

NOES: None

ABSENT: Councilmember Filanc

ABSTAIN: None



Mercedes Martin, City Clerk  
City of Del Mar

ORDINANCE NO. 845

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING SUBSUBSECTION B.1.b OF SECTION 30.53.100 (LAGOON OVERLAY ZONE, PROVISION OF WETLAND BUFFERS) REGARDING CONSIDERATION OF RECOMMENDATIONS FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME ON PROPOSALS FOR REDUCED WETLAND SETBACKS.

THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE:

That subsection B.1.b of Del Mar Municipal Code Section 30.53.100 is amended to read as follows:

b. When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall consider any recommendations provided by representatives of the California Department of Fish and Game.

SECTION TWO:

This zone code amendment is adopted based on the following findings:

1. There have been changed conditions since the previous zoning ordinance language became effective. These include a need for more appropriate language regarding consultation with a State agency, the Department of Fish and Game, when considering requests for reductions in the width of wetland setbacks/buffers for new development;
2. The proposed Zone Code amendment will continue to provide for the protection of sensitive wetland resources; and
3. The Del Mar Community Plan calls for the protection of sensitive wetland resources. The proposed Zone Code Amendment will ensure that such protection is provided by requiring that appropriate wetland setbacks are included for new development, thereby helping to achieve the goals of the Community Plan.

*Del Mar LCPA #1-11  
Revised Ordinance*

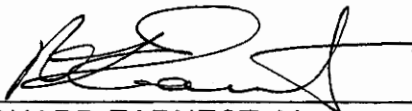
SECTION THREE:

This Ordinance was introduced on September 20, 2010.

SECTION FOUR:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 4th day of October 2010.



RICHARD EARNEST, Mayor  
City of Del Mar

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney  
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
CITY OF DEL MAR

I, MERCEDES MARTIN, City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 845, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 4th day of October, 2010, by the following vote:

- AYES: Mayor Earnest, Deputy Mayor Mosier, Councilmembers Crawford, Filanc and Hilliard
- NOES: None
- ABSENT: None
- ABSTAIN: None



Mercedes Martin, City Clerk  
City of Del Mar

14-2 ADDI...  
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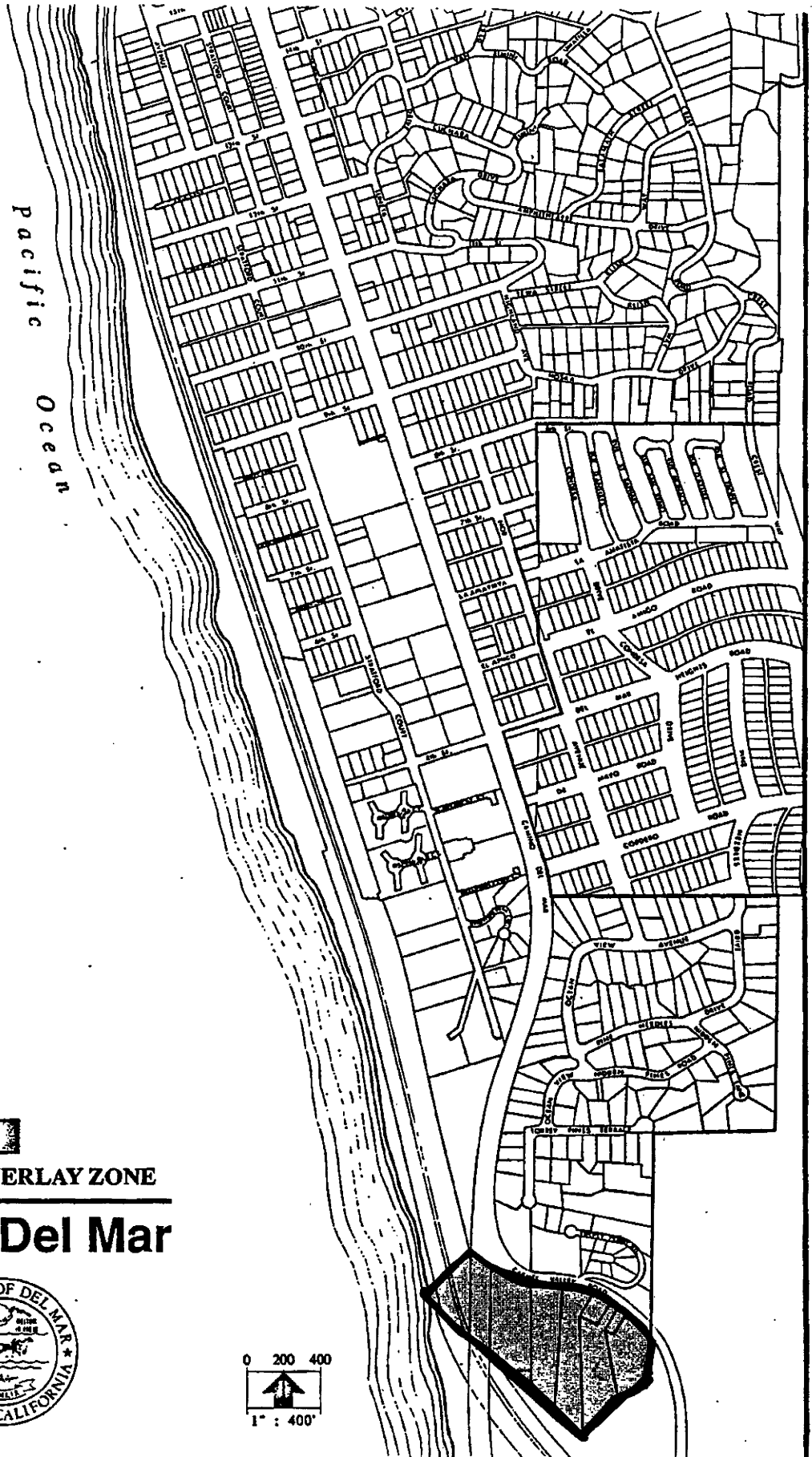
**CITY OF DEL MAR LCPA #1-11 – PROPOSED AMENDMENT  
(STRIKE-OUT/UNDERLINE VERSION)**

**ORDINANCE NO. 845**

**LAGOON OVERLAY ZONE, SECTION 30.53.100**, sub-section B.1.b shall be amended to read as follows:

- b. When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall consider ~~and defer to~~ any recommendations provided by representatives of the California Department of Fish and Game.

*Del Mar LCPA #1-11  
strike-out language*



**LAGOON OVERLAY ZONE**

**City of Del Mar**

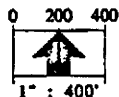


Figure VI-B Lagoon Overlay Zone

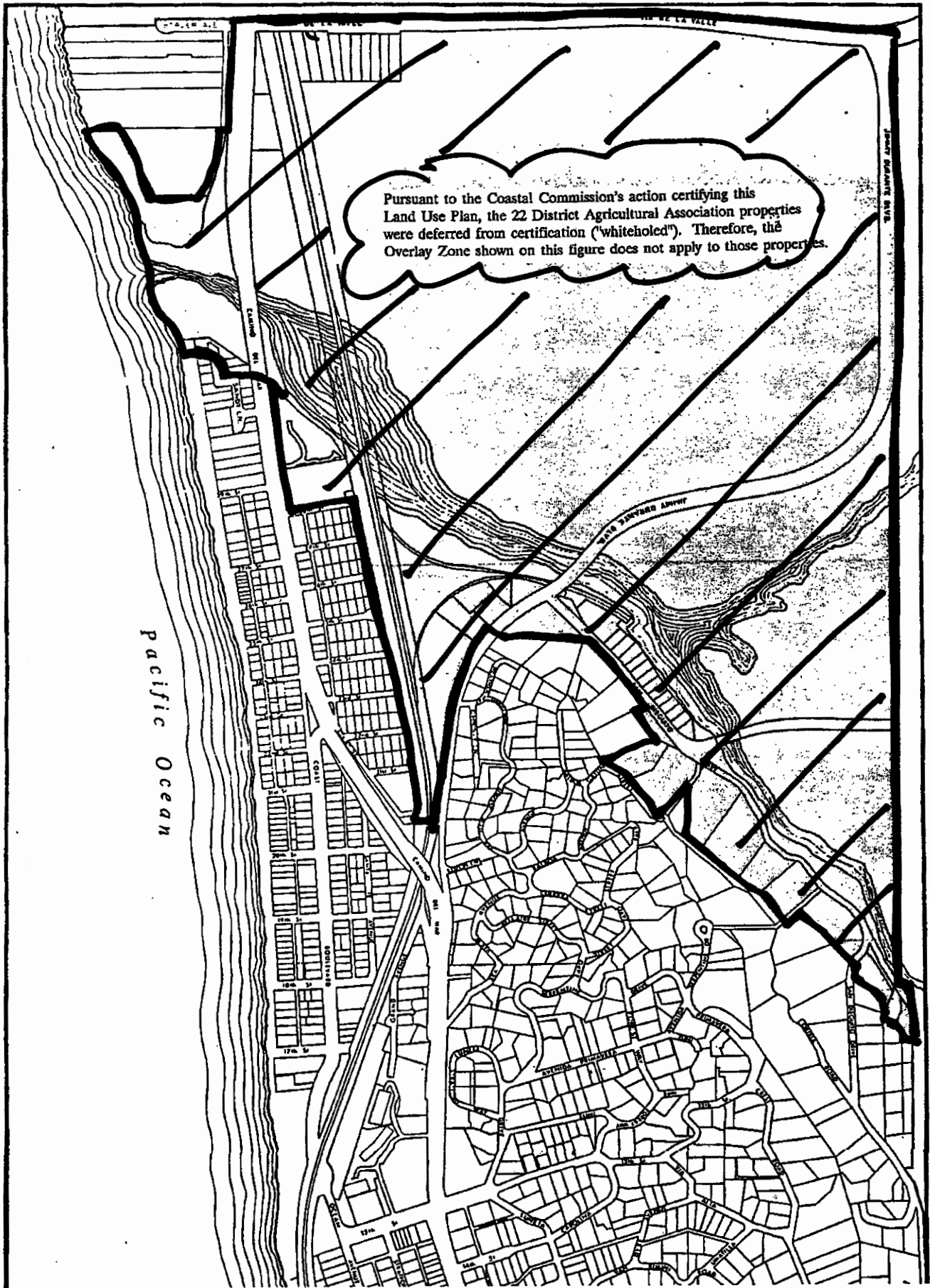


Figure VI-B Lagoon Overlay Zone (Cont.)