

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
 3111 CAMINO DEL RIO NORTH, SUITE 200  
 SAN DIEGO, CA 92108-1725  
 (619) 521-8036



June 20, 1996

Fr 6a

TO: COMMISSIONERS AND INTERESTED PARTIES

FROM: CHUCK DAMM, SOUTH COAST DISTRICT DIRECTOR  
 DEBORAH N. LEE, COASTAL PROGRAM MANAGER, SAN DIEGO AREA OFFICE  
 BILL PONDER, COASTAL PROGRAM ANALYST, SAN DIEGO AREA OFFICE

SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT NO. 2-96A (OCEAN BLUFF) TO THE CITY OF CARLSBAD LOCAL COASTAL PROGRAM - MELLO II SEGMENT (For Public Hearing and Possible Final Action at the Coastal Commission Hearing of July 9-12, 1996)

SYNOPSISSUMMARY OF AMENDMENT REQUEST

The subject amendment request revises the certified Mello II LCP segment. This item was continued from the June 1996 hearing in order to try and resolve an issue with the City of Carlsbad. The request rezones a 31.2 acre property located at the northwest corner of future Poinsettia Lane/Black Rail Court from Exclusive Agriculture (E-A) to One-Family Residential (R-1). At the June 1996 hearing, the Commission did approve Part B of LCPA #2-96 to amend the LCP Implementation Plan by rezoning the McReynolds property (aka "Mar Vista") and the MSP California L.L.C. property (aka "Emerald Ridge").

SUMMARY OF STAFF RECOMMENDATION

The proposed Ocean Bluff rezoning would potentially allow development of the site at a density which would exceed the certified land use plan designation and staff is recommending it first be rejected, then approved with a suggested modification to reinforce the land use plan density limits. The certified Mello II LUP designates the site as Residential Low Medium (RLM) which permits up to 4 dwelling units per acre (dua). The proposed R-1 zoning (7,500 sf. minimum lot size) would accommodate up to 5.8 dwelling units per acre, which is inconsistent with the density limits specified in the certified LCP.

As mentioned above, the item was postponed at the June 1996 hearing. In response to the staff report drafted for that hearing, the City submitted a letter dated June 11, 1996 (see attached) which makes several points. First and foremost, the City maintains that the zoning code and regulations do not regulate density, stating it only provides development standards and design guidelines for projects. The City states that project density is regulated through the land use designation applied to a particular site through the General Plan and certified LUP and that the zoning code must be consistent with the General Plan. While staff agrees that zoning alone does not guarantee a certain density of development, most local governments do

interpret the minimum required lot sizes specified in zoning codes as a key indicator of permissible density. Typically, the zoning applied to a particular site would not accommodate a higher density of development that it is designated for in the General Plan, as it appears in this case. Furthermore, the Carlsbad General Plan is not part of its certified local coastal program.

The City's second point indicates that the Subdivision Map Act specifies that the City would have to deny approval of any tentative map if it was not consistent with the General Plan. However, the Commission is not herein reviewing a tentative map; it is reviewing a proposed rezoning and the specified standard of review is whether or not the proposed amendment conforms with, or is adequate to carry out, the provisions of the certified land use plan.

The City's final point is that application of the "Q" designator, as suggested in the proposed modification, will not regulate density in the manner staff believes and sets an adverse precedent. Therefore, the City has indicated it is unacceptable. Staff has repeatedly indicated that the application of the "Q" designator was simply viewed as one mechanism to address the density limit concerns but that other options or alternatives would certainly be considered. However, to date, the City has not suggested any other alternatives or code provisions to address the density issue for Commission consideration.

The appropriate resolutions and motions may be found on Pages 4 and 5. The suggested modification may be found on Page 5. Findings for the denial of the Ocean Bluff rezoning, as submitted, begin on Page 6 and findings for approval of the rezoning, as modified, begin on Page 7.

#### BACKGROUND

The City's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Baticuitos Lagoon/Sammis Properties and East Baticuitos Lagoon/Hunt Properties. 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 several major amendments to the City of Carlsbad's LCP. The subject amendment request only affects the Mello II segment of the LCP.

#### ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment may be obtained at the above address or by contacting Bill Ponder at the Commission's office at (619) 521-8036.

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PART I. OVERVIEW

A. LCP HISTORY

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, including these 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 implementation plans is Section 30513 of the Coastal Act. 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 both Planning Commission and City Council meetings with regard to the subject amendment request. Each of these 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 resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to the resolution.

- A. RESOLUTION I (Resolution to deny certification of the City of Carlsbad LCP Implementation Plan Amendment #2-96A - Ocean Bluff, as submitted)

#### MOTION I

I move that the Commission reject the City of Carlsbad's LCP Implementation Plan Amendment #2-96A, as submitted.

Staff Recommendation

Staff recommends a YES vote and the 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 to the City of Carlsbad's Local Coastal Program on the grounds that the amendment 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 #2-96A - Ocean Bluff, if modified)

MOTION II

I move that the Commission approve the City of Carlsbad's LCP Implementation Plan Amendment #2-96A, as modified.

Staff Recommendation

Staff recommends a YES vote and the 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 to the City of Carlsbad's Local Coastal Program on the grounds that the amendment, as modified, 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 MODIFICATION

Carlsbad LCP Amendment #2-96A/Ocean Bluff Rezoning

1. The City of Carlsbad LCP Zoning Map shall be revised to indicate that the Qualified Development Overlay Zone shall be applied to the Ocean Bluff property. The Q designator applied to the site shall indicate that the property will be developed with no more than 4 dwelling units per acre.

PART IV. FINDINGS FOR DENIAL OF THE CITY OF CARLSBAD LCP IMPLEMENTATION PLAN  
AMENDMENT #2-96A/OCEAN BLUFF REZONE, AS SUBMITTED

A. AMENDMENT DESCRIPTION - OCEAN BLUFF REZONE

The proposed amendment request proposes to amend the City's implementation plan of its certified LCP by rezoning the 31.2 acre Ocean Bluff property from Exclusive Agriculture (E-A) to One-Family Residential (R-1). The amendment is associated with a specific project proposal currently under review by the Commission (CDP #6-96-57) to develop a 92 unit residential project and a 16 unit affordable housing project.

B. FINDINGS FOR REJECTION

a) Purpose and Intent of the Ordinance. The purpose and intent of the R-1 zone (One-Family Residential Zone) is to allow for single family detached homes and associated structures; however, the zone also allows multi-family affordable housing structures developed in accordance with the RD-M development standards to be located in the R-1 zone subject to site development plan approval. The E-A zone is a holding zone which only allows agricultural uses.

b) Major Provisions of the Ordinance. The amendment provides for the change of zoning of the identified parcel from E-A to R-1. The R-1 zone allows single family detached homes and associated structures, sets a 35 foot height limit, and establishes development standards for setbacks, placement of building, minimum lot area (7,500 sq.ft.), etc. In limited cases, a two-family dwelling may be permitted provided it is adjacent to specified zones as listed in the zoning ordinance. Also, home occupations, etc., are permitted in certain circumstances. Additional development standards for this zone include provisions for the type of garage required (i.e. two-car) and that each residence have a permanent foundation. Other requirements pertain to the composition of exterior siding of residences, specifications regarding roof pitches and minimum width of residences.

c) Adequacy of Ordinance to Implement the Certified LUP. 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. 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. In the City's Zoning Code, R-1 is a zoning designation that specifies a minimum lot area of 7,500 sq.ft. per acre. The Ocean Bluff property has been designated with the Residential Low Medium (RLM) land use designation which permits up to 4 du/ac with a growth control point of 3.2 dwelling units per net acre. Although the City found the proposed R-1 zone consistent with the RLM land use designation, the R-1 zoning could allow up to 5.8 du/ac based on the minimum lot size of 7,500 sq.ft. (43,560 sq.ft. divided by 7,500 sq.ft. = 5.8). Thus, the proposed R-1 zone could permit more dwelling units than the land use designation would allow which is inconsistent with the certified LUP. Increased residential density could result in adverse impacts areawide to coastal resources by creating the need for more roads and infrastructure

through sensitive areas (i.e, dual criteria slopes, wetland and riparian resources).

In response to the staff report drafted for that hearing, the City submitted a letter dated June 11, 1996 (see attached) which makes several points. First and foremost, the City maintains that the zoning code and regulations do not regulate density, stating it only provides development standards and design guidelines for projects. The City states that project density is regulated through the land use designation applied to a particular site through the General Plan and certified LUP and that the zoning code must be consistent with the General Plan. While the Commission agrees that zoning alone does not guarantee a certain density of development, most local governments do interpret the minimum required lot sizes specified in zoning codes as a key indicator of permissible density. Typically, the zoning applied to a particular site would not accommodate a higher density of development that it is designated for in the General Plan, as it appears in this case. Therefore, because the proposed zoning is not consistent with the certified land use designation, the amendment must be denied.

PART V. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LCP IMPLEMENTATION PLAN AMENDMENT #2-96A/OCEAN BLUFF REZONE, IF MODIFIED

The standard of review for implementation plans is Section 30513 of the Coastal Act. 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. As identified above, the proposed implementation plan amendment cannot be found consistent with the density provisions of the certified Mello II LCP. Specifically, the proposed R-1 zone, allowing up to a maximum of 5.8 du/ac, cannot be found consistent with the Residential Low Medium (RLM) land use designation of the certified LUP which allows no more than 4 du/ac.

The stated intent and purpose of the "Q" Qualified Development Overlay Zone in the certified LCP is to "supplement the underlying zoning by providing additional regulations for development within designated areas to: [in part] (1) Require that property development criteria are used to insure compliance with the general plan and any applicable specific plans; (2) Provide that development will be compatible with surrounding developments, both existing and proposed; (3) Insure that development occurs with due regard to environmental factors [...] The overlay zone therefore appears to be a suitable means to provide additional regulations for development to ensure that future development occurs consistent with a variety of concerns or environmental factors. Thus, this overlay provides additional assurance the policies of the LCP will be applied and enforced.

The Commission finds that, based on the above findings, the Qualified Development Overlay Zone must be applied to this property. The attached suggested modification applies the "Q" designator to the site to ensure that the property will be developed with no more than 4 du/ac which is consistent

with the certified RLM land use designation. In that way, the Commission can find the proposed zone change is consistent with the certified LUP. As mentioned above, the City submitted a letter in response to the earlier staff report indicating it did not believe that application of the "Q" designator was appropriate and would set an adverse precedent. The application of the "Q" designator is viewed as one mechanism to address the density limit concerns; however, other options or alternatives would certainly be considered. However, to date, the City has not suggested any other alternatives or code provisions that could address the density issue for Commission consideration.

Furthermore, through the review of future development on the site through a subsequent coastal development permit, issues associated with resource protection, etc., will be thoroughly assessed for consistency with the certified Mello II LCP segment. It should also be noted that both City and Commission staffs have considered future site development plans for the site. With such consideration, the modified zoning appears appropriate in that future development of the property at the endorsed intensity of use and with application of the other zoning standards and certified LUP provisions is possible and reasonable. In summary, since the proposed rezoning, as modified, would implement the LUP designation cited above, the Commission finds that the subject amendment to the implementation plan is consistent with and adequate to carry out the policies of the certified LUP.

#### 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. The LCP amendment to the Mello II segment of the City's LCP deals with a change to the zoning of a property within the City's coastal zone. The proposed Ocean Bluff rezone can result in an inappropriate intensity of land use. However, as modified, the amendment provides sufficient protection to coastal resources by limiting the permitted intensity of development. Therefore, the Commission finds that approval of the Mello II zoning amendment, as modified, will not result in any significant adverse environmental impacts.

In addition, individual projects to which the new LCP zone would apply will require a coastal development permit, as previously noted, which would require review for compliance with development standards which address, in part, steep slope encroachment, preservation of native habitat (coastal sage scrub, etc.), visual resource protection, conversion of agricultural land to urban uses and

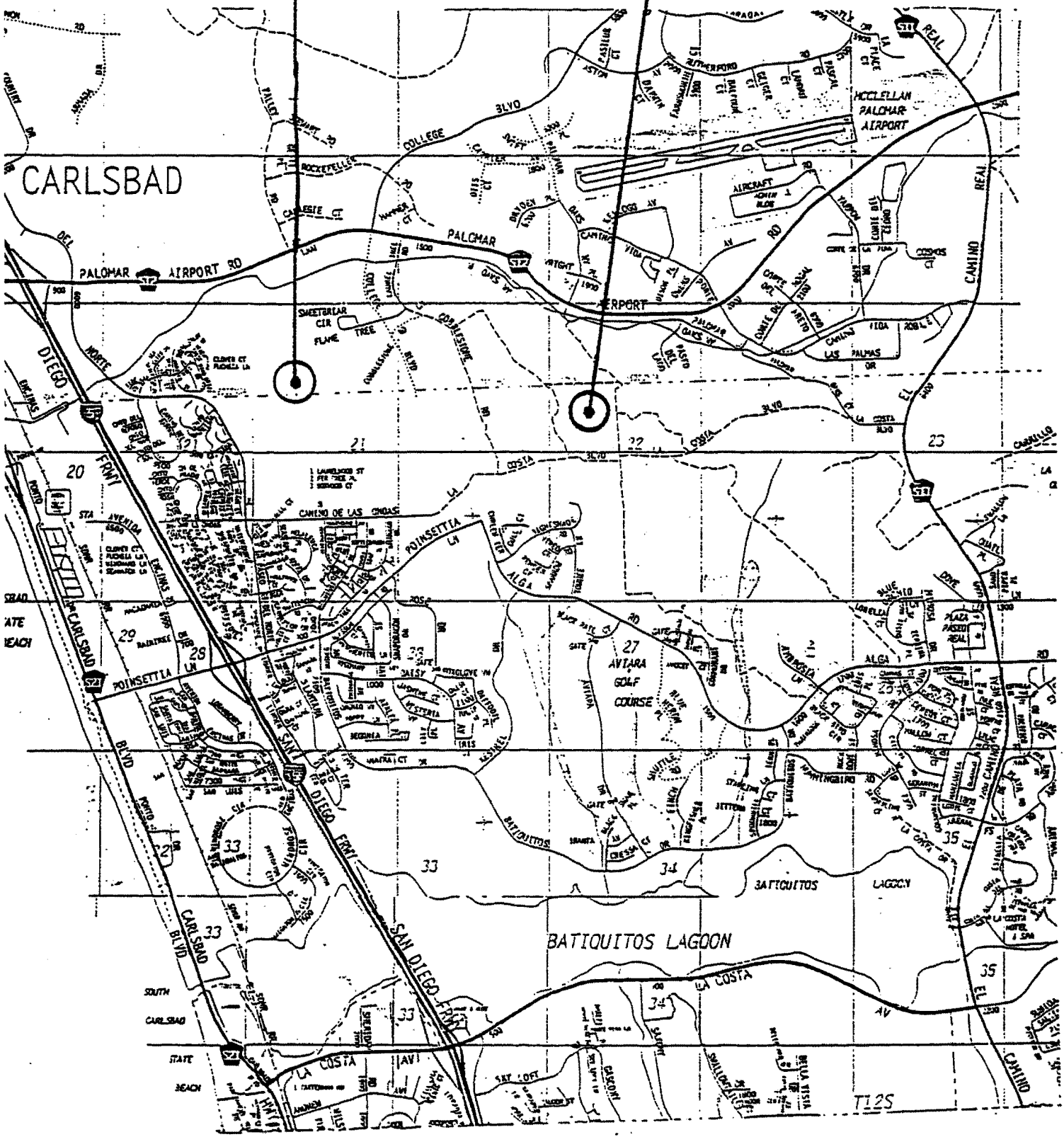


parking and traffic circulation. Any specific impacts associated with individual development projects would be assessed through the environmental review process; and, an individual project's compliance with CEQA would be assured. The Commission finds that approval of the subject LCP amendment, as modified, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act and that the proposed changes can be made.

(1184A)

"MAR VISTA / EMERALD RIDGE" SITES

"OCEAN BLUFF" SITE



SITE MAP

CARLSBAD LCPA  
# 2-96 A/B

RECEIVED

RESOLUTION NO. 96-117 MAY 10 1996

CALIFORNIA  
PLANNING COMMISSION  
SAN DIEGO COAST DISTRICT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A LOCAL COASTAL PROGRAM AMENDMENT, A CHANGE TO THE CARLSBAD ZONING MAP TO CHANGE A PORTION OF THE MAP FROM LIMITED CONTROL (L-C) TO ONE-FAMILY RESIDENTIAL (R-1), A TENTATIVE MAP, AND A HILLSIDE DEVELOPMENT PERMIT ON PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF FUTURE POINSETTIA LANE AND BLACKRAIL COURT IN THE ZONE 20 SPECIFIC PLAN AREA AND LOCAL FACILITIES MANAGEMENT ZONE.

CASE NAME: OCEAN BLUFF

CASE NO: LCPA 95-09/ZC 93-04/CT 93-09/HDP 93-09

WHEREAS, on December 20, 1995 the Planning Commission held a duly noticed public hearing to consider a Local Coastal Program Amendment (LCPA 95-09), Zone Change (ZC 93-04), Tentative Map (CT 93-09) and Hillside Development Permit (HDP 93-09) for project development on 31.2 acres of land and adopted Planning Commission Resolutions No. 3867, 3868, 3869, and 3871 respectively, recommending approval to the City Council; and

WHEREAS, the City Council of the City of Carlsbad, on the 2nd day of APRIL, 1996, held a public hearing to consider the recommendations and heard all persons interested in or opposed to LCPA 95-09, ZC 93-04, CT 93-09, and HDP 93-09; and

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

1. That the above recitations are true and correct.
2. That the recommendation of the Planning Commission for the approval of the Local Coastal Program Amendment (LCPA 95-09) is approved and that the findings and conditions of the Planning Commission contained in Planning Commission Resolution No. 3867, on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.

CARLSBAD LCPA # 2-96A  
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- 3. That the recommendation of the Planning Commission for the approval of the Zone Change (ZC 93-04) is approved and that the findings and conditions of the Planning Commission contained in Planning Commission Resolution No. 3868, on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council and Ordinance NS-354 shall be contemporaneously adopted.
- 4. That the recommendation of the Planning Commission for the approval of the Tentative Map (CT 93-09) is approved and that the findings and conditions of the Planning Commission contained in Planning Commission Resolution No. 3869, on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.
- 5. That the recommendation of the Planning Commission for the approval of the Hillside Development Permit (HDP 93-09) is approved and that the findings and conditions of the Planning Commission contained in Planning Commission Resolution No. 3871, on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.
- 6. This action is final the date this resolution is adopted by the City Council. The provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review" shall apply:

"NOTICE TO APPLICANT"

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

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CARLSBAD LCPA#2-96A  
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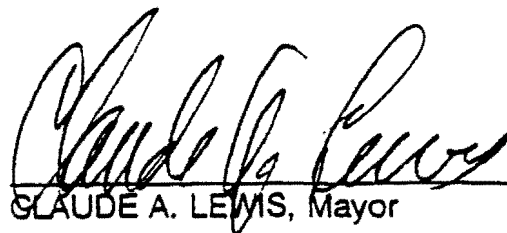
PASSED, APPROVED AND ADOPTED at a regular meeting of the City  
Council of the City of Carlsbad, California, on the 2nd day of APRIL, 1996,  
by the following vote, to wit:

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

NOES: None

ABSENT: None

ABSTAIN: None

  
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CLAUDE A. LEWIS, Mayor

ATTEST:

  
\_\_\_\_\_  
ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)

CARLSBAD LCFA # 2-16A  
OCEAN BLUFF  
(3 of 4)



EXISTING      L-C  
PROPOSED    R-1



**OCEANBLUFF**  
LCPA 95-09/ZC 93-04

CARLSBAD LCPA # 2-96  
OCEAN BLUFF  
(4 of 4)

PLANNING COMMISSION RESOLUTION NO. 3867

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, RECOMMENDING APPROVAL OF AN AMENDMENT TO THE MELLO II SEGMENT OF THE CARLSBAD LOCAL COASTAL PROGRAM TO BRING THE LAND USE DESIGNATIONS AND ZONING MAP INTO CONFORMANCE ON PROPERTY LOCATED AT THE NORTHWEST CORNER OF FUTURE POINSETTIA LANE AND BLACKRAIL COURT WITHIN THE ZONE 20 SPECIFIC PLAN BOUNDARIES .

CASE NAME: OCEAN BLUFF  
 CASE NO: LCPA 95-09

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

WHEREAS, Ocean Bluff Partnership has filed a verified application for certain property described as:

Lot 3 in Section 22, Township 12 south, range 4 west, San Bernadino base and meridian in the County of San Diego, State of California, excepting therefrom those portions thereof lying north of the south boundary line of Rancho Agua Hedionda, as said south line was established May 5, 1913, by decree of the Superior Court of the State of California, in and for San Diego County, in that certain action (No. 16830) entitled Kelly Investment Company, a corporation, vs. Clarence Dayton Hillman and Bessie Olive Hillman.

attached to Planning Commission Resolution No. 3868 and incorporated herein, which has been filed with the Planning Commission and;

WHEREAS, said verified application constitutes a request for a Local Coastal Program Amendment as shown on the map dated December 20, 1995, attached to and incorporated by reference in the Draft City Council Ordinance, Exhibit "X", attached to Resolution No. 3868 as provided in Public Resources Code Section 30574 and Article 15 of Subchapter 8, Chapter 2, Division 5.5 of Title 14 of the California Code of Regulations of

CARLSBAD LCPA # 2-96A  
 OCEAN BLUFF

1 the California Coastal Commission Administrative Regulations; and

2 WHEREAS, the Planning Commission did on the 20th day of December, 1995  
3 hold a duly noticed public hearing as prescribed by law to consider the proposed Local  
4 Coastal Plan Amendment and;

5 WHEREAS, at said public hearing, upon hearing and considering all testimony  
6 and arguments, if any, of all persons desiring to be heard, said Commission considered all  
7 factors relating to the Local Coastal Program Amendment.  
8

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

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

- 13 A) That the foregoing recitations are true and correct.
- 14
- 15 B) That based on the evidence presented at the public hearing, the Commission  
16 RECOMMENDS APPROVAL of LCPA 95-09 as shown on Exhibit "X", dated  
17 December 20, 1995, attached hereto and made a part hereof based on the  
18 following findings:

18 Findings:

- 19 1. That the proposed amendment to the Mello II segment of the Carlsbad Local  
20 Coastal Program is required to bring the designations of the City's Zoning Map (as  
21 amended) and Mello II implementing zone into conformance, i.e. from L-C to R-1.

22 Conditions:

- 23 1. Approval of LCPA 95-09 is granted subject to the approval of ZC 93-04, CT 93-09,  
24 SDP 93-07, and HDP 93-09. LCPA 95-09 is subject to all conditions contained in  
25 Planning Commission Resolution Nos. 3868, 3869, 3870, and 3871 dated December  
26 20, 1995.

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CARLSBAD LCPA #2-96A  
OCEAN BLUFF




1 PASSED, APPROVED, AND ADOPTED at a regular meeting of the  
2 Planning Commission of the City of Carlsbad, held on the 20th day of December, 1995, by  
3 the following vote, to wit:

4 AYES: Chairperson Welshons, Commissioners Compas, Erwin,  
5 Monroy, Nielsen, Noble and Savary

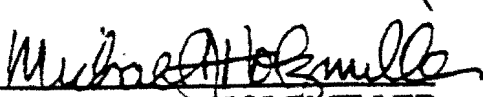
6 NOES: None

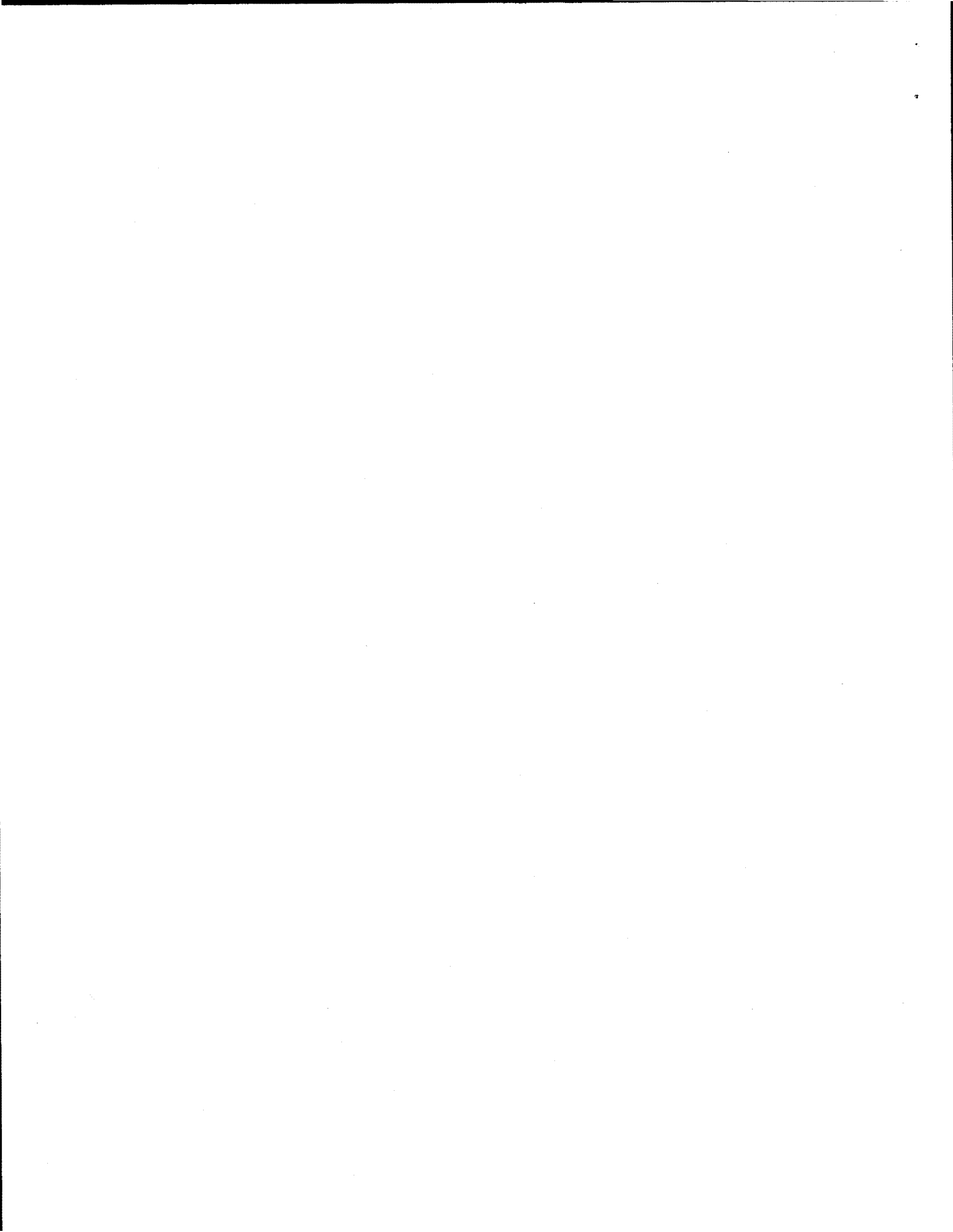
7 ABSENT: None

8 ABSTAIN: None  
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12 KIM WELSHONS, Chairperson  
13 CARLSBAD PLANNING COMMISSION

14 ATTEST:

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16 MICHAEL J. HOLZMILLER  
17 Planning Director  
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# City of Carlsbad

**Planning Department**

*Carlsbad LCPA #2-96A*

June 11, 1996

Ms. Deborah Lee  
California Coastal Commission  
San Diego Coast Area  
3111 Camino Del Rio North, Suite 200  
San Diego, CA 92108-1725

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CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**SUBJECT: OCEAN BLUFF REZONE - MAJOR AMENDMENT NO. 2-96A**

Dear Ms. Lee:

According to the coastal staff recommendation summary presented in the staff report synopsis, dated May 20, 1996, the rezone of the subject Ocean Bluff property from Limited Control (LC) to R-1-7500 would potentially allow for subsequent development of the property at a density which would exceed the certified coastal land use plan designation (0-4 du/ac). In order to ensure that subsequent development of the Ocean Bluff parcel does not exceed the certified land use designation (0-4 du/ac), coastal staff is recommending that the City's proposed R-1-7500 zone be rejected and then approved with the addition of the Qualified Development Overlay (Q) Zone. The (Q) overlay zone would carry a maximum density designator of 4 du/ac, thereby restricting the maximum residential density of the subject property.

The City of Carlsbad opposes coastal staff's recommendation to reject the City's proposal to rezone the property to the R-1-7500 zone and to add the Q Overlay to the R-1-7500 zone to restrict residential density. Coastal staff's recommendation is based on a technical misunderstanding of the relationship between the City's General Plan and its zoning ordinance. Specifically, the City's General Plan identifies general land use types allowed per land use designation and clearly regulates permitted residential density and development intensity allowed per designation. In comparison and consistent with State Planning and Zoning Law, the City's zoning ordinance identifies the specific land use types (permitted per zone and consistent with the general land use types allowed per the General Plan) and establishes the specific development standards (i.e. building height and bulk, lot coverage, setbacks and required parking) for the specific land use types. The important point to understand is that Carlsbad's zoning ordinance **does not regulate density or intensity of permitted uses**. Therefore, the application of the Q Overlay Zone to determine density would set an erroneous precedent which the City cannot accept.

*CARLSBAD LCPA #2-96A  
CITY'S RESPONSE*

The City of Carlsbad offers the following citations from Planning and Zoning Law (California Government Code Section 65860) and the Subdivision Map Act (California Government Code Section 66474) in support of our position that zoning this parcel to R-1-7500 would not legally enable a density of greater than the 0-4 dwelling units per acre, as allowed by the City's General Plan and the certified coastal land use plan, to be achieved on the Ocean Bluff property.



OCEAN BLUFF REZONE

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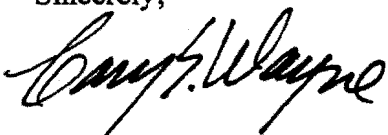
Page 2

1. California Government Code Section 65860 specifies that a zoning ordinance shall be consistent with a City's General Plan. The Government Code further states that a zoning ordinance shall be deemed to be consistent with the General Plan only if the various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in such a plan. As discussed above, the City's zoning ordinance implements and is therefore consistent with its General Plan. The R-1-7500 zone permits single family residences to be developed on minimum 7500 square foot lots subject to specific development standards. However, the permitted density for the R-1-7500 zone and all other residential zones is established exclusively through the General Plan. In that the R-1-7500 zone allows for the development of single family residences on minimum 7500 square foot lots, the zone is consistent with the Residential Low Medium (RLM) General Plan designation which allows single family homes at a density of 0-4 du's/ac.
2. Section 66474 of the Subdivision Map Act specifies that a City's legislative body must deny approval of a tentative map if it is not consistent with the General Plan. Accordingly, subsequent development of the Ocean Bluff parcel must be found to: (1) be consistent with the permitted uses and development standards of the R-1-7500 zone and (2) be consistent with the general uses allowed and density permitted by the RLM General Plan designation (0-4 du/ac).

A final issue with regard to coastal staff's proposal to add the Q Overlay Zone (Chapter 21.06 of the City's Zoning Ordinance) is that the Q Overlay Zone includes no provisions for regulating density other than requiring consistency with the General Plan. Coastal staff's contention that the application of the Q Overlay Zone will ensure that the property will be developed with no more than 4 dwelling units/acre is inaccurate since residential density is regulated by the General Plan and not the Q Overlay Zone.

If you have any further questions regarding the above, please contact me at (619) 438-1161, extension 4430.

Sincerely,



GARY E. WAYNE  
Assistant Planning Director

GEW:CD:kr

c: Anne Hysong  
Bill Ponder

CARLSBAD LCRA # 2-96A  
CITY'S RESPONSE