

CALIFORNIA COASTAL COMMISSION  
San Diego Coast  
3111 Camino Del Rio North Ste. 200  
San Diego, CA 92108-1725  
(619) 521-8036

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RECORD PACKET COPY

DATE: August 22, 1996  
TO: COMMISSIONERS AND INTERESTED PARTIES  
FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR  
SUBJECT: CITY OF CARLSBAD LOCAL COASTAL PROGRAM AMENDMENT NO. 3-96  
(DEMINIMIS)—EXECUTIVE DIRECTOR'S DETERMINATION THAT THE AMENDMENT  
IS DE MINIMIS (For Commission review at its meeting of September  
10-13, 1996)

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property.

PROPOSED AMENDMENT

The City of Carlsbad De Minimis LCP Amendment (1) amends existing land use plans and ordinances in the certified LCP and (2) adds land use and implementation introductions to the existing LCP. The four adopted ordinances that convey the proposed amendments are as follows: 1) NS-364 amends Title 19 of the Carlsbad Municipal Code by the addition of a section which addresses archaeological and paleontological resources to implement the LCP permit program in the Mello I, II and East Batiquitos and West Batiquitos segments; 2) NS-365 amends Title 21 of the Carlsbad Municipal Code by the addition and amendment of various sections and by the addition of Chapters 21.201-205, all implementing the LCP permit program in the Mello I, II and East Batiquitos and West Batiquitos segments; 3) Ordinance NS-366 amends the Aviara Master Plan, the land use plan, in part, and an implementing document of the East Batiquitos LCP, by adding suggested modifications approved by the City and the Coastal Commission; 4) NS-367 amends the Poinsettia Shores Master Plan, the land use plan, in part, and an implementing document of the West Batiquitos LCP, by adding suggested modifications approved by the City and the Coastal Commission. In addition, Resolution No. 96-250, in part, calls for reaffirming other suggested modifications and amending them into the Carlsbad LCP.

As noted above, the ordinances apply to four of the six segments of the City's LCP (Mello I, Mello II, East Batiquitos Lagoon/Hunt Properties and West Batiquitos Lagoon/Sammis Properties). The City already has coastal permit authority in its Redevelopment LCP segment, and the Agua Hedionda Lagoon segment has been removed from this process because SDG&E is currently preparing revisions to the land use regulations. The proposed changes will result in land use and zoning revisions but is consistent with the intensity and the density of land use that are currently shown in the respective certified LUPs.

The deminimis amendment was submitted as the final step for the City to effectively certify the Carlsbad LCP so that permit jurisdiction can be transferred from the Coastal Commission to the City. LCP certification can be broken into two steps: Land Use/Implementation Plan Adoption and Effective Certification. The Coastal Commission has already approved the contents of the City LCP in 1980-88 (i.e., the first step ("Certification") has been completed. The final approval step, which would transfer permit authority from the State to the City ("Effective Certification") is still to be completed. The purpose of the proposed deminimis amendment is to try and finalize the LCP contents in preparation for the effective certification review.

The amendment was approved by the City Council on July 9, 1996. The amendment was properly noticed and distributed to interested individuals, organizations and government entities. No public comments in letter or in person were received. The amendment request resubmittal was received in the Commission office on July 18, 1996. As indicated below the amendment request does not raise any issues relative to the Chapter 3 policies of the Coastal Act.

#### INTRODUCTION

As noted above, the Carlsbad Local Coastal Program consists of six geographic segments. Pursuant to Sections 30170(f) and 30171 of the Coastal Act, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and Mello II segments in 1980 and 1981 respectively. This special legislation was unique in that the Commission was directed to prepare and certify the City's LCP. Pursuant to the legislation, an LCP was adopted under prescribed time limits. However, the final steps of approval ("Effective Certification") were not taken due to work constraints and subsequent disagreements over certain policies relating to preservation of environmentally sensitive areas and agricultural lands. That is, the City declined to adopt the Commission adopted land use plans and implementing ordinances for the LCP. However, again as a result of the special legislation, the LCP was deemed "effectively certified" but not in any real terms since the City was not administering it. The Coastal Commission therefore continued to issue coastal development permits based on the certified LCP.

In 1985, the principal issues related to sensitive habitats, steep slopes and agricultural preservation raised in the Mello LCP segments were resolved through amendments. However, because of workload constraints at the City and other competing priorities there, the City again did not pursue effective

certification and the Commission continued to issue coastal development permits. Therefore, this amendment, in part, serves to reaffirm those suggested modifications and now incorporate them into the City's land use plans and municipal code. This must happen before the City's LCP can be effectively certified.

After resolution of the principal differences on the Mello I and II LCP segments with the 1985 amendments, there were two additional LCP segments created. Similar to the larger LCP effort, the approval of the West Batiquitos Lagoon/Sammis Properties LCP in 1985 and the East Batiquitos/Hunt Properties LCP in 1988 occurred with suggested modifications. Those revisions were not formally accepted at the time and incorporated into the LCP. Therefore, procedural actions are also necessary for effective certification of those two more recent LCP elements.

Subsequent amendments to the LCP over the years were submitted by the City and reviewed and approved by the Coastal Commission. However, not all of the amendments were approved as submitted. The Commission could only certify some amendments with suggested modifications that would bring the amendment request into conformance with Chapter 3 policies of the Coastal Act. Suggested modifications must be accepted by the City Council within six months of the Commission's action on a LCP amendment. Through the years, though, the City did not formally accept a number of suggested modifications because it was still not administering the LCP. Thus, the amendments and the adopted modifications technically became null and void.

In any event, while the Commission continued to review projects in Carlsbad, the body of the original LCP text as approved by the City and the Coastal Commission in 1980-85, or in subsequent LCP amendments in later years, is not proposed for any significant change with this amendment. Therefore, although technically there are "new" land use provisions and implementing actions being adopted, they are, for the majority of the proposed revisions, identical to the original certification document or subsequent LCP amendments. Due to the history of the LCP's implementation, however, the City is now adopting the Commission's previous actions and enacting them for their administration in preparation for assumption of coastal development permit authority. The Commission has agreed to accept the City's action reaffirming the suggested modifications as a de minimis amendment herein because they are identical to the Commission's previous actions, consistent with Chapter 3 and will support the completion of the City's LCP.

Although the wording of the LCP ordinances were originally agreed upon between the City and the Coastal Commission in 1985, some modifications to the LCP ordinance structure, application procedures and Coastal Act ("Minor" coastal development permits) have occurred since that time. Thus, revisions are proposed by the City to fit the previously approved ordinance language into the structure of the City's existing zoning ordinance and ensure that the latest Coastal Act law is applied. The amendments to the Zoning Ordinance are as follows:

Add General Regulations and Procedures for Coastal Development Permits (See Chapter 21.200 and 21.201). These regulations are primarily permit processing procedures, including noticing, exemptions and permit requirements.

Add Overlay Zones as follows:

- Coastal Agriculture Overlay Zone, Mello I and II (Chap. 21.201)
- Coastal Resource Protection Overlay Zone, Mello II (Chap. 21.203)
- Coastal Shoreline Development Overlay Zone, Mello II (Chapter 21.204)
- Coastal Resource Overlay Zone, Mello I (Chapter 21.205)

Miscellaneous Additions/Alterations which include definitions, "minor" permits, additions to the Planned Community Zone, and procedures.

Regarding the General Regulations and Procedures for coastal development permits, the amendments to the existing LCP ordinances are mostly "housekeeping" measures designed to bring the LCP up to date with current law. Coastal development permit forms for noticing of public hearings and appealable projects have been updated to be more usable. A new coastal development permit application form is proposed which is based on the Commission's recently revised coastal development permit form. A new form regarding noticing of a pending decision by the Planning Director on "Minor" coastal development permits has been added to implement recent state legislation which introduced the minor coastal development permit.

Regarding the overlay zone amendments, while they were not formally adopted by the City as part of the legislative certification of the Carlsbad LCP, the language of the zone amendments is identical to the original Commission action. These overlays apply to the Mello I and Mello II segments. The overlays mandate that new projects be designed to preserve and protect coastal resources and public access.

Regarding miscellaneous additions/alterations, an "Introduction" has been added to the Land Use and Implementation portions of the LCP to orient and assist permit applicants with the coastal development permit process. Key definitions have been added (e.g. wetlands, bluff edge) to inform the applicant as to how coastal resources are identified and protected. An addition to the Planned Community zone is proposed regarding the Kelly Ranch property which identifies what implementing measures will be required to protect existing resources on the site.

Regarding the municipal code amendment which would add language to Title 19 concerning environmental review within the coastal zone, this action is similar to the above action requiring reaffirmation of past suggested modifications. That is, as noted, this ordinance was originally certified by the Coastal Commission in 1980-85 but was not incorporated into the City's LCP. This action will formally add the language to the Municipal Code by amendment. Therefore, as noted, the ordinance revisions are, for the most part, consistent with the Commission's previous actions or reflect current permit processing practices. The ordinance amendments are consistent with the

certified land use plans; and, with certification, the effective certification process can begin leading towards permit delegation to the City of Carlsbad.

DETERMINATION

The Executive Director determines that the City of Carlsbad LCP Amendment is de minimis. Based on the information submitted by the City, the proposed de minimis LCP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property that would be inconsistent with the Commission's original certification or its action on later LCP amendments. In that way, it can be characterized as clarifying the provisions of the existing Carlsbad LCP, and as a "housekeeping" document. The City has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30514(d). The Executive Director recommends that the Commission concur in this determination. Unless three or more members of the Commission object to this determination, the amendment shall become part of the certified LCP ten (10) days after the date of the Commission meeting.

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RESOLUTION NO. 96-250

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, REAFFIRMING THE COASTAL COMMISSION'S SUGGESTED MODIFICATIONS; AGREEING TO ISSUE COASTAL DEVELOPMENT PERMITS; ACKNOWLEDGING THE RECEIPT OF THE COASTAL COMMISSION'S RESOLUTION OF CERTIFICATION AND AGREEING TO ITS TERMS; AND ADOPTING THE AMENDMENTS TO THE LOCAL COASTAL PROGRAM ORDINANCES, AND ADDING INTRODUCTIONS TO THE LAND USE PLAN AND IMPLEMENTATION SECTIONS  
CASE NAME: LOCAL COASTAL PROGRAM EFFECTIVE CERTIFICATION  
CASE NO: LCPA 95-15

WHEREAS, on May 1, 1996 and on June 5, 1996, the Planning Commission held duly noticed public hearings to consider a Local Coastal Program Amendment (LCPA 95-15); Master Plan Amendments (MP177(Q) and (MP 175(G); Municipal Code Amendment (MCA 96-01; and Zone Code Amendment (ZCA 95-03), for Local Coastal Program Effective Certification on properties located within the City's coastal zone, with the exception of areas covered by the Agua Hedionda and Village Redevelopment Segments, and adopted Planning Commission Resolutions No. 3922, 3923, 3926, 3927, 3934 and 3924 respectively, recommending approval to the City Council; and

WHEREAS, the City Council of the City of Carlsbad, on the 9th day of JULY 1996, held a public hearing to consider the recommendations and heard all persons interested in or opposed to the LCPA 95-15, MP 177(Q), MP 175(G), MCA 9601, and ZCA 95-03; 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 95-15) is approved and that the

CARLSBAD LCPA 3-96  
LCPA 95-15

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findings and conditions of the Planning Commission contained in Planning Commission Resolutions No. 3922 and 3923 on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.

3. That the recommendation of the Planning Commission to 1) reaffirm the Coastal Commission's Suggested Modifications; 2) agree to issue Coastal Development Permits; 3) acknowledge receipt of the Coastal Commission's Resolution of Certification and agreeing to its terms; 4) adopt the amendments to the Local Coastal Program Ordinances; and 5) add introductions to the Land Use Plan and Implementation Sections, as contained in Planning Commission Resolutions No. 3922 and 3923 are approved, and that the findings and conditions of the Planning Commission in said resolutions are the findings and conditions of the City Council.
4. 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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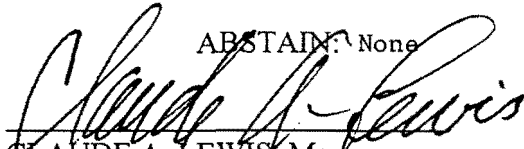
PASSED, APPROVED AND ADOPTED at a regular meeting of the  
City Council of the City of Carlsbad, California, on the 9th day of JULY,  
1996, by the following vote, to wit:

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


NOES: None

ABSENT: None

ABSTAIN: None

  
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CLAUDE A. LEWIS, Mayor

ATTEST:

  
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ALETHA L. RAUTENKRANZ, City Clerk  
(SEAL)



1 RECEIVED

2 JUL 10 1996

3 CALIFORNIA  
4 COASTAL COMMISSION  
5 SAN DIEGO COAST DISTRICT

ORDINANCE NO. NS-364

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING TITLE 19 OF THE CARLSBAD MUNICIPAL CODE BY THE ADDITION OF A SECTION IMPLEMENTING THE LOCAL COASTAL PERMIT PROGRAM FOR THE CITY'S LOCAL COASTAL PROGRAMS IN THE MELLO I, II, AND EAST AND WEST BATIQUITOS LAGOON SEGMENTS.

CASE NAME: CITY OF CARLSBAD LOCAL COASTAL PROGRAM EFFECTIVE CERTIFICATION

CASE NO: MCA 96-01

WHEREAS, the City of Carlsbad has made revisions to the City of Carlsbad's Local Coastal Program Implementing Ordinances in order to fit these ordinances within the structure of Title 19 of the existing Municipal Code; and to update or augment the regulations to improve their utility.

WHEREAS, the City of Carlsbad requests that the Coastal Commission include these revisions as "De Minimis Local Coastal Program Amendments" (under Section 30514 (d) of the Public Resources Code) as part of the Executive Director's Determination in accordance with Article 13 Section 13544.5 (b) and (c) of the California Administrative Code.

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

SECTION I: That Title 19, Chapter 19.04 of the Carlsbad Municipal Code is amended by the addition of Section 19.04.060 Subsection (h) to read as follows:

"19.04.060 General Responsibilities.

(h) Within the coastal zone, if the environmental impact review process identifies archaeological or paleontological resources that could be adversely impacted by development, additional site specific review shall be undertaken by a qualified professional to determine the appropriate means to mitigate the adverse effects. These mitigation measures shall be required to be implemented as a condition of development. They may include the requirement that an archaeologist is present onsite during grading."

....

CARLSBAD LCPA #3-96  
MCA 96-01

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2 EFFECTIVE DATE: This ordinance shall be effective thirty days after its  
3 adoption. The city clerk shall certify the adoption of this ordinance and cause it to be published at  
4 least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its  
5 adoption. Notwithstanding the foregoing, this ordinance shall not be effective until approved by  
6 the Coastal Commission.

7 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City  
8 Council on the 9th day of JULY, 1996, and thereafter  
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PASSED AND ADOPTED at a regular meeting of the City Council of the City of

Carlsbad on the 16th day of JULY, 1996, by the following vote, to wit:

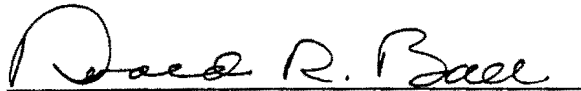
AYES: Council Members Lewis, Nygaard, Kulchin, Finnila, Hall

NOES: None

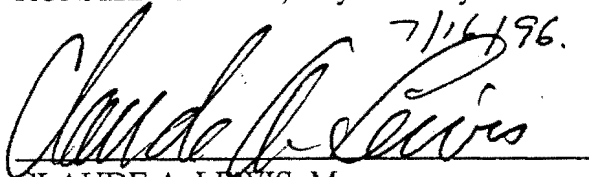
ABSENT: None

ABSTAIN: None

APPROVED AS TO FORM AND LEGALITY



RONALD R. BALL, City Attorney



CLAUDE A. LEWIS, Mayor

ATTEST:



ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)

ORDINANCE NO. NS-365

RECEIVED

JUL 18 1993

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING TITLE 21 OF THE CARLSBAD MUNICIPAL CODE BY THE ADDITION AND AMENDMENT OF VARIOUS SECTIONS AND BY THE ADDITION OF CHAPTERS, 21.201-205 ALL IMPLEMENTING THE LOCAL COASTAL PERMIT PROGRAM FOR THE CITY'S LOCAL COASTAL PROGRAMS IN THE MELLO I, II, AND EAST AND WEST BATIQUITOS LAGOON SEGMENTS.

CASE NAME: CITY OF CARLSBAD LOCAL COASTAL PROGRAM EFFECTIVE CERTIFICATION  
CASE NO: ZCA 95-03

WHEREAS, the City of Carlsbad has made revisions to the City of Carlsbad's Local Coastal Program Implementing Ordinances in order to fit these ordinances within the structure of the existing zoning ordinance (Title 21 of the Carlsbad Municipal Code); and to update or augment the regulations to improve their utility.

WHEREAS, the City of Carlsbad requests that the Coastal Commission include these revisions as "De Minimis Local Coastal Program Amendments" (under Section 30514 (d) of the Public Resources Code) as part of the Executive Director's Determination in accordance with Article 13 Section 13544.5 (b) and (c) of the California Administrative Code.

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

SECTION I: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.107 to read as follows:

"21.04.107 Development (In The Coastal Zone).

Development: (within the Coastal Zone) means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

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

1 CARLSBAD LCPA #3-96  
ZCA 95-03 5

1 line."

2 SECTION II: That Title 21, Chapter 21.33 of the Carlsbad Municipal Code is  
3 amended by the addition of Section 21.33.015 to read as follows:

4 "21.33.015 Carlsbad State Beach.

5 Developments on Carlsbad State Beach will require permits subject to the requirements of  
6 the certified Local Coastal Program. The Local Coastal Program certified a coastal shoreline  
7 development overlay zone applicable to Carlsbad State Beach. It also established policies for the  
8 overall Master Plan for the area."

9 SECTION III: That Title 21, Chapter 21.38 of the Carlsbad Municipal Code  
10 is amended by the addition of Section 21.38.141 to read as follows:

11 "21.38.141 Additional Standards: Rancho La Costa, Batiquitos Lagoon Watershed.

12 NOTE: Applies only to Rancho La Costa, Hunt Properties, covered by the Mello I LCP  
13 Segment.

14 The contents of the Master Plan as described in Chapter 21.38.060 shall include the  
15 following additional information required below and be approved in accordance with the following  
16 additional development standards:

17 (a) Permits-Required. Developments as defined in Chapter 21.04.107, (including but not  
18 limited to land divisions) require a coastal development permit subject to the requirement of this  
19 zone. All uses in this zone are subject to the procedural requirements of Chapter 21.201. Prior to or  
20 simultaneously with the approval of any division of land or any other development, a master plan of  
21 development for the property called Rancho La Costa shall be approved in accordance with the  
22 provisions of this chapter.

23 (b) Maximum Density of Development. The Master Plan shall be approved subject to a  
24 maximum density of development as follows:

25 (1) Agricultural Land (with soils rated at I through IV under the Land Use  
26 Capability Classification System of the Soil Conservation Service) shall result in an allowable  
27 intensity of development of 1 residential dwelling unit per 10 acres,

28 (2) All slopes greater than 25% shall result in an allowable development intensity  
of 1 dwelling unit per ten acres,

(3) All slopes greater than 20% but less than 25% shall result in a development  
intensity of 1 dwelling unit per five acres,

(4) All slopes greater than 15% but less than 20% shall result in a development  
intensity of 1 dwelling unit per acre,

(5) All slopes greater than 10% but less than 15% shall result in a development  
intensity of 2 dwelling units per acre,

(6) All areas with a slope of less than 10% shall result in a development intensity  
of 6 units per acre.

The Master Plan shall include a topographic map at a scale sufficient to  
determine the above but no less than 1"=100 feet having a contour interval of 5 feet with overlays  
delineating areas of greater than 10, 15, 20, and 25 percent slopes. A map showing the type of soil  
erodibility, and class based on the Land Use Capability Classification System of the Soil  
Conservation Service shall be submitted in the same scale as the slopes. The Master Plan shall show  
the computation of the densities and acreage of soils of the various classes and erodibility.

The plan required as a part of the Master Plan shall be certified as accurate by  
a registered engineer or other qualified professional to be true and accurate containing reasonably  
accurate estimates of the amount of cut and fill. The plan shall show the existing and the finished  
topography of the ground to be graded and filled, including a site plan of the proposed residential or  
commercial development in the same scale so that it can be superimposed upon the topographic map.

(c) Drainage and Erosion Control. Any development proposal that affects steep slopes

1 (25% inclination or greater) shall be required to prepare a slope map and analysis for the affected  
2 slopes. Steep slopes are identified on the PRC Troups Maps. The slope mapping and analysis shall  
3 be prepared during the CEQA environmental review on a project-by-project basis and shall be  
4 required as a condition of a coastal development permit.

5 (1) For those slopes mapped as possessing endangered plant/animal species  
6 and/or coastal sage scrub and chaparral plant communities, the following policy language would  
7 apply:

8 (A) Slopes of 25% grade and over shall be preserved in their natural state,  
9 unless the application of this policy would preclude any reasonable use of the property, in which  
10 case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted.  
11 For existing legal parcels, with all or nearly all of their area in slope area over 25% grade,  
12 encroachment shall be limited so that at no time is more than 20% of the entire parcel (including  
13 areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply  
14 to the construction of roads of the City's Circulation Element or the development of utility systems.  
15 Use of slopes over 25% may be made in order to provide access to flatter areas if there is no less  
16 environmentally damaging alternative available.

17 (B) No further subdivisions of land or utilization of Planned Unit  
18 Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned  
19 Unit Development is proposed which limits grading and development to not more than 10% of the  
20 total site area.

21 (C) Slopes and areas remaining undisturbed as a result of the hillside  
22 review process, shall be placed in a permanent open space easement as a condition of development  
23 approval. The purpose of the open space easement shall be to reduce the potential for localized  
24 erosion and slide hazards, to prohibit the removal of native vegetation except for creating firebreaks  
25 and/or planting fire retardant vegetation and to protect visual resources of importance to the entire  
26 community.

27 (2) For all other steep slope areas, the City Council may allow exceptions to the  
28 above grading provisions provided the following mandatory findings to allow exceptions are made:

1 (A) A soils investigation conducted by a licensed soils engineer has  
2 determined the subject slope area to be stable and grading and development impacts mitigatable for  
3 at least 75 years, or life of structure.

4 (B) Grading of the slope is essential to the development intent and design.

5 (C) Slope disturbance will not result in substantial damage or alteration to  
6 major wildlife habitat or native vegetation areas.

7 (D) If the area proposed to be disturbed is predominated by steep slopes  
8 and is in excess of 10 acres, no more than one third of the total steep slope area shall be subject to  
9 major grade changes.

10 (E) If the area proposed to be disturbed is predominated by steep slopes  
11 and is less than 10 acres, complete grading may be allowed only if no interruption of significant  
12 wildlife corridors occurs.

13 (F) Because north-facing slopes are generally more prone to stability  
14 problems and in many cases contain more extensive natural vegetation, no grading or removal of  
15 vegetation from these areas will be permitted unless all environmental impacts have been mitigated.  
16 Overriding circumstances are not considered adequate mitigation.

17 (3) Drainage and runoff shall be controlled so as not to exceed at any time the rate  
18 associated with property in its present state, and appropriate measures shall be taken on and/or offsite  
19 to prevent siltation of lagoons and other environmentally sensitive areas.

1 (4) The appropriate measures shall be installed prior to onsite grading.

2 (5) Modification of these standards and criteria may be granted to portions of  
3 properties where strict application of the standards and criteria would, even after application of  
4 clustering and other innovative development techniques, result in less than one-half of the  
development potential that would be attainable under the maximum density of development  
specified in(b) above.

5 Such modification shall be limited to the standards and criteria expressed in  
6 (c)(1)(A) above, and shall not exceed that necessary to the attainment of said one-half of the  
development potential.

7 Where such modification must involve grading or other disruption of lands of  
8 20% slope or greater, such grading or disruption shall be limited to not more than one-fourth of the  
land area of the property which is of 20% slope or greater.

9 In selecting areas within the property of 20% slope or greater which will be  
subject to modification of standards and criteria, lands with the following characteristics shall  
receive preference.

- 10 • Land with the lowest relative degree of environmental sensitivity.
- 11 • Land with the relatively gentler slopes.
- 12 • Land which will require the least amount of cut and fill, and upon  
which runoff and erosion can be most effectively controlled.
- 13 • Land with the least amount of visual impact when viewed from a  
circulation element road or public vista point.
- 14 • Land which, when graded and developed, would have the least  
15 environmental and visual impact on the steep-sloped land form upon which such grading or  
development is to take place.

16 (6) A site specific technical report shall be required addressing the cumulative  
17 effects of developing each subwatershed and recommending measures to mitigate both increased  
18 runoff and sedimentation. It shall be reviewed and prepared according to the Model Erosion Control  
Ordinance contained in the Master Drainage Plan, with the additions and changes adopted herein,  
19 such that a natural drainage system is generally preserved for the eastern undeveloped watersheds,  
but that storm drains are allowed for those western portions of the watershed which have already  
been incrementally developed.

20 (7) Mitigation measures tailored to project impacts and consistent with the control  
of cumulative development shall be implemented prior to development in accordance with the  
21 following additional criteria:

22 (A) Submittal of a runoff control plan designed by a licensed engineer  
23 qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from the  
developed site over the greatest discharge expected from the existing undeveloped site as a result of  
24 a 10-year frequency storm. Runoff control shall be accomplished by a variety of measures,  
including, but not limited to, onsite catchment basins, detention basins, siltation traps and energy  
dissipators and shall not be concentrated in one area or a few locations.

25 (B) Detailed maintenance arrangements and various alternatives for  
26 providing the ongoing repair and maintenance of any approved drainage and erosion control  
facilities. If the offsite or onsite improvements are not to be accepted or maintained by a public  
27 agency, detailed maintenance agreements shall be secured prior to issuance of a permit.

28 (C) All permanent runoff and erosion control devices shall be developed  
and installed prior to or concurrent with any onsite grading activities.

1 (D) All grading activities shall be prohibited within the period from  
October 1st to March 31st of each year.

2 (E) All areas disturbed by grading, but not completed during the  
3 construction period, including graded pads, shall be planted and stabilized prior to October 1st with  
4 temporary or permanent (in the case of finished slopes) erosion control measures and native  
5 vegetation. The use of temporary erosion control measures, such as berms, interceptor ditches,  
6 sandbagging, filtered inlets, debris basins and silt traps, shall be utilized in conjunction with  
7 plantings to minimize soil loss from the construction site. Said planting shall be accomplished under  
the supervision of a licensed landscaped architect and shall consist of seeding, mulching, fertilization  
and irrigation adequate to provide 90 percent coverage within 90 days. Planting shall be repeated, if  
the required level of coverage is not established. This requirement shall apply to all disturbed soils,  
including stockpiles.

8 (d) Buffers/Open Space. The master plan shall include buffers and open space to  
9 separate agriculture use from residential development.

10 Adequate buffer areas, generally of at least 100 feet, between agricultural operations  
and new development shall be established and protected through conservation easements. The buffer  
11 area shall include natural vegetation, natural grade separations, and other natural features. In  
addition, roads shall be designed as much as possible to function as buffers between agriculture and  
12 residences. Residential uses shall be sited and designed to provide an open space area away from  
use conflicts. Cut and fill shall not occur adjacent to agricultural areas in order to provide a natural  
13 buffer. The P-C zone requirement of open space can be used in conjunction with this requirement.  
Lands to be preserved in open space shall be dedicated to coastal conservancy through the use of  
14 open space easements in perpetuity free of prior liens prior to issuance of a permit. Land subject to  
open space easements may remain in private ownership with the appropriate easements, use  
15 restrictions and maintenance arrangements to be secured from the developer prior to issuance of a  
permit. The City shall require the developer or a homeowner's association to maintain the open space  
16 area or it can alternatively require payment of fees if the Coastal Conservancy certifies that the  
maintenance fee is adequate. If a homeowner association is to maintain the open space, appropriate  
17 provision for fees and maintenance shall be required as a condition of approval of the permit.

18 (e) Siting/Parking. Due to severe site constraints, innovative siting and design criteria  
19 (including shared use of driveways, clustering, tandem parking, pole construction) shall be  
incorporated in the Master Plan to minimize the paved surface area. Dwelling units shall be clustered  
20 in the relatively flat portions of the site."

21 SECTION IV: That Title 21, Chapter 21.38 of the Carlsbad Municipal Code

22 is amended by the addition of Section 21.38.160 to read as follows:

23 "21.38.160 Additional Standards - Upper Agua Hedionda Watershed.

24 The Contents of a Master Plan for Kelly Point and Macario Canyon area as identified by the  
25 Carlsbad Local Coastal Program shall include the following additional information required below  
and be approved in accordance with the following additional development standards:

26 (a) Permits - Required. Developments as defined in Chapter 21.04.107, (including but  
27 not limited to land divisions) require a coastal development permit subject to the requirement of this  
zone. All uses in this zone are subject to the procedural requirements of Chapter 21.201. Prior to or  
28 simultaneously with the approval of any division of land or any other development, a master plan of



1 development for the property containing the requirements specified below shall be submitted and  
2 approved.

3 (b) Maximum Density of Development. The Master Plan shall be approved subject to a  
4 maximum density of development as follows:

5 (1) All slopes greater than 25 percent shall result in an allowable development  
6 intensity of 1 dwelling unit per ten acres;

7 (2) All slopes greater than 20 percent but less than 25 percent shall result in a  
8 development intensity of 1 dwelling unit per five acres;

9 (3) All slopes greater than 15 percent but less than 20 percent shall result in a  
10 development intensity of 1 dwelling unit per acre;

11 (4) All slopes greater than 10 percent but less than 15 percent shall result in a  
12 development intensity of 2 dwelling units per acre;

13 (5) All areas with a slope of less than 10 percent shall result in a development  
14 intensity of 6 units per acre;

15 (6) For the Kelly Ranch Master Plan area, residential densities and slope criteria  
16 shall be permitted and based on those contained in the City approved master plan and as approved by  
17 the Coastal Commission in Permit 6-84-617.

18 (7) Approximately 4 acres located adjacent to the extension of Cannon Road, and  
19 as described in Coastal Development Permit 6-84-617 are designated for visitor-serving or  
20 Neighborhood Commercial use.

21 The plan required as a part of the Master Plan shall be certified as accurate by  
22 a registered engineer or other qualified professional to be true and accurate containing reasonably  
23 accurate estimates of the amount of cut and fill. The plan shall show the existing and the finished  
24 topography of the ground to be graded and filled, including a site plan of the proposed residential or  
25 commercial development in the same scale so that it can be superimposed upon the topographic map.

26 The Master Plan shall include a topographic map at a scale sufficient to  
27 determine the above but no less than 1" = 100 feet having a contour interval of 5 feet with overlays  
28 delineating areas of greater than 10, 15, 20, and 25 percent slopes. A map showing the type of soil  
erodibility, and class based on the Land Use Capability Classification System of the Soil  
Conservation Service shall be submitted in the same scale as the slopes. The Master Plan shall show  
the computation of the densities and acreage of soils.

(c) Erosion, Drainage, Sedimentation. Subject to the modifications, additions, or  
exceptions expressed below, as a part of the permit application, the applicant shall submit an erosion,  
sedimentation and drainage plan, prepared by a qualified professional, including the requirements of  
the Model Erosion Control Ordinance reprinted in the Appendix to the June 1980 Carlsbad Master  
Drainage Plan, the requirements of the Master Drainage Plan, and the additional requirements  
specifically enumerated herein. For purposes of this zone, the June 1980 Master Drainage Plan and  
its appendices are herein incorporated by this reference and are a part of this zone. No subsequent  
amendments are a part of this zone unless certified by the Coastal Commission. The general  
provisions, standards, content of plans and implementation contained therein are in addition to the  
provisions below. Approved development shall include the following conditions, in addition to the  
requirement specified above:

(1) A soils map in the scale of 1" = 100 feet, showing both the erodibility of soils  
and the type and location of soils, using the SCS Land Use Capability Classification System and  
standards of erodibility developed by SCS. The soils map shall be certified by a soils engineer as  
true and accurate.

1 (2) Any development proposal that affects steep slopes (25% inclination or  
2 greater) shall be required to prepare a slope map and analysis for the affected slopes. Steep slopes  
3 are identified on the PRC Troups Maps. The slope mapping and analysis shall be prepared during the  
4 CEQA environmental review on a project-by-project basis and shall be required as a condition of a  
5 Coastal Development Permit.

6 (A) For those slopes mapped as possessing endangered plant/animal  
7 species and/or coastal sage scrub and chaparral plant communities, the following policy language  
8 would apply:

9 (i) Slopes of 25% grade and over shall be preserved in their  
10 natural state, unless the application of this policy would preclude any reasonable use of the property,  
11 in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be  
12 permitted. For existing legal parcels, with all or nearly all of their area in slope area over 25% grade,  
13 encroachment may be permitted; however, any such encroachment shall be limited so that at no time  
14 is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed  
15 from its natural state. This policy shall not apply to the construction of roads or the City's  
16 Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in  
17 order to provide access to flatter areas if there is no less environmentally damaging alternative  
18 available.

19 (ii) No further subdivisions of land or utilization of Planned Unit  
20 Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned  
21 Unit Development is proposed which limits grading and development to not more than 10% of the  
22 total site area.

23 (iii) Slopes and areas remaining undisturbed as a result of the  
24 hillside review process, shall be placed in a permanent open space easement as a condition of  
25 development approval. The purpose of the open space easement shall be to reduce the potential for  
26 localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating  
27 firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to  
28 the entire community.

(B) For all other steep slope areas, the City Council may allow exceptions  
to the above grading provisions provided the following mandatory findings to allow exceptions are  
made:

(i) A soils investigation conducted by a licensed soils engineer has  
determined the subject slope area to be stable and grading and development impacts mitigatable for  
at least 75 years, or life of structure.

(ii) Grading of the slope is essential to the development intent and  
design.

(iii) Slope disturbance will not result in substantial damage or  
alteration to major wildlife habitat or native vegetation areas.

(iv) If the area proposed to be disturbed is predominated by steep  
slopes and is in excess of 10 acres, no more than one third of the total steep slope area shall be  
subject to major grade changes.

(v) If the area proposed to be disturbed is predominated by steep  
slopes and is less than 10 acres, complete grading may be allowed only if no interruption of  
significant wildlife corridors occurs.

(vi) Because north-facing slopes are generally more prone to  
stability problems and in many cases contain more extensive natural vegetation, no grading or

1 removal of vegetation from these areas will be permitted unless all environmental impacts have been  
2 mitigated. Overriding circumstances are not considered adequate mitigation.

3 (3) Drainage and runoff shall be controlled so as not to exceed at any time the rate  
4 associated with property in its present state, and appropriate measures shall be taken on and/or offsite  
5 to prevent siltation of Agua Hedionda Lagoon and other environmentally sensitive areas.

6 (4) The appropriate measures shall be installed prior to onsite grading.

7 (5) All undevelopable slopes shall be placed in open space easements as a  
8 condition of development approval.

9 (6) A site specific technical report shall be required addressing the cumulative  
10 effects of developing each subwatershed and recommending measures to mitigate both increased  
11 runoff and sedimentation. It shall be reviewed and prepared according to the Model Erosion Control  
12 Ordinance contained in the Master Drainage Plan, with the additions and changes adopted herein,  
13 such that a natural drainage system is generally preserved for the eastern undeveloped watersheds,  
14 but that stormdrains are allowed for those western portions of the watershed which have already been  
15 incrementally developed.

16 (7) Mitigation measures tailored to project impacts and consistent with the control  
17 of cumulative development shall be implemented prior to development in accordance with the  
18 following additional criteria:

19 (A) Submittal of a runoff control plan designed by a licensed engineer  
20 qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from the  
21 developed site over the greatest discharge expected from the existing undeveloped site as a result of  
22 a 10-year frequency storm. Runoff control shall be accomplished by a variety of measures,  
23 including, but not limited to, onsite catchment basins, detention basins, siltation traps and energy  
24 dissipators and shall not be concentrated in one area or a few locations.

25 (B) Detailed maintenance arrangements and various alternatives for  
26 providing the ongoing repair and maintenance of any approved drainage and erosion control  
27 facilities. If the offsite or onsite improvements are not to be accepted or maintained by a public  
28 agency, detailed maintenance agreements shall be secured prior to issuance of a permit.

(C) All permanent runoff and erosion control devices shall be developed  
and installed prior to or concurrent with any onsite grading activities.

(D) All grading activities shall be prohibited within the period from  
October 1 to March 31 of each year.

(E) All areas disturbed by grading, but not completed during the  
construction period, including graded pads, shall be planted and stabilized prior to November 1 with  
temporary or permanent (in the case of finished slopes) erosion control measures and native  
vegetation. The use of temporary erosion control measures, such as berms, interceptor ditches,  
sandbagging, filtered inlets, debris basins and silt traps, shall be utilized in conjunction with  
plantings to minimize soil loss from the construction site. Said planting shall be accomplished under  
the supervision of a licensed landscape architect and shall consist of seeding, mulching, fertilization  
and irrigation adequate to provide 90 percent coverage within 90 days. Planting shall be repeated, if  
the required level of coverage is not established. This requirement shall apply to all disturbed soils,  
including stockpiles.

(d) Agricultural Preservation. Due to overriding and extensive wetland preservation and  
protection provisions of the Kelly Ranch Master Plan as approved by the City of Carlsbad and  
California Coastal Commission in Permit 6-84-617, agricultural preservation policies are waived.

Agricultural preservation policies for the remaining areas covered by this subsection

1 have been deleted by Local Coastal Program Amendment 2-85.

2 (e) Park Purposes. Park purposes shall be a permitted use compatible with this land use  
3 designation, provided that any park construction is subject to Section (C), Erosion, Drainage,  
4 Sedimentation above.

5 (f) Siting/Parking. Due to severe site constraints, innovative siting and design criteria  
6 (including shared use of driveways, clustering, tandem parking, pole construction) shall be  
7 incorporated in the Master Plan to minimize the paved surface area. Dwelling units shall be  
8 clustered in the relatively flat portions of the site."

9 SECTION V: That Title 21, Chapter 21.40 of the Carlsbad Municipal Code is  
10 amended by the addition of Section 21.40.135 to read as follows:

11 "21.40.135 Coastal Zone Restrictions.

12 Within the coastal zone, existing public views and panorama shall be maintained. Through  
13 the individualized review process, sites considered for development shall be conditioned so as to not  
14 obstruct or otherwise damage the visual beauty of the coastal zone. In addition to the above, height  
15 limitations and see-through construction techniques should be employed. Shoreline development  
16 shall be built in clusters to leave open areas around them to permit more frequent views of the  
17 shoreline. Vista points shall be incorporated as a part of larger projects. The unique characteristics  
18 of older communities such as the Carlsbad Village Drive corridor shall be preserved through design  
19 requirements which are in accordance with the flavor of the existing neighborhood."

20 SECTION VI: That Title 21, Chapter 21.41 of the Carlsbad Municipal Code is  
21 amended by the addition of Section 21.41.070, Subsection (11) to read as follows:

22 "21.41.070 (11)

23 (11) The following sign restrictions apply to properties in the coastal zone except the Agua  
24 Hedionda Lagoon and Village Redevelopment Segments.

25 (A) Each business shall be entitled to one facade sign.

26 (B) Each shopping complex shall have only one directory sign not to exceed 14  
27 feet in height, including mounting.

28 (C) Monument sign height including mounting shall not exceed 8 feet and shall  
apply where three (3) or fewer commercial establishments exist on a parcel.

(D) Tall freestanding and road signs shall not be allowed.

(E) Off-premise signs shall not be allowed."

SECTION VII: That Title 21, Chapter 21.42 of the Carlsbad Municipal Code is  
amended by the amendment of Section 21.42.020 Subsection (1) to read as follows:

"21.42.020 Facts Required Prior To Granting Permit.

A conditional use permit shall be granted only if the following facts are found to exist in  
regard thereto:

(1) That the requested use is necessary or desirable for the development of the  
community, is essentially in harmony with the various elements and objectives of the General Plan,  
including if applicable the certified Local Coastal Program, and is not detrimental to existing uses or  
to uses specifically permitted in the zone in which the proposed use is to be located;"

1 SECTION VIII: That Title 21, Chapter 21.50 of the Carlsbad Municipal Code is  
2 amended by the amendment of Section 21.50.010 to read as follows:

3 "21.50.010 Variance - Granting Authority.

4 When practical difficulties, unnecessary hardships, or results inconsistent with the general  
5 purpose of this title result through the strict and literal interpretation and enforcement of the  
6 provisions hereof, the Planning Commission shall have authority, as an administrative act, subject to  
7 the provisions of this article, to grant upon such conditions as it may determine, such variance from  
8 the provisions of this title as may be in harmony with its general purpose and intent, so that the spirit  
9 of this title shall be observed, public safety and welfare secured and substantial justice done. In the  
10 coastal zone, a variance shall not be allowed to diminish or otherwise adversely affect the  
11 substantive requirements for protection of coastal resources."

12 SECTION IX: That Title 21, Chapter 21.50 of the Carlsbad Municipal Code is  
13 amended by the amendment of Section 21.50.030, Subsection (4) to read as follows:

14 "21.50.030(4)

15 (4) That the granting of such variance will not adversely affect the comprehensive general  
16 plan, or in the Coastal Zone, that the granting of such a variance is consistent with and implements  
17 the requirements of the certified Local Coastal Program and that the granting of such variance does  
18 not reduce or in any manner adversely affect the requirements to protect coastal resources as  
19 specified in the zones included in this title and that the variance implements the purposes of zones  
20 adopted as implementation of the Local Coastal Program Land Use Plan."

21 SECTION X: That Title 21, Chapter 21.52 of the Carlsbad Municipal Code is  
22 amended by the amendment of Section 21.52.010 to read as follows:

23 "21.52.010 When.

24 Boundaries of the zones established by this title, the classification of property uses therein, or  
25 other provisions of this title may be amended whenever public necessity, convenience and general  
26 welfare require. Within the Coastal Zone such boundary changes shall not be effective until  
27 approved as a Local Coastal Program Amendment.

28 SECTION XI: That Title 21, Chapter 21.52 of the Carlsbad Municipal Code is amended by  
the amendment of Section 21.52.160 to read as follows:

"21.52.160 General Plan and LCP Amendments.

(a) Amendments to the General Plan or to any of the elements thereof shall be processed  
in accord with this chapter. All provisions of this chapter applicable to the amendment of Title 21  
shall also apply to General Plan amendments with the exception of the time requirement for Planning  
Commission and City Council hearings. Planning Commission and City Council hearings on  
General Plan amendments shall be held at such times as the City Council shall by motion establish.

1 (b) Amendments to the certified Local Coastal Program shall be processed according to  
2 Section 30514 of the Public Resources Code."

3 SECTION XII: That Title 21, Chapter 21.54 of the Carlsbad Municipal Code is  
4 amended by the amendment of Section 21.54.050 to read as follows:

5 "21.54.050 Setting of Hearing.

6 All proposals for amending zone or General Plan boundaries reclassifications or for the  
7 granting of any development permit or approval requiring a hearing as provided in this title shall be  
8 set for hearing by the Director when such hearings are to be held before the Planning Commission  
9 and by the City Clerk for hearings to be held before the City Council. Conditional uses in the coastal  
10 zone shall be subject to the requirements of this chapter and the additional requirements of Chapter  
11 21.81 or 21.201 as applicable."

12 SECTION XIII: That Title 21, Chapter 21.54 of the Carlsbad Municipal Code is  
13 amended by the addition of Section 21.54.060, Subsection (1)(e) to read as follows:

14 "21.54.060 (1)(e) Notices In The Coastal Zone.

15 (e) Within the coastal zone, notice shall additionally be provided to occupants within 100  
16 ft. of the site and to the Area Office of the California Coastal Commission. Such notice shall be  
17 mailed not less than ten days before the date of the public hearing."

18 SECTION XIV: That Title 21, Chapter 21.54 of the Carlsbad Municipal Code is  
19 amended by the amendment of Section 21.54.061 to read as follows:

20 "21.54.061 Content of Notice.

21 (a) The notice given pursuant to Section 21.54.060 shall include the date time and place  
22 of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to  
23 be considered, and a general description, in text or diagram, of the location of the real property if  
24 any, that is the subject of the hearing.

25 (b) However, within the coastal zone such notice shall contain the following additional  
26 information:

- 27 (1) a statement that the development is within the coastal zone;
- 28 (2) the date of filing of the application and the name of the applicant;
- (3) the number assigned to the application;
- (4) a brief description of the general procedure of local government concerning  
the conduct of hearing and local actions;
- (5) the system for local and Coastal Commission appeals, including any local fees  
required, expressly stating whether the matter is appealable to the Coastal Commission."

29 SECTION XV: That Title 21, Chapter 21.54 of the Carlsbad Municipal Code is  
30 amended by the amendment of Section 21.54.100 to read as follows:

31 "21.54.100 Hearing Continuance Without Public Notice.

32 If, for any reason, testimony on any case set for public hearing cannot be completed on the  
33 date set for such hearing, the person presiding at such public hearing may, before adjournment or

1 recess thereof, publicly announce the time and place to, and at which, said hearing will be continued,  
2 and no further notice is required. However, within the coastal zone, if a decision on a development  
3 permit is continued by the local government to a time which is neither (a) previously stated in the  
4 notice provided pursuant to Section 21.54.060, nor (b) announced at the hearing to be continued to a  
5 time certain, the City shall provide notice of the further hearings (or action on the proposed  
6 development) in the same manner and within the same time limits as established in Sections  
7 21.54.060 and 21.54.061."

8 SECTION XVI: That Title 21, Chapter 21.54 of the Carlsbad Municipal Code is  
9 amended by the amendment of Section 21.54.120 to read as follows:

10 "21.54.120 General Plan Amendments (Except For The Coastal Zone).

11 All provisions of this chapter applicable to the amendment of zone classifications shall also  
12 apply to amendments to the General Plan or to any of the elements thereof.

13 If the hearings for general plan amendments are held at the same time as hearings for zone  
14 amendments under Chapter 21.52, the notice of such hearings may be combined with those required  
15 for general plan amendments under this section."

16 SECTION XVII: That Title 21, Chapter 21.55 of the Carlsbad Municipal Code is  
17 amended by the amendment of Section 21.55.020 to read as follows:

18 "21.55.020 Authority - Conflict.

19 This chapter is adopted pursuant to the provisions of Chapter 4.7 (commencing with Section  
20 65970) of Division 1 of Title 7 of the California Government Code. In the case of any conflict  
21 between the provisions of this chapter, and those of Chapter 4.7, the latter shall prevail.

22 SECTION XVIII: That Title 21, Chapter 21.56 of the Carlsbad Municipal Code is  
23 amended by the amendment of Section 21.56.010 to read as follows:

24 "21.56.010 Provisions To Be Minimum Requirements - Conflict Of Provisions.

25 In interpreting and applying the provisions of this title they shall be held to be the minimum  
26 requirement for the promotion of the public health, safety, comfort, convenience and general welfare.  
27 It is not intended by this title to interfere with or abrogate or annul any easement, covenant or other  
28 agreement between parties, provided, however, for developments located in the coastal zone,  
easements, covenants, or other agreements between parties may not annul the requirements,  
restrictions or obligations placed on the zone. When this title imposes a greater restriction upon the  
use of building or land, or upon the height of buildings, or requires larger open spaces than are  
imposed or required by other ordinances, rules, regulations, or by easements, covenants or  
agreements, the provisions of this title shall control."

SECTION XIX: That Title 21, Chapter 21.61 of the Carlsbad Municipal Code is  
amended by the addition of Section 21.61.025 to read as follows:

"21.61.025 Notification Of Litigation And Attorney General Intervention For Developments  
In The Coastal Zone.

1 The provisions of Public Resources Code Sections 30800 et seq. shall apply to developments  
2 in the coastal zone and in any case where no appeal has been filed from the decision of a local  
3 government on a development permit in the coastal zone (including decisions on Non-Appealable  
4 developments) or where an appeal has been filed but the Commission has determined not to hear the  
5 appeal, and where litigation has subsequently been commenced against the local government  
6 concerning its decision, the local government and plaintiff or petitioner shall promptly forward a  
7 copy of the complaint or petition to the Executive Director of the Commission. At the request of the  
8 local government (with the concurrence of the Commission) or upon an order of the Commission,  
9 the Executive Director shall request the Attorney General to intervene in such litigation on behalf of  
10 the Commission. Administrative remedies pertaining to coastal development permits are not deemed  
11 to have been exhausted unless all appeal procedures provided by the California Coastal Act and its  
12 regulations have been utilized."

9 SECTION XX: That Title 21, of the Carlsbad Municipal Code is amended by  
10 the addition of Chapter 21.201 to read as follows:

11 Chapter 21.201  
12 Coastal Development Permit Procedures

13 Sections:

- 13 21.201.010 Purpose.
- 14 21.201.020 Definitions.
- 15 21.201.030 Requirements For Coastal Development Permits.
- 16 21.201.040 Application.
- 17 21.201.050 Determination of Applicable Notice and Hearing Procedures.
- 18 21.201.060 Exemptions and Categorical Exclusions from Coastal Development Permit  
19 Procedures.
- 20 21.201.070 Repair and Maintenance Activities Requiring a Coastal Development  
21 Permit.
- 22 21.201.080 Minor Coastal Permits.
- 23 21.201.090 Notice of Public Hearing.
- 24 21.201.100 Notice of Local Government Action When Hearing Continued.
- 25 21.201.110 Planning Commission Action.
- 26 21.201.120 Appeal of Planning Commission Decision.
- 27 21.201.130 Appeals of Coastal Commission.
- 28 21.201.140 Exhaustion of Local Appeals.
- 21.201.150 Public Hearing on Appealable Developments.
- 21.201.160 Finality of City Action.
- 21.201.170 Notice of Final City Action.
- 21.201.180 Local Government Action - Effective Date.
- 21.201.190 Application for Emergency Permits.
- 21.201.200 Expiration of the Coastal Development Permit.
- 21.201.210 Extensions.
- 21.201.220 Permit Amendment.
- 21.201.230 Coastal Development Permits Issued by Coastal Commission.
- 21.201.240 Violations of the Public Resources Code.



1           21.201.250   Severability.

2           "21.201.010 Purpose.

3           This chapter establishes the permit procedures for developments located in the coastal zone.  
4           This chapter is based on the Local Coastal Program Implementation Regulations adopted by the  
5           California Coastal Commission pursuant to Public Resources Code Sections 30620.6 and 30333, and  
6           as such shall constitute the minimum procedural requirements for review of developments in the  
7           coastal zone pursuant to Public Resources Code Section 30600 (d)."

8           "21.201.020 Definitions.

9           A.    Aggrieved Person: Any person who, in person or through a representative, appeared  
10           at a public hearing of the City in connection with the decision or action appealed, or who, by other  
11           appropriate means prior to a hearing, informed the City of the nature of his concerns or who for good  
12           cause was unable to do either.

13           B.    Allowable Use: Any use allowed by right which does not require a public hearing or  
14           any discretionary or non-discretionary permit of the approving authority.

15           C.    Appealable Development: In accordance with Public Resources Codes Section  
16           30603(a) any of the following:

17           1.    Developments approved by the local government between the sea and the first  
18           public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean  
19           high tide line of the sea where there is no beach, whichever is the greater distance.

20           2.    Developments approved by the local government not included within  
21           paragraph C.1. of this section located on tidelands, submerged lands, public trust lands, within 100  
22           feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal  
23           bluff.

24           3.    Any development which constitutes a major public works project or a major  
25           energy facility. The phrase "major public works project or a major energy facility" as used in Public  
26           Resources Code Section 30603(a) (5) and its regulations shall mean any proposed public works  
27           project, as defined by Section 13012 of the Coastal Commission Regulations, (Title 14 California  
28           Code of Regulations, Division 5.5) or energy facility, as defined by Public Resources Code Section  
29           30107.

30           D.    Appellant: Any person who may file an appeal and includes an applicant, any  
31           aggrieved person or any two members of the Coastal Commission.

32           E.    Applicant: The person, partnership, corporation, state or local government agency  
33           applying for a coastal development permit.

34           F.    Approving Authority: The city officer, Planning Commission or Council approving a  
35           coastal development permit.

36           G.    Categorically Excluded Development: A development (upon request of the City,  
37           public agency or other person) which the Director has determined pursuant to Section 21.201.060.C.  
38           of this Code to have no potential for significant adverse effect on Coastal Resources or Access and,  
39           therefore, has issued an Exclusion .

40           H.    Coastal Zone: The Coastal Zone shall mean the Coastal Zone of the City of Carlsbad  
41           as described in the Public Resources Code Section 30103. This Chapter shall apply in the Coastal  
42           Zone (except in the Agua Hedionda Lagoon and Village Redevelopment Segments).

43           I.    Commission: California Coastal Commission.

44           J.    Director: The Director of Planning.

45           K.    Executive Director: Executive Director of the Coastal Commission.

1 L. Local Coastal Program: The City's land use plan, zoning ordinances, zoning maps,  
2 and other implementing actions certified by the Coastal Commission as meeting the requirements of  
the California Coastal Act of 1976.

3 M. Major Energy Facility: Any energy facility as defined by Public Resources Code  
Section 30107 and exceeding one hundred thousand dollars in estimated cost of construction.

4 N. Major Public Works Project: Any public works project as defined by Title 14  
5 California Code of Regulations Section 13012 and exceeding one hundred thousand dollars in  
estimated cost of construction.

6 O. Permitted Use: Any use allowed by right which does not require a public hearing, but  
7 does require a discretionary or non-discretionary permit (e.g. building permit) to be issued by the  
approving authority.

8 P. Other Permits and Approvals: Permits and approvals, other than a coastal  
9 development permit required to be issued by the approving authority before a development may  
proceed."

10 "21.201.030 Requirements For Coastal Development Permits.

11 Except as provided in Section 21.201.060 below, any applicant wishing to undertake a  
12 development (defined in Section 21.04.107) in the coastal zone shall obtain a coastal development  
13 permit in accordance with the provisions of this Chapter, in addition to any other permit required by  
14 law. Development undertaken pursuant to a coastal development permit shall conform to the plans,  
specifications, terms and conditions approved in granting the permit. The procedures prescribed  
15 herein may be used in conjunction with other procedural requirements of the approving authority,  
provided that the minimum requirements as specified herein are assured."

16 "21.201.040 Application

17 Application for a coastal development permit shall be made in accordance with the  
18 procedures set forth in this section.

19 A. An application for a permit may be made by the record owner or owners of the  
20 property affected or the authorized agent of the owner or owners. The application shall be filed with  
21 the Director upon forms provided by the Director. The application shall be accompanied by  
adequate plans which allow for detailed review pursuant to this chapter, a legal description of the  
22 property and all other materials and information specified by the Director.

23 B. At the time of filing the application the applicant shall pay a processing fee in an  
24 amount specified by City Council resolution.

25 C. Unless the property has previously been legally subdivided and no further subdivision  
26 is required the application shall be accompanied by a tentative map which shall be filed with the  
27 Director in accordance with procedures set forth in Chapter 20.12 of this code. If the project  
28 contains four or less lots or units, the application shall be accompanied by a tentative parcel map  
which shall be filed with the city engineer in accordance with procedures set forth in Chapter 20.24  
of this code.

D. Whenever the development would require a permit or approval under the provisions  
of this title, notwithstanding this chapter, the application shall include sufficient information to allow  
review of such permit or approval. Application for all permits or approvals under this title and the  
coastal permit may be consolidated into one application.

E. The Director may require that the application contain a description of the feasible  
alternatives to the development or mitigation measures which will be incorporated into the

1 development to substantially lessen any significant effect on the environment which may be caused  
2 by the development.

3 "21.201.050 Determination Of Applicable Notice And Hearing Procedures.

4 The determination of whether a development is Exempt, Categorically Excluded, Non-  
5 Appealable, or Appealable for purposes of notice, hearing and appeals shall be made by the Director  
6 at the time the application for development is submitted. This determination shall be made with  
7 reference to the certified Local Coastal Program, including maps, Categorical Exclusions, land use  
8 designations, and zoning ordinances adopted as part of the certified Local Coastal Program. Where  
9 an applicant, interested person, or the Director has a question as to the appropriate procedures, the  
10 following procedures shall be followed:

11 A. The Director shall make the determination as to what type of development is being  
12 proposed (i.e. Exempt, Categorically Excluded, Appealable, Non-Appealable) and shall inform the  
13 applicant of the notice and hearing requirements for that particular development.

14 B. If the determination of the Director is challenged by the applicant or an interested  
15 person, or if the Director wishes to have a Commission determination as to the appropriate  
16 designation, the City shall notify the Commission by telephone of the dispute/question and shall  
17 request an Executive Director's opinion;

18 C. The Executive Director shall within two (2) working days of the Director request, (or  
19 upon completion of a site inspection where such an inspection is warranted), transmit a  
20 determination as to whether the development is Exempt, Categorically Excluded, Non-Appealable or  
21 Appealable;

22 D. Where, after the Executive Director's investigation, the Executive Director's  
23 determination is not in accordance with the Director determination, the Commission shall hold a  
24 hearing for the purpose of determining the appropriate designation for the area. The Commission  
25 shall schedule the hearing on the determination for the next Commission meeting in the appropriate  
26 geographic region following the Director request."

27 "21.201.060 Exemptions and Categorical Exclusions From Coastal Development Permit  
28 Procedures.

A. Exemptions. The following projects are exempt from the requirements of a coastal  
development permit:

1. Improvements to existing single-family residential building except:
  - a. On a beach, wetland or seaward of the mean high tide line.
  - b. Where the residence or proposed improvement would encroach within  
22 fifty feet of the edge of a coastal bluff;
  - c. On property located between the sea and the first public road  
23 paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the  
24 sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas  
25 as designated by the Commission or regional Commission, improvement that would result in an  
26 increase of 10 percent or more of internal floor area of an existing structure or an additional  
27 improvement of 10 percent or less where an improvement to the structure had previously been  
28 undertaken pursuant to Public Resources Code Section 30610(a), increase in height by more than 10  
percent of an existing structure and/or any significant non-attached structure such as garages, fences,  
shoreline protective works or docks.
  - d. Any significant alteration of land forms including removal or

1 placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a  
2 coastal bluff except as provided in subsections 21.201.060, 8 and 10.

3 e. Expansion or construction of water wells or septic systems.

4 For the purposes of this section an existing single-family residential  
5 building shall include all appurtenances and other accessory structures, including decks, directly  
6 attached to the residence; accessory structures or improvements on the property normally associated  
7 with residences, such as garages, swimming pools, fences and storage sheds but not including guest  
8 houses or self-contained residential units; landscaping on the lot.

9 2. Improvements to existing structures other than a single-family residence or  
10 public works facility except:

11 a. On a beach, wetland, lake or stream or seaward of the mean high tide  
12 line.

13 b. Where the structure or improvement would encroach within fifty feet  
14 of the edge of the coastal bluff;

15 c. On property located between the sea and the first public road  
16 paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high  
17 tide of the sea where there is no beach, whichever is the greater distance, any improvement to a  
18 structure other than a single-family residence or public works facility that would increase by ten  
19 percent or more the internal floor area of an existing structure, or any additional improvement where  
20 an improvement to the structure had previously been undertaken to Public Resources Code Section  
21 30610(b), or this section, and the cumulative increase of the improvements is ten percent or more; or  
22 any improvement which would increase the height of a structure by ten percent or more;

23 d. Any improvement which changes the intensity of use of a structure;

24 e. Any significant alteration of land forms including removal or  
25 placement of vegetation on a beach, wetland, or sand dune, or within one hundred feet of the edge of  
26 a coastal bluff or stream except as provided in subsections 21.201.060 (8) and (10) of this section;  
27 and

28 f. Any improvement made pursuant to a conversion of an existing  
structure from a multiple unit rental use or visitor serving commercial use to a use involving a fee  
ownership or long-term leasehold including but not limited to a condominium conversion, stock  
cooperative, conversion or motel/hotel timesharing conversion.

g. Expansion or construction of water wells or septic systems.

3. Occupancy permits.

4. Harvesting of agricultural crops, or other agriculturally related activities  
specifically defined as permitted uses in the applicable zone which require no other permits and  
approvals of the approving authority, and are thereby allowable uses herein.

5. Fences for farm or ranch purposes.

6. Water wells, well covers, pump houses, water storage tanks of less than  
10,000 gallons capacity and water distribution lines, including up to 100 cubic yards of associated  
grading, provided such water facilities are used for onsite agriculturally-related purposes only.

7. Water impoundments located in drainage areas not identified as blue line  
streams (dashed or solid) on USGS 7 1/2 minute quadrangle maps, provided such impoundments do  
not exceed 25 acre feet in capacity.

8. Water pollution control facilities for agricultural purposes if constructed to  
comply with waste discharge requirements or other orders of the Regional Water Quality Control  
Board.

1           9. Landscaping on the lot unless the landscaping could result in erosion or  
2 damage to sensitive habitat areas.

3           10. Repair or maintenance activities not described in Section 21.201.070 of this  
4 section, and

5           11. Activities of public utilities as specified in the Repair, Maintenance and  
6 Utility Hook-Up Exclusion adopted by the Coastal Commission, September 5, 1978, and as modified  
7 from time to time."

8           B. Categorical Exclusions. In addition to those projects exempted pursuant to subsection  
9 (A) of this section, the City Council may designate by resolution, after a public hearing, categories  
10 of development which have no potential for any significant adverse effect, either individually or  
11 cumulatively, on coastal resources or on public access to, or along the coast. Development which  
12 has been so designated shall be Categorically Excluded from the provisions of this chapter. The  
13 designation of any Categorical Exclusion shall not be effective until the Categorical Exclusion Order  
14 has been approved by the Coastal Commission. The Director shall keep a record of all permits  
15 issued for such Categorically Excluded projects.

16           C. Notice of Categorically Excluded or Exempt Developments.

17           A permit issued by the City for a development which is Categorically Excluded or  
18 exempt from the coastal development permit requirements, shall be exempt from the notice and  
19 hearing requirements of this Chapter. The City shall maintain a record for all permits issued for  
20 Categorically Excluded or Exempt developments which shall be made available to the Coastal  
21 Commission or any interested person upon request. This record may be in the form of any record of  
22 permits issued currently maintained by the City, provided that such record includes the applicant's  
23 name, the location of the project, and brief description of the project.

24           "21.201.070 Repair and Maintenance Activities Requiring a Coastal Development Permit.

25           A. The following repair and maintenance activities require a coastal development permit  
26 because they involve a risk of substantial adverse impact to Coastal Resources or Access.

27           1. Any method of repair or maintenance of a seawall, revetment, bluff retaining  
28 wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

          a. Repair or maintenance involving substantial alteration of the  
foundation of the protective work including pilings and other surface or subsurface structures;

          b. The placement, whether temporary or permanent, of rip-rap, artificial  
berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal  
waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for  
agricultural dikes within enclosed bays or estuaries;

          c. The replacement of twenty percent or more of the materials of an  
existing structure with materials of a different kind; or

          d. The presence, whether temporary or permanent, of mechanized  
construction equipment or construction materials on any sandy area or bluff or within twenty feet of  
coastal waters or streams.

          2. Any method of routine maintenance dredging that involves:

          a. The dredging of one hundred thousand cubic yards or more within a  
twelve-month period;

          b. The placement of dredged spoils of any quantity within an  
environmentally sensitive habitat area, on any sand area, within fifty feet of the edge of a coastal  
bluff or environmentally sensitive area, or within twenty feet of coastal waters or streams; or

1 c. The removal, sale or disposal of dredged spoils of any quantity that  
2 would be suitable for beach nourishment in an area the Commission has declared by resolution to  
3 have a critically short sand supply that must be maintained for protection of structures, coastal access  
4 or public recreational use.

5 3. Any repair or maintenance to facilities or structures or work located in an  
6 environmentally sensitive habitat area, or any sand area, within fifty feet of the edge of a coastal  
7 bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams that  
8 include:

9 a. The placement or removal, whether temporary or permanent, of rip-  
10 rap, rocks, sand or other beach materials or any other forms of solid materials;

11 b. The presence, whether temporary or permanent, of mechanized  
12 equipment or construction materials.

13 All repair and maintenance activities governed by the above provisions  
14 shall be subject to the permit regulations promulgated pursuant to the California Coastal Act of  
15 1976, including, but not limited to, the regulations governing administrative and emergency permits.  
16 The provisions of this section shall not be applicable to methods of repair and maintenance  
17 undertaken by the ports listed in Public Resources Code Section 30700 unless so provided elsewhere  
18 in these regulations. The provisions of this section shall not be applicable to those activities  
19 specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by  
20 the Coastal Commission on September 5, 1978.

21 B. Unless destroyed by natural disaster, the replacement of 50 percent or more of a  
22 seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one  
23 ownership is not repair and maintenance under Public Resources Code Section 30610(d) but instead  
24 constitutes a replacement structure requiring a coastal development permit."

25 "21.201.080 Minor Coastal Permits.

26 A. The Director may issue Minor Coastal Permits for any development anywhere in the  
27 Coastal Zone costing less than \$60,000 and which complies with the following criteria:

28 1. The development is consistent with the certified local coastal program as  
defined in Section 30108.6 of the Coastal Act.

1 2. The development requires no discretionary approvals other than a Minor  
2 Coastal Permit.

3 3. The development has no adverse effect individually or cumulatively on coastal  
4 resources or public access to the shoreline or along the coast.

5 B. The Director shall give written notice of pending development decision after the  
6 application is complete, at least fifteen (15) working days prior to the decision on the application as  
7 follows:

8 1. Contents. The notice shall include all the matters required by Section  
9 21.54.061 of this code, including statement of a public comment period of at least 15 working days  
10 sufficient to receive and consider comments submitted by mail prior to the date established for the  
11 decision, a statement that a public hearing shall be held upon request by any person and a statement  
12 that failure by a person to request a public hearing may result in the loss of that person's ability to  
13 appeal to the Commission any action taken by a local government on a coastal development permit  
14 application.

15 2. Recipients. The notice shall be sent by first class mail to:

16 a. Any person requesting to be on the mailing list for the project or for

1 coastal decisions; and

2 b. All property owners and residents within 100 feet of the project  
perimeter; and

3 c. The Coastal Commission.

4 d. The applicant.

5 C. The Director may approve, approve with conditions, or deny the permit. The Director  
6 may waive a public hearing on a Minor Coastal Development Permit if notice has been provided in  
7 accordance with Section 21.201.080.B.1 and a request for a public hearing has not been received by  
8 the City within 15 working days from the date of sending the notice. If a request for a public hearing  
9 is received, a public hearing before the Director shall be held in the same manner as a Planning  
10 Commission hearing. In either event the Director's decision shall be based upon the requirements of,  
11 and shall include specific factual findings supporting whether the project is or is not in conformity  
12 with, the certified Local Coastal Program (and, if applicable, with the public access and recreation  
13 policies of Chapter 3 of the Coastal Act).

14 This Director's decision shall be made in writing. The date of the decision shall be  
15 the date the writing containing the decision or determination is mailed or otherwise delivered to the  
16 person or persons affected by the decision or determination. Unless the decision is appealed to the  
17 Planning Commission, the Director shall provide a Notice of Final Local Action in accordance with  
18 Sections 21.201.160 & 170 of this code, in addition to the Director's written decision.

19 D. The Director's decision is final unless the decision is appealed by an interested  
20 person to the Planning Commission. The written appeal shall specifically state the reason or reasons  
21 for the appeal and the manner in which the decision of the Director is in error. The decision of the  
22 Director shall be affirmed by the Planning Commission unless the appellant shows by a  
23 preponderance of the evidence that the decision of the Director is in error, inconsistent with state  
24 law, the General Plan, this zoning ordinance or any policy of the City. The appeal shall be filed in  
25 writing with the secretary of the Planning Commission within ten calendar days after the date of the  
26 Director's decision. The decision by the Planning Commission on all appeals of the Director's  
27 decision shall be final. The Director shall give Notice of Final Action on the appeal in accordance  
28 with Sections 21.201.160 & 170.

E. If the Director determines that the project does not qualify for an exemption, a Minor  
Coastal Permit or an emergency permit then the Director shall set the application for a public hearing  
before the Planning Commission. Any coastal permit (other than a Minor Coastal Development  
Permit) may be set for hearing concurrently with any other permit for the project. The Director may  
at his/her option refer the application for a Minor Coastal Permit to the Planning Commission for  
determination."

22 "21.201.090 Notice of Public Hearings.

23 Whenever a public hearing is required by this chapter, notice of the hearing shall be given as  
24 provided in Section 21.54.060 of this code. When the hearing on a coastal development permit is  
25 consolidated with the hearing on a tentative map, notice shall satisfy the requirements of both this  
chapter and Title 20 of this code."

26 "21.201.100 Notice Of Local Government Action Where Hearing Continued.

27 If a decision on a development permit is continued by the City to a time which is neither (a)  
28 previously stated in the notice provided pursuant to Section 21.54.060 nor (b) announced at the  
hearing as being continued to a time certain, the City shall provide notice of the further hearings (or

1 action on the proposed development) in the same manner, and within the same time limits as  
2 established in Sections 21.54.060, 061 and 070."

3 "21.201.110 Planning Commission Action.

4 After a public hearing the Planning Commission may approve, conditionally approve or deny  
5 the application. No approval or conditional approval shall be given unless the Planning Commission  
6 finds that the development is consistent with the provisions of the local coastal program for the  
7 coastal zone and the development is in conformity with the public access and public recreation  
8 policies of Chapter 3 of the California Coastal Act."

7 "21.201.120 Appeal of Planning Commission Decision.

8 A. The decision of the Planning Commission is final and effective ten calendar days after  
9 the adoption of the resolution of decision unless within such ten-day period the applicant or any  
10 other interested person files a written appeal with the City Clerk. An individual member of the City  
11 Council can be an interested person. The written appeal shall specifically state the reason or reasons  
12 for the appeal and the manner in which the decision of the Planning Commission is in error. The  
13 decision of the Planning Commission shall be affirmed by the City Council unless the appellant  
14 shows by a preponderance of the evidence that the decision of the Planning Commission is in error,  
15 inconsistent with state law, the General Plan, LCP, or any applicable Specific Plan, Master Plan,  
16 zoning ordinance or policy of the City. Upon the filing of an appeal, the City Clerk shall set the  
17 matter for public hearing. Such hearing shall be held within thirty days after the date of filing the  
18 appeal. Within ten days following the conclusion of the hearing, the City Council shall render its  
19 decision on the appeal. The decision of the City Council is final.

20 B. If the development for which a coastal development permit also requires other  
21 discretionary permits or approvals for which the Planning Commission is not given final approval  
22 authority then the Planning Commission action on the coastal development permit shall be deemed a  
23 recommendation to the City Council.

24 C. The City Council may establish and levy a fee for appeals of Coastal Permit  
25 decisions.

26 "21.201.130 Appeals to Coastal Commission.

27 The following developments, due to their type or location, are within the appeal jurisdiction  
28 of the Coastal Commission. Only decisions approving a coastal development permit for these  
developments are Appealable to the Coastal Commission, unless otherwise noted. Areas subject to  
appeal jurisdiction are shown on the Post LCP Certification Map which is on file in the planning  
department.

A. Developments on property located between the sea and the first public road  
paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high  
tide of the sea where there is no beach, whichever is the greater distance.

B. Development on property located within three hundred feet of the top of the seaward  
face of any coastal bluff, or within one hundred feet of any wetland, estuary or stream.

C. Developments approved by the city not included within subsections A and B of this  
section which are located in a sensitive coastal resource area.

D. Any decision approving or denying a development which constitutes a major Public  
Works project or a major Energy Facility."



1           "21.201.140 Exhaustion Of Local Appeals.

2           A.     An appellant shall be deemed to have exhausted local appeals for purposes of filing  
3 an appeal under the Commission's regulations and be an aggrieved person where the appellant has  
4 pursued the appeal to the appellate body (bodies) as required by the City appeal procedures; except  
5 that exhaustion of all local appeals is not required if any of the following occurs:

6           1.     The City requires an appellant to appeal to more local appellate bodies than  
7 have been certified as appellate bodies for permits in the coastal zone, in the implementation section  
8 of the Local Coastal Program.

9           2.     An appellant was denied the right of the initial local appeal by a local  
10 ordinance which restricts the class of persons who may appeal a local decision;

11           3.     An appellant was denied the right of local appeal because local notice and  
12 hearing procedures for the development did not comply with the provisions of this Article;

13           4.     The City charges an appeal fee for the filing or processing of appeals.

14           B.     Where the project is appealed by any two (2) members of the Commission, there shall  
15 be no requirement of exhaustion of local appeals. Provided, that notice of Commission appeals may  
16 be transmitted to the City Council (which considers appeals from the Planning Commission which  
17 rendered the final decision), and the appeal to the Commission may be suspended pending a  
18 decision on the merits by the City Council. If the decision of the City Council modifies or reverses  
19 the previous decision, the Commissioners shall be required to file a new appeal from that decision."

20           C.     The appeal to the California Coastal Commission shall be filed at the local district  
21 office no later than ten working days after the date of the receipt of the notice of final local action by  
22 the local district office. No coastal development permit shall be issued or deemed approved until an  
23 appeal, if any, to the Coastal Commission has been resolved."

24           "21.201.150 Public Hearing On Appealable Developments.

25           At least one public hearing shall be held on each application for an Appealable Development,  
26 (except as provided in Section 21.201.080 Minor Coastal Permits) thereby affording any persons the  
27 opportunity to appear at the hearing and inform the city of the nature of their concerns regarding the  
28 project. Such hearing shall occur no earlier than ten (10) calendar days following the mailing of the  
notice required in Section 21.54.060. The public hearing may be conducted in accordance with  
existing local procedures or in any other manner reasonably calculated to give interested persons an  
opportunity to appear and present their viewpoints, either orally or in writing.

"21.201.160 Finality Of City Action.

          A local decision on an application for Development shall be deemed final when (1) the local  
decision on the application has been made and all required findings have been adopted, including  
specific factual findings supporting the legal conclusions that the proposed development is or is not  
in conformity with the certified local coastal program, that the development is in conformity with the  
public access and public recreation policies of Chapter 3 of the Coastal Act, and that the required  
conditions of approval adequate to carry out the certified local coastal plan as provided in the  
implementing ordinances have been imposed, and (2) when all rights of appeal have been provided  
as defined in Sections 21.201.130 and 140."

"21.201.170 Notice of Final City Action

          Within seven (7) calendar days of a final decision on an application for any Development  
(except Categorically Excluded or Exempt developments) the city shall provide notice of its action

1 by first class mail to the Commission and to any persons who specifically requested notice of such  
2 Final Action by submitting a self-addressed, stamped envelope to the city, (or, where required, who  
3 paid a reasonable fee to receive such notice.) Such notice shall include conditions of approval and  
4 written findings and the procedures for appeal to the Coastal Commission. The Coastal  
5 Commission's ten working day appeal period commences upon it's receipt of a final city action  
6 notice by the Coastal Commission."

7 "21.201.180 Local Government Action - Effective Date.

8 A final decision of the City on an application for an Appealable Development shall become  
9 effective after the ten (10) working day appeal period to the Commission has expired following the  
10 final local action unless any of the following occur:

- 11 A. An appeal is filed in accordance with the Commission's regulations;
- 12 B. The notice of final local government action does not meet the requirements of  
13 Sections 21.201.160 and 21.201.170;
- 14 C. The notice of final local government action is not received in the Commission office  
15 and/or distributed to interested parties in time to allow for the ten (10) working day appeal period.

16 Where any of the circumstances in this Section occur, the Commission shall, within  
17 five (5) calendar days of receiving notice of that circumstance, notify the City and applicant that the  
18 effective date of the City action has been suspended."

19 "21.201.190 Application For Emergency Permits.

20 A. Applications in case of emergency shall be made by letter to the Director or in person  
21 or by telephone, if time does not allow. Emergency means a sudden, unexpected occurrence  
22 demanding immediate action to prevent or mitigate loss or damage to life, health, property or  
23 essential public services.

- 24 B. The following information shall be included in the request:
  - 25 1. Nature of emergency;
  - 26 2. Cause of the emergency, insofar as this can be established;
  - 27 3. Location of the emergency;
  - 28 4. The remedial, protective, or preventive work required to deal with the  
emergency; and
  - 5. The circumstances during the emergency that appeared to justify the cause(s)  
of action taken, including the probable consequences of failing to take action.

29 C. The Director shall verify the facts, including the existence of the nature of the  
emergency, insofar as time allows.

30 D. The Director may grant an emergency permit upon reasonable terms and conditions,  
including an expiration date and the necessity for a regular permit application later, if the Director  
finds that:

- 31 1. An emergency exists that requires action more quickly than permitted by the  
procedures for Minor Coastal Permits or for regular permits and the work can and will be completed  
within thirty days unless otherwise specified by the terms of the permit;
- 32 2. Public comment on the proposed emergency action has been reviewed, if time  
allows; and
- 33 3. The work proposed would be consistent with the requirements of the certified  
land use plan.

34 E. The Director shall report, in writing, to the Planning Commission at its first scheduled

1 meeting after the emergency permit has been issued, the nature of the emergency and the work  
2 involved. Copies of this report shall be available at the meeting and shall be mailed to all persons  
3 who have requested such notification in writing. The report of the Director shall be informational  
4 only; the decision to issue an emergency permit is solely at the discretion of the Director subject to  
5 the provisions of this chapter.

6 F. Any request for an emergency permit within the Coastal Commission area of original  
7 jurisdiction as defined in Section 21.201.230 shall be referred to the Coastal Commission for review  
8 and issuance."

9 "21.201.200 Expiration Of The Coastal Development Permit.

10 A coastal development permit shall expire on the latest expiration date applicable to  
11 any other permit or approval required for the project, including any extension granted for other  
12 permits or approvals but in no event shall this period exceed three (3) years without an extension of  
13 time. If the project requires no permits or approvals other than a coastal development permit, the  
14 coastal development permit shall expire two years from its date of approval if a building permit has  
15 not been issued for the project."

16 "21.201.210 Extensions.

17 Not more than ninety or less than forty-five days prior to the expiration of a coastal  
18 development permit the permittee may apply to the Director for an extension of the permit. The  
19 application for an extension shall be processed pursuant to the provisions of this chapter. An  
20 extension shall be approved only if it is found that there has been no change of circumstances in  
21 relation to Coastal Resources per Section 13169 of the California Code of Regulations since the  
22 original granting of the permit. If the Director finds that there has been a change of circumstances in  
23 relation to Coastal Resources since the original granting of the permit the application for the  
24 extension shall be denied or conditionally approved. The decision of the Director may be appealed  
25 pursuant to the provisions of Section 21.201.080(D). If a complete application for an extension has  
26 been timely filed, the Planning Commission or the City Council on appeal may grant the extension  
27 after the expiration date provided that the final decision is made not later than forty-five days after  
28 the expiration date."

"21.201.220 Permit Amendment.

Upon application by the permittee, a permit may be amended by the approving authority.  
Application for and action on an amendment shall be accomplished in the same manner as specified  
by this Chapter for initial approval."

"21.201.230 Coastal Development Permits Issued by Coastal Commission.

The Coastal Commission shall have original jurisdiction for all coastal development permits  
for development on tidelands, submerged lands and public trust lands, whether filled or unfilled.  
Such lands are specified as the area of "original jurisdiction" of the Coastal Commission pursuant to  
Public Resources Code Section 30519(b), and are shown on the Post LCP Certification Map which is  
on file in the planning department. The applicant for any project which requires a coastal  
development permit issued by the Coastal Commission shall obtain all discretionary approvals  
required by this code prior to filing an application with the Coastal Commission for said coastal  
development permit."

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" 21.201.240 Violations of the Public Resources Code

Any person who violated any provision of Division 20 of the Public Resources Code shall be subject to the penalties contained in Public Resources Code Article 2, Section 30820 et. seq."

"21.201.250 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The City Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional."

SECTION XXI: That Title 21, of the Carlsbad Municipal Code is amended by the addition of Chapter 21.202 to read as follows:

Chapter 21.202  
COASTAL AGRICULTURE OVERLAY ZONE

Sections:

- 21.202.010 Intent and Purpose
- 21.202.020 Definitions
- 21.202.030 Development of Coastal Agricultural Land
- 21.202.040 Permits Required
- 21.202.050 Permitted Uses on Agricultural Lands
- 21.202.055 Lot and Yard Standards - Agricultural Lands
- 21.202.060 Development of Coastal Agricultural Land
- 21.202.070 Findings Required Before Conversion to Urban Areas
- 21.202.075 Development on Coastal Agricultural Lands Not Consistent With Underlying Land Use Designation
- 21.202.080 Proximity of Urban Development to Existing Developed Areas
- 21.202.090 Review by Planning Commission

"21.202.010 Intent And Purpose.

The Coastal Agriculture Overlay (CA) Zone is established to implement Sections 30170 (f), 30171(b), 30241, 30242 and 30250 of the California Coastal Act and the Local Coastal Program Land Use Plan certified on June 1981. This zone recognizes agriculture as a priority use under the Coastal Act and protects that use by establishing mechanisms to assure the continued and renewed agricultural use of agricultural lands. The local coastal program recognizes that long term agriculture may not be feasible and establishes agriculture as an interim use. Therefore, this zone allows urban development of such lands if specific findings are made or mitigation measures are undertaken. The Coastal Agriculture Zone is an overlay zone; no use shall be allowed on any property zoned coastal agriculture unless such use complies with the provisions of this chapter and with the provisions of any other chapters of this title which are applicable to the property."

....  
....

1 "21.202.020 Definitions.

2 For the purposes of this zone, terms used herein are defined as follows:

3 A. Coastal Agricultural Lands: Means those agricultural lands identified on Map X  
4 attached to the Land Use Plan certified on September 1980. The following are the lands identified  
5 on Map X:

	<u>Approximate Acres</u>
6 Site II	377
7 Site III	275
8 Site IV	109
9 Lusk	93
10 Bankers	27
11 Hunt	200
12 Caritas	301.38

13 B. Class I-IV Agricultural Land: Means all land which qualifies for rating as Class I  
14 through Class IV in the U.S. Department of Agriculture Soil Conservation Service Land Use  
15 Compatibility Classification.

16 C. Class V-VIII Agricultural Land: Means all land which qualified for rating as Class V  
17 through Class VIII in the U.S. Department of Agriculture Soil Conservation Service Land Use  
18 Compatibility Classification.

19 D. Land Division: Means the creation of any new property line whether by subdivision  
20 or other means.

21 E. Net Impacted Agricultural Land: Means for purposes of calculating required  
22 mitigation acreage, the parcels and acreages designated on Map X (located in the Local Coastal  
23 Program Land Use Plan) and the 301.38 acre Caritas property suitable for agricultural use minus the  
24 acreage in steep slopes (25% or greater) and areas containing sensitive coastal resources that would  
25 preclude development in addition to any acreage under the control of a public entity for a public  
26 recreation or open space use.

27 F. Underlying Land Use Designation: Means those urban uses which are consistent with  
28 the urban land use designation established by the Carlsbad General Plan and the Local Coastal  
Program Land Use Plan, which agricultural lands may be converted in conformance with this  
chapter.

G. Urban Uses: Means any use other than a use permitted by Section 21.202.050  
including any use necessary or convenient to urban use."

22 "21.202.030 Urban Development Of Coastal Agricultural Land.

23 Coastal agricultural land may be converted from agricultural use and developed for urban use  
24 in compliance with the procedures of this chapter."

24 "21.202.040 Permits Required.

25 No development, including but not limited to land divisions, as defined in Section 21.04.108  
26 of this Code shall occur without a Coastal Development Permit having first been issued pursuant to  
27 Chapter 21.201 of this Code. A Master Plan or a planned development permit processed according  
28 to Section 21.202.060 shall be considered a coastal permit if also processed in compliance with  
Chapter 21.201."

1           "21.202.050 Permitted Uses On Agricultural Lands.

2           The provisions of this section shall apply to any coastal agricultural land which has not been  
3 approved for development pursuant to this chapter.

4           A.     On any Class I through Class IV Agricultural Land the following uses only are  
5 permitted:

6                     1.     Cattle, sheep, goats and swine production, provided that the number of any  
7 one or combination of said animals shall not exceed one animal per half acre of lot area. Structures  
8 for containing animals shall not be located within fifty feet of any habitable structure on the same  
9 parcel, nor within three hundred feet of an adjoining parcel zoned for residential uses.

10                    2.     Crop production.

11                    3.     Floriculture.

12                    4.     Horses, private use.

13                    5.     Nursery crop production.

14                    6.     Poultry, rabbits, chinchillas, hamsters and other small animals, provided not  
15 more than twenty five of any one or combination thereof shall be kept within fifty feet of any  
16 habitable structure, or within three hundred feet of an adjoining parcel zoned for residential uses.

17                    7.     Roadside stands for display and sale of products produced on the same  
18 premises, with a floor area not exceeding two hundred square feet, and located not nearer than  
19 twenty feet to any street or highway.

20                    8.     Tree farms.

21                    9.     Truck farms.

22                    10.    Wildlife refuges and game preserves.

23                    11.    Other uses or enterprises similar to the above customarily carried on in the  
24 field of general agriculture including accessory uses such as silos, tank houses, shops, barns, offices,  
25 coops, stables, corrals, and similar uses required for the conduct of the uses above.

26                    12.    One single family dwelling per existing legal building parcel.

27           B.     On any Class V through VIII Agricultural Land the following uses only are permitted:

28                    1.     All of the permitted uses listed above.

                    2.     Hay and feed stores.

                    3.     Nurseries, retail and wholesale.

                    4.     Packing sheds, processing plants and commercial outlets for farm crops,  
provided that such activities are not located within 100 feet of any lot line.

                    5.     Greenhouses, provided all requirements for yard setbacks and height as  
specified in Chapter 21.07 of this Code are met."

22           "21.202.055 Lot And Yard Standards - Agricultural Lands.

23           The provisions of this section shall apply to any coastal agricultural land which has not been  
24 approved for development pursuant to this chapter.

25           A.     The minimum required lot area of any newly created lot shall not be less than ten  
26 acres unless the City Council finds that smaller parcel sizes will not adversely affect the agricultural  
27 use of the property.

28           B.     Every newly created lot shall have a minimum width of the rear line of the required  
front yard of not less than three hundred feet.

                    C.     Every lot shall have a required front yard of forty feet. Except as otherwise provided  
in Section 21.202.050 no building or structure shall be located on the required front yard.

                    D.     Every lot and building site shall have a side yard on each side of the lot or building

1 site not less than fifteen feet in width unless otherwise permitted by Section 21.202.050.

2 E. Every lot and building site shall have a rear yard of not less than twenty five feet  
3 unless otherwise permitted by Section 21.202.050.

4 F. No building or structure shall exceed thirty five feet in height.

5 G. Buildings and structures shall not cover more than forty percent of a lot.

6 H. All residential structures shall conform to the provisions of Section 21.07.120 of this  
7 Code."

8 "21.202.060 Development Of Coastal Agricultural Land.

9 Coastal agricultural lands may be converted from agricultural to urban uses pursuant to the  
10 following procedures:

11 A. Zoning approvals:

12 1. For property over 100 acres in area a Master Plan shall be submitted and  
13 processed according to the provisions of Chapter 21.38 of this Code. The uses permitted pursuant to  
14 the Master Plan shall be those permitted by the provisions of the Carlsbad General Plan and certified  
15 Local Coastal Program in effect at the time the application is submitted.

16 2. For property less than 100 acres in area, a planned development permit shall  
17 be submitted and processed pursuant to Chapter 21.45 or 21.47 of this Code, whichever is  
18 applicable. The uses permitted pursuant to the planned development permit and the development  
19 standards shall be as follows:

20 Land Designation on Carlsbad General Plan	21 Permitted Uses and 22 Development Standards
23 Residential Low Density	24 R-1 40000
25 Residential Low Medium Density	26 R-1 10000
27 Residential Medium Density	28 RD-M
Residential Medium to High Density	RD-M
Planned Industrial	P-M

(Map Y of the Certified Local Coastal Program shows existing permitted land use  
categories)

B. Development permitted based upon mitigation of lands zoned coastal agricultural.

A Master Plan or planned development permit for urban development of lands zoned  
coastal agriculture shall, in addition to complying with all aspects of the City's General Plan, shall  
include the following items:

1. An enforceable, non-revocable commitment by the property owner to preserve  
permanently one acre of prime agricultural land within the California Coastal Zone for each net  
impacted acre of non-prime coastal agricultural land in the Local Coastal Program proposed for  
development. The preserved land shall be located in an area selected by the State Coastal  
Conservancy and approved by the City Council. This enforceable commitment shall require, prior to  
issuance of a building permit, the permanent transfer or dedication of interest in the prime  
agricultural land to a grantee that is a local or state agency, or a tax exempt organization qualifying  
under Section 501(c)(3) of the U.S. Internal Revenue Code. Grantees also shall be limited to  
organizations and agencies whose principal purposes are consistent with the preservation of  
agriculture.

2. The following documentation pertaining to the prime agricultural land outside

1 the Local Coastal Program that is being permanently preserved:

2 a. Parties. Identification of the grantor and grantee (i.e. property owner,  
3 and government agency or tax exempt organization having a letter determination from the IRS  
4 documenting qualification per Section 501(c)(3) of the Internal Revenue Code).

5 b. Legal Description. A legal description of the prime agricultural lands  
6 being preserved.

7 c. Type and Purpose of Easement. A clear statement defining the type  
8 and purpose of the easement or other form of property interest being used to protect prime  
9 agriculture. Acceptable interests include, but shall not be limited to, conservation easements,  
10 transfers in trust, common law easements, open space easements, restrictive covenants, equitable  
11 servitudes, fee ownership or any other permanent restriction approved by the City Council.

12 d. Statement of Intent. A statement of intent by the grantor shall be  
13 submitted declaring an intent to protect agricultural land through the creation of easements or other  
14 interests running with the property, and a declaration of intent by the grantee to honor such grantor  
15 intent in perpetuity.

16 e. Documentation. Maps, reports, aerial photographs shall be  
17 incorporated into the easement showing evidence of the agricultural lands that grantor and grantee  
18 intend to preserve.

19 f. Rights, Restrictions, Permitted Uses and Reservations. Grantee shall  
20 demonstrate the necessary authority to monitor and enforce compliance with terms of the agreement  
21 as the trustee or guardian. Restrictions shall prescribe all reasonable foreseeable activities that could  
22 be potentially harmful to conservation values.

23 g. Executory Limitation. Provisions for forfeiture of the easement or  
24 interest by the grantee to another qualified organization should the grantee fail to maintain the land  
25 for agricultural use, shall be included.

26 h. Assignment. Grantee shall agree to hold easements or interests for  
27 conservation purposes and guarantee that he will not transfer the easement except to an organization  
28 qualified to hold such interests under the relevant California and Federal laws and the terms of this  
section.

i. Habendum Clause. The interest in property shall inure to the benefit  
of the grantee. All restrictions shall bind all subsequent purchasers or title holders of the restricted  
land and shall continue as a servitude running with the land in perpetuity.

3. Prior to building permit issuance, the property owner shall present to the City  
Manager proof of dedication by grantor and acceptance by grantee of an appropriate interest in prime  
agricultural lands pursuant to subsection B2.

C. Urban development of lands shown to be not feasible for continued or renewed  
agricultural use. In lieu of the procedures established by subsection B. or subsection D. of section  
21.202.060 property owners may complete an agricultural feasibility study prior to conversion of  
lands designated coastal agriculture. The purpose of the feasibility study shall be to determine,  
consistent with Section 30242 of the Coastal Act, if continued or renewed agriculture is feasible on  
the subject property.

1. An applicant or group of applicants may complete an agricultural feasibility  
analysis for one or any combination of the following study areas: a. all coastal agricultural lands in  
the Local Coastal Program area; b. individual feasibility analyses for each of five sub-units in the  
Local Coastal Program (refer to Map X; located in the Local Coastal Program Land Use Plan);



Approximate Acres

Site II	377
Site III	275
Site IV	109
Lusk/Bankers Site	120
Carlitas Site	301.38

c. an individual study for the Hunt property may be submitted as part of a submitted Master Plan for each of its sub-units, or d. feasibility studies may be submitted for contiguous land holdings of 100 acres or more in single ownership.

2. Feasibility studies submitted for the purpose of determining the viability of continued or renewed agriculture on coastal agricultural parcel(s) shall provide the following:

a. Description of the farm unit under study including discussions of land capabilities, crop patterns, and minimum economic farm size.

b. Investment cost analysis including cost of land for agricultural purposes.

c. Farm unit cash flow analysis (production costs, income, etc.).

d. Tax considerations relative to feasibility.

e. Implications of future trends in water cost and availability, land and labor costs, and market competition.

3. Upon completion, the agricultural study shall be submitted to the City for review and approval concurrent with the filing of a Master Plan or planned development permit.

a. If the study finds that continued or renewed agriculture is feasible, the property owner has the choice of: (1) maintaining agricultural uses; or (2) proceeding with conversion and mitigation pursuant to the procedures set forth in subsection B of this section.

b. If the feasibility study finds that continued or renewed agriculture is not feasible and City Council concurs, the City shall review the submitted Master Plan or planned development permit on its merits and for consistency with the other provisions of this Code and the Local Coastal Program. If City Council determines that the development is in conformance with all provisions of the Code and the Local Coastal Program, it may be approved without mitigation for conversion of agricultural land. The approved feasibility study and Master Plan or planned development permit approved by the City shall be prepared as a Local Coastal Program amendment and submitted to the Coastal Commission for certification. The Master Plan, planned development permit or coastal permit shall not be final unless the Local Coastal Program amendment is approved by the Coastal Commission.

D. Agricultural conversion mitigation fee. In lieu of the procedures established by subsection B. or subsection C. of this section, property may be converted to urban uses upon payment of an Agricultural Conversion Mitigation Fee. The amount of the fee shall be determined by the City Council at the time it considers a Coastal Development permit for urban development of the property. The fee shall not be less than five thousand dollars nor more than ten thousand dollars per net converted acre of agricultural land and shall reflect the approximate cost of preserving prime agricultural land pursuant to subsection B. of this section. The fees shall be paid prior to the issuance of building permits for the project. All mitigation fees collected under this section shall be deposited in the State Coastal Conservancy Fund and shall be expended by the State Coastal Conservancy in the following order of priority:

1. Restoration of natural resources and wildlife habitat in Batiquitos Lagoon

1 including but not limited to, continued funding of any maintenance, operation or enhancement costs  
2 necessary to implement any lagoon enhancement program approved by the City Council.

3 2. Development of an interpretive center at Buena Vista Lagoon.

4 3. Restoration of beaches managed for public use in the coastal zone in the City  
5 of Carlsbad.

6 4. Any other project or activity benefiting natural or agricultural resources in the  
7 coastal zone in the City of Carlsbad that is provided for in the certified Local Coastal Program.

8 E. Site I Special Restrictions. Notwithstanding anything to the contrary in this chapter,  
9 Site I as shown on Map X shall not be converted to urban use except as specifically permitted by the  
10 Local Coastal Program provisions for urban development of Site I.

11 "21.202.070 Findings Required Before Conversion To Urban Uses.

12 A. Where a property owner has agreed to preserve prime agricultural land elsewhere in  
13 the state coastal zone pursuant to Section 21.202.060 then the City Council prior to approval of a  
14 Master Plan or planned development permit must find that:

15 1. The conversion would preserve prime agricultural land in a manner consistent  
16 with Section 30242 of the Public Resources Code, the certified Local Coastal Plan and this chapter.

17 2. The Master Plan or planned development permit is consistent with the  
18 certified Local Coastal Program.

19 3. Conversion would concentrate urban development consistent with Section  
20 30250 in areas able to accommodate it, and within or adjacent to developed areas.

21 4. Conversion would be compatible with continued agriculture on adjacent  
22 agricultural lands.

23 5. Consistent with the certified Local Coastal Program and Section 30241 of the  
24 Coastal Act, conversion would contribute to limiting conversions of prime agricultural land and  
25 create stable urban/rural boundaries within prime agricultural lands located elsewhere in the coastal  
26 zone.

27 B. Where a property owner has elected to complete an agricultural feasibility analysis,  
28 and the property owner and City agree, based on that analysis, that continued or renewed agriculture  
is not feasible on the subject lands, and a City Council approved feasibility analysis and Master  
Plan/planned development permit must incorporate City findings declaring that:

1. Continued or renewed agriculture is not feasible on the subject parcel(s) and,  
consistent with Section 30242 of the Coastal Act, conversion of the parcels designated coastal  
agriculture in the Land Use Plan shall not require the preservation of prime agricultural lands  
elsewhere in the coastal zone.

2. Development permitted is consistent with the certified Local Coastal Program.

3. Permitted development is compatible with continued agriculture on adjacent  
agricultural lands.

C. Where a property owner has agreed to pay an agricultural conversion mitigation fee  
pursuant to Section 21.202.060 then the City Council prior to approval of a Master Plan or planned  
development permit must find that:

1. The Master Plan or planned development permit is consistent with the  
certified Local Coastal Program.

2. Conversion would be compatible with continued agriculture on adjacent  
agricultural lands.

3. The property owner has executed an agreement to pay the fee and the

1 agreement has been approved by the City Council."

2 "21.202.075 Development On Coastal Agricultural Lands Not Consistent With Underlying  
3 Land Use Designations.

4 Conversions of coastal agricultural lands to urban uses other than those underlying land use  
5 designations identified on Map Y may be permitted pursuant to the procedures and findings set forth  
6 in Sections 21.202.060 and 21.202.070 subject to the preparation and submission of a Local Coastal  
7 Program amendment for Coastal Commission certification. "

8 "21.202.080 Proximity Of Urban Development To Existing Development Areas.

9 Urban development of agricultural lands shall be located:

- 10 A. Contiguous with or in close proximity to existing developed areas;
- 11 B. In areas with adequate public facilities and services;
- 12 C. Where it will not have significant adverse effects, either individually or cumulatively,  
13 on coastal resources."

14 SECTION XXII: That Title 21 of the Carlsbad Municipal Code is amended

15 by the addition of Chapter 21.203 to read as follows:

16 Chapter 21.203

17 COASTAL RESOURCE PROTECTION OVERLAY ZONE

18 Sections:

- 19 21.203.010 Intent and Purpose
- 20 21.203.020 Applicant
- 21 21.203.030 Permit Required
- 22 21.203.040 Development Standards

23 "21.203.010 Intent And Purpose.

24 The intent and purpose of the Coastal Resource Protection Overlay Zone is to:

- 25 A. Supplement the underlying zoning by providing additional resource protective  
26 regulations within designated areas to preserve, protect and enhance the habitat resource values of  
27 Buena Vista Lagoon, Agua Hedionda Lagoon, Batiquitos Lagoon, and steep sloping hillsides;
- 28 B. Provide regulations in areas which provide the best wildlife habitat characteristics;
- 29 C. Encourage proper lagoon management;
- 30 D. Deter soil erosion by maintaining the vegetative cover on steep slopes;
- 31 E. Implement the goals and objectives of Sections 30231, 30233, 30240(b) and 30253 of  
32 the Public Resources Code and the approved Carlsbad Local Coastal Program."

33 "21.203.020 Applicability.

34 This chapter implements the California Coastal Act and is applicable to all properties located  
35 in the coastal zone as defined in Public Resources Code Section 30171. In case of any conflict  
36 between this zone and the underlying zone, provisions of this zone shall apply."  
37  
38

1           "21.203.030 Permit Required.

2           Developments, including but not limited to, land divisions, as defined in Chapter 21.04.108  
3           require a coastal development permit. This permit is subject to the requirements of this zone and the  
4           procedural requirements for coastal development permits of Chapter 21.201 of this code."

4           "21.203.040 Development Standards.

5           The following specific development standards shall be applied to areas within the Coastal  
6           Resource Protection Overlay Zone as part of the coastal development permit. Such standards shall  
7           control, notwithstanding the provisions of the underlying zone and shall include:

6           A.        Preservation of Steep Slopes and Vegetation

7           Any development proposal that affects steep slopes (25% inclination or greater) shall  
8           be required to prepare a slope map and analysis for the affected slopes. Steep slopes are identified  
9           on the PRC Troups maps. The slope mapping and analysis shall be prepared during the CEQA  
10          environmental review on a project-by-project basis and shall be required as a condition of a coastal  
11          development permit.

10          1.       For those slopes mapped as possessing endangered plant/animal species  
11          and/or coastal sage scrub and chaparral plant communities, the following policy language would  
12          apply:

12                  a.       Slopes of 25% grade and over shall be preserved in their natural state,  
13          unless the application of this policy would preclude any reasonable use of the property, in which  
14          case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted.  
15          For existing legal parcels, with all or nearly all of their area in slope area over 25% grade,  
16          encroachment may be permitted; however, any such encroachment shall be limited so that at no time  
17          is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed  
18          from its natural state. This policy shall not apply to the construction of roads of the City's  
19          Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in  
20          order to provide access to flatter areas if there is no less environmentally damaging alternative  
21          available.

18                  b.       No further subdivisions of land or utilization of Planned Unit  
19          Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned  
20          Unit Development is proposed which limits grading and development to not more than 10% of the  
21          total site area.

20                  c.       Slopes and areas remaining undisturbed as a result of the hillside  
21          review process, shall be placed in a permanent open space easement as a condition of development  
22          approval. The purpose of the open space easement shall be to reduce the potential for localized  
23          erosion and slide hazards to prohibit the removal of native vegetation except for creating firebreaks  
24          and/or planting fire retardant vegetation and to protect visual resources of importance to the entire  
25          community.

24          2.       For all other steep slope areas, the City Council may allow exceptions to the  
25          above grading provisions provided the following mandatory findings to allow exceptions are made:

25                  a.       A soils investigation conducted by a licensed soils engineer has  
26          determined the subject slope area to be stable and grading and development impacts mitigatable for  
27          at least 75 years, or life of structure.

27                  b.       Grading of the slope is essential to the development intent and design.

28                  c.       Slope disturbance will not result in substantial damage or alteration to  
29          major wildlife habitat or native vegetation areas.

1 d. If the area proposed to be disturbed is predominated by steep slopes  
2 and is in excess of 10 acres, no more than one third of the total steep slope area shall be subject to  
3 major grade changes.

4 e. If the area proposed to be disturbed is predominated by steep slopes  
5 and is less than 10 acres, complete grading may be allowed only if no interruption of significant  
6 wildlife corridors occurs.

7 f. Because north-facing slopes are generally more prone to stability  
8 problems and in many cases contain more extensive natural vegetation, no grading or removal of  
9 vegetation from these areas will be permitted unless all environmental impacts have been mitigated.  
10 Overriding circumstances are not considered adequate mitigation.

11 B. Drainage, Erosion, Sedimentation, Habitat

12 1. Buena Vista Lagoon: Developments located along the first row of lots  
13 bordering Buena Vista Lagoon, including the parcel at the mouth of the Lagoon, shall be designated  
14 for residential development at a density of up to four dwelling units per acre. Proposed development  
15 in this area shall be required to submit topographic and vegetation mapping and analysis, as well as  
16 soils reports, as part of the development permit application. Such information shall be provided in  
17 addition to any required Environmental Impact Report, and shall be prepared by qualified  
18 professionals and in sufficient detail to locate the boundary of wetland and upland areas and areas of  
19 slopes in excess of 25%. Topographic maps shall be submitted at a scale sufficient to determine the  
20 appropriate developable areas, generally not less than a scale of 1" - 100' with a topographic contour  
21 interval of five feet, and shall include an overlay delineating the location of the proposed project.  
22 The lagoon and wetland area shall be delineated and criteria used to identify any wetlands existing  
23 on the site shall be those of Section 30121 of the Coastal Act and based upon the standards of the  
24 Local Coastal Program Mapping Regulations. Mapping of wetlands and siting of development shall  
25 be done in consultation and subject to the approval of the Department of Fish and Game.  
26 Development shall be clustered to preserve open space for habitat protection. Minimum setbacks of  
27 at least 100 feet from wetlands/lagoon shall be required in all development, in order to buffer such  
28 sensitive habitat area from intrusion. Such buffer areas, as well as other open space areas required in  
permitted development to preserve habitat areas, shall be permanently preserved for habitat uses  
through provision of an open space easement as a condition of project approval. In the event that a  
wetland area is bordered by steep slopes (in excess of 25%) which will act as a natural buffer to the  
habitat area, a buffer area of less than 100 feet in width may be permitted. The density of any  
permitted development shall be based upon the net developable area of the parcel, excluding any  
portion of a parcel which is in wetlands or lagoon. As specified in (a), a density credit may be  
provided for that portion of the parcel which is in steep slopes. Storm drain alignments as proposed  
in the Carlsbad Master Drainage Plan which would be carried through or empty into Buena Vista  
Lagoon shall not be permitted, unless such improvements comply with the requirements of Sections  
30230, 30231, 30233, and 30235 of the Coastal Act by maintaining or enhancing the functional  
capacity of the Lagoon in a manner acceptable to the State Department of Fish and Game. Land  
divisions shall only be permitted on parcels bordering the Lagoon pursuant to a single planned  
development permit for the entire original parcel.

2. Batiqitos Lagoon Watershed: Development located east of I-5 (generally  
referred to as the Savage property) shall be designated for a maximum density of development of 8  
units per gross acre, excluding wetlands and constrained slopes. Development shall take place  
according to the requirements of the P-C Planned Community zone Chapter 21.38, supplemented by  
these additional requirements. Land divisions shall only be permitted pursuant to a Master Plan for

1 the entire original parcel subject to the requirements herein:

2 a. Drainage, Erosion and Sedimentation requirements shall be as  
specified in subsection B.4. of this section.

3 b. Detailed topographic maps shall be prepared by qualified professionals  
4 including biologists, hydrologists and engineers in sufficient detail to locate the boundary of lagoon  
5 or wetland and upland areas. The scale shall not be less than 1" = 100' with a contour interval of five  
6 feet, and shall include an overlay delineating the location of the development. The lagoon and  
wetland areas shall be delineated according to the requirements of Section 30121 of the Coastal Act  
and the Local Coastal Program mapping regulations, subject to the review and approval of the State  
Department of Fish and Game.

7 c. Development shall be clustered to preserve open space and habitat.

8 d. A minimum setback of 100 feet from the lagoon/wetland shall be  
required.

9 e. At least 2/3 of any development shall be clustered on the half of the  
10 property furthest away from the lagoon at the base of the bluff in order to preserve the outstanding  
visual and natural resources.

11 f. Existing mature trees shall be preserved.

12 g. Public recreation facilities shall be provided as a condition of  
13 development including picnic tables, parking, and a public access trail along the lagoon shore. The  
trail shall be secured by an irrevocable offer to dedicate public access but shall be developed and  
landscaped as a condition of development and shall be at least 15 feet wide with unobstructed views  
of the lagoon.

14 h. To facilitate provision of public use areas and preservation of  
15 environmentally sensitive lands, and to maintain the outstanding visual resources in the area  
surrounding the lagoon, an additional density credit of one dwelling unit per acre of developed land  
16 shall be provided for each two and one half percent (2 1/2%) of total lot area, excluding wetlands,  
which is maintained in open space and public recreation in excess of fifty percent (50%) of the total  
17 lot area, excluding wetlands.

18 3. Areas - West of I-5: For areas west of the existing Paseo del Norte, west of  
19 Interstate 5 and along El Camino Real immediately upstream of the existing storm drains, the  
following policy shall apply: A site-specific report prepared by a qualified professional shall be  
20 required for all proposed development, identifying mitigation measures needed to avoid increased  
runoff and soil erosion. The report shall be subject to the requirements of the model erosion control  
21 ordinance contained in the Appendix to the Carlsbad Master Drainage Plan (June, 1980), and to the  
additional requirements contained herein. Such mitigation shall become an element of the project,  
22 and shall be installed prior to the initial grading. At a minimum, such mitigation shall require  
construction of all improvements shown in the Master Drainage Plan for the area between the project  
23 site and the lagoon (including the debris basin), as well as: restriction of grading activities to the  
24 months of April through September of each year; revegetation of graded areas immediately after  
grading; and a mechanism for permanent maintenance if the city declines to accept the  
25 responsibility. Construction of drainage improvements may be through formation of an assessment  
district, or through any similar arrangement that allots costs among the various landowners in an  
26 equitable manner.

27 4. All Other Areas in the Coastal Zone: The following requirements shall apply  
unless superseded by the more specific requirements herein and subject to the modifications,  
28 additions, or exceptions detailed below, as a part of the permit application, the applicant shall submit

1 an erosion, sedimentation and drainage report prepared by a qualified professional which includes  
2 the requirements of the Model Erosion Control Ordinance reprinted in the Appendix to the June  
3 1980 Carlsbad Master Drainage Plan, all requirements of the Master Drainage Plan, and the  
4 additional requirements specifically enumerated herein. The June 1980 Master Drainage Plan and its  
5 appendices are herein incorporated by this reference. No subsequent amendments are a part of this  
6 zone unless certified by the Coastal Commission. The general provisions, procedures, standards,  
7 content of plans and implementation contained therein are required conditions of development in  
8 addition to the provisions below. Approved development shall include the following conditions, in  
9 addition to the requirements specified above:

10 a. All offsite, downstream improvements (including debris basin and any  
11 other improvements recommended in the Drainage Plan) shall be constructed prior to the issuance of  
12 a grading permit onsite. Improvements shall be inspected by city or county staff and certified as  
13 adequate and in compliance with the requirements of the Drainage Plan and the additional  
14 requirements of this zone. If the city or county declines to accept maintenance responsibility for the  
15 improvements, the developer shall maintain the improvements during construction of the onsite  
16 improvements.

17 b. If the offsite or onsite improvements are not to be accepted and  
18 maintained by a public agency, detailed maintenance agreements including provisions for financing  
19 the maintenance through bonding or other acceptable means shall be secured prior to issuance of the  
20 permit. Maintenance shall be addressed in the report required to be submitted with the permit  
21 application. The report shall discuss maintenance costs and such costs shall be certified as a best  
22 effort at obtaining accurate figures.

23 c. Construction of offsite drainage improvements may use an assessment  
24 district or any other acceptable manner. Such mechanisms shall be secured by bonding or other  
25 acceptable means prior to issuance of a coastal development permit.

26 d. If a public agency agrees to accept maintenance responsibilities, it  
27 shall inspect the facilities prior to onsite construction or grading and indicate if such facilities assure  
28 continued maintenance. No onsite development may take place prior to acceptance of the drainage  
improvements.

e. All construction activities shall be planned so that grading will occur  
in units that can be easily completed within the summer construction season. All grading operations  
shall be limited from April 1 to October 1 of each year. All areas disturbed by grading shall be  
planted within 60 days of the initial disturbance and prior to October 1 with temporary or permanent  
(in the case of finished slopes) erosion control methods.

f. Storm drainage facilities in developed areas shall be improved and  
enlarged according to the Carlsbad Master Drainage Plan, incorporating the changes specified  
herein. Improvement districts shall be formed for presently undeveloped areas which are expected to  
urbanize in the future. The improvement districts shall implement the Master Drainage Plan.  
Upstream areas in the coastal zone shall not be permitted to develop incrementally prior to  
installation of the storm drain facilities downstream, in order to assure protection of coastal  
resources. New drainage facilities, required within the improvement districts shall be financed either  
by some form of bond or from fees collected from developers on a cost-per-acre basis.

g. When earth changes are required and natural vegetation is removed,  
the area and duration of exposure shall be kept at a minimum.

h. Soil erosion control practices shall be used against "onsite" soil  
erosion. These include keeping soil covered with temporary or permanent vegetation or with mulch

1 materials, special grading procedures, diversion structures to divert surface runoff from exposed  
2 soils, and grade stabilization structures to control surface water.

3 i. Apply "sediment control" practices as a perimeter protection to prevent  
4 offsite drainage. Preventing sediment from leaving the site should be accomplished by such methods  
5 as diversion ditches, sediment traps, vegetative filters, and sediment basins. Preventing erosion is, of  
6 course, the most efficient way to control sediment runoff.

7 C. Landslides and Slope Instability: Developments within 500 feet of areas identified  
8 generally in the PRC Toups Report, figure 8, as containing soils of the La Jolla group (susceptible to  
9 accelerated erosion) or landslide prone areas shall be required to submit additional geologic reports  
10 containing the additional information required in the Coastal Shoreline Development Overlay Zone.

11 D. Seismic Hazards: Development in liquefaction-prone areas shall include site-specific  
12 investigations done addressing the liquefaction problem and suggesting mitigation measures. New  
13 residential development in excess of four units, commercial, industrial, and public facilities shall  
14 have site-specific geologic investigations completed in known potential liquefaction areas.

15 E. Floodplain Development: Within the coastal zone, in the 100-year floodplain, no new  
16 or expanded permanent structures or fill shall be permitted. Only uses compatible with periodic  
17 flooding shall be allowed."

18 SECTION XXII: That Title 21, of the Carlsbad Municipal Code is amended

19 by the addition of Chapter 21.204 to read as follows:

20 Chapter 21.204

21 COASTAL SHORELINE DEVELOPMENT OVERLAY ZONE

22 Sections:

- 23 21.204.010 Intent and Purpose  
24 21.204.020 Application  
25 21.204.030 Permitted Beach Uses  
26 21.204.040 Conditional Beach Uses  
27 21.204.050 Uses not on the Beach, Subject to Coastal Shoreline Development Permit  
28 21.204.060 Requirements for Public Access  
21.204.070 Special Access Requirements for Developments or new Developments Onsite  
Containing Evidence of Historic Public Use  
21.204.080 Mechanisms for Guaranteeing Public Access  
21.204.090 Site Plans Required  
21.204.100 Site Plan Review Criteria  
21.204.110 Geotechnical Reports  
21.204.120 Waiver of Public Liability

29 "21.204.010 Intent and Purpose.

30 The Coastal Shoreline Development Overlay Zone is intended to provide land use regulations  
31 along the coastline area including the beaches, bluffs, and the land area immediately landward  
32 thereof. The purpose of the Coastal Shoreline Development Zone is to provide for control over  
33 development and land use along the coastline so that the public's interest in maintaining the shoreline



1 as a unique recreational and scenic resource, promoting public safety and access, and in avoiding the  
2 adverse geologic and economic effect of bluff erosion, is adequately protected."

3 "21.204.020 Application.

4 The Coastal Shoreline Development Overlay Zone shall be applied to areas within the Mello  
5 II Segment of the Carlsbad Local Coastal Program located between the sea and the first public road  
6 parallel to the sea."

7 "21.204.030 Permitted Beach Uses.

8 Permitted uses and developments are limited to the following uses and require a Coastal  
9 Development permit according to the requirements of this zone:

- 10 A. Steps and stairways for access from the top of the bluff to the beach.
- 11 B. Toilet and bath houses.
- 12 C. Parking lots, only if identified as an appropriate use in the Local Coastal Program  
13 Mello II Segment Land Use Plan; (see Policy 2-3).
- 14 D. Temporary refreshment stands, having no seating facilities within the structure.
- 15 E. Concession stands for the rental of surfboards, air mattresses and other sports  
16 equipment for use in the water or on the beach.
- 17 F. Life guard towers and stations and other lifesaving and security facilities.
- 18 G. Fire rings and similar picnic facilities.
- 19 H. Trash containers.
- 20 I. Beach shelters."

21 "21.204.040 Conditional Beach Uses.

22 A. Uses substantially similar to the permitted uses listed above may be permitted on the  
23 beach subject to this chapter and Chapters 21.42 and 21.50.

24 B. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and  
25 other such construction that alters natural shoreline processes shall be permitted when required to  
26 serve coastal dependent uses or to protect existing structures or public beaches in danger from  
27 erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.  
28 As a condition of approval, permitted shoreline structures may be required to replenish the beach  
with imported sand.

Provisions for the maintenance of any permitted seawalls shall be included as a  
condition of project approval. As a further condition of approval, permitted shoreline structures shall  
be required to provide public access. Projects which create dredge spoils shall be required to deposit  
such spoils on the beaches if the material is suitable for sand replenishment. Seawalls shall be  
constructed essentially parallel to the base of the bluff and shall not obstruct or interfere with the  
passage of people along the beach at any time."

"21.204.050 Uses Not On The Beach Subject To Coastal Shoreline Development Permit.

Uses permitted by the underlying zone map may be permitted on non-beach areas subject to  
granting of a Coastal Development Permit for coastal shoreline development issued pursuant to the  
procedures of Chapter 21.201 of this title, unless specifically prohibited by policies or other  
applicable ordinances in the approved Carlsbad Local Coastal Program. Non-beach areas are defined  
as areas at elevations of 10 feet or more above mean sea level (North American Datum, 1929).  
Permitted uses are subject to the following criteria:

1 A. Grading and Excavation - Grading and excavation shall be the minimum necessary to  
2 complete the proposed development consistent with the provisions of this zone and the following  
3 requirements:

4 1. Building sites shall be graded to direct surface water away from the top of the  
5 bluff, or, alternatively, drainage shall be handled in a manner satisfactory to the City which will  
6 prevent damage to the bluff by surface and percolating water.

7 2. No excavation, grading or deposit of natural materials shall be permitted on  
8 the beach or the face of the bluff except to the extent necessary to accomplish construction pursuant  
9 to this section.

10 B. New development fronting the ocean shall observe at a minimum, an ocean setback  
11 based on a "stringline" method of measurement. No enclosed portions of a structure shall be  
12 permitted further seaward allowed by a line drawn between the adjacent structure to the north and  
13 south; no decks or other appurtenances shall be permitted further seaward than those allowed by a  
14 line drawn between those on the adjacent structures to the north and south. A greater ocean setback  
15 may be required for geologic reasons and if specified in the Local Coastal Program."

16 "21.204.060 Requirements For Public Access.

17 One or more of the following types of public access shall be required as a condition of  
18 development:

19 A. Lateral Public Access:

20 1. Minimum Requirements. Developments shall be conditioned to provide the  
21 public with the right of access to a minimum of 25 feet of dry sandy beach at all times of the year.  
22 The minimum requirement applies to all new developments proposed along the shoreline requiring  
23 any type of local permit including a building permit, minor land division or any other type of  
24 discretionary or nondiscretionary action.

25 2. Additional Requirements. New developments as specified below shall be  
26 conditioned to provide the public with lateral public access in addition to minimum requirements.

27 a. Applicability

28 (1). Seawalls and other shoreline protective devices.

(2). Developments on parcels where there is evidence of historic  
public use. In such areas the amount and location of additional access shall be equal to the amount  
and extent of public use.

(3). Development which either by itself or in conjunction with  
anticipated future projects adversely affect existing public access by overcrowding of major coastal  
access roads or existing beach areas.

(4). Development which commits ocean front lands to non-priority  
uses such as residential uses, non-visitor, or non-coastally oriented commercial and industrial uses.

(5). Access as identified in the Local Coastal Program.  
Developments adjacent to Buena Vista Lagoon (See Policy 7-6 of the Local Coastal Program Mello  
II Segment Land Use Plan) and the parcel located at extreme north end of Ocean Street (See Policy  
7-8 of the Local Coastal Program Mello II Segment Land Use Plan)

b. Required Standards. In determining the amount and type of additional  
lateral public access to be required (e.g. area for additional parking facilities, construction of  
improvements to be made available to the public, increased dry sandy beach area, or type of use of  
the dry sandy beach) the city shall make findings of fact considering all of the following:

(1). The extent to which the development itself creates physical and

1 visual impediments to public access which has not been mitigated through revisions in design or plan  
2 changes.

3 (2). The extent to which the development discourages the public  
4 from visiting the shoreline because of the physical and visual proximity of the development to the  
5 shoreline.

6 (3). The extent to which the development burdens existing road  
7 capacity and onstreet parking areas thereby making it more difficult to gain access to and use of the  
8 coast by further congesting access roads and other existing public facilities such as beaches, parks  
9 and road or sewer capacities.

10 (4). The extent to which the development increases the intensity of  
11 use of existing beach and upland areas, thereby congesting current support facilities.

12 (5). The potential for physically impacting beach and other  
13 recreational areas inherent in the project affecting shoreline wave and sand movement processes.

14 B. Bluff Top Access:

15 1. Minimum Requirements. Development adjacent to a shorefront bluff top lot  
16 where no beach exists or where beach is inaccessible because stairways have not or cannot be  
17 provided, shall be conditioned to provide the public with the right of access of at least 25 feet along  
18 the current bluff edge for coastal scenic access to the shoreline. The minimum requirement applies to  
19 all new developments proposed on bluff tops along the shoreline requiring any type of local permit  
20 including a building permit, a minor subdivision or any other type of discretionary or non-  
21 discretionary action.

22 2. Additional Requirements. New developments along the bluff top area which  
23 result in additional burdens to public access to the shoreline shall be conditioned to provide the  
24 public with public access such as view points in addition to the requirements specified above.

25 3. Description of Accessway. The bluff top access shall be described as an area  
26 beginning at the current bluff edge extending at least 25 feet inland. Due to the potential for erosion  
27 of the bluff edge, the area shall be adjusted inland to the current bluff edge as the edge recedes.  
28 However, the easement shall not extend any closer than 10 feet from an occupied residential  
structure or the distance specified in the certified Local Coastal Program. The area shall be legally  
described with the furthest inland extent of the area possible referenced as a distance from a fixed  
monument in the following manner: "Such easement shall be located along the bluff top measured  
inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location  
of this right-of-way would change over time with the then current bluff edge, but in no case shall it  
extend any closer than feet from (a fixed inland point, such as a road or other easement monument)."

29 C. Vertical Access:

30 1. Requirements. Development between the first public road and the sea may be  
31 required to provide both lateral and vertical access.

32 2. Standards for Determining if Vertical Access is to be Required. The city shall  
33 review all of the following factors in determining whether vertical access is required. The  
34 determination shall be supported by findings of fact which consider all of the following:

35 a. Existing and anticipated public need to gain access to the shoreline  
36 including the location and use of currently existing official accessways in the vicinity.

37 b. Physical constraints of the site, including availability of sandy beach,  
38 safety and current use, and habitat values proximity to agricultural areas, military security.

39 c. Ability to provide for public use by mitigating time and location of  
40 such use.

1                   d.       Location and necessity of support facilities. If suitable parking areas  
2 do not exist, vertical accessways will be required at frequent intervals, so that parking will be spaced  
3 in the area at an even rate.

4                   e.       Privacy needs of property owner and site design changes which are  
5 available to protect privacy.

6                   f.       Nature of the development proposed in relation to its impact on public  
7 access.

8                   3.       Types of Use of Vertical Access Area. The vertical access required as a  
9 condition of development shall be limited to the public right-of-pass and repass unless another type  
10 of use is specified as a condition of the development. In determining if another type of use is  
11 appropriate, the local government shall consider the specific factors enumerated in this Section.

12                   4.       Siting and Description of the Accessway. If possible, vertical accessways  
13 shall be sited along the border of the development and shall extend from the road to the bluff edge or  
14 shoreline. If a different siting of the accessway is more appropriate considering the topography of  
15 the site and the design of the proposed project, the vertical accessway may be resited in the middle of  
16 the parcel. If sited in the middle of a parcel, the property shall be surveyed at the landowner's  
17 expense and a legal description shall be prepared. If a residential structure is proposed, the  
18 accessway should not be sited closer than 5 feet to the structure or the distance specified in the  
19 certified Local Coastal Program. The vertical accessway shall be a minimum of 10 feet in width to  
20 allow for public pedestrian use of the corridor. Any accessway shall be legally described prior to  
21 issuance of the coastal development permit.

22                   5.       Vertical Accessways identified in the Mello II Segment of Carlsbad's Local  
23 Coastal Program.

24                   a.       Vacant parcel adjacent to Army/Navy Academy at Del Mar Street.

25                   b.       South Carlsbad State Beach at intersection of Carlsbad Boulevard and  
26 Palomar Airport Road.

27                   c.       Vacant parcel at Ocean Street."

28                   "21.204.070 Special Access Requirements For Developments Or New Developments On  
29 Sites Containing Evidence Of Historic Public Use.

30                   If the certified Local Coastal Program or the permit process produces evidence of historic  
31 public use on a development site located in the coastal zone, development shall be required to meet  
32 all of the following requirements:

33                   A.       Siting and Design of Development:

34                   1.       Development shall be sited and designed in a manner which does not interfere  
35 or diminish the potential public rights based on historic public use. Mechanisms for guaranteeing  
36 the continued public use of the site shall be required in accordance with Section 21.204.080; or

37                   2.       Development may be sited in the area of potential historic public use provided  
38 that an area of equivalent public access has been provided in the immediate vicinity of the  
39 development site which will accommodate the same type and intensity of use as previously may  
40 have existed on the development site. An equivalent access area shall provide access of comparable  
41 site, and type of use. Mechanisms for guaranteeing the continued public use of the area shall be  
42 required in accordance with Section 21.204.080.

43                   B.       An access condition shall not serve to extinguish, adjudicate or waive potential  
44 prescriptive rights. In permits with possible prescriptive rights, the following language shall be  
45 added to the access condition:

46                   *"Nothing in this condition shall be construed to constitute a waiver of any sort or a*

1 *determination on any issue of prescriptive rights which may exist on the parcel itself or on the*  
2 *designated easement." In addition, findings shall be made which specifically address the*  
3 *prescriptive rights issue.*

4 C. The Certified Local Coastal Program indicates evidence of historic use on parcels  
5 located seaward of Carlsbad Boulevard adjacent to Buena Vista Lagoon. Other areas may also be  
6 subject to such use."

7 "21.204.080 Mechanism For Guaranteeing Public Access.

8 A. Legal Instruments Required.

9 Prior to the issuance of a permit for development in the coastal zone between the first  
10 public road and the sea, each applicant shall record one of the following legal documents as specified  
11 in the condition of approval.

12 1. Irrevocable Offer to Dedicate. Prior to issuance of a development permit, the  
13 landowner shall submit a preliminary title report and shall record an irrevocable offer to dedicate an  
14 easement or fee interest free of prior liens and encumbrances except tax liens in the public accessway  
15 as described in the permit condition. This offer can be accepted by an appropriate agency which may  
16 or may not be the local government within 21 years.

17 2. Outright Grant of Fee Interest or Easement. If the parcel is important in and  
18 of itself for access needs, the size and scope of the proposed development is such that an outright  
19 interest is appropriate, or there is an accepting agency available to accept the easement (as in  
20 Subdivision Map approvals), a grant of an easement or fee is required prior to issuance of the permit.

21 3. Deed Restrictions. Deed restrictions do not grant any interest in land  
22 proposed for public access and the landowner retains all responsibility for the maintenance of the  
23 accessway. Deed restrictions are appropriate in limited situations, *e.g.*, in a large residential  
24 development where the accessways will mostly be used by residents and a homeowners association  
25 is available to maintain the accessway or in commercial facilities. Deed restrictions are not  
26 appropriate for small parcels or for accessways that will require public maintenance.

27 B. Title Information: As a condition to the issuance of the permit, the applicant shall be  
28 required to furnish an ALTA title report and all necessary subordination agreements. Title insurance  
may also be required where extensive easements are being granted. The amount of insurance shall  
be estimated on the basis of what it would cost to acquire an equivalent access or recreational use  
elsewhere in the vicinity.

C. Procedure copies of the recorded document, title report, and permit shall be forwarded  
to the California Coastal Commission within 10 days after submission of the recorded document for  
preparation of the coastal access inventory as required by Section 30530 of the Coastal Act. The  
accepting agency or Commission staff may make minor revisions to the documents (such as  
corrections in the legal descriptions, minor revisions to the location and use of the accessways in  
order to open the area up for public use) to assure that the public right-of-access along dry sandy  
beaches, bluff top parcels, or the vertical accessways is protected and capable of being  
implemented."

"21.204.090 Site Plans Required.

Applications for site plan review shall be accompanied by such data and information as may  
be required by the Planning Director including maps, plans, drawings, sketches and documented  
material as is necessary to show:

A. Boundaries and Topography - Boundaries and existing topography of the property,

1 location of bluff line and beach, and adjoining or nearby streets;

2 B. Existing Structures - Location and height of all existing buildings and structures,  
existing trees and the proposed disposition or use thereof;

3 C. Proposed Structures - Location, height, and proposed use of all proposed structures,  
including walls, fences and freestanding signs, and location and extent of individual building sites;

4 D. Circulation - Location and dimensions of ingress and egress and egress points,  
interior roads and driveways, parking areas, and pedestrian walkways;

5 E. Drainage - Location and treatment of important drainage ways, including  
underground drainage systems;

6 F. Finished Topography - Proposed grading and removal of placement of natural  
7 materials, including finished topography of the site; and

8 G. Landscaping - Proposed landscaping plan including location of game courts,  
swimming pools and other landscape or activity features."

9 "21.204.100 Site Plan Review Criteria.

10 The site plans required by Section 21.204.090 shall be reviewed and evaluated by the  
Planning Director for conformance with the following criteria:

11 A. Coastal Development Regulations - All elements of the proposed development are  
consistent with the intent and purpose of the Coastal Shoreline Development Overlay Zone.

12 B. Appearance - Buildings and structures will be so located on the site as to create a  
generally attractive appearance and be agreeably related to surrounding development and the natural  
13 environment.

14 C. Ocean Views - Buildings, structures, and landscaping will be so located as to preserve  
to the degree feasible any ocean views as may be visible from the nearest public street.

15 D. Retention of Natural Features - Insofar as is feasible, natural topography and scenic  
features of the site will be retained and incorporated into the proposed development.

16 E. Grading and Earth-moving - Any grading or earth-moving operations in connection  
with the proposed development are planned and will be executed so as to blend with the existing  
17 terrain both on and adjacent to the site.

18 Public Access - The policies of the Local Coastal Program pertaining to public access  
have been carried out."

19 "21.204.110 Geotechnical Reports.

20 A. Geotechnical reports shall be submitted to the Planning Director as part of an  
21 application for plan approval. Geotechnical reports shall be prepared and signed by a professional  
civil engineer with expertise in soils and foundation engineering, and a certified engineering  
22 geologist or a registered geologist with a background in engineering applications. The report  
document shall consist of a single report, or separate but coordinated reports. The document should  
23 be based on an onsite inspection in addition to a review of the general character of the area and it  
shall contain a certification that the development as proposed will have no adverse effect on the  
24 stability of the bluff and will not endanger life or property, and professional opinions stating the  
following:

25 1. The area covered in the report is sufficient to demonstrate the geotechnical  
26 hazards of the site consistent with the geologic, seismic, hydrologic and soil conditions at the site;

27 2. The extent of potential damage that might be incurred by the development  
during all foreseeable normal and unusual conditions, including ground saturation and shaking  
28 caused by the maximum credible earthquake;

- 1                   3.     The effect the project could have on the stability of the bluff.
- 2           B.     As a minimum the geotechnical report(s) shall consider, describe and analyze the
- 3 following:
- 4           1.     Cliff geometry and site topography, extending the surveying work beyond the
- 5 site as needed to depict unusual geomorphic conditions that might affect the site.
- 6           2.     Historic, current and foreseeable cliff erosion including investigation of
- 7 recorded land surveys and tax assessment records in addition to the use of historic maps and
- 8 photographs where available and possible changes in shore configuration and sand transport.
- 9           3.     Geologic conditions, including soil, sediment and rock types and
- 10 characteristics and structural features, such as bedding, joints and faults.
- 11           4.     Evidence of past or potential landslide conditions, the implications of such
- 12 conditions for the proposed development, and the potential effects of the development on landslide
- 13 activity.
- 14           5.     Impact of construction activity on the stability of the site and adjacent area.
- 15           6.     Ground and surface water conditions and variations, including hydrologic
- 16 changes caused by the development (i.e., introduction of sewage effluent and irrigation water to the
- 17 ground water system, alterations in surface drainage).
- 18           7.     Potential erodibility of site and mitigating measures to be used to ensure
- 19 minimized erosion problems during and after construction (i.e., landscaping and drainage design).
- 20           8.     Effects of marine erosion on seacliffs.
- 21           9.     Potential effects of earthquakes including: a. ground shaking caused by
- 22 maximum credible earthquake, b. ground failure due to liquefaction, lurching, settlement and sliding,
- 23 and c. surface rupture.
- 24           10.    Any other factors that might affect slope stability.
- 25           11.    The potential for flooding due to sea surface super elevation (wind and wave
- 26 surge, low barometric pressure and astronomical tide), wave run-up, tsunami and river flows. This
- 27 potential should be related to one hundred and dive hundred year recurrence intervals.
- 28           12.    A description of any hazards to the development caused by possible failure of
- dams, reservoirs, mudflows or slides occurring off the property and caused by forces or activities
- beyond the control of the applicant.
13.    The extent of potential damage that might be incurred by the development
- during all foreseeable normal and unusual conditions, including ground saturation and shaking
- caused by the maximum credible earthquake.
14.    The effect the project could have on the stability of the bluff.
15.    Mitigating measures and alternative solutions for any potential impact.

The report shall also express a professional opinion as to whether the project can be designed or located so that it will neither be subject to nor contribute to significant geologic instability throughout the lifespan of the project. The report shall use a currently acceptable engineering stability analysis method, shall describe the degree of uncertainty of analytical results due to assumptions and unknowns, and at a minimum, shall cover an area from the toe of the bluff inland to a line described on the bluff top by the intersection of a plane inclined at a 20 degree angle from horizontal passing through the toe of the bluff or 50 feet inland from the bluff edge, whichever is greater. The degree of analysis required shall be appropriate to the degree of potential risk presented by the site and the proposed project. If the report does not conclude that the project can be designed and the site be found to be geologically stable, no coastal shoreline development permit shall be issued."

1                   "21.204.120 Waiver Of Public Liability.

2                   As part of the Coastal Development Permit for a coastal shoreline development, the  
3 following requirement shall be completed:

4                   That prior to the transmittal of the Coastal Development Permit, the applicant shall submit to  
5 the Planning Director a deed restriction for recording, free of prior liens except for tax liens, that  
6 binds the applicant and any successors in interest. The form and content of the deed restriction shall  
7 be subject to the review and approval of the Planning Director. The deed restriction shall provide a.  
8 that the applicants understand that the site may be subject to extraordinary hazard from waves during  
9 storms, from erosion, and from landslides, and the applicants assume the liability from those  
10 hazards; b. the applicants unconditionally waive any claim of liability on the part of the California  
11 Coastal Commission or the City of Carlsbad for any damage from such hazards; and c. the applicants  
12 understand that construction in the face of these probable hazards may make them ineligible for  
13 public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of  
14 storms and landslides."

15   SECTION XXIII:     That Title 21, of the Carlsbad Municipal code is amended

16 by the addition of chapter 21.205 to read as follows:

17   Chapter 21.205

18   COASTAL RESOURCE OVERLAY ZONE MELLO I LCP SEGMENT

19 Sections:

- 20                   21.205.010     Intent and Purpose  
21                   21.205.020     Authority - Conflict  
22                   21.205.030     Permits - Required  
23                   21.205.040     Maximum Density of Development  
24                   21.205.050     Mitigation  
25                   21.205.060     Erosion, Sedimentation, Drainage  
26                   21.205.070     Buffer

27                   "21.205.010 Intent And Purpose.

28                   This zone supplements the underlying zone with additional resource protection policies  
required to implement the Land Use Plan pursuant to the California Coastal Act codified in Section  
30000 et seq. of the Public Resources Code (all citations refer to that code). Property located in this  
zone is located in the watershed of Batiquitos Lagoon identified by the California Department of  
Fish and Game as a unique, wetland habitat. Sections 30231, 30240(b) and 30253 require that the  
developments adjacent to such areas be sited and designed to be compatible with the unique habitat.  
In addition, Section 30242 of the Coastal Act require measures to be taken to protect continued  
agricultural uses in the coastal zone. Property located in this zone is also located adjacent to  
agricultural areas. The City finds that the additional requirements of this zone are necessary in order  
to implement the additional requirements of the Coastal Act enumerated above. Only with such  
requirements on private developments in the watershed can the City assure permanent protection of  
natural resources located in its portion of the coastal zone."



1        "21.205.020 Authority - Conflict.

2        This chapter is adopted to implement the California Coastal Act. In the case of any conflict  
3        between this zone and the underlying zone, the provisions of this zone shall apply. Further if there is  
4        any conflict between this zone and any other provision of the City Code, the provisions of this zone  
5        shall apply."

6        "21.205.030 Permits - Required.

7        Developments, including but not limited to, land divisions, as defined in Chapter 21.04.108  
8        require a coastal development permit. Such permits are subject to the requirements of this zone and  
9        the procedural requirements for coastal development permits of Chapter 65 21.201."

10       "21.205.040 Maximum Density Of Development.

11        The maximum density of development shall be 7 units per gross acre. The underlying zone  
12        shall be either Planned Community P-C Chapter 21.38 or RD-M, Residential Density-Multiple zone,  
13        Chapter 21.24, in effect on September 30, 1980. The parking requirements of Uses Generally,  
14        Chapter 21.44, shall also apply. No subsequent amendments of the underlying zones apply in the  
15        coastal zone unless certified by the Coastal Commission."

16        "21.205.050 Mitigation.

17        All recommended mitigation suggested by the certified final EIR shall be incorporated as a  
18        part of the project and shall be required as a condition of approval of the coastal development  
19        permit."

20        "21.205.060 Erosion Sedimentation, Drainage.

21        Subject to the modifications, additions, or exceptions detailed below, as a part of the permit  
22        application, the applicant shall submit an erosion, sedimentation and drainage report prepared by a  
23        qualified professional which includes the requirements of the Model Erosion Control Ordinance  
24        reprinted in the Appendix to the June 1980 Carlsbad Master Drainage Plan, all requirements of the  
25        Master Drainage Plan, and the additional requirements specifically enumerated herein. The June  
26        1980 Master Drainage Plan and its appendices are herein incorporated by this reference. No  
27        subsequent amendments are a part of this zone unless certified by the Coastal Commission. The  
28        general provisions, procedures, standards, content of plans and implementation contained therein are  
29        required conditions of development in addition to the provisions below. Approved development  
30        shall include the following conditions, in addition to the requirements specified above:

31        A. All offsite, downstream improvements (including debris basin and any other  
32        improvements recommended in the Drainage Plan) shall be constructed prior to the issuance of a  
33        grading permit onsite. Improvements shall be inspected by City staff and certified as adequate and in  
34        compliance with the requirements of the Drainage Plan and the additional requirements of this zone.  
35        If the City declines to accept maintenance responsibility for the improvements, the developer shall  
36        maintain the improvements during construction of the onsite improvements.

37        B. If the offsite or onsite improvements are not to be accepted and maintained by a  
38        public agency, detailed maintenance agreements including provisions for financing the maintenance  
39        through bonding or other acceptable means shall be secured prior to issuance of the permit.  
40        Maintenance shall be addressed in the report required to be submitted with the permit application.  
41        The report shall discuss maintenance costs and such costs shall be certified as a best effort at  
42        obtaining accurate figures.

1 C. Construction of offsite drainage improvements may use an assessment district or any  
2 other acceptable manner. Such mechanisms shall be secured by bonding or other acceptable means  
3 prior to issuance of a coastal development permit.

4 D. If a public agency agrees to accept maintenance responsibilities, it shall inspect the  
5 facilities prior to onsite construction or grading and indicate if such facilities assure continued  
6 maintenance. No onsite development may take place prior to acceptance of the drainage  
7 improvements.

8 E. All construction activities shall be planned so that grading will occur in units that can  
9 be easily completed within the summer construction season. All grading operations shall be limited  
10 from April 1 through October 1 of each year. All areas disturbed by grading shall be planted within  
11 60 days of the initial disturbance and prior to October 1 with temporary or permanent (in the case of  
12 finished slopes) erosion control methods. The use of temporary erosion control measures, such as  
13 berms, interceptor ditches, sandbagging, filtered inlets, debris basins and silt traps, shall be utilized  
14 in conjunction with plantings to minimize soil loss from the construction site. Said planting shall be  
15 accomplished under the supervision of a licensed landscape architect, and shall consist of seeding,  
16 mulching, fertilization and irrigation adequate to provide 90% coverage within 90 days. Planting  
17 shall be repeated if the required level of coverage is not established. This requirement shall apply to  
18 all disturbed soils including stockpiles. this requirement shall be a condition of the permit."

19 "21.205.070 Buffer.

20 A sturdy fence capable of attenuating noise and dust impacts, generally to be a concrete block  
21 wall a minimum of 6 feet in height, shall be provided between residential development and  
22 agricultural areas to the north and east. As a partial alternative, utilization of natural topographic  
23 separations such as trees, chaparral, and existing slopes is encouraged, to the extent that such  
24 separations can be incorporated into site planning and would accomplish adequate attenuation of  
25 noise and dust. Permanent maintenance through a homeowners association or other acceptable  
26 means shall be provided as a condition of development."  
27

28 EFFECTIVE DATE: This ordinance shall be effective after the second reading, after  
thirty days after its adoption and after the effective certification by the Coastal Commission. The  
city clerk shall certify the adoption of this ordinance and cause it to be published at least once in a  
newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.  
Notwithstanding the foregoing, this ordinance shall not be effective until approved by the Coastal  
Commission.

1 INTRODUCTION AND FIRST READ at a regular meeting of the Carlsbad City  
2 Council on the 9th day of JULY, 1996, and thereafter

3 PASSED AND ADOPTED at a regular meeting of the City Council of the City of  
4 Carlsbad on the 16th day of JULY, 1996, by the following vote, to wit:

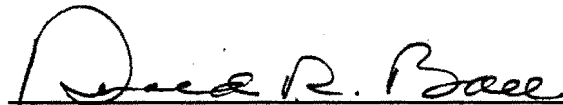
5 AYES: Council Members Lewis, Nygaard, Kulchin, Finnila, Hall

6 NOES: None

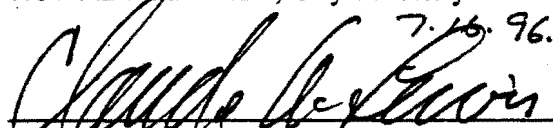
7 ABSENT: None

8 ABSTAIN: None

9  
10  
11 APPROVED AS TO FORM AND LEGALITY

12 

13 RONALD R. BALL, City Attorney

14 

15 CLAUDE A. LEWIS, Mayor

16  
17  
18 ATTEST:

19 

20 ALETHA L. RAUTENKRANZ, City Clerk

21 (SEAL)

RECEIVED

JUL 18 1993

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

ORDINANCE NO. NS-366

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA AMENDING THE AVIARA MASTER PLAN BY THE AMENDMENT OF VARIOUS SECTIONS WHICH ADD SUGGESTED MODIFICATIONS PREVIOUSLY MADE BY THE CALIFORNIA COASTAL, COMMISSION

CASE NAME: CITY OF CARLSBAD LOCAL COASTAL PROGRAM EFFECTIVE CERTIFICATION

CASE NO: MP 177(Q)

The City Council of the City of Carlsbad, California does ordain that the Aviara Master Plan, being Ordinance No. 9839, as amended to date, shall be further amended as follows:

SECTION I: That the "Local Coastal Program" section (p 13) of the Master Plan shall be amended to read as follows:

Local Coastal Program

The Pacific Rim Master Plan as adopted by the Carlsbad City Council and approved and modified by the California Coastal Commission herein and in Coastal Development Permit #6-87-680 is approved as the Implementing Ordinance for the corresponding portion of the East Batiquitos Lagoon/Hunt Properties Land Use Plan.

SECTION II: That the "Grading and Resource Protection" section (p 17) of the Master Plan shall be amended to read as follows:

Grading and Resource Preservation

All development upon the subject property shall comply with the grading and resource preservation policies of the underlying Mello-I, Mello II and Batiquitos Lagoon/HPI Local Coastal Program policies. For all tentative maps and/or site development plans/planned unit development processed for any portion of this Master Plan, site specific slope and biological constraint maps must be submitted for review. These maps shall specify: 1) all 25% or greater slope areas containing Chaparral and Coastal Sage Scrub habitats, and 2) all other 25% or greater slope areas. All new development shall be designed to be consistent with multi-species and multi-habitat goals and requirements as established in the statewide Natural Communities Conservation Planning (NCCP) Program. Both the

CARLSBAD LCPC #3-96  
MP 177(Q)

1 tentative tract maps and the final maps shall demonstrate compliance with  
2 NCCP guidelines. Compliance with the guidelines shall be developed in  
3 consultation with the United States Fish and Wildlife Service and the  
California Department of Fish and Game.

4 The (upland) areas to be retained in their natural state, pursuant to this  
5 policy, as well as all other areas of the site proposed for retention in their  
6 natural state shall be placed in an open space deed restriction as a  
condition of approval for any development pursuant to the Master Plan.

7 SECTION III: That the Planning Area 17, "Landscape" section (p 137) of  
8 the Master Plan shall be amended to read as follows:

9 A fire suppression zone subject to the approval of the Planning Director  
10 and Fire Marshal shall be established between native/naturalized areas  
11 and structures. The fire suppression plan should incorporate a minimum  
12 twenty (20) foot structural setback from native areas in combination with a  
13 program of selective thinning of native vegetation subject to the approval  
of the Planning Director.

14 SECTION IV: That the Planning Area 17, "Open Space" section (p 138)  
15 of the Master Plan shall be amended to read as follows:

16 The manufactured slope areas shall be maintained as open space.  
17 Additional areas along the western boundary of the planning area shall be  
18 maintained as natural open space including eucalyptus groves located at  
19 the northwest and southwest corners of the planning area which may be  
20 thinned. A tree thinning plan shall be submitted to the Planning Director  
21 for approval. The above open space areas shall be maintained by the  
22 community open space maintenance district. A north-east trending open  
23 space wildlife corridor shall be maintained at the north end of this planning  
24 area in conformance with the requirements of the Department of Fish and  
25 Game and the US Fish and Wildlife Service to meet the goals and  
26 requirements of the Natural Communities Conservation Planning (NCCP)  
27 Program. This corridor shall also include a wildlife undercrossing beneath  
28 Ambrosia Lane to connect to Planning Area 18 open space.

SECTION V: That the Planning Area 21, "Landscape" section (p 153) of  
the Master Plan shall be amended to read as follows:

A fire suppression zone subject to the approval of the Planning Director  
and Fire Marshal shall be established between native/naturalized areas

1 and structures. The fire suppression plan should incorporate a minimum  
2 twenty (20) foot structural setback from native areas in combination with a  
3 program of selective thinning of native vegetation subject to the approval  
4 of the Planning Director.

5 SECTION VI: That the Planning Area 21, "Trails" section (p 154) of the  
6 Master Plan shall be amended as follows:

7 Trails

8 A portion of the major community trail which extends southward from  
9 Poinsettia Lane is located within this planning area. The trail segment  
10 runs along the westerly edge of the major eucalyptus grove within the  
11 planning area and the segment within the public utility corridor which  
12 extends southward to the golf course shall be constructed as a condition  
13 of development for this planning area. Revisions to the trail alignment  
14 within this segment may occur in consultation with the Department of Fish  
15 and Game and the US Fish and Wildlife Service, and shall conform to the  
16 western edge of the residential subdivision and extend south to the golf  
17 course.

18 SECTION VII: That the Planning Area 22, "Landscape": section (p 157) of  
19 the Master Plan shall be amended to read as follows:

20 A fire suppression zone subject to the approval of the Planning Director  
21 and Fire Marshal shall be established between native/naturalized areas  
22 and structures. The fire suppression plan should incorporate a minimum  
23 twenty (20) foot structural setback from native areas in combination with a  
24 program of selective thinning of native vegetation subject to the approval  
25 of the Planning Director.

26 SECTION VIII: That the Planning Area 22, "Open Space" section (p 157)  
27 of the Master Plan shall be amended to read as follows:

28 The manufactured slope areas shall be maintained as open space. The large  
undeveloped areas, especially the slopes in the central, east and southeast  
portions of the planning area, shall be maintained as natural open space in  
conformance with the requirements of the Department of Fish and Game and the  
US Fish and Wildlife Service to meet the goals and requirements of the Natural  
Communities Conservation Planning (NCCP) Program. The above noted open  
space areas shall be maintained by the community open space maintenance  
district. A wildlife under crossing shall be constructed beneath the Planning Area  
22 access road at the north end of the open space wildlife corridor.

1  
2 SECTION IX: That the Planning Area 22, "Trails" section (p 138) of the  
3 Master Plan shall be amended as follows:

4 Trails

5 The portion of the major community trail which connects Poinsettia Lane  
6 and Alga Road is located within the planning area and shall be  
7 constructed as a condition of development for this planning area. Revision  
8 to the trail alignment within this segment may occur, in consultation with  
9 the Department of Fish and Game and US Fish and Wildlife Service, to  
10 extend south to a connection with Alga Road and to avoid environmentally  
11 sensitive habitat areas.

12 SECTION X: That the Planning Area 22, "Native Vegetation: section (p  
13 162) of the Master Plan shall be amended to read as follows:

14 A fire suppression zone subject to the approval of the Planning Director  
15 and Fire Marshal shall be established between native/naturalized area  
16 and structures. The fire suppression plan should incorporate a minimum  
17 twenty (20) foot structural setback from native areas in combination with a  
18 program of selective thinning of native vegetation subject to the approval  
19 of the Planning Director.

20 SECTION XII: That the Planning Area 23 : "Trails" section (p 102) of the  
21 Master Plan shall be amended to read as follows:

22 Trails

23 The portion of the major community trail which connects Poinsettia Lane  
24 and Alga Road is located within the planning area and shall be  
25 constructed as a condition of development for this planning area.  
26 Revisions to the trail alignment within this segment may occur, in  
27 consultation with the Department of Fish and Game and US Fish and  
28 Wildlife Service, to extend south to a connection with Alga Road and to  
avoid environmentally sensitive habitat areas.

SECTION XIII: That the Planning Area 32, "Permitted Uses" section (p 5)  
of the Master Plan shall be amended as follows:

1 The following uses are allowed within the Pacific Rim Park (Areas 32 and  
2 32a on Exhibit V-33); natural open space, passive recreational uses,  
3 family-oriented picnic areas, group picnic areas, turfed open space areas  
4 for free play, multi-purpose lighted playfields, tot areas, a structure for  
5 meeting or lectures, tennis courts, swimming pool, onsite parking and  
6 similar uses commonly located in a public park. Church and daycare uses  
7 are allowed with Area 32b subject to approval of a conditional use permit.

8 SECTION XIV; That the Planning Area 32, "Open Space" section (p  
9 193a) of the Master Plan shall be amended to read as follows:

10 Open Space

11 An open space corridors shall be maintained at the north end of this  
12 planning area in conformance with the requirements of the Department of  
13 Fish and Game (DFG) and the US Fish and Wildlife Service (FWS) to  
14 meet the goals and requirements of the Natural Communities  
15 Conservation Planning (NCCP) Program. The corridor shall be  
16 established in consultation with DFG/USFWS.

17 SECTION XV: That the schematic drawings associated with Planning  
18 Areas 17, 22 and 32 (p 136a, 155a and 194) of the Master Plan shall be amended as  
19 follows:

- 20 a. Revise PA 17 schematic to include revised approved tentative map and  
21 open space corridor as shown in concept on Exhibit A attached.
- 22 b. Revise PA 22 schematic to included revised approved tentative map and  
23 open space corridor as shown in concept on Exhibit B attached.
- 24 c. Revise PA 32 schematic to eliminate any propose development pattern.

25 SECTION XVI: That the Planning Area 25, "Landscape" section (p 170) of  
26 the Master Plan shall be amended to read as follows:

27 A fire suppression zone subject to the approval of the Planning Director  
28 and Fire Marshal shall be established between native areas and  
structures. The fire suppression plan should incorporate structural  
setbacks from native areas in combination with a program of selective  
thinning of native vegetation as indicated in the "Fire Suppression  
Landscape Guidelines for Undisturbed and Revegetated Native Plant  
Communities": provided that no portion of Zone 1 as defined in the  
"Guidelines" shall encroach upon deed restricted open space areas  
required as part of the approval of the Master Plan. All elements of the fire



1 suppression plan, including the location of zone boundaries, and selective  
2 thinning programs shall be subject to the approval of the Planning  
3 Director. Any deviation from the "Fire Suppression Guidelines" shall be  
the subject of future local coastal program amendments.

4 SECTION XVII: That the Planning Area 26, "Landscape" section (p 174)  
5 of the Master Plan shall be amended to read as follows:

6 A fire suppression zone subject to the approval of the Planning Director  
7 and Fire Marshal shall be established between native areas and  
8 structures. The fire suppression plan should incorporate structural  
9 setbacks from native areas in combination with a program of selective  
10 thinning of native vegetation as indicated in the "Fire Suppression  
11 Landscape Guidelines for Undisturbed and Revegetated Native Plant  
12 Communities" provided that no portion of Zone 1 as defined in the  
13 "Guidelines" shall encroach upon deed restricted open space areas  
14 required as part of the approval of the Master Plan. All elements of the fire  
suppression plan, including the location of zone boundaries, and selective  
thinning programs shall be subject to the approval of the Planning  
Director. Any deviation from the "Fire Suppression Guidelines" shall be  
the subject of future local coastal program amendments.

15 SECTION XVII: That the Planning Area 27, "Landscape" section (p 177)  
16 of the Master Plan shall be amended to read as follows:

17 A fire suppression zone subject to the approval of the Planning Director  
18 and Fire Marshal shall be established between native areas and  
19 structures. The fire suppression plan should incorporate structural  
20 setbacks from native areas in combination with a program of selective  
21 thinning of native vegetation as indicated in the "Fire Suppression  
22 Landscape Guidelines for Undisturbed and Revegetated Native Plant  
23 Communities": provided that no portion of Zone 1 as defined in the  
24 "Guidelines" shall encroach upon deed restricted open space areas  
25 required as part of the approval of the Master Plan. All elements of the fire  
suppression plan, including the location of zone boundaries, and selective  
thinning programs shall be subject to the approval of the Planning  
Director. Any deviation from the "Fire Suppression Guidelines" shall be  
the subject of future local coastal program amendments.

26 SECTION XVIII: That the Planning Area 27, "Landscape" section (p 177)  
27 of the Master Plan shall be amended to read as follows:  
28

1 A fire suppression zone subject to the approval of the Planning Director  
2 and Fire Marshal shall be established between native areas and  
3 structures. The fire suppression plan should incorporate structural setback  
4 from native areas in combination with a program of selective thinning of  
5 native vegetation as indicated in the "Fire Suppression Landscape  
6 Guidelines for Undisturbed and Revegetated Native Plant Communities":  
7 provided that no portion of Zone 1 as defined in the "Guidelines" shall  
8 encroach upon deed restricted open space areas required as part of the  
9 approval of the Master Plan. All elements of the fire suppression plan shall  
10 be subject to the approval of the Planning Director. Any deviation from the  
11 "Fire Suppression Guidelines" shall be the subject of future local coastal  
12 program amendments.

13 SECTION XIX: That the Planning Area 28, "Landscape" section (p 181)  
14 of the Master Plan shall be amended to read as follows:

15 A fire suppression zone subject to the approval of the Planning Director  
16 and Fire Marshal shall be established between native areas and  
17 structures. The fire suppression plan should incorporate structural  
18 setbacks from native areas in combination with a program of selective  
19 thinning of native vegetation as indicated in the "Fire Suppression  
20 Landscape Guidelines for Undisturbed and Revegetated Native Plant  
21 Communities": provided that no portion of Zone 1 as defined in the  
22 "Guidelines" shall encroach upon deed restricted open space areas  
23 required as part of the approval of the Master Plan. All elements of the fire  
24 suppression plan shall be subject to the approval of the Planning Director.  
25 Any deviation from the "Fire Suppression Guidelines" shall be the subject  
26 of future local coastal program amendments.

27 SECTION XX: that the Planning Area 30, "Landscape" section (p 189) of  
28 the Master Plan shall be amended to read as follows:

A fire suppression zone subject to the approval of the Planning Director  
and Fire Marshal shall be established between native areas and  
structures. The fire suppression plan should incorporate structural  
setbacks from native areas in combination with a program of selective  
thinning of native vegetation as indicated in the "Fire Suppression  
Landscape Guidelines for Undisturbed and Revegetated Native Plant  
Communities": provided that no portion of Zone 1 as defined in the  
"Guidelines" shall encroach upon deed restricted open space areas  
required as part of the approval of the Master Plan. All elements of the fire  
suppression plan shall be subject to the approval of the Planning Director.  
Any deviation from the "Fire Suppression Guidelines" shall be the subject

1 of future local coastal program amendments.

2 SECTION XXI: That the Planning Area 24, "Landscape" section (p 165)  
3 of the Master Plan shall be amended to read as follows:

4 A fire suppression zone subject to the approval of the Planning Director  
5 and Fire Marshal shall be established between native areas and  
6 structures. The fire suppression plan should incorporate structural  
7 setbacks from native areas in combination with a program of selective  
8 thinning of native vegetation as indicated in the "Fire Suppression  
9 Landscape Guidelines for Undisturbed and Revegetated Native Plant  
10 Communities": provided that no portion of Zone 1 as defined in the  
11 "Guidelines" shall encroach upon deed restricted open space areas  
12 required as part of the approval of the Master Plan. All elements of the fire  
13 suppression plan shall be subject to the approval of the Planning Director.  
14 Any deviation from the "Fire Suppression Guidelines" shall be the subject  
15 of future local coastal program amendments.

16 EFFECTIVE DATE: This ordinance shall be effective thirty days after its  
17 adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it  
18 to be published at least once in a newspaper of general circulation in the City of  
19 Carlsbad within fifteen days after its adoption.

20 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad  
21 City Council on the 9th day of JULY, 1996, and thereafter

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PASSED AND ADOPTED at a regular meeting of the City Council of the  
City of Carlsbad on the 16th day of JULY, 1996, by the following vote, to wit:

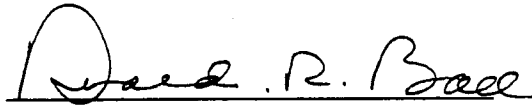
AYES: Council Members Lewis, Nygaard, Kulchin, Finnila, Hall

NOES: None

ABSENT: None

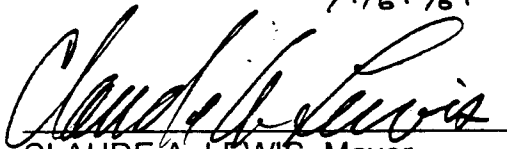
ABSTAIN: None

APPROVED AS TO FORM AND LEGALITY



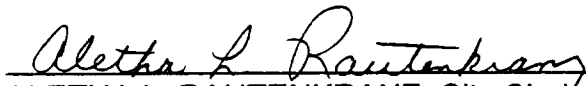
RONALD R. BALL, City Attorney

7.16.96.



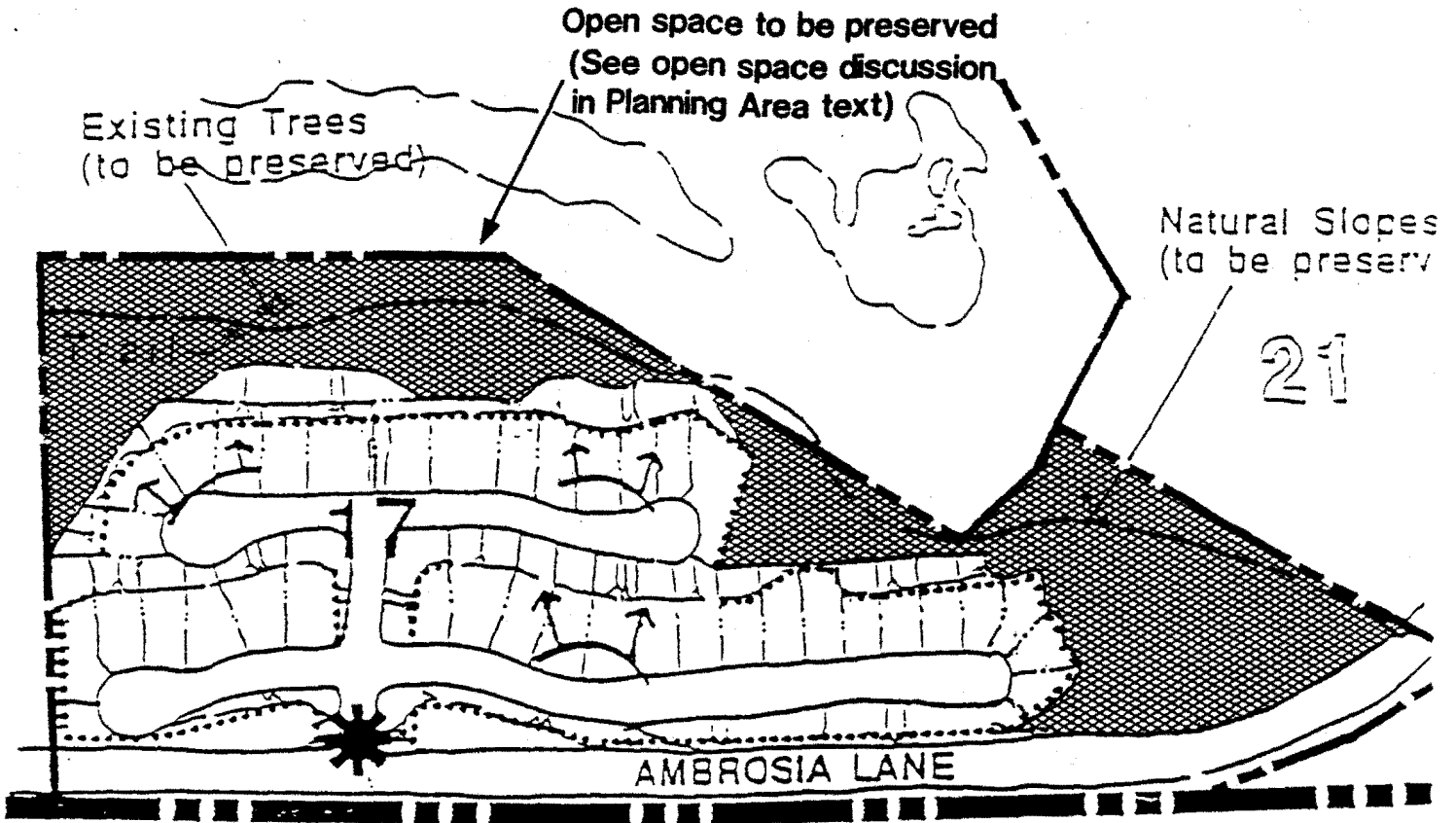
CLAUDE A. LEWIS, Mayor

ATTEST:



ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)



Legend



Entry Treatment



Wall/Fencing



Trail



Scenic Point



View Orientation

Key Map



62

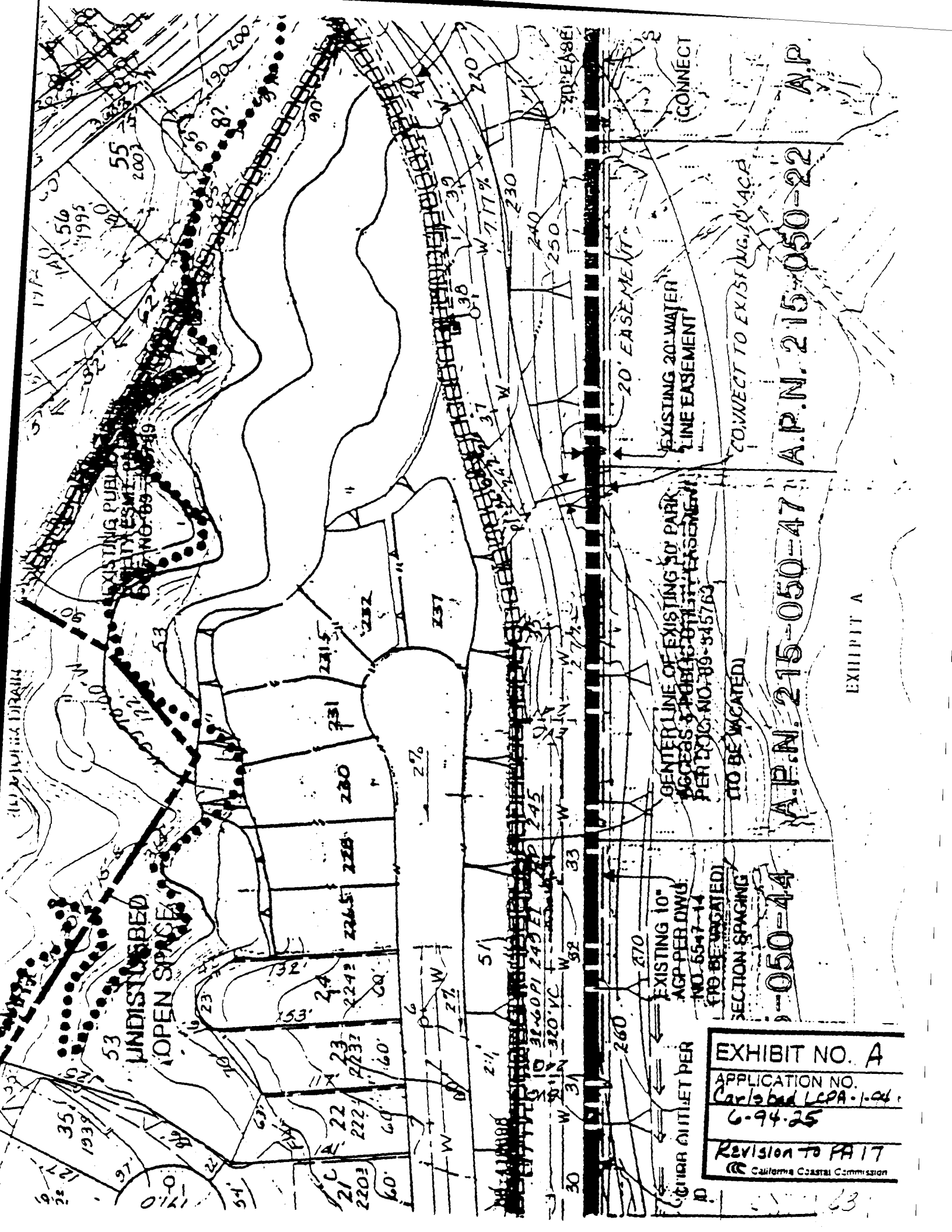


EXHIBIT NO. A  
 APPLICATION NO.  
 Carlsbad LCRA-1-04-  
 6-94-25  
 Revision to PA 17  
 California Coastal Commission

TO BE LOCATED  
 SECTION SPACING  
 NO. 65-47-14  
 TO BE LOCATED

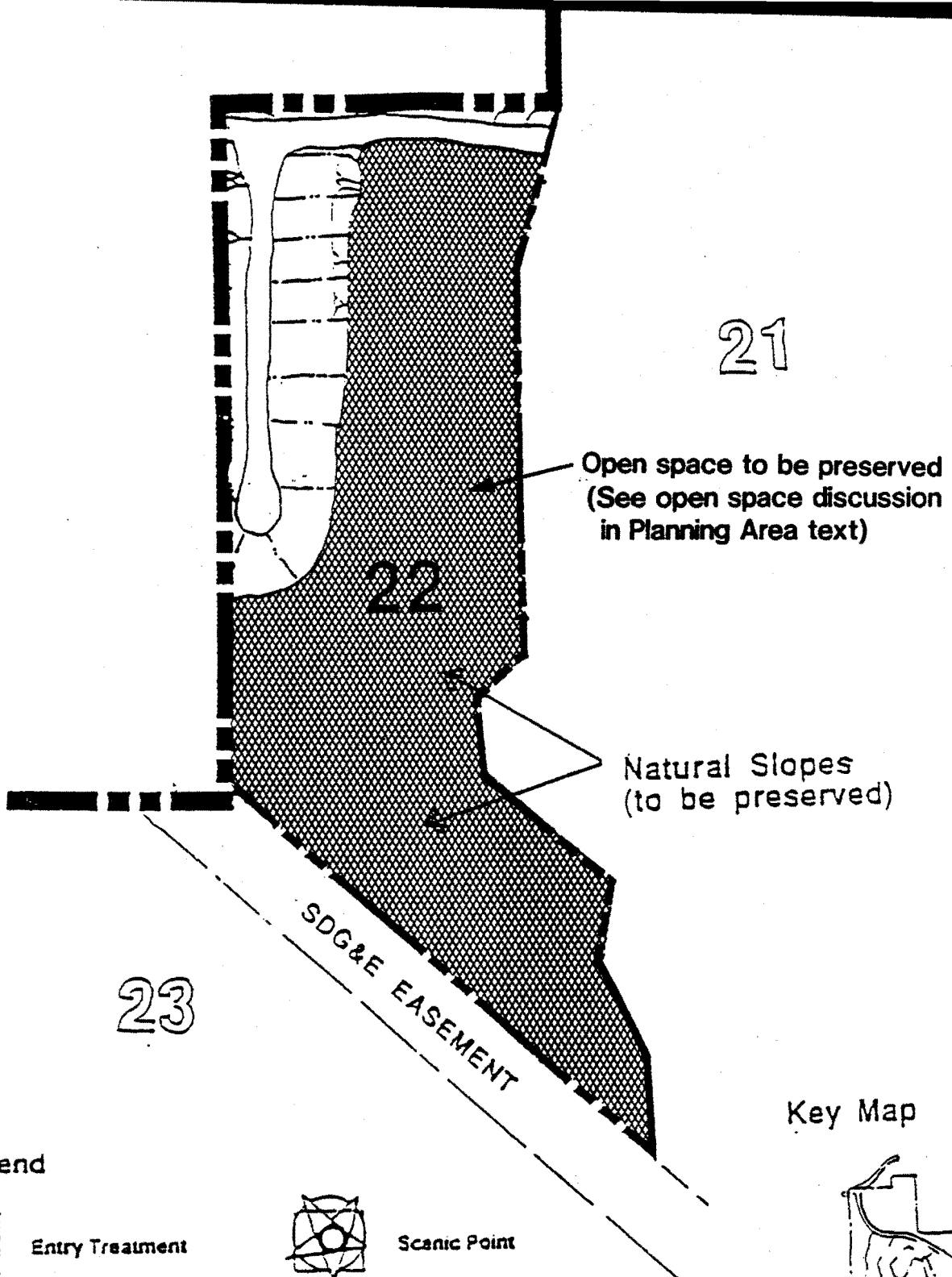
CENTER LINE OF EXISTING 50' PARK  
 ACCESS EASEMENT PER  
 PER DOC. NO. 89-345763  
 TO BE LOCATED

EXISTING 20' WATER  
 LINE EASEMENT  
 CONNECT TO EXISTING UG. W. L. ACP

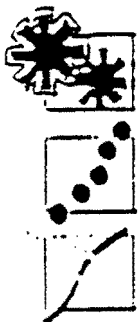
A.P.N. 215-050-47  
 A.P.N. 215-050-22

EXHIBIT A

A.P.



Legend



Entry Treatment

Wall/Fencing

Trail



Scenic Point

View Orientation

Key Map



44

ALABAMA MASTER PLAN BOUNDARY

1956

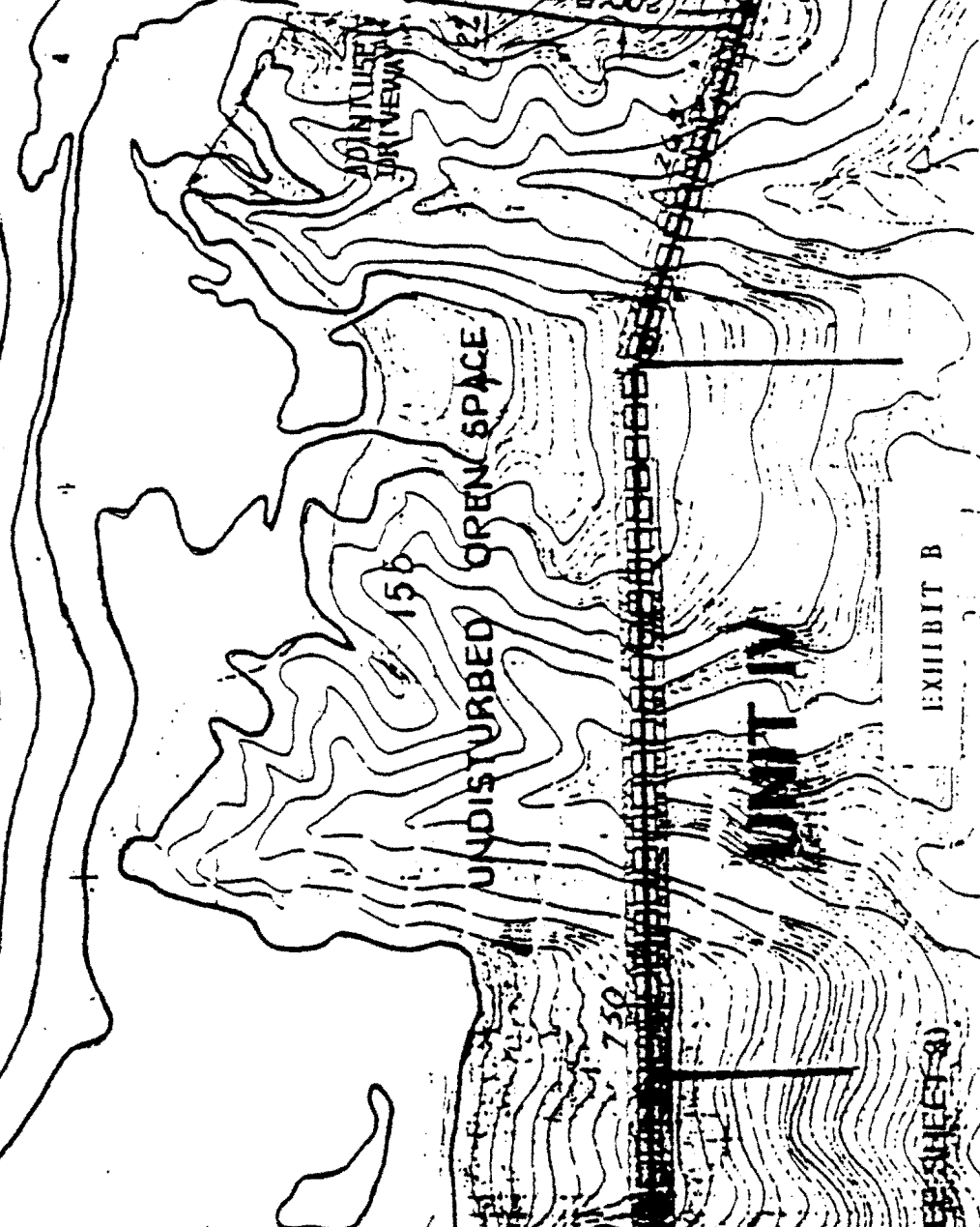
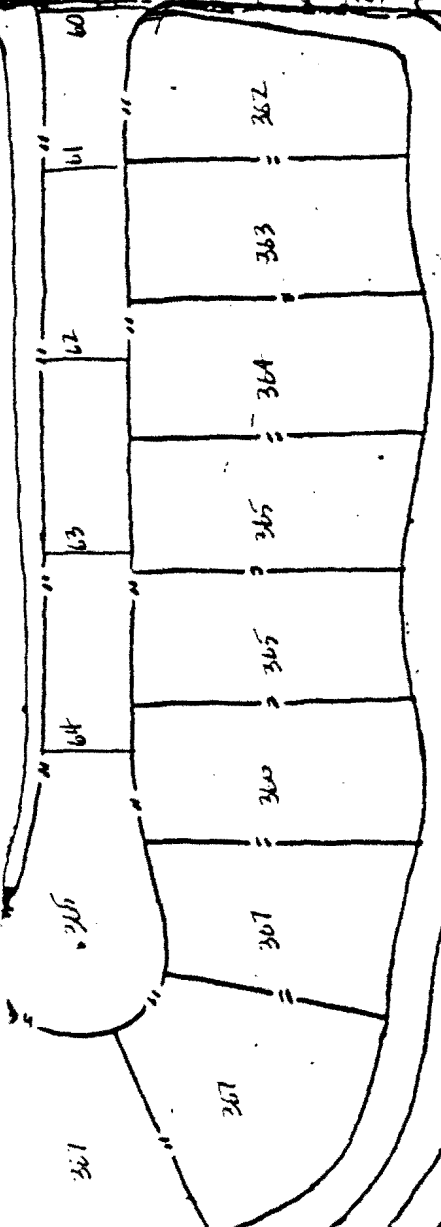


EXHIBIT B

EXHIBIT B

EXHIBIT NO. B  
 APPLICATION NO.  
 Carlsbad LCPA 1-94 &  
 6-94-25  
 Revision to PA 22  
 California Coastal Commission



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ORDINANCE NO. NS-367

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING THE POINSETTIA SHORES MASTER PLAN BY THE AMENDMENT OF VARIOUS SECTIONS WHICH ADD SUGGESTED MODIFICATIONS PREVIOUSLY MADE BY THE CALIFORNIA COASTAL COMMISSION

CASE NAME: CITY OF CARLSBAD LOCAL COASTAL PROGRAM EFFECTIVE CERTIFICATION

CASE NO.: MP 175(G)

The City Council of the City of Carlsbad, California, does ordain that the Poinsettia Shores Master Plan (being Ordinance No. NS266 as amended to date) shall be further amended as follows:

SECTION I: That the "Purpose" section (p 1) of the Master Plan shall be amended as follows:

Adoption of the Poinsettia Shores Master Plan by the Carlsbad City Council, pursuant to Chapter 21.38 of the Carlsbad Municipal Code and approved by the California Coastal Commission, will establish the zoning and development standards applicable to the project as a whole with consideration to individual planning areas, defining the permissible type and intensity of development.

SECTION II: That the "Circulation and Roadway Alignment" section (p 9) of the Master Plan shall be amended to read as follows:

As shown on Exhibit 3, page 12, Avenida Encinas and Windrose Circle will be public streets. All other streets within the master plan boundary will be private and gated with the exception of internal streets associated with Planning Areas A-3, A-4 and J.

SECTION III: That the Land Use General Plan section (p 14) of the Master Plan shall be amended to read as follows:

A future major Master Plan Amendment and LCP Amendment will be required prior to further development approvals for Planning Area F.

CARLSBAD LCPA #3-96  
MP 175 (G)

1 SECTION IV: That the Land Use - Non Residential Reserve section (p 18) of  
2 the Master Plan shall be amended to read as follows:

3 A future major Master Plan Amendment and LCP Amendment will be required  
4 prior to further development approvals for Planning Area F.

5 SECTION V: That the Planning Area F - Land Use Allocation section (p 105)  
6 of the Master Plan shall be amended to read as follows:

7 A future major Master Plan Amendment and LCP Amendment will be required  
8 prior to further development approvals for Planning Area F.

9 SECTION IV: That Exhibit 10, the Open Space Plan of the Master Plan shall be  
10 amended to illustrate that the setbacks and open space shown on Planning Areas G and H shall  
11 be identified as "Public Open Space".

12 SECTION VII: That the "Open Space and Resource Preservation Perimeter  
13 Pedestrian Trail" section of the Master Plan (p 25) shall be amended to read as follows:  
14

15 Perimeter Pedestrian Trail

16 A pedestrian trail will be constructed around the southern perimeter of a portion  
17 of the project east of the railroad tracks. This trail will be open to the public as  
18 well as the residents of the Poinsettia Shores Master Plan. Sitting areas and  
19 viewpoints will be located to take advantage of back country, lagoon and ocean  
views. The location and design of these facilities are shown by exhibits 11  
through 16 on pages 27 through 32. Access to this trail will be available from  
Windrose Circle near Planning Area A-4 with public parking provided.

20 This trail shall be constructed to provide good drainage. A cross slope shall be  
21 maintained with a minimum two percent (2%) grade with berms and ditches  
22 utilized to prevent washouts of cuts and fills. Cut and fill slopes created by the  
construction of the trail system will not exceed 2:1. Trail entrance signs will be  
posted at trail entrances and street crossings.

23 A Trail Construction Plan shall be provided for all planning areas containing  
24 public trails. The public trails alignment shall be as shown on the attached  
25 exhibit. The plan shall indicate that all trail alignments will be atop of the lagoon  
26 or railroad slopes and shall be constructed in the least environmentally-damaging  
27 manner. The public trail shall be a minimum width of ten feet measured inland  
28 from the top of the bluff edge or railroad embankment. The trail improvements  
shall include a minimum 5 foot wide improved accessway, fencing, trash

1 receptacles and interpretive signage. In addition to the existing trailhead at  
2 Windrose Circle, two additional trailheads shall be provided: one at the southwest  
3 corner of Planning Area A-4 adjacent to the railroad right-of-way and one at the  
4 northwest corner of Planning Area A-3, adjacent to Avenida Encinas. These  
5 trailheads shall include appropriate directional signage and identification. The  
6 plan shall include construction specifications, maintenance standards, and specify  
7 what party(ies) shall assume maintenance and liability responsibilities.

8 SECTION VIII: That the "Affordable Housing" - Poinsettia Shores Compliance  
9 section (p 41) of the Master Plan shall be amended as follows:

10 In conjunction with the Density Bonus, additional incentives are also required to  
11 be granted to the density bonus applicant. For the Poinsettia Shores Master Plan,  
12 one additional incentive will be design modifications within any of the Planning  
13 Areas to the Planned Development Ordinance standards and/or other City  
14 policies. The modification shall be either as set forth in this Master Plan or  
15 approved subsequently by the Planning Director, City Engineer, and approved by  
16 the California Coastal Commission.

17 SECTION IX: That the "Master Plan Theme Elements" section of the Master  
18 Plan (p 54) shall be amended as follows:

19 The entries into Planning Areas A-1, A-2, B-1, B-2, and C will be manned or  
20 electronically guarded gates. This is intended to limit the access into the private  
21 portions of the Master Plan development area.

22 SECTION X: That the "Planning Area A-3" --Other Special Conditions section  
23 (p 82) of the Master Plan shall be amended as follows:

24 Prior to the issuance of building permits for any home within this planning area,  
25 construction of that portion of the public trail which is within this Planning Area  
26 shall be completed.

27 SECTION XI: That the "Planning Area A-4" --Design Criteria section of the  
28 Master Plan (p 84) shall be amended as follows:

In order to address potential visual impacts to the lagoon, specific architectural  
standards or designs must be proposed concurrent with the review of a planned  
development permit/or tentative map for this planning area. These development  
standards shall address reduction of potential visual impacts through methods  
which may include but are not limited to: use of single-story elements in  
architecture, percentage of single-story or single-story elements adjacent to the

1 lagoon or bluff-top setback area, height limitations adjacent to the lagoon or bluff-  
2 top setback area, and design considerations such as architectural offsets and varied  
3 roof pitches. Building coloration will be subordinate to the adjacent lagoon  
4 hillside and building materials will be compatible with the adjacent lagoon  
5 environment.

6 SECTION XII: That the "Planning Area A-4" --Other Special Conditions section  
7 (p 85) of the Master Plan shall be amended as follows:

8 Prior to the issuance of building permits for any home within this planning area,  
9 construction of that portion of the public trail which is within this Planning Area  
10 shall be completed.

11 SECTION XIII: That the "Planning Area G" --Other Special Conditions section  
12 (p 111) of the Master Plan shall be amended as follows:

13 The development of this planning area shall include a public access trail which will  
14 be designed to link with the Master Plan's trail system. Trail improvements must  
15 be installed prior to the issuance of any building permits for this planning area.

16 SECTION XIV: That the "Planning Area H" --Other Special Conditions section  
17 (p 115) of the Master Plan shall be amended as follows:

18 The development of this planning area shall include a public access trail which will  
19 be designed to link with the Master Plan's trail system. Trail improvements must  
20 be installed and dedication of the trail shall be accepted by the City of Carlsbad if  
21 the City agrees and it adopts a Citywide Trails Program that includes provisions  
22 for liability and maintenance. Otherwise prior to the issuance of any building  
23 permits the obligation for acceptance, construction, maintenance, and liability shall  
24 be the responsibility of another agency designated by the City or the responsibility  
25 of the Homeowner's Association. Upon acceptance of the dedication, including  
26 maintenance and liability responsibilities, and completion of the trail  
27 improvements, the trail shall be open for public use.

28 SECTION XV: That the "Planning Area L" --Design Criteria section (p 122) of  
the Master Plan shall be amended as follows:

Design Criteria:

All development in this Area shall be consistent with Batiquitos Lagoon  
Enhancement Plan.

1 EFFECTIVE DATE: This ordinance shall be effective thirty days after its  
2 adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it to  
3 be published at least once in a newspaper of general circulation within fifteen days after  
4 its adoption.

5 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City  
6 Council held on the 9th day of JULY 1996, and thereafter.


7 PASSED AND ADOPTED at a regular meeting of said City Council held on the       
8 16th day of JULY, 1996, by the following vote, to wit:

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

10 NOES: None

11 ABSENT: None

12 ABSTAIN: None

13  
14  
15 *Approved as to form:*  
16 *Boad R. Ball.*  
17 *7.16.96.*  
18   
19 CLAUDE A. LEWIS, Mayor

20 ATTEST:

21  
22   
23 ALETHA L. RAUTENKRANZ, City Clerk

24 (SEAL)