

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-1725
(619) 521-8036

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April 18, 1996

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TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: CHUCK DAMM, SOUTH COAST DISTRICT DIRECTOR
DEBORAH LEE, ASSIST. DISTRICT DIRECTOR, SAN DIEGO AREA OFFICE
DIANA LILLY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 1-96H
(BIOLOGICAL HABITAT PRESERVE) TO THE CITY OF CARLSBAD LOCAL
COASTAL PROGRAM (For public hearing and possible final action at the meeting
of May 7-10, 1996).

SYNOPSISSUMMARY OF AMENDMENT REQUEST

The subject amendment request amends the certified Carlsbad LCP Implementation Plan to incorporate a definition for biological habitat preserves and to add a new section requiring the processing of a conditional use permit for biological habitat preserves to ensure that designated biological habitat preserves are consistent with the City's General Plan, Growth Management Plan, Local Coastal Program and Habitat Management Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial, as submitted, of the Implementation Plan amendment, then approval with suggested modifications adding specific language ensuring that the proposed amendment will not allow any encroachment or impacts to environmentally sensitive resources beyond that which is currently allowed under the policies of the existing LCP.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 7. Findings for approval of the plan, if modified, begin on Page 9.

BACKGROUND

The Carlsbad Local Coastal Program consists of six geographic segments. 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. However, the City of Carlsbad found several provisions of the Mello I

and II segments unacceptable and declined to adopt the LCP implementing ordinances for the LCP. In October 1985, the Commission approved major amendments related to steep slope protection and agricultural preservation to the Mello I and II segments, which resolved the major differences between the City and the Coastal Commission. The City then adopted the Mello I and II segments and began working toward certification of all segments of its local coastal program. Since the 1985 action, the Commission has approved many major amendments to the City of Carlsbad LCP.

The Commission certified the land use plan portion of the Agua Hedionda segment in 1982. In addition, two new segments were annexed to the City, the West Batiquitos Lagoon/Sammis Properties segment and the East Batiquitos Lagoon/Hunt Properties segment. The West Batiquitos Lagoon/Sammis Properties LCP was certified in 1985. The East Batiquitos Lagoon/Hunt Properties LCP segment was certified in 1988. In 1987, a resubmitted Carlsbad Village Redevelopment Area LCP was effectively certified and the Redevelopment Agency began issuing coastal development permits for that segment only in 1988.

The subject amendment request involves a change to the City's Zoning Ordinance, which is the implementing ordinance for all six of the LCP segments.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP Amendment 1-96H may be obtained from Diana Lilly, Coastal Planner, at (619) 521-8036.

PART I. OVERVIEW

A. LOCAL COASTAL PROGRAM HISTORY--ALL SEGMENTS.

The City of Carlsbad Local Coastal Program (LCP) consists of six geographic segments: the Agua Hedionda Lagoon LCP segment comprised of approximately 1,100 acres; the Carlsbad Mello I LCP segment with 2,000 acres; the Carlsbad Mello II LCP segment which includes approximately 5,300 acres; the West Batiquitos Lagoon/Sammis Properties LCP segment with 200 acres; the East Batiquitos Lagoon/Hunt Properties LCP segment with 1,000 acres and the Village Area Redevelopment segment with approximately 100 acres.

Pursuant to Public Resources Code Sections 30170(f) and 30171, the Coastal Commission was required to prepare and approve an LCP for identified portions of the City. This resulted in the two Carlsbad LCP segments commonly referred to as the Mello I and Mello II segments. The Mello I and Mello II LCP segments were approved by the Coastal Commission in September 1980 and June 1981, respectively. The Agua Hedionda segment Land Use Plan was prepared by the City and approved by the Coastal Commission on July 1, 1982.

The Mello I, Mello II and Agua Hedionda segments of the Carlsbad LCP cover the majority of the City's coastal zone. They are also the segments of the LCP which involve the greatest number of coastal resource issues and have been the subject of the most controversy over the past years. Among those issues involved in the review of the land use plans of these segments were preservation of agricultural lands, protection of steep-sloping hillsides and wetland habitats and the provision of adequate visitor-serving facilities. Preservation of the scenic resources of the area was another issue raised in the review of these land use plans. As mentioned, the City had found the policies of the certified Mello I and II segments regarding preservation of agriculture and steep-sloping hillsides to be unacceptable. The City therefore did not apply these provisions in the review of local projects.

In the summer of 1985, the City submitted two amendment requests to the Commission and, in October of 1985, the Commission certified amendments 1-85 and 2-85 to the Mello I and Mello II segments, respectively. These (major) amendments to the LCP involved changes to the agricultural preservation, steep slope protection and housing policies of the Mello I and II segments of the LCP. After certification of these amendments, the City adopted the Mello I and II LCP segments.

The West Batiquitos Lagoon/Sammis Properties segment and the East Batiquitos/Hunt Properties segment were certified in 1985. These LCP amendments paved the way for two large projects comprising the majority of each segment: the Batiquitos Lagoon Educational Park-Sammis project within the West Batiquitos segment and the Pacific Rim Master Plan (now known as the Aviara Master Plan) within the East Batiquitos Segment.

The plan area of the Village Area Redevelopment segment was formerly part of the Mello II segment of the LCP. In August of 1984, the Commission approved the segmentation of this

100-acre area from the remainder of the Mello II LCP segment and, at the same time, approved the submitted land use plan for the area. In March of 1988, the Commission approved the Implementation Program for the Village Area Redevelopment segment of the LCP. A review of the post-certification maps occurred in December and the City assumed permit authority for this LCP segment on December 14, 1988.

In addition to the review process for the six LCP segments mentioned, the City has also submitted at various times, packages of land use plan amendments to the certified LUP segments, in an effort to resolve existing inconsistencies between the City's General Plan, Zoning Maps and the Local Coastal Program. After all such inconsistencies are resolved, the City plans to submit, for the Commission's review, the various ordinances and post-certification maps for implementation of the LCP. At that time, or perhaps earlier, the City should also prepare and submit a single LCP document that incorporates all of the LCP segments as certified by the Commission and any subsequent LCP amendments. After review and approval of these documents by the Commission, the City would gain "effective certification".

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.

- A. **RESOLUTION I** (Resolution to reject the City of Carlsbad LCP Implementation Plan Amendment 1-96H, as submitted)

MOTION I

I move that the Commission reject the City of Carlsbad Implementation Plan Amendment 1-96H, as submitted.

Staff Recommendation

Staff recommends a **YES** vote and adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution I

The Commission hereby **denies** certification of the amendment request to the City of Carlsbad Local Coastal Program on the grounds that the amendment does not conform with, and is inadequate to carry out, the provisions of the certified land use plan. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

- B. **RESOLUTION II** (Resolution to approve certification of the City of Carlsbad LCP Implementation Plan Amendment 1-96H, if modified)

MOTION II

I move that the Commission approve the City of Carlsbad Implementation Plan Amendment 1-96H, if it is modified in conformity with the suggested modifications set forth in this report.

Staff Recommendation

Staff recommends a **YES** vote and adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

Resolution II

The Commission hereby approves certification of the amendment request to the City of Carlsbad Local Coastal Program, if modified, on the grounds that the amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

PART III. SUGGESTED MODIFICATIONS

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

1. Section 21.42.010 of the City's Zoning Code lists uses which require the issuance of conditional use permits, including any conditions and requirements the use must meet. Section 21.42.010(15) of the Zoning Code shall be revised as follows:

(15). All zones except Open Space:

“(A) Biological habitat preserve, as defined by section 21.04.048 of this code, subject to following conditions:

(i) The biological habitat preserve shall not adversely impact the City's ability to provide public facilities and improvements such as, but not limited to, Circulation Element roadways, sewer or water infrastructure improvements and drainage improvements, as provided for in the Citywide Facilities and Improvements Plan, and the certified Local Coastal Program.

(ii) The biological habitat preserve shall be consistent with the City's habitat management planning efforts or agency approved Habitat Management Plan and will not negatively impact the City's ability to obtain or implement a Habitat Management Plan.

(iii) The biological habitat preserve shall be consistent with the City's Local Coastal Program.

(B) A conditional use permit shall not be required when a Biological Habitat Preserve is associated with a development proposal otherwise requiring environmental review and discretionary approval by the City of Carlsbad, or a coastal development permit.”

(C) Nothing in this section shall be construed as permitting encroachment or impacts to environmentally sensitive habitat areas and wetlands not permitted elsewhere in the certified Local Coastal Program.

(D) Notice shall be transmitted to the Coastal Commission of any conditional use permit for a Biological Habitat Preserve which is denied by the City.

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

A. AMENDMENT DESCRIPTION

The Carlsbad Zoning Ordinance serves as the implementing ordinance for all six of the Carlsbad land use plan (LUP) segments. The proposed amendment would result in changes to two sections of the existing municipal code. First, the ordinance would create a definition for biological habitat preserves in the "Definitions" section of the code. Secondly, the ordinance would add biological habitat preserves as a use requiring a Conditional Use Permit (CUP) in all zones except "Open Space." The amendment would provide a formal review process for the creation of biological habitat preserve areas to allow the City of Carlsbad to ensure that biological habitat preserves comply with the policies of the Carlsbad General Plan, Local Coastal Program and Growth Management and Habitat Management Plans.

B. FINDINGS FOR REJECTION

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.

a) Purpose and Intent of the Ordinance. The conditional use permit section of the municipal code is a listing of uses declared to possess characteristics of such unique and special form as to make impractical their being included automatically in any classes of use as set forth in any particular zone (such as, residential, commercial, open space, etc.). Therefore, these uses are required to obtain the review and issuance of conditional use permits. The ordinance is also intended for uses whose approximate location is indicated in the general plan, but whose exact location and arrangements must be carefully studied. In granting the permit, certain safeguards to protect the health, safety and general welfare may be required as conditions of approval.

b) Major Provisions of the Ordinance. The existing code including an alphabetical listing of development types requiring a conditional use permit, along with any special requirements and/or conditions associated with issuance of a conditional use permit for that use.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The City proposes two revisions to the City's Zoning Ordinance, which is the implementing ordinance

for the City's six Local Coastal Program Segments including: Mello I, Mello II, Agua Hedionda, the Village Redevelopment Area, East Batiquitos Lagoon/Hunt Properties and West Batiquitos Lagoon/Sammis Properties. The amendment would define a biological habitat preserve as "Any area which is designated and accepted by a Federal, State or local agency as a permanent or temporary sanctuary, reserve or protected area for biological species of any kind." The ordinance would also require that a CUP be issued for a biological habitat preserve on the condition that the preserve not adversely impact the City's ability to provide public facilities such as Circulation Element roads and utilities, and that the preserve be consistent with the City's habitat management planning efforts. A CUP would not be required when a biological habitat preserve is associated with a development otherwise requiring discretionary approval by the City.

The City has indicated that the establishment of biological habitat preserve areas raises questions about a prospective preserve's consistency with the City's General Plan and whether its establishment would preclude providing necessary facilities under their growth management plan. The proposed ordinance amendment would allow the City to have greater control in the planning and development of habitat management efforts such as the creation of mitigation banks and preserve areas, to ensure such preserves are consistent with City planning goals.

The existing policies of the certified LUP segments encourage the protection of environmentally sensitive habitat areas by restricting the type and amount of development which can encroach upon these areas. The existing LCP policies state that naturally vegetated slopes of 25% grade or more are worthy of protection and must be reserved as open space before new development can proceed. Encroachments onto these "dual-criteria" slopes (both steep and naturally vegetated) are permitted only if preservation of all of the slopes would preclude any reasonable use of the site, in which case up to 10% of the steep slope area is permitted. The construction of roadways identified in the City's Circulation Element or the development of utilities may also encroach into dual criteria slopes. The existing LUP policies also requires that wetland and riparian habitat be protected and preserved. No direct impacts are allowed in these areas except for the expansion of existing circulation element roads identified in the certified LCP and those direct impacts associated with installation of utilities.

The proposed amendment would not directly impact or alter these resource protection policies. The ordinance would set up a process for regulating the creation of biological habitat preserves. Designating an area for open space preservation or permanently protecting a sensitive habitat area through a mitigation bank protects environmentally sensitive habitat areas, thereby promoting the goals and intent of the LUP policies. However, because the proposed ordinance places restrictions and limitations on the establishment of biological habitat preserves, the amendment has the potential to reduce the creation of biological habitat preserves, thereby in effect lessening or weakening the policy language currently contained in the LUP segments relating to the protection of naturally vegetated steep slopes and wetland areas, which currently place no restrictions or conditions on the establishment of habitat preserves.

Within the parameters of the existing LCP policies, some areas are clearly more appropriately designated as habitat preserves than others. For example, an area which has been planned and designated in the certified LCP for construction of a circulation element road in the future, would not be the optimum location for the establishment of a mitigation bank. The City's desire to regulate the creation of habitat areas to avoid conflicts with established and future planning efforts is consistent with the goals of long-term habitat preservation in the current LCP. However, as proposed, the amendment requires that biological habitat preserves not adversely impact the City's ability to "provide public facilities and improvements such as, but not limited to, Circulation Element roadways, sewer or water infrastructure improvements and drainage improvements, as provided for in the Citywide Facilities and Improvements Plan" (emphasis added). Thus, the City could deny approval of a plan to establish a mitigation bank for a site containing dual-criteria slopes on the basis that a non-circulation element roadway was tentatively planned on the site. However, existing LCP policies allow encroachment onto dual criteria slopes only for circulation element roadways approved in the certified LCP. In such a case, a property owner would be placed in the difficult position of having been denied use of the site as mitigation bank, but restricted through existing LCP policies from alternative development on the site. Potentially disallowing the creation of biological habitat preserves in locations designated in the LCP for protection as environmentally sensitive habitat areas, would clearly create a conflict in implementing the provisions of the LCP.

Furthermore, the existing policies of the LCP allow encroachment into sensitive habitat areas for only very specific, limited purposes. As noted above, encroachment into wetlands is permitted only for the expansion of existing circulation element roadways identified in the certified LCP and those direct impacts associated with installation of utilities. As the proposed amendment would allow approval of a biological habitat preserve only if it does not interfere with the City's ability to provide any type of public facility or improvement, the amendment could be interpreted as permitting additional encroachments into environmentally sensitive habitat areas beyond those which are currently permitted in the LCP. Conceivably, the ordinance language could be used to justify the construction of a variety of public improvement projects within future and existing environmentally sensitive habitat preserve areas. Increasing the types or amount of impacts to sensitive resources is not consistent with the existing LCP standards and criteria regarding the protection of environmentally sensitive resources. Therefore, as the proposed amendment does not contain sufficiently detailed language to assure sensitive resources would be protected, the subject amendment cannot be found consistent with nor adequate to carry out the resource protection policies of the certified LCP, and the amendment must be denied.

PART V. FINDINGS FOR APPROVAL OF THE IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

The intent of the amendment is to allow the City of Carlsbad greater control over and input into the creation of biological habitat preserves to ensure any preserves are consistent with

planning efforts in the City, particularly the City's General Plan, Growth Management Plan, LCP and Habitat Management planning efforts. In concept, the substance of the amendment is generally consistent with the policies of the LCP, which encourage the permanent preservation of sensitive environmental resources. However, as proposed, the amendment would allow the City to deny the establishment of a preserve on an environmentally sensitive habitat area because the preserve would impact the City's ability to provide roads or other improvements, despite the fact that those particular improvements would not be permitted in habitat areas under the existing LCP.

Therefore, Suggested Modification #1 adds language indicating that biological habitat preserves shall not adversely impact the City's ability to provide roads and public facility improvements as provided for, not only in the City's Facilities and Improvements Plan (which has not been approved by the Commission), but also in the certified Local Coastal Program. In this manner, no biological preserve should be denied unless it conflicts with construction of an improvement or Circulation Element roadway which has already been reviewed and deemed appropriate in that location (or of that type) by the Commission. In addition, the suggested modification adds language specifically stating that the ordinance does not permit any encroachment or impacts to environmentally sensitive habitat areas beyond that which is currently permitted in the policies of the existing LCP.

Since in the past there have been disagreements between City and Commission staff as to the interpretation of the elements found in the certified LCP, for example, the particular alignment of Circulation Element roadways, the suggested modification adds a section to the proposed ordinance requiring the City to notify the Commission when an applicant is denied a conditional use permit for a biological habitat preserve. In this manner, the Commission will have the opportunity to consult with the City regarding its concerns. This provision will avoid the delays and expense for an applicant associated with having a biological habitat preserve proposal denied at the City level, then coming forward with a development proposal to the Commission in the future only to find that the Commission has not approved, for example, development of a circulation element roadway in that location, and would instead still consider the site appropriate for open space.

The proposed ordinance provides that a CUP would not be required for a biological habitat preserve associated with a development otherwise requiring environmental review and discretionary approval by the City. However, this could result in a procedural complication for some development proposals. Through coastal development permits, the Commission regularly places open space deed restrictions on areas identified in the LCP as worthy of protection, for example, dual criteria slopes. This deed restricted area could be interpreted as a biological habitat preserve area under the City's proposed definition. If the Commission were to require an open space deed restriction associated with construction of a single-family residence, (which would probably be exempt from discretionary review at the City), that open space deed restriction would then require further review from the City through a CUP. The City has indicated that it is not their intent to require that open space deed restrictions associated with minor development proposals obtain a CUP. Therefore, the suggested

modification adds language indicating that biological habitat preserves otherwise associated with coastal development permits, will also not require processing of a CUP.

As modified, the proposed ordinance will not weaken or alter any of the resource protection policies contained in the existing LCP. No impacts to sensitive habitat will be permitted as a result of the proposed amendment which would not be allowed under the current LCP policies. As modified, the amendment creates a mechanism for early consultation to assure consistent implementation of the certified LCP by the City and Commission, as the Commission will be informed should the City deny any biological habitat preserves. Therefore, the Commission finds the amended ordinance consistent with, and able to carry out, the mandates and intent of the certified land use plans.

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

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and 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. In the case of the subject LCP implementation plan amendment, the Commission finds that approval of the ordinance would result in significant impacts to environmentally sensitive habitat areas under the meaning of the California Environmental Quality Act. A suggested modification is included to reduce the potential impacts to below a level of significance. As modified herein, there are no feasible, less environmentally-damaging feasible alternatives and no significant environmental impacts would occur if the modifications are accepted by the City of Carlsbad. Therefore, the modified LCP amendment can be found consistent with the provisions of the California Environmental Quality Act.

RESOLUTION NO. 95-296

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING AN AMENDMENT TO ALL SIX SEGMENTS OF THE CARLSBAD LOCAL COASTAL PROGRAM (LCP) TO ENSURE THAT THE CITY'S ZONING ORDINANCE (WHICH FUNCTIONS AS THE IMPLEMENTING ORDINANCE FOR THE CITY'S LCP) AND THE CITY'S LOCAL COASTAL PROGRAM ARE CONSISTENT IN REQUIRING THE PROCESSING OF A CONDITIONAL USE PERMIT FOR BIOLOGICAL HABITAT PRESERVES.

CASE NAME: BIOLOGICAL HABITAT PRESERVE
CASE NO: LCPA 95-08

WHEREAS, California State law requires that the Local Coastal Program, General Plan, and Zoning designations for properties in the Coastal Zone be in conformance;

WHEREAS, a verified application for an amendment to all six segments of the City's Local Coastal Program has been filed with the Planning Department; and

WHEREAS, said verified application constitutes a request for an amendment to all six segments of the City's LCP as provided in Title 21 of the Carlsbad Municipal Code; and

WHEREAS, the City Council did on the 10th day of OCTOBER 1995, hold a duly noticed public hearing as prescribed by law to consider the proposed Local Coastal Program Amendment shown on Exhibit "X", dated August 2, 1995, attached to Planning Commission Resolution No. 3783; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Council considered all factors relating to the Local Coastal Program Amendment; and

WHEREAS, State Coastal Guidelines requires a six week public review period for any amendment to the Local Coastal Program.

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

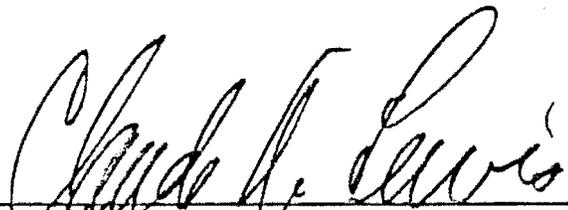
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- A) That the foregoing recitations are true and correct.
- B) That at the end of the State mandated six week review period, starting on July 20, 1995, and ending on August 31, 1995, no comments from the public had been received.
- C) That based on the evidence presented at the public hearing, the Findings and Conditions of Planning Commission Resolution No. 3788, on file with the City Clerk and incorporated herein by reference constitute the findings of the City Council in this matter and that the Local Coastal Program Amendment is here by approved.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad, held on the 10th day of OCTOBER, 1995, by the following vote, to wit:

AYES: Council Members Lewis, Nygaard, Kulchin, Finnila, Hall
 NOES: None
 ABSENT: None



 CLAUDE A. LEWIS, Mayor

ATTEST:



 ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)

ORDINANCE NO. NS-322

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, TO DEFINE BIOLOGICAL HABITAT PRESERVE AND TO REQUIRE THE PROCESSING OF A CONDITIONAL USE PERMIT FOR BIOLOGICAL HABITAT PRESERVES TO ENSURE THAT BIOLOGICAL HABITAT PRESERVES ARE CONSISTENT WITH THE CITY'S GENERAL PLAN, GROWTH MANAGEMENT PLAN, LOCAL COASTAL PROGRAM AND HABITAT MANAGEMENT PLANNING EFFORTS.
CASE NAME: BIOLOGICAL HABITAT PRESERVES
CASE NO: ZCA 95-02/LCPA 95-08

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

SECTION 1: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.048 to read as follows:

"21.04.048 Biological Habitat Preserve. Any area which is designated and accepted by a Federal, State or local agency as a permanent or temporary sanctuary, reserve or protected area for biological species of any kind."

SECTION 2: That Title 21, Chapter 21.42 of the Carlsbad Municipal Code is amended by the addition of Section 21.42.010(15) to read as follows:

"(15). All zones except Open Space:

(A) Biological habitat preserve, as defined by section 21.04.048 of this code, subject to the following conditions:

(i) The biological habitat preserve shall not adversely impact the City's ability to provide public facilities and improvements such as, but not limited to, Circulation Element roadways, sewer or water infrastructure improvements and drainage improvements, as provided for in the Citywide Facilities and Improvements Plan.

(ii) The biological habitat preserve shall be consistent with the City's habitat management planning efforts or agency approved Habitat Management Plan

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and will not negatively impact the City's ability to obtain or implement a Habitat Management Plan.

(iii) The biological habitat preserve shall be consistent with the City's Local Coastal Program.

(B) A conditional use permit shall not be required when a Biological Habitat Preserve is associated with a development proposal otherwise requiring environmental review and discretionary approval by the City of Carlsbad."

EFFECTIVE DATE: The ordinance shall be effective thirty days after its adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in a newspaper of general circulation within fifteen days after its adoption, except that within the Coastal Zone the effective date of this ordinance shall be the date of final California Coastal Commission approval of this ordinance.

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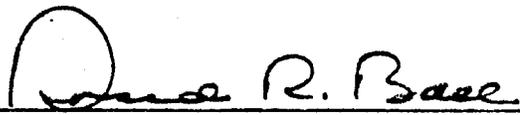
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2 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad
3 City Council on the 10th day of OCTOBER, 1995, and thereafter

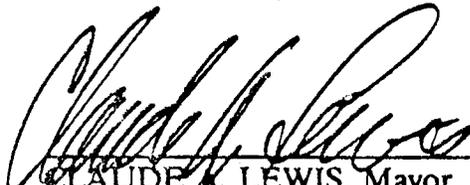
4 PASSED AND ADOPTED at a regular meeting of the City Council of the
5 City of Carlsbad on the 17th day of OCTOBER, 1995 by the following vote, to wit:

6 AYES: Council Members Lewis, Nygaard, Finnila, Hall

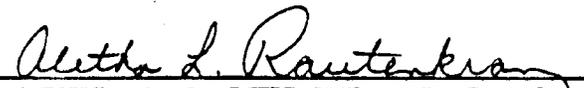
7 NOES: None

8 ABSENT: Council Member Kulchin
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14 RON BALL, City Attorney
15 10.18.95.

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18 CLAUDE A. LEWIS, Mayor

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20 ATTEST:

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23 ALETHA L. RAUTENKRANZ, City Clerk

24 (SEAL)
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