

CALIFORNIA COASTAL COMMISSION

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September 23, 1997

Jh 20a

TO: Commissioners and Interested Persons

FROM: Charles Damm, South Coast Deputy Director
Teresa Henry, South Coast District Manager
Steve Rynas, Orange County Area Supervisor

SUBJECT: Court remanded Bolsa Chica Local Coastal Program (LCP), Land Use Plan Amendment No. 1-95/ Implementing Actions Program (For Public Hearing and Possible Adoption at Coastal Commission Hearing of October 7-10, 1997)

EXECUTIVE SUMMARY**BACKGROUND**

There is a long history to the planning efforts for the Bolsa Chica. The background and history of the Bolsa Chica is described in detail on pages 15-32 of the document titled "Revised Findings on Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program" dated June 17, 1996 (hereinafter referred to as "Revised Findings"). Included as Attachment C is a copy of the Revised Findings. The Commission adopted the Revised Findings at the June, 1996 Commission meeting. The Revised Findings supported the reasoning behind the Commission's decision to approve with suggested modifications, the submittal by the County of Orange constituting the Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program. Figure 2 on page 7 shows the Land Use Map as previously approved by the Commission in January 1996.

There is no argument that the Bolsa Chica includes one of the most important wetlands in southern California. Figure 1 on page 6 shows the location of the Bolsa Chica LCP area. The Bolsa Chica Local Coastal Program (LCP) includes 1,588 acres, of which approximately 1300 acres compromise what is referred to as the "Lowlands". The Lowlands are found between two mesas, the Bolsa Chica Mesa with about 232 acres and the Huntington Mesa with about 57 acres. In the LCP the Bolsa Chica Mesa is designated for residential development; the Huntington Mesa as a regional park. The Lowlands were designated for wetland restoration; however, approximately 190 acres were designated for development with up to

900 residential units. Again this is shown on Figure 2 on page 7. The Lowlands, while used by tens of thousands of birds each year and six endangered or threatened bird species according to the United States Fish and Wildlife Service, has also been found to be degraded from an overall perspective due to activity associated with oil production, construction of roads and flood control. Planning efforts over the years have centered on how to protect and restore the maximum amount of wetlands. In more recent years, efforts have also been made to preserve the Bolsa Chica Mesa. Figure 3 on page 8 depicts the Bolsa Chica LCP area with the proposed land use designations under consideration at this Commission meeting.

COURT ORDERED REMAND OF THE BOLSA CHICA LCP

The Commission's decision on January 11, 1996, to approve with suggested modifications the County of Orange Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program was legally challenged. In reviewing this case, the court found that much of the Commission's decision was supported by the evidence. For instance, the Court found that the Commission did appropriately address issues related to wetland buffers/development setbacks, raptor habitat, and cultural resources. However, there were two critical deficiencies in the Court's view. The court found that the evidence in the record did not support the Commission's conclusion that the proposed residential land use designation in the Lowland was a permissible use pursuant to Sections 30233 and 30411 of the Coastal Act. It also found that Warner Pond, an approximately 1.7 acre wetland on the Bolsa Chica Mesa, was an environmentally sensitive habitat area (ESHA) and that the Commission failed to explain how such ESHA could be filled consistent with Section 30240 of the Coastal Act. The Court consequently has remanded the Bolsa Chica LCP back to the Commission in order for these two issues to be reevaluated. The Court's decision is included as Attachment D.

CHANGED CIRCUMSTANCES TO THE BOLSA CHICA LCP

When the Commission acted on the Bolsa Chica LCP on January 11, 1996, with the exception of the 300 acre Ecological Reserve, the rest of the Lowlands were in private ownership. The major landowner of the Bolsa Chica Mesa and the Lowlands was Koll Real Estate Group. At that time, the County of Orange proposed to designate approximately 190 acres in the Lowlands for development, primarily residential development with up to 900 units. The Bolsa Chica Mesa was designated for development with up to 2,400 units, and included elimination of Warner Pond.

Subsequently, with the exception of the 42 acre Fieldstone property and the Edwards Thumb Parcel, all of the Lowlands has been acquired and is in State

ownership (State Lands). Funding for restoration is being provided by the Ports of Los Angeles and Long Beach. In meetings with staff, the County of Orange and Koll Real Estate Group have indicated a willingness to reduce the density on the Bolsa Chica Mesa so that not more than 1,235 units will be built. Warner Pond will not be filled, and a buffer around Warner Pond will be provided. With the exception of the Fieldstone property, all of the Lowlands will be designated for conservation; the residential designation allowing for up to 900 units in the Lowlands is eliminated. Figure 3 on page 8 shows the new Land Use Map as now requested by the County of Orange based on these changes.

DEFERRAL OF THE LCP CERTIFICATION FOR FIELDSTONE PROPERTY

Because the Bolsa Chica LCP raises critical issues with regards to preserving wetland resources, and because the Court found that a residential designation on wetlands was not consistent with Coastal Act Sections 30233 and 30411, the County of Orange and Koll Real Estate Group (KREG) have worked with staff to develop changes to the LCP which are responsive to the Court's action by designating all of the wetlands for Conservation and by locating all residential development on the Bolsa Chica Mesa.

However, there is a separate 42 acre ownership in the Lowlands commonly known as the Fieldstone property. This property is shown on Figure 4 on page 21. Unlike KREG, the Fieldstone property in the Bolsa Chica Lowlands, while containing scattered wetlands on it, has not been bought by a public agency. Fieldstone does not own any property on the Bolsa Chica Mesa, so development rights can not be shifted. The County and KREG have agreed to substantially reduce their density on the Mesa, so there is no incentive to work out a density bonus program to encourage development rights to be transferred from the Fieldstone property to the KREG property on the Mesa. Options exist for the Fieldstone property such as: clustering development on the site to avoid adverse impacts to wetlands, or if wetland fill is unavoidable the minimum development necessary to provide reasonable economic use, to transferring development rights to some other site which is not as environmentally constrained, using the site to develop a wetlands mitigation bank, or possibly selling the site for wetlands restoration. It is premature at this time to plan use of the Fieldstone property because the Commission does not have the necessary information to determine which options are feasible alternatives. Therefore, staff is recommending that LCP certification of the Fieldstone property be deferred so that the property owner may provide the necessary information through an LCP amendment or a coastal development permit application in order for the Commission to determine the least environmentally damaging feasible alternative which addresses and resolves the issues identified by the Court.

The result is that the Bolsa Chica LCP would not include the 42 acre Fieldstone property. The Fieldstone property would remain subject to the Commission's permit jurisdiction.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission deny the proposed Land Use Plan Amendment and Implementing Actions Program for Bolsa Chica, as submitted, and approve the proposed Land Use Plan Amendment and Implementing Actions Program with deferral of the Fieldstone property and as revised by the suggested modifications. The motions to accomplish this begin on page 13.

NOTE TO READER

To assist the reader, the major new suggested modifications and those suggested modifications of the Commission's 1996 action that are significantly revised are set forth in Section III of this staff report. By reading the major new and significantly revised suggested modifications, starting on page 15 of this report, the reader can comprehend relatively quickly the major changes as compared to the action the Commission took at the January 11, 1996 Commission meeting.

However, it should be kept in mind that the Commission and the County of Orange reached agreement on all suggested modifications included in the adopted Revised Findings dated June 17, 1996. Because of changed circumstances described in this report, numerous minor changes needed to be made to the suggested modifications contained in the June 1996 Revised Findings. These changes are shown by either bold italics or strike out in Attachments A & B.

Attachment A contains the suggested modifications to the Land Use Plan of the previously adopted Revised Findings that are being revised by this action.

Attachment B contains those suggested modifications to the Implementation Actions Program of the adopted Revised Findings that are being revised by this action. All the suggested modifications to the adopted Revised Findings that are not revised in this report or eliminated as described in this staff report, including the attachments are incorporated by reference.

ADDITIONAL INFORMATION

For further information, please contact Stephen Rynas at the South Coast District Office of the Coastal Commission at: 562-590-5071. Copies of the proposed amended Land Use Plan and Implementation Program are available for review at the Long Beach Office of the Coastal Commission or at the Orange County Planning

and Development Services Department. The Orange County Planning and Development Services Department is located at 300 North Flower Street, Santa Ana, CA 92702-4048. Ron Tippetts is the contact person for the Orange County Planning and Development Services Department, and he may be reached by calling **714-834-5394**.

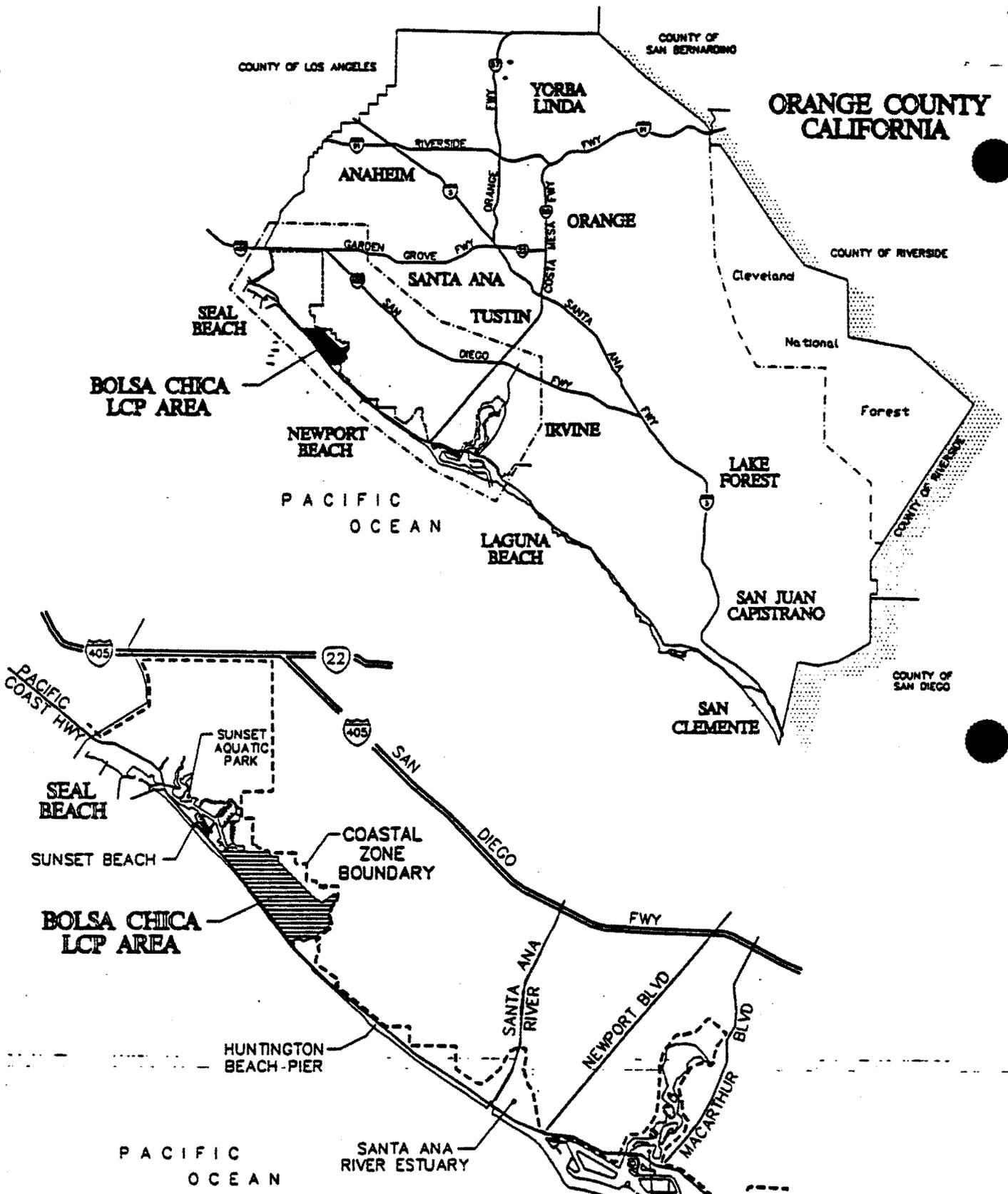


Figure 1
Bolsa Chica LCP
LOCATION MAP
 California Coastal Commission

BOLSA CHICA

LAND USE PLAN

NOT TO SCALE

LEGEND

LAND USE DISTRICT :

-  CONSERVATION
-  RECREATION
-  PUBLIC FACILITY
-  LOW DENSITY RESIDENTIAL (3.5-6.5 DU/ACRB)
-  MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRB)
-  MEDIUM-HIGH DENSITY RESIDENTIAL (12.5-18 DU/ACRB)
-  NEIGHBORHOOD COMMERCIAL
-  PLANNING AREA
-  COUNTY LCP AREA BOUNDARY

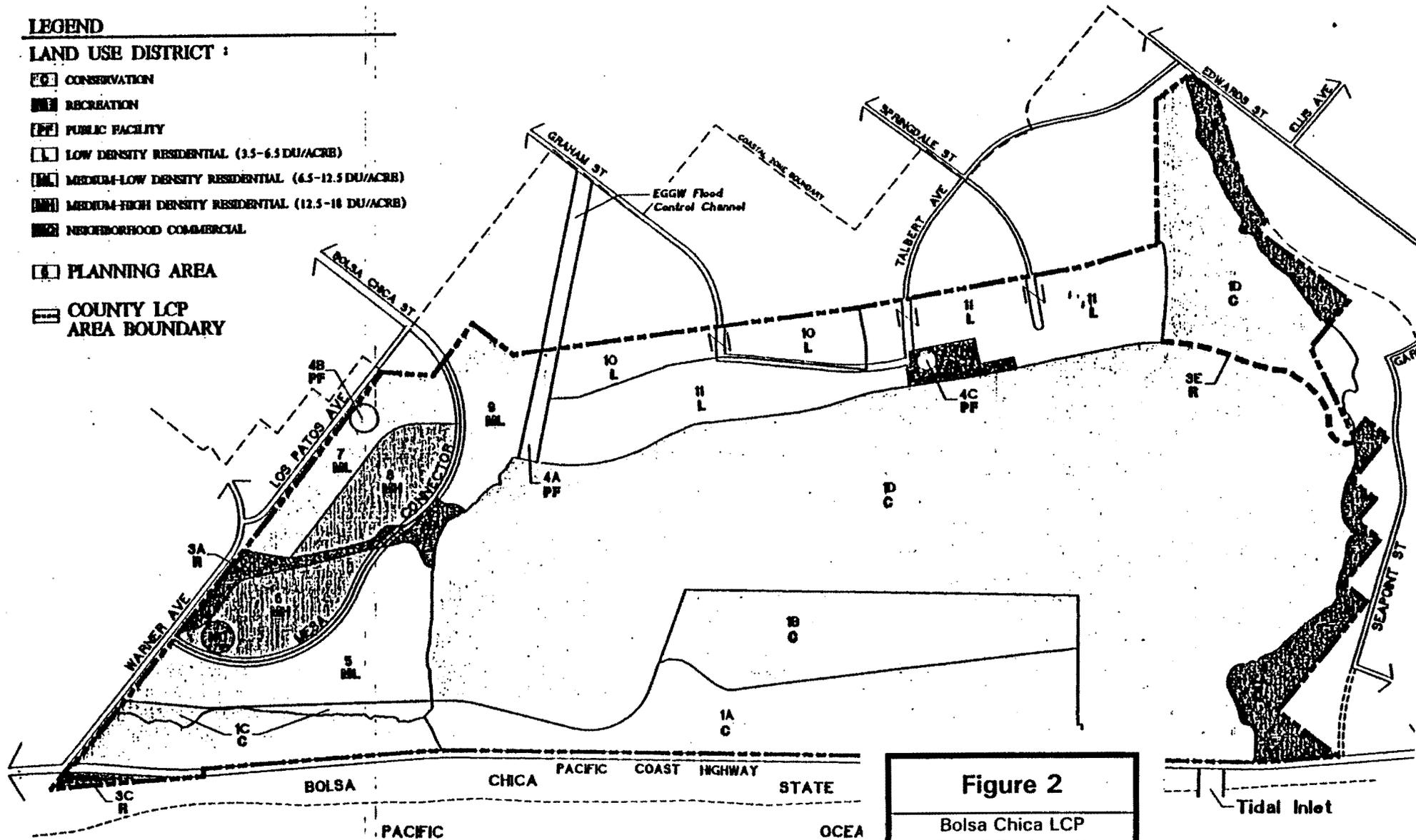
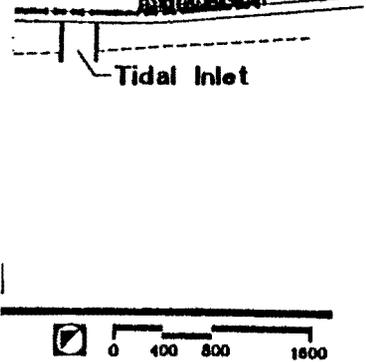


Figure 2
 Bolsa Chica LCP
 PRIOR 1996
 COMMISSION
 CERTIFIED
 LAND USE PLAN
 California Coastal
 Commission

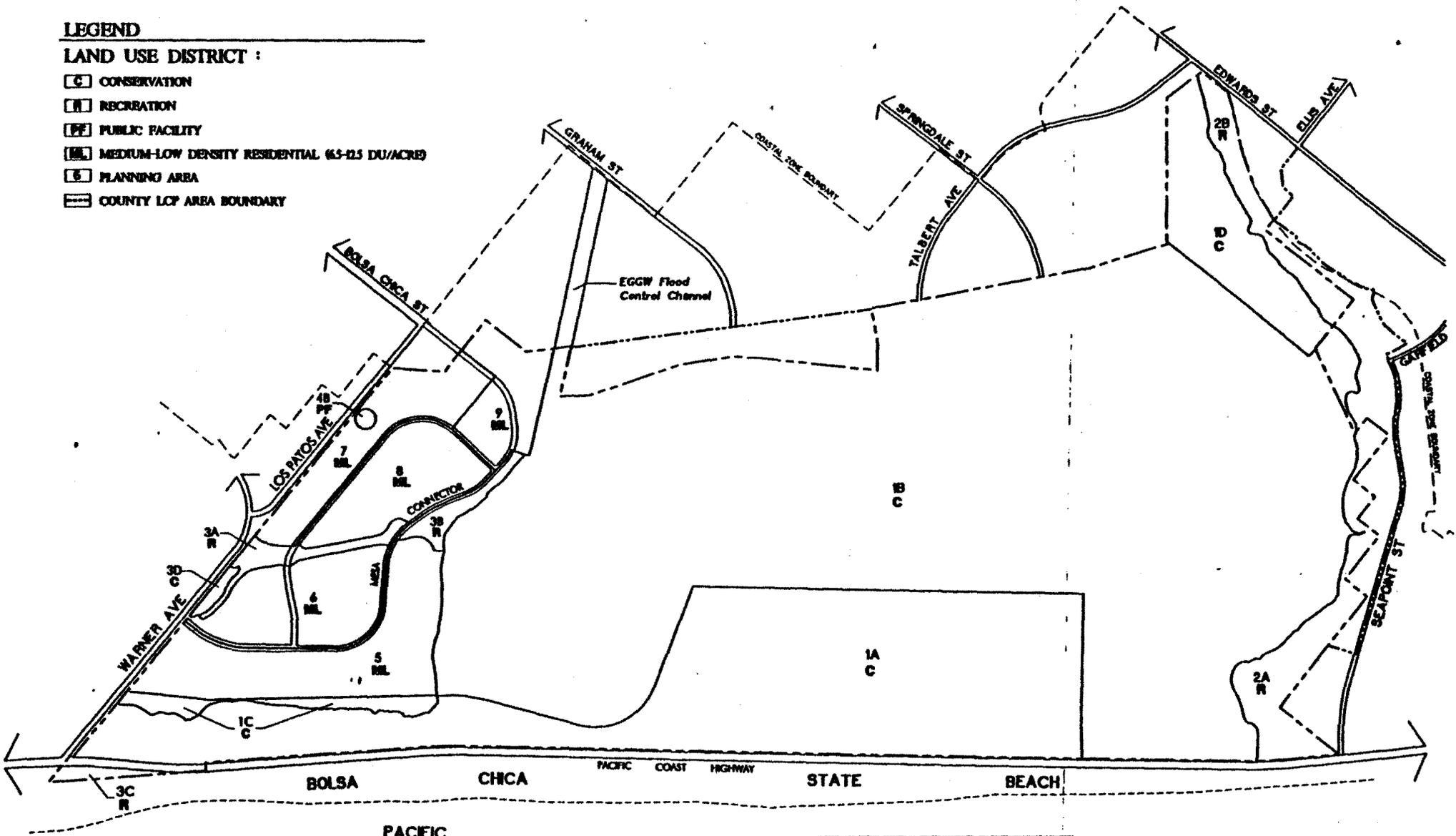


BOLSA CHICA
LAND USE PLAN

LEGEND

LAND USE DISTRICT :

- C CONSERVATION
- R RECREATION
- PF PUBLIC FACILITY
- ML MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRES)
- P PLANNING AREA
- COUNTY LCP AREA BOUNDARY



**BOLSA CHICA
PLANNED COMMUNITY PROGRAM**

Figure 3
Bolsa Chica LCP
**NEW 1997
LAND USE PLAN**
California Coastal
Commission

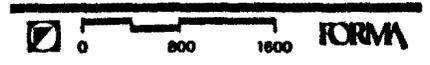


TABLE OF CONTENTS

I. INTRODUCTION	11
A. Changes to the LCP	11
B. Standard of Review	11
C. Procedural Requirements	11
D. Conforming LCP Documents with Commission's Action	12
E. Organization of this Report	12
F. Final Revised Findings Document	13
II. COMMISSION RESOLUTIONS ON BOLSA CHICA	13
A. RESOLUTION #1 (Resolution to deny certification of the County of Orange's Bolsa Chica Land Use Plan Amendment 1-95 for the Bolsa Chica, as submitted)	13
B. RESOLUTION #2 (Resolution to approve certification of the County of Orange's Land Use Plan Amendment 1-95 Bolsa Chica except for the Fieldstone property, if modified)	14
C. RESOLUTION #3 (Resolution to deny certification of the County of Orange's Implementation Plan for the Bolsa Chica, as submitted)	14
D. RESOLUTION #4 (Resolution to approve certification of the County of Orange's Implementation Plan for the Bolsa Chica, if modified)	15
III. MAJOR NEW AND SIGNIFICANTLY REVISED SUGGESTED MODIFICATIONS	15
IV. FINDINGS FOR DEFERRAL OF LCP CERTIFICATION OF THE FIELDSTONE PROPERTY	18
A. Procedural Context	18
B. History	18
C. Analysis of Deferral Certification	19
V. LAND USE PLAN FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S LAND USE PLAN AMENDMENT 1-95, AND APPROVAL WITH MODIFICATIONS	22
A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS	22
1. WETLANDS/BIOLOGICAL RESOURCE POLICIES	22
2. COASTAL/MARINE RESOURCES POLICIES	35
3. PHYSICAL RESOURCES POLICIES	36
4. CULTURAL RESOURCES POLICIES	37

5. VISUAL AND SCENIC RESOURCES POLICIES	37
B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT	37
C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT	38
D. DEVELOPMENT COMPONENT	38
E. OIL PRODUCTION COMPONENT	39
F. FINANCING AND PHASING COMPONENT	39
VI. IMPLEMENTATION PROGRAM FINDINGS FOR DENIAL OF THE COUNTY OR ORANGE'S IMPLEMENTATION PROGRAM, AND APPROVAL WITH MODIFICATIONS	39
VII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT	40

I. INTRODUCTION

A. *Changes to the LCP*

As noted in the Executive Summary, there are significant changes to the Bolsa Chica LCP which have been proposed by the County of Orange and KREG, the major property owner, in response to the court remanding the LCP back to the Commission. These changes include elimination of the 900 residential units that were proposed in the Lowlands, reduction of the density on the Bolsa Chica Mesa from 2,400 units to not more than 1,235 units, preservation of Warner Pond, and deferral of the Fieldstone property.

B. *Standard of Review*

The standard of review for land use plan amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, Section 30512 states: *"(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission."*

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

C. *Procedural Requirements*

Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the local coastal program will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The County of Orange did not indicate in its submittal resolution that this local coastal program would take effect automatically upon Commission approval. Further, this certification is subject to suggested modifications by the Commission. Therefore, this local coastal program

Introduction

will not become effective until the County of Orange formally adopts the suggested modifications and complies with all the requirements of Section 13544 including the requirement that the Executive Director determine the County's adoption of the Amendment to the Land Use Plan and Implementation Program is legally adequate.

D. Conforming LCP Documents with Commission's Action

Numerous changes will be required to the text of the LCP documents submitted by the County of Orange for Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Programs in order to conform the documents with the suggested modifications adopted by the Commission. The discretion is granted to the Executive Director as part of the final certification review process to insure that the LCP documents are modified to conform with the Commission's action. Once the County of Orange Board of Supervisors accepts the Commission's remanded suggested modifications to the LCP, these modifications are incorporated into the LCP, and the necessary text changes are made to the LCP documents, the LCP shall be reported to the Commission for final certification review.

E. Organization of this Report

Staff has organized this report to follow the same format as the County's submittal and the Revised Findings which the Commission adopted at the June 11, 1996 Commission meeting. The Revised Findings document is dated June 17, 1996 and is included as Attachment C.

Because much of the Commission's action in approving the Bolsa Chica LCP last year was found by the Court, in the litigation brought against the Commission, to be supported by the evidence regarding conformance with the Chapter 3 Policies of the Coastal Act, staff will simply reference the findings from the prior adoption by the Commission pursuant to the Court's remand of the Bolsa Chica LCP. Only the portions of the suggested modification and findings that need to be changed in response to the Court's decision are included in this report. By using this approach, the report is kept relatively brief and allows the reader to more easily understand the significant changes which are proposed in response to the Court's decision. There is also a new section involving deferral of LCP certification for the Fieldstone property.

F. Final Revised Findings Document

Following Commission action on the Court remanded Bolsa Chica LCP, a single revised findings document will be prepared for Commission adoption which merges all the suggested modifications and findings into a single document.

II. COMMISSION RESOLUTIONS ON BOLSA CHICA

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

A. RESOLUTION #1 (Resolution to deny certification of the County of Orange's Bolsa Chica Land Use Plan Amendment 1-95 for the Bolsa Chica, as submitted)

Motion #1

*"I move that the Commission **CERTIFY** the County of Orange's Bolsa Chica Land Use Plan Amendment 1-95 for the Bolsa Chica, as submitted."*

Staff recommendation

Staff recommends a **NO** vote and the adoption of the following resolution and findings. An affirmative vote by a majority of the appointed Commissioners is needed to pass the motion.

Resolution #1

*The Commission hereby **DENIES** certification of the County of Orange's Land Use Plan Amendment 1-95 for Bolsa Chica and adopts the findings stated below on the grounds that the amended Land Use Plan does not meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic State goals specified in section 30001.5 of the Coastal Act; the Land Use Plan, as amended, is not consistent with applicable decisions of the Commission, which guide local government actions pursuant to Section 30625(c); and certification of the Land Use Plan as amended would not meet the requirements of Section 21081 of the California Environmental Quality Act, because there would be significant adverse effects on the environment and there are feasible mitigation measures and/or feasible alternatives that would substantially lessen the significant adverse impacts on the environment.*

Resolutions

- B. RESOLUTION #2 (Resolution to approve certification of the County of Orange's Land Use Plan Amendment 1-95 Bolsa Chica except for the Fieldstone property, if modified)**

Motion #2

*"I move that the Commission **CERTIFY** the County of Orange Land Use Plan Amendment 1-95 for the Bolsa Chica except for the part applicable to the geographic area owned by Fieldstone, if it is modified in conformance with the suggestions set forth in Attachment A of this staff report."*

Staff Recommendation

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

Resolution #2

*The Commission hereby **CERTIFIES** the County of Orange's Land Use Plan Amendment 1-95 for Bolsa Chica, except for the part applicable to the geographic area owned by Fieldstone and adopts the findings stated below on the grounds that the amendment, as modified, will meet the requirements of and conform with the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act to the extent necessary to achieve the basic State goals specified in Section 30001.5 of the Coastal Act; the Land Use Plan, as amended, will contain a specific access component as required by Section 30500 of the Coastal Act; the Land Use Plan, as amended, will be consistent with applicable decisions of the Commission, which guide local government actions pursuant to Section 30625(c); and certification of the Land Use Plan amendment, as modified, meets the requirements of Section 21081 of the California Environmental Quality Act, because no additional feasible mitigation measures and no additional feasible alternatives exist which would substantially lessen the significant adverse impacts on the environment.*

- C. RESOLUTION #3 (Resolution to deny certification of the County of Orange's Implementation Plan for the Bolsa Chica, as submitted)**

Motion #3

*"I move that the Commission **REJECT** the County of Orange's Implementation Plan for the Bolsa Chica, as submitted."*

Staff Recommendation

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

Resolutions

Resolution #3

*The Commission hereby **DENIES** certification of the County of Orange Implementation plan for the Bolsa Chica on the grounds that the amendment does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Additionally, there would be significant adverse effects on the environment and there are feasible mitigation measures and/or feasible alternatives that would substantially lessen the significant adverse impacts on the environment.*

- D. **RESOLUTION #4** (Resolution to approve certification of the County of Orange's Implementation Plan for the Bolsa Chica, if modified)

Motion #4

*"I move the Commission **APPROVE** the County of Orange's Implementation Plan for Bolsa Chica, if it is modified in conformity with the suggested modifications set forth in Attachment B of this staff report."*

Staff Recommendation

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

Resolution #4

*The Commission hereby **APPROVES** certification of the County of Orange's Implementation Plan for Bolsa Chica, if modified, on the grounds that, the amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Additionally, no additional feasible mitigation measures and no additional feasible alternatives exist which would substantially lessen the significant adverse impacts on the environment.*

III. MAJOR NEW AND SIGNIFICANTLY REVISED SUGGESTED MODIFICATIONS

While Attachments A and B list all of the suggested modifications recommended for adoption by the Commission, to assist the reader of this document, the major new and significantly revised suggested modifications are as follows. New language is in bold italic text.

Major Revisions

1. Land Use Map

Figure 2.1-1 of the Land Use Plan which depicts the Land Use Districts shall be modified to replace the Low Density Residential land use with the Conservation land use in the Lowland. Warner Pond shall also be designated with the Conservation land use. All other figures in the Local Coastal Program which show residential land use in the Lowlands and on Warner Pond will be similarly modified. Since this policy refers to graphic revision, once the graphic revisions are made, this policy does not need to be included in the amended Land Use Plan.

2. Wetlands Ecosystem Area

The Wetlands Ecosystem Area is comprised of all of Planning Areas 1A, 1B, and 1D (which includes the Edwards Thumb area) as shown in Figure 3. All lands in the Wetlands Ecosystem Area shall be designated as Conservation on the Development Map of the Bolsa Chica Planned Community Program. This land use district (zone) shall allow: the restoration, creation, and protection of wetlands, ESHAs and buffers; public access for wildlife interpretation, education, and scientific study, incidental public service purposes, including but not limited to, burying cables and pipes; and on an interim basis, oil production where it currently exists.

3. Warner Avenue Pond

Warner Avenue Pond, and its associated wetlands, shall be preserved with a conservation designation. Wetland residential development setbacks shall be provided consistent with the provisions of the Bolsa Chica Land Use Plan and Planned Community Program. Warner Pond and its associated residential development setback may be included within the boundaries of the Bolsa Chica Mesa Community Park (Planning Areas 3A and 3B on the Planned Community Map and Statistical Table) as provided for in LUP Section 4.3.2(2)(h), however the Community Park shall not contain less than 17 acres exclusive of Warner Avenue Pond.

Should Warner Avenue need to be widened in the future, in order to meet regional traffic demands, the County of Orange will need to process a Local Coastal Program Amendment which justifies the need to widen Warner Avenue, analyzes alternatives in order to determine the least environmentally damaging feasible alternative, and fully mitigates for any adverse environmental impacts to Warner Pond and its associated wetlands.

Major Revisions

4. Residential Policies

Residential development adjacent to the Wetlands Ecosystem Area *and adjacent to Warner Avenue Pond* shall be designed to avoid adverse impacts on habitat resources to the maximum extent feasible. *Residential development shall be reasonably distributed throughout the Bolsa Chica Mesa consistent with the Planned Community Statistical Table and shall not exceed a total of 1,235 residential units. The Master Coastal Development Permit for the Bolsa Chica Mesa shall conform with the allocation of maximum dwelling units contained in the LCP's Planned Community Statistical Table both by Planning Area and in terms of overall limit of 1,235 residential units. Development Areas created pursuant to a Master Coastal Development Permit, as well as subsequent subdivision(s) of those Development Areas, shall not result in the creation of residential lots or parcels which do not have reasonable residential units associated with their future development. The intent of this policy is to ensure that no circumstance is created wherein the development of the Bolsa Chica Mesa would ever exceed the aforementioned 1,235 maximum residential units. This residential cap on the total number of units on the Bolsa Chica Mesa applies to and includes all current and subsequent ownerships on the Mesa, and any development rights that may accrue from the Edwards Thumb parcel.*

5. Wetland Residential Development Setback

A 50-foot-wide *residential* development setback shall be established within the development Planning Areas along the edge of the Bolsa Chica Mesa *and around Warner Pond (except where adjacent to Warner Avenue and the Mesa Connector)*. The development setback shall be landscaped primarily with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between the Wetlands ~~Restoration~~ *Ecosystem* Area and residential/community park areas of the Planned Community. The planting design shall avoid visually abrupt and artificially engineered changes in the type and density of plant material. Public trails required by the LCP may be included within the development setback. The residential development setback for Warner Pond shall conform with recommendations contained in the letter from Wetlands Research Associates dated August 5, 1997 (see Attachment I of this staff report).

IV. FINDINGS FOR DEFERRAL OF LCP CERTIFICATION OF THE FIELDSTONE PROPERTY

A. Procedural Context

As explained below, the Commission finds that the cumulative impacts of permitted development on wetlands, traffic and public access can be considered separately for the Fieldstone property from the remainder of the Bolsa Chica LCP. The County of Orange requests certification of the Bolsa Chica LCP separate from the Fieldstone property. It requests deferral of certification of the policies and ordinances for the Fieldstone property located in the Bolsa Chica Lowlands on the basis that more time is needed to obtain detailed information in order to determine how best to allow development consistent with the wetland resource protection policies of the California Coastal Act.

B. History

The Bolsa Chica LCP Land Use Plan was initially certified by the Commission in 1986. However, that certification was unique in that it was subject to a future confirmation hearing which was to have been conducted on the impacts of the proposed navigation entrance which would have served a new recreational boating marina to have been built in the Lowlands. That confirmation hearing was never held; subsequently, the County determined that the marina was not feasible.

In the late 1980's the County and major property owner began work on a new LCP. The Land Use Plan of the new LCP amended the 1986 certified Land Use Plan, by replacing the 1986 plan in its entirety. Also, the County prepared for the first time an Implementing Actions Program for the Bolsa Chica LCP. This new LCP was submitted to the Commission in December, 1994, and was acted on by the Commission at the January 11, 1996 Commission hearing. It is the action that the Commission took in January of 1996 which the Court has remanded back to the Commission.

The court, in remanding the LCP back to the Commission, found that the evidence in the record supported much of the Commission's conclusions. However, the court also found that the evidence in the record did not support the Commission's conclusions with regard to designating approximately 190 acres in the Lowlands for residential development, and with regards to allowing the fill of Warner Pond. The court found that the Commission's action did not conform with the requirements of the Coastal Act, specifically Sections 30233, 30240 and 30411.

Deferral Findings

C. Analysis of Deferral Certification

In response to the Court's decision, the County of Orange and the major property owner (KREG) have requested that the LCP be modified to delete the residential designation for the Lowlands portion in KREG's ownership, and to apply a conservation designation. They also have requested that Warner Pond be redesignated from residential to a conservation designation. With regards to the KREG ownership, this resolves the conflict identified by the court. However, in the case of the Fieldstone property located in the Lowlands a potential conflict between Coastal Act policies aimed at preserving wetlands and the private property rights of the property owner must be resolved. Unlike KREG, all of the property owned by Fieldstone within the Bolsa Chica LCP area is located in the Lowlands. Currently the necessary information and development alternatives are not available to allow the Commission to determine what the least environmentally damaging feasible alternative would be for the 42 acre Fieldstone property.

Unresolved issues regarding the Fieldstone property include the extent of wetland acreage on the property, calculated to be between five and twenty acres, as well as a detailed alternatives analysis. At this time, the Commission does not have the ability, based on the information in the record, to determine: whether there are feasible economic uses of the site that are consistent with the wetland protection policies of the Coastal Act; what intensity of residential development should be allowed if there are no other uses consistent with the wetland protection policies; where that development should be located on the 42 acre site; whether adverse impacts could be avoided altogether through a transfer of development rights program; whether utilization of the site as a wetlands mitigation bank is a feasible use; and, if development on the 42 acre site must occur, how impacts to the wetlands would be mitigated.

Clearly Fieldstone, or its successors in interest, have the legal ability to prepare this information, and apply through the County for a future LCP amendment to designate this 42 acre site for a land use consistent with Coastal Act policy, or to determine the least environmentally damaging feasible alternative if some residential development must be allowed to afford the landowner reasonable economic use. In this latter case, the LCP amendment would also need to include a detailed mitigation proposal to address any adverse environmental impacts to wetlands. Alternatively, the owner of this property could apply to the Coastal Commission for a coastal development permit, an option which is always available. The point is, the Commission is not taking away the ability of this property owner to obtain some use of their property by segmenting it from the remainder of the Bolsa Chica LCP. What the Commission is accomplishing through this deferral is the certification of the Bolsa Chica LCP for all of the 1,588 acres within the LCP boundaries, except for the 42 acres owned in the Lowlands by Fieldstone.

Deferral Findings

Whether cumulative impacts of development on coastal resources and access can be analyzed for the Fieldstone property and the remainder of the Bolsa Chica LCP independently, the Commission finds the answer to that question to be yes. Initially, when the LCP was heard by the Commission in January of 1996, an option had been identified for Fieldstone and KREG to develop a program to transfer Fieldstone's development rights to the Bolsa Chica Mesa in exchange for KREG being granted a density bonus. However, the Commission finds that option to no longer be feasible since County and KREG are now requesting the overall density on the Mesa to be reduced from 2,400 units to not more than 1,235 units. Under these changed circumstances, to transfer Fieldstone's development rights to the Mesa and to grant KREG a density bonus to encourage their participation in this transfer of development rights program, this option is no longer viable. As to alternatives for preserving the Bolsa Chica wetlands, the Commission believes the Fieldstone property and the remainder of the Bolsa Chica can now be analyzed separately, and that both individual and cumulative impacts of development on coastal resources and access can be determined for the separate areas. In fact, this has been done for all of the LCP area except for Fieldstone. Fieldstone is the only ownership which now raises concerns over the extent of wetlands, the appropriate location and intensity of land use, analysis of alternatives to determine the least environmentally damaging feasible alternative if avoidance of adverse impacts can not be achieved, and what necessary mitigation measures may be needed. Certification of the remainder of the Bolsa Chica LCP will not affect the ability of the County or the owner of the Fieldstone site to develop an LCP for the site, or to submit a coastal development permit application to the Commission.

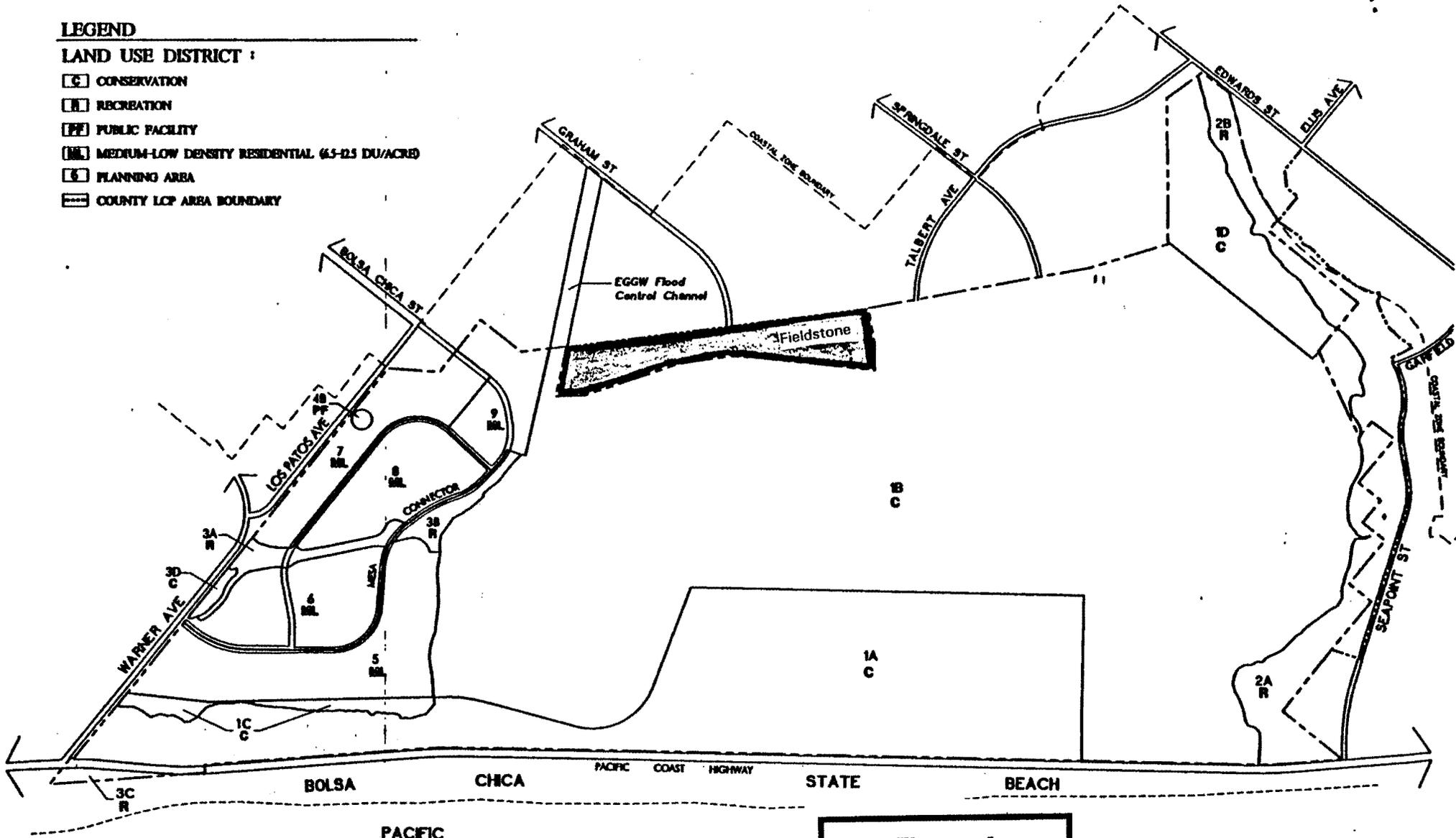
As to public access, deferral of LCP certification of the Fieldstone property does not affect the ability of the Commission to review individual and cumulative impacts to public access. In fact, as the Wetland Restoration Plan for the Lowlands is developed over the next couple of years, the status of the Fieldstone property will hopefully become more clear, and any Lowlands trail system will be able to be designed to take into account plans for the Fieldstone site. As to the Bolsa Chica Mesa, a comprehensive trail system is included in the remainder of the LCP, and a regional park is proposed on the Huntington Mesa and a Community Park on the Bolsa Chica Mesa. Finally, based on updated traffic information, deferral of LCP certification for the Fieldstone property will not result in potential changes to the County's circulation element roads beyond that being required under the terms of the development agreement between KREG and the County, and which is a part of the Implementing Actions Program submitted with this LCP.

To conclude, the Commission finds that deferral of the Fieldstone property from the remainder of the Bolsa Chica LCP is consistent with the provisions of Section 30511(c) of the Coastal Act. The proposed Land Use Plan replaces the 1986 Land Use Plan in its entirety. Therefore, as a result of the deferral of certification of the proposed Land Use Plan for the Fieldstone property, there will be no certified Land Use Plan applicable to the Fieldstone property.

LEGEND

LAND USE DISTRICT :

- C CONSERVATION
- R RECREATION
- PF PUBLIC FACILITY
- ML MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRE)
- P PLANNING AREA
- COUNTY LCP AREA BOUNDARY

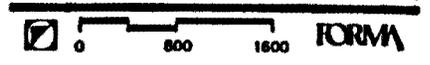


**BOLSA CHICA
PLANNED COMMUNITY PROGRAM**

Figure 4

**Bolsa Chica LCP
Deferral of LCP
Certification for
Fieldstone Property**

California Coastal
Commission



V. LAND USE PLAN FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S LAND USE PLAN AMENDMENT 1-95, AND APPROVAL WITH MODIFICATIONS

The Commission hereby finds and declares as follows. By reference the Commission also hereby adopts as findings all those portions of Sections IV, V, and IX of the document titled "*Adopted Revised Findings on Bolsa Chica Land Use Plan Amendment No. 1-95/ Implementing Actions Program as Approved by the Commission on June 12, 1996*" dated June 17, 1996, except where specifically modified herein. The following pages contain the specific findings for denial of the Bolsa Chica Land Use Plan Amendment No. 1-95, as submitted, and approval with modifications which were developed in direct response to the Superior Court's decision to remand the Bolsa Chica LCP back to the Commission.

A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS

1. WETLANDS/BIOLOGICAL RESOURCE POLICIES¹

**Proposed Residential Development
in the Lowlands is Not an Allowable Use**

a. Denial of the Land Use Plan as Submitted

The Bolsa Chica Land Use Plan Amendment as submitted by the County of Orange and remanded by the Court proposes to allow the construction of 900 residential units in a 185 acre lowland area currently containing approximately 120 acres of wetland interspersed with 65 acres of upland. Section 30233 of the Coastal Act prohibits the fill of wetlands except for eight limited uses shown in Figure 5 on the next page. One of the uses is for a boating facility in a degraded wetland if a substantial portion of the degraded wetland is restored. When the Commission certified the Bolsa Chica Land Use Plan in 1986, the plan allowed for the fill of wetlands in the Lowland for purposes of a marina. The 1986 Land Use Plan allowed for various ancillary development supportive of the marina, including

¹ These findings replace findings found on pages 94-96 and pages 100 through the first paragraph of page 117 in subsection A.1.a of Section IX of the June 17, 1996 adopted "Revised Findings on Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program" as approved by the Commission on June 12, 1996.

Land Use Plan Findings

visitor-serving commercial development with overnight accommodations, and residential development.

The amended Land Use Plan completely eliminates the marina and associated visitor serving commercial development. The amended Land Use Plan is a residential only development. A ten acre neighborhood commercial area has been identified as an option on the Mesa but development details are lacking, and the underlying land use designation would be Medium-High Density Residential rather than an expected commercial land use designation.

SECTION 30233 AND 30411 ANALYSIS

Residential development is not identified as an allowable use within wetlands under Section 30233 of the Coastal Act. The County of Orange, however, asserts that the residential development is an allowable use. The uses that are allowed in a wetland under Coastal Act section 30233 are shown in Figure 5.

Land Use Plan Findings

ALLOWABLE USES UNDER SECTION 30233 OF THE COASTAL ACT

Figure 5

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.*

In 1981 the Department of Fish and Game determined that the Bolsa Chica Lowlands are a degraded wetland system in need of restoration. Section 30233(a)(3) establishes that a boating facility is allowed in a wetland that has been

Land Use Plan Findings

identified by the Department of Fish and Game as degraded, if a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. Coastal Act section 30411(b) authorizes the Department of Fish and Game to study degraded wetlands and identify those that can be feasibly restored in conjunction with a boating facility. Orange County maintains that Section 30411(b) allows the construction of development other than a boating facility if the other development is more a feasible and less environmentally damaging means to restore a degraded wetland. The text of Section 30411(b) is shown in Figure 6. Orange County concluded that a boating facility at Bolsa Chica would be economically and technically infeasible, that a boating facility would have a greater adverse environmental impact than residential development, and that the residential development would result in a greater amount of restored wetlands acreage than a boating facility. Based on this analysis, the County of Orange asserts that the proposed residential development is an allowable use.

SECTION 30411(b) OF THE COASTAL ACT

Figure 6

(b) The Department of Fish and Game, in consultation with the commission and the Department of Boating and Waterways, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any such study shall include consideration of all of the following:

- (1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.*
- (2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.*
- (3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values.*

Land Use Plan Findings

The County of Orange analysis for concluding that residential development would be an allowable use is not a legitimate interpretation of the relationship between Section 30233(a)(3) and Section 30411(b) of the Coastal Act. First, the California Department of Fish and Game has not conducted the required study which addresses all three issues identified under Section 30411(b). This issue is described below in greater detail. Therefore, the County of Orange can not assert that the proposed residential use would be consistent with Section 30411(b).

Second, the wording of Sections 30233(a)(3) and 30411(b) when evaluated together do not allow residential development to be considered an allowable use of a wetland. Section 30233(a)(3) states that in a degraded wetland identified by the Department of Fish and Game, a boating facility may be constructed if a substantial portion of the degraded wetland is restored and maintained. Section 30233(a)(3) does not state that any other uses, such as residential development, can be constructed in a degraded wetland. Section 30411(b) begins by stating that *"in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233"* (emphasis added). Uses other than a boating facility are again not referred to in this cross reference nor are they contemplated. The next sentence of Section 30411(b) references a required study that must be conducted and states: *"Any such study shall include consideration of all of the following:"* (emphasis added). Items 1 through 3 then specify what the study must contain. Items 1 through 3 do not specify that a use other than a boating facility is permissible under either Section 30233 or 30411. Item number three states that the study must address: *"Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values."* (emphasis added). The reference to *"other feasible ways"* relates to consideration of other uses allowed under Section 30233 of the Coastal Act. For example, the study might conclude that the Lowlands could be feasibly restored by establishing it as a mitigation bank. The use of a wetland area for a mitigation bank would be consistent with Section 30233(a)(7) which allows restoration activities. Section 30411(b) cannot be construed to allow the fill of wetlands for uses that are not identified as allowable in Section 30233.

Therefore, the Commission finds that the amended Land Use Plan, as submitted, does not conform with Sections 30233 and 30411 of the Coastal Act since it would allow fill of wetlands for uses not permitted by these sections.

SECTION 30240 ANALYSIS

Section 30240 requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values, and only uses dependent on

Land Use Plan Findings

those resources shall be allowed within those areas. Upland areas that are interspersed with wetlands are considered environmentally sensitive habitat areas. Wetlands and the associated upland areas together provide an ecosystem that is vital to fish, waterfowl, other birds, mammals, shellfish, amphibians, reptiles, and many types of vegetation. This includes essential breeding, feeding, and migratory rest stops. Wetland habitats are necessary for the survival of a disproportionately high percentage of endangered and threatened species. Wetlands and their associated uplands also play vital roles in flood mitigation, aquifer recharge, nutrient creation, and water quality.

Protection of the wetlands at Bolsa Chica are a critical concern. Wetlands for a long time were viewed as unproductive land that needed to be reclaimed for agriculture or other commercial purposes. The result was a severe reduction in the amount of wetlands which has led to corresponding declines in wildlife and the economic benefits derived from the affected wildlife. Only about 25% of the total wetlands of southern California are believed to still exist, out of 53,000 acres only about 13,000 acres remain. Residential development has been identified as one of the major contributors to the decline in wetlands. Bolsa Chica as it currently exists has lost about 30% of its footprint which was an estimated 2,300 acre estuarine system with its own ocean entrance that existed in 1894. In recognition of wetland acreage losses both Governor Wilson and President Clinton, in August of 1993, released wetland policy statements. These policy statements detailed a series of initiatives designed to achieve three principal goals: 1) ensure no net loss of wetlands, 2) reduce the procedural complexity, and 3) develop private and public partnerships to encourage wetland conservation and protection.

Though urban and oil development have significantly altered the natural character of the wetland ecosystem at Bolsa Chica, the Lowland area still possesses significant habitat values. The Department of Fish and Game determined that the Lowland constitutes a *"fundamentally inseparable wetland system of exceptional value to wildlife."* (Department of Fish and Game "Determination of the Status of Bolsa Chica Wetlands, December 11, 1981). Outer Bolsa Bay is particularly renowned for the diversity and numbers of shorebirds utilizing the tidal mudflats. Inner Bolsa Bay is especially valuable for providing suitable conditions for thousands of breeding seabirds, as well as the food source for fish eating birds. The upland edges of Bolsa Chica provide significant habitat value as the transition from marine habitat to terrestrial habitat.

The U.S. Fish and Wildlife Service declared that Bolsa Chica *"Due to its large size, and great potential for ecosystem enhancement, the fate of Bolsa Chica is considered one of the most important coastal fish and wildlife issues of southern California. This rare and unique circumstance at Bolsa Chica has prompted the Service and the Department of the Interior to pursue the idea of biological conservation and habitat restoration of the whole ecosystem, wetlands, and upland habitats, but respecting the private property rights of the current landowners."*

Land Use Plan Findings

(U.S. Fish and Wildlife Service, Consistency Determination for the Bolsa Chica Lowland Acquisition and the Bolsa Chica Conceptual Wetland Restoration Plan, September 1995). The U.S. Fish and Wildlife service recognizes that stemming further habitat loss, wetland and upland, at Bolsa Chica and enhancing the existing ecosystem is highly desirable and feasible purpose that would benefit the people of California and the Nation.

When the Department of Fish and Game issued its findings on "The Determination of the Status of the Bolsa Chica Wetlands" the Department concluded that of the 1,324 acres within the study area, 1,292 acres were historic wetlands and 32 were historic uplands. Of the 1,292 acres of historic wetlands, 852 acres continue to function viably as wetlands. The Department of Fish and Game determined that other 440 acres of historic wetland no longer functioned viably as wetland because the placement of dikes, roads, and shallow fill had converted these former wetlands to agricultural land, roads and pads for oil operations, and uplands. The Department of Fish and Game found that 120 acres of the 440 acres of former wetlands functioned as upland habitat and was environmentally sensitive. The Department of Fish and Game also concluded that the roads and fill areas formed a "resting substrate for wetland associated wildlife" and "narrow ecotones which add to and enhance the diversity of habitat available to wildlife." (See Department of Fish and Game "Determination of Status of Bolsa Chica Wetlands," December 11, 1981). Thus, based upon the Department of Fish and Game determination, and on the importance of the upland areas to the wetlands, the upland areas that are interspersed among the Lowland wetlands are environmentally sensitive habitat areas. Coastal Act section 30240 prohibits the significant disruption of ESHA except for development of uses that are dependent upon the resource. The elimination of 65 acres of ESHA for the construction of housing in the Lowland is a significant disruption of the Lowland ecosystem. Residential development is not a use that is dependent upon ESHA. Therefore, because the proposed Local Coastal Program would allow a significant disruption of ESHA for a non ESHA dependent use, the Local Coastal Program is inconsistent with section 30240 of the Coastal Act.

Required Study by the Department of Fish and Game Never Done

Section 30411(b) of the Coastal Act requires that the Department of Fish and Game, in consultation with the Commission and the Department of Boating and Waterways may study degraded wetlands and identify those which can most feasibly be restored in conjunction with a boating facility (see Figure 6 on page 25). The County of Orange, as discussed previously, asserts that the proposed Lowland residential development is consistent with Section 30411(b) of the Coastal Act.

Land Use Plan Findings

As previously stated, the study required by Section 30411(b) has not been conducted. The Department of Fish and Game "Determination on the Status of the Bolsa Chica Wetlands" was never designed to function as this study. The report states "*The Department finds that because only limited information is currently available, it can make no determination, at present, with respect to the feasibility of a boating facility or any other means of restoring and improving wetlands in the area.*" (emphasis added). (See page 2 of the Department of Fish and Game report "Determination of the Status of the Bolsa Chica Wetlands", transmitted to the Coastal Commission on December 11, 1981.)

The Department of Fish and Game subsequently participated in the preparation of a Habitat Conservation Plan ("HCP"). A 1983 amendment to the Coastal Act added section 30237, which authorized the Department of Fish and Game to work with the State Coastal Conservancy, Orange County, and landowners to prepare an HCP. The HCP was developed in conjunction with plans to develop a boating facility at Bolsa Chica. Thus, the DFG never considered whether there were other feasible means for restoring the Bolsa Chica wetlands. Since the Department of Fish and Game has not conducted a study that considers whether there are other feasible means of restoring these wetlands, as specified by Section 30411(b), the Commission finds that Section 30411(b) of the Coastal Act can not be used to support the assertion of the proposed amended Local Coastal Program that residential development in the Lowland is another feasible means of restoring the remaining wetlands at Bolsa Chica.

Conclusion that Residential Development in the Lowlands is Not an Allowable Use

Wetland resources are a very valuable resource which have been adversely impacted by human development. Only about 25% of the wetlands of southern California remain. Bolsa Chica as a wetland ecosystem has lost about 30% of its footprint. The loss of an additional 185 acres would further reduce the ecological value of the Bolsa Chica wetland ecosystem. Section 30233 of the Coastal Act protects wetlands by prohibiting the fill of wetlands except for eight specific uses. Residential development is not one of the uses allowed in a wetland. Section 30411 addresses construction of boating facilities in a degraded wetland, consistent with Section 30233(a)(3) and cannot be construed as allowing uses other than those identified in Section 30233. Section 30240 protects environmentally sensitive habitat areas by prohibiting the significant disruption of ESHA except for uses that are dependent upon the resource. Residential development is not dependent upon ESHA resources. Thus, Sections 30233 and 30240 do not allow residential development in the Lowland of Bolsa Chica. Therefore, the Commission finds that the proposed amended Land Use Plan, which

Land Use Plan Findings

allows residential development in the Lowland is inconsistent with Sections 30233 and 30240 of the Coastal Act.

b. Approval as Modified

As noted in the Executive Summary of this report, which is incorporated into these findings by reference, subsequent to the Court's decision remanding the Bolsa Chica LCP back to the Commission, the County of Orange, Koll Real Estate Group, and Commission staff entered into discussions on how to respond to the Court's decision. In particular, as regards to the original LCP proposal to build up to 900 residential units in the Lowlands, the Court determined that the proposed residential development in the Lowlands was not consistent with the provisions of Section 30233 and 30411 of the Coastal Act. The previous findings starting on page 22 explain why this residential development in the Lowlands is inconsistent with the policies of the Coastal Act.

Since the Commission acted on the Bolsa Chica LCP in January of 1996, a major change in circumstances has occurred. All of Koll Real Estate Group's lowland ownership, with the exception of the Edward's Thumb parcel, has been bought and is now owned by the State of California. The suggested modifications now make it clear that all of the Bolsa Chica LCP Lowlands (with the exception of the Fieldstone property where certification of the LCP has been deferred) will be redesignated with the Conservation land use. The Conservation land use designation will limit uses to those consistent with preservation of the wetland ecosystem including: restoration, creation and protection of wetlands, ESHAs, buffers; and public access for wildlife interpretation, education, and scientific study. The designation will also allow development incidental to public service (including but not limited to burying cables and pipes), and on an interim basis oil production where it currently exists. No residential development in the Lowlands would be allowed.

Regarding the Edward's Thumb parcel, the County of Orange and KREG have agreed that the Conservation land use designation be applied. The suggested modifications accomplish this and make it clear that any development rights (besides those uses that currently exist on the site) are transferred to the Bolsa Chica Mesa and are included within the total of 1,235 residential units allowed on the Mesa.

With the suggested modifications, which eliminate the residential land use designation in the Lowlands, the Commission concludes that the Conservation land use designation is appropriate and is consistent with Section 30233 of the Coastal Act.

Land Use Plan Findings

Proposed Filling of Warner Pond and Inadequate Mitigation for the Fill of Small Isolated Mesa Wetlands

a. Denial of the Land Use Plan as Submitted

Bolsa Chica Mesa contains nearly 2 acres of wetlands. The wetlands located on the Mesa consist of Warner Avenue Pond which is 1.7 acres in size and small isolated pocket wetlands which total about .3 acres. Warner Avenue Pond contains some pickleweed and provides habitat for shallow feeders such as mallard, American coot, and various herons. The Commission found the isolated pocket wetlands to qualify as wetlands under Coastal Development Permit 5-90-1143 due to the presence of wetland vegetation. Though the Commission defines the pocket wetlands as wetlands based on the Commission's wetland delineation methodology, the U.S. Army Corps of Engineers, in 1994, deleted the pocket wetlands as qualifying for "waters of the United States" designation based on their methodology which required the presence of all three wetland characteristics. The proposed construction of 2,400 residential units and the widening of Warner Avenue would result in the fill of these wetlands. This wetland fill raises concerns with Section 30233 of the Coastal Act.

The first concern involves Warner Pond. There is no disputing that Warner Pond is a wetland, and as such is governed by Section 30233 of the Coastal Act. Section 30233(a)(5) states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

Warner Pond also qualifies as an environmentally sensitive habitat area (ESHA), and is therefore afforded protection under Section 30240. Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those

Land Use Plan Findings

areas, and shall be compatible with the continuance of those habitat and recreation areas.

When the Commission acted on the Bolsa Chica LCP submittal in January of 1996, it concluded the following:

The fill of Warner Avenue Pond can be found to be an allowable use under Section 30233(a)(5) since Warner Avenue (a public road) is proposed to be widened. Widening of an existing road to accommodate traffic is an incidental public service. The Bolsa Chica Local Coastal Program states that Warner Avenue will need to be widened with or without the buildout of Bolsa Chica Mesa. Regional growth is the driving force for widening of Warner Avenue. Following residential buildout of the Mesa, Warner Avenue Pond will become an isolated wetland area adversely impacted by adjacent urban development. Further, consistent with Section 30233, the widening of Warner Avenue when compared to building the Cross-Gap connector through the Lowlands is clearly preferable as the least environmentally damaging alternative. The Cross-Gap connector was approved in the 1986 Land Use Plan as an arterial road to accommodate area traffic. The Cross-Gap connector, however, would have been built through the Bolsa Chica Lowlands which would have adversely affected the wetlands. By not building the Cross-Gap connector the integrity of the Bolsa Chica lowlands as wetland habitat is preserved and adverse impacts by adjacent urban development are minimized. However, adequate mitigation has not been proposed under the current Land Use Plan amendment to minimize the adverse environmental effects of Mesa wetland fill.

Since the Commission acted on this issue in January of 1996, the court found that the Commission's decision to permit the filling of Warner Pond was inconsistent with Section 30240 because the filling of the pond will cause a significant disruption of habitat values and the proposed expansion of Warner Avenue which necessitated the filling is not a use dependent on the pond's resources. On the other hand, the Court did not disagree that since the pond is a wetland, Section 30233(a)(5) applies, and it permits the fill of wetlands for incidental public services. The Court concluded that the policies of Section 30233(a)(5) and 30240 are in conflict as applied to Warner Pond. Therefore, the Commission was instructed to resolve the conflict in its findings. However, since the Court's decision, Orange County has found that reducing density on the Mesa can eliminate the need to widen Warner Avenue, which was the basis for filling Warner Avenue Pond. Thus, there is a feasible, less environmentally damaging alternative to the proposed Land Use Plan policies of residential development on the Mesa. The alternative, reducing Mesa density to 1,235 residential units avoids the need to widen Warner Avenue, thereby avoiding the need to fill Warner Avenue Pond. Since there is a feasible alternative that can avoid wetland fill, the proposed policies allowing the fill of Warner Avenue Pond must be denied.

Land Use Plan Findings

Second, the fill of the remaining pocket wetlands on the Mesa for residential development is not an allowable use under Section 30233. These isolated pocket wetlands total approximately .3 acres. Fill of these isolated wetlands can be found consistent with the Coastal Act utilizing the balancing provision of Section 30007.5 of the Coastal Act. This finding is possible since buildout of the Mesa will leave very little remaining biological values for these small isolated wetlands due to the proximity of the residential buildings and the adverse environmental impacts associated with the homes; that is, human intrusion, domestic pet intrusion, introduction of pollutants from nearby development, noise and lighting. Further, concentrating residential development on the Mesa avoids adverse impacts to the Lowland and allows the Lowland to be maintained as a wetland ecosystem.

Though Section 30007.5 can be used to sanction the fill of the isolated pocket wetlands, a finding that the fill of the wetlands is the least environmentally damaging alternative and that adequate mitigation is provided must still be made. If left on the Mesa, the wetlands would become isolated and would suffer loss of value for the reasons previously described. Therefore, the least environmentally damaging alternative requires that the wetland values be recreated in a site where wetland values can be recreated and would not be subject to the adverse impacts of urban development. Mitigating the adverse wetland impacts adjacent to another wetland would be an alternative that would allow the maintenance of wetland values. If the adverse impacts are mitigated by locating the mitigation site to an area adjacent to an existing wetland, mitigation will further the functioning of the wetland ecosystem by increasing its size. Section 30007.5 of the Coastal Act states:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Therefore, the Commission finds and determines under Section 30007.5, that on balance, concentrating development on the Mesa and mitigating the adverse impacts to the Mesa wetlands in another location adjacent to an existing wetland, is more protective for the preservation of wetland values.

Even if the fill of the isolated pocket wetlands can be found consistent with the Coastal Act by utilizing Section 30007.5, the amended Land Use Plan, as submitted, lacks policies which assure that adverse impacts resulting from development will be mitigated. Missing are policies which would assure that the loss of the wetland habitat values would be mitigated through the creation of

Land Use Plan Findings

replacement wetland. Therefore, for the reasons cited above the Commission finds that, as submitted, the amended Land Use is inadequate to implement the applicable policies of the Coastal Act regarding the provisions for adequate mitigation to minimize the adverse impacts of development.

b. Approval as Modified

Since the Commission initially acted on the Bolsa Chica Submittal in January of 1996 and based on concerns raised by the Court, the County of Orange and Koll Real Estate Group have discussed with Commission staff changes to the LCP which would resolve issues related to Warner Pond. The conclusion was reached that while it may well be possible to resolve the conflict between Sections 30233(a)(5) and 30240 of the Coastal Act, and allow the fill of Warner Pond, the preferred approach (i.e., the approach more consistent with Chapter 3 policies.) would be to avoid filling of Warner Pond.

Through the suggested modification, and as agreed to by the County of Orange and Koll Real Estate Group in their August 14 and September 15, 1997 letters (see Attachment E) the LCP will be modified to reduce residential density allowed on the Bolsa Chica Mesa from 2,400 homes to not more than 1,235 residential units. The Land Use map and Zoning District map will be changed from medium high density residential to medium low density (6.5 to 12.5 du/ac) for the Bolsa Chica Mesa.

By substantially reducing the density, and with further review of traffic impacts, the Bolsa Chica LCP can be approved without the necessity of filling Warner Pond. The traffic consultants who prepared the traffic analysis for the Bolsa Chica LCP have provided further comments on this issue. In a letter dated September 9, 1997 (Attachment F), they have concluded that neither Warner Avenue nor Pacific Coast Highway, where located adjacent to Bolsa Chica, will need to be widened if the density of the Mesa development is reduced. In fact, their conclusion is that even when the region is built out in the year 2020, traffic volumes on Warner Avenue are projected to operate within its existing capacity so that Warner Avenue will not need to be widened. The fill of Warner Avenue Pond is necessary only if Warner Avenue is widened. If widening of Warner Avenue can be avoided, the fill of Warner Avenue pond can also be avoided. Therefore, reducing the density of residential development on the Mesa to 1,235 homes is a less environmentally damaging alternative to the proposed density because the reduced density will avoid widening of Warner Avenue and consequently the fill of Warner Avenue Pond will not be necessary.

As a result, the suggested modifications require that Warner Pond and its associated wetlands be preserved and designated with the Conservation land use classification; and that there be an enhanced fifty (50) foot development setback

Land Use Plan Findings

around the Warner Pond wetlands. This development setback is depicted in Attachment I. The County and Koll Real Estate Group believe that this enhanced fifty foot setback is appropriate and the Commissions concurs. The wetland biologist who worked on the biological resources component of the LCP also agrees (see Attachment I). Because of its location next to a heavily travelled street, the animal species which use Warner Pond are adaptable to light, noise, and human intrusion. Since there is little or no buffer along Warner Avenue separating it from the Pond, to require a larger development setback along the opposite or easterly side of the pond would accomplish little.

In addition, the suggested modifications limit the total number of dwelling units on the Mesa to 1,235 units and the overall density to 6.5 to 12.5 dwelling units per acre. This is the maximum residential density that can occur without triggering the need to widen Warner Avenue and thereby fill Warner Avenue Pond. To insure Warner Avenue will not need to be widened as a result of development on the Mesa, the 1,235 homes must be distributed throughout the Mesa in a manner that will avoid future increases in density. The homes need not all be single family homes that are evenly distributed across the Mesa. Some of the 1,235 units can be in the form of multifamily residential units clustered on the Mesa closer to Warner Avenue/Los Patos. This would be more protective of the Lowland wetland values. However, overall, the 1,235 residential units must be planned to avoid creation of large undeveloped parcels that could be used to increase Mesa density in the future.

2. COASTAL/MARINE RESOURCES POLICIES¹

a. Denial of the Land Use Plan as Submitted

While the initial submittal of the County of Orange for the Bolsa Chica LCP Land Use Plan Amendment No. 1-95 contained many specific policies with regards to wetlands restoration, particularly as it applies to flood control issues associated with the East Garden Grove Wintersburg Channel (EGGW) and a proposed new 250 foot wide ocean inlet, the acquisition of the Lowlands by the State results in changed circumstances as to the ultimate wetland restoration proposal which will be developed and implemented. Policies regarding the EGGW Channel are no longer appropriate in the LCP and issues associated with flood control will need to be addressed in the future wetlands restoration program which is currently in the early

¹ These findings replace findings found on pages 119, 120 (last paragraph), 121, and first two paragraphs of page 122 in Section IX of the June 17, 1996 adopted "Revised Findings on Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program" as approved by the Commission on June 12, 1996. All Other findings for this section contained in the adopted revised findings remain unchanged.

Land Use Plan Findings

stages of development. As to any ocean inlet, again, that issue will depend on the final wetlands restoration program which will need to be submitted for review and approval by the Commission. However, because any ocean inlet will directly impact Huntington State Beach, retention of policies which provide guidance on that issue are deemed necessary. Clearly, those policies are only guidance in that the State Beach is not within the Bolsa Chica LCP boundaries; however, the policies do make clear the Commission's concerns over designing an ocean inlet to avoid impacts to shoreline processes to the maximum extent feasible, and to mitigate for any adverse impacts to recreational resources.

In conclusion, the Commission finds that, as submitted, the Bolsa Chica LCP does not include policies similar to the language found in Sections 30230, 30231, 30232, and 30235. Nor does it include specific policies providing guidance on the design and mitigation for any new ocean inlet. Finally, the policies of the LCP regarding the EGGW Channel need to be deleted as the flood control issue must be dealt with in the overall context of the future wetlands restoration program. For all these reasons, the Commission finds that, as submitted, the Land Use Plan amendment is not in conformance with the coastal and marine policies of the Coastal Act regarding water quality, biological productivity, and human health.

b. Approval as Modified

The Commission finds that it is inappropriate to include policies regarding the EGGW channel in the LCP since the State has bought the Lowlands and is in the process of preparing a wetlands restoration program which will include provisions regarding flood control. At this time there is a divergence of opinion on the best means to deal with flood control. For that reason, the Commission finds that the policies in the Land Use Plan regarding the EGGW Channel should be deleted.

However, the Commission also finds that the policies providing guidance as to the design, monitoring, and mitigation of any new ocean inlet is necessary in order for the future wetlands restoration program to include these measures should a new ocean inlet be proposed in order to improve tidal flushing of the wetlands.

Finally, the suggested modification include policies similar to the language found in Sections 30230, 30231, 30232, and 30235. With these modifications, the Land Use Plan amendment is found by the Commission to conform with the Coastal Act regarding water quality, biological productivity, and human health.

3. PHYSICAL RESOURCES POLICIES

By reference the Commission incorporates the findings found on pages 123-126 of the adopted revised findings dated June 17, 1996, as pertains to Physical Resources.

4. CULTURAL RESOURCES POLICIES

By reference the Commission incorporates the findings found on pages 126-128 of the adopted revised findings dated June 17, 1996, as pertains to Cultural Resources.

5. VISUAL AND SCENIC RESOURCES POLICIES

By reference the Commission incorporates the findings found on pages 128-131 of the adopted revised findings dated June 17, 1996, as pertains to Visual and Scenic Resources.

B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT

a. Denial of the Land Use Plan as Submitted

By reference the Commission incorporates the findings found on pages 131-143 of the adopted revised findings dated June 17, 1996, as pertains to Public Access/Visitor Serving Recreation Component, and except for the following.

Findings related to the Lowland park, Lowland residential development and kayak/canoe facility shall be deleted. Findings related to "Loss of Existing Sandy Beach Area" and Figure No. 10 (Tidal Inlet) shall be deleted. The following language regarding the tidal inlet shall be added.

Tidal Inlet

Any Tidal inlet that may be proposed in a future wetlands restoration program should address concerns related to the loss of sandy beach and other impacts to the Bolsa Chica State Beach. Currently the LCP does not provide adequate guidance in this regard.

Land Use Plan Findings

While the Commission finds that the loss of up to 3 acres of sandy beach area and some other adverse impacts associated with the tidal inlet may be unavoidable impacts associated with a wetlands restoration program, the Commission also finds that some of the unavoidable impacts can be feasibly mitigated. Potential mitigation includes, but is not limited to, beach nourishment and the funding of an additional lifeguard to be located in the vicinity of the tidal inlet to deal with public safety. However, no mitigation for the adverse beach impacts is proposed in the LUP amendment submittal. Therefore, the submittal must be denied as it is inconsistent with the public recreation provision of the Coastal Act.

b. Approval as Modified

With the suggested modification regarding the tidal inlet, the Commission finds that adequate guidance is provided to insure that the future wetlands restoration program, should it include a new ocean inlet, will address concerns the Commission has regarding impacts to the State Beach as required by the public access and recreation policies of the Coastal Act.

C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT

By reference the Commission incorporates the findings found on pages 144-156 of the adopted Revised Findings document dated June 17, 1996, as pertains to the Regional Circulation and Transportation Component.

D. DEVELOPMENT COMPONENT

By reference the Commission incorporates the findings found on pages 156-158 of the adopted Revised Findings document dated June 17, 1996, as pertains to the Development Component, and except for deletion of the findings titled "Approval as Modified". That finding shall be replaced with the following.

The Development Component of the Land Use Plan shall be modified to bring it into conformance with the following changes. First, the lowlands including Edwards Thumb shall be designated as the Wetlands Ecosystem Area and given a land use designation of Conservation. Second, Warner Pond shall be designated with the Conservation designation. The usable active and passive parkland within the Mesa Community Park shall not be reduced in size due to inclusion of Warner Pond or the realignment of the Mesa Connector. Third, the residential designation of the Bolsa Chica Mesa shall be changed to medium low density residential of 6.5-12.5 du/ac with a total cap of 1,235 residential units. Additionally, the residential units shall

Land Use Plan Findings

be spread throughout the Bolsa Chica Mesa so that it is clearly limited to a maximum of 1,235 residential units. Lastly, the optional ten (10) acre neighborhood commercial designation has now been deleted.

With these changes the Commission finds that the Bolsa Chica Land Use Plan amendment conforms with the applicable Chapter 3 policies of the Coastal Act.

E. OIL PRODUCTION COMPONENT

By reference the Commission incorporates the findings found on pages 159-161 of the adopted Revised Findings document dated June 17, 1996, as pertains to the Oil Production Component.

F. FINANCING AND PHASING COMPONENT

By reference the Commission incorporates the findings found on pages 162-164 of the adopted Revised Findings document dated June 17, 1996, as pertains to the Financing and Phasing Component, except that all references to the Wetlands Restoration Plan shall be deleted.

VI. IMPLEMENTATION PROGRAM FINDINGS FOR DENIAL OF THE COUNTY OR ORANGE'S IMPLEMENTATION PROGRAM, AND APPROVAL WITH MODIFICATIONS

The Commission hereby finds and declares as follows. By reference the Commission incorporates the findings found on pages 165-171 of the adopted Revised Findings document dated June 17, 1996, as pertains to the Planned Community Program and the Bolsa Chica Development Agreement, and except as modified below. The following language is added to the findings.

First, the Wetlands Restoration Program is deleted in its entirety from the Bolsa Chica LCP. With acquisition of the Lowlands by the State, a new wetlands restoration plan is being prepared which will include the areas of the Lowlands where the Koll Real Estate Group had previously proposed residential development. This area will now be included in the new wetlands restoration plan and the amount of restored full tidal area may be increased. In any event, the Wetlands Restoration Program submitted as part of the LCP is not consistent with the Land Use Plan

Implementation Program Findings

provisions now agreed to by the County. Therefore, the Commission concludes that the Wetlands Restoration Program should be deleted.

Second, as noted in the suggested modifications and findings of the Land Use Plan, the residential density on the Bolsa Chica Mesa has been reduced to not more than 1,235 residential units, the option for the ten (10) acres of neighborhood commercial development has been deleted, the Warner Avenue Pond wetlands will be preserved, and a fifty (50) foot wide residential development setback will be established around the Warner Pond wetlands. The Commission finds the Planned Community Program must be modified to conform with and be adequate to carry out the above cited provisions of the land use plan. Finally, the certification of the Land Use Plan as applied to the Fieldstone property is being deferred. Therefore, the Planned Community Program must be modified to eliminate provisions applicable to the Fieldstone property since these provisions would not conform with the Land Use Plan as certified.

VII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. Additionally, the Commission's Local Coastal Program review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an environmental impact report for each local coastal program submitted for Commission review and approval. Nevertheless, the Commission is required when approving a local coastal program to find that the local coastal program does conform with the provisions of CEQA. The County of Orange's Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program consists of a Land Use Plan (LUP) amendment and an a new Implementation Plan (IP).

The Land Use Plan amendment as originally submitted raises a number of concerns regarding the Chapter 3 policies of the Coastal Act and thus cannot be found to be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. The Land Use Plan amendment, as submitted, is not adequate to carry out and is not in conformity with the policies of Chapter 3 of the Coastal Act with respect to: development setback on the Bolsa Chica Mesa, ESHA phasing, monitoring changes to shoreline processes, public recreation, public access, hazards, water quality, visual impacts, oil production, and cultural resources.

CEQA Consistency

The Commission, therefore, has suggested a number of modifications to bring the Land Use Plan amendment into full conformance with the requirements of the Coastal Act. Specifically, the Commission certification action provides for: a fifty foot residential development setback from the blufftop edge of the Bolsa Chica Mesa and Warner Avenue Pond, a requirement that ESHA replacement values be established before the Eucalyptus grove is removed, that the proposed development not result in the fill of Warner Pond, that the public be informed of the public amenities located at Bolsa Chica, required that land form alteration be minimized, a requirement that water quality be preserved, and a requirement that cultural resource studies be completed and submitted as part of application process for a Master Coastal Development Permit. As modified, the Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act.

Relative to the Implementation Program, the Commission finds that approval of the Implementation Program with the incorporation of the suggested modifications to implement the Land Use Plan would not result in significant adverse environmental impacts under the meaning of CEQA. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts, such a finding could not be made.

Specifically, the Implementation Plan, as modified, would maximize protection of environmentally sensitive habitat areas through design controls, minimize public safety risks and geological instability through standards for development on bluff tops, preserve and protect scenic visual resources through standards for landform alteration, minimize impacts to cultural resources and paleontological resources, promote visitor serving commercial opportunities through a signage program and design standards, and assure continued public access through the creation of a bluff top park and the provision of adequate parking.

Given the proposed mitigation measures, the Commission finds that the County of Orange's Bolsa Chica Local Coastal Program, as modified, will not result in significant unmitigated adverse environmental impacts under the meaning of the CEQA. Further, future individual projects would require coastal development permits, either issued by the County of Orange or, in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the coastal zone, specific impacts associated with individual development projects are assessed through the CEQA environmental review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for significant adverse environmental impacts which have not been explored

ATTACHMENT A
LAND USE PLAN SUGGESTED MODIFICATIONS

VIII. LAND USE PLAN SUGGESTED MODIFICATIONS

Listed below are the changes to the suggested modifications contained in the June 17, 1996 Revised Findings on Bolsa Chica Land Use Plan Amendment No. 1-95. This attachment, along with the suggested modifications in the Revised Findings document not revised herein, constitute the complete set of suggested modifications to the remanded Bolsa Chica Land Use Plan Amendment No. 1-95.

A. DESCRIPTION OF LAND USE PLAN

CHAPTER 2 OF THE LAND USE PLAN AMENDMENT

- 1a** *Figure 2.1-1 of the Land Use Plan which depicts the Land Use Districts shall be modified to replace the Low Density Residential land use with the Conservation land use in the Lowland. Warner Pond shall also be designated with the Conservation land use. All other figures in the Local Coastal Program which show residential land use in the Lowlands and on Warner Pond will be similarly modified. Since this policy refers to graphic revision, once the graphic revisions are made, this policy does not need to be included in the amended Land Use Plan.*

B. RESOURCE RESTORATION AND CONSERVATION COMPONENTS

CHAPTER 3 OF THE LAND USE PLAN AMENDMENT

1. WETLANDS/BIOLOGICAL RESOURCE POLICIES

Zoning Policy

- 1b** ~~The Wetlands Ecosystem Area shall be designated as one or more Conservation Planning Areas on the Development Map of the Bolsa Chica Planned Community Program. This land use district (zone) shall allow the restoration, creation, and protection of wetlands, ESHAs, and Buffers, as well as public access for wildlife interpretation, education, and scientific study. To facilitate implementation of the Wetlands Restoration Program, this LUP shall provide for low density residential development on the northeasterly approximately 185 acre portion of the Lowland adjacent to existing residential areas of Huntington Beach, including appropriate local parks, trails, community facilities and similar supporting uses. All Conservation Planning Areas shall be offered for dedication to the County or~~

Land Use Plan Suggested Modifications

~~other approved agency or organization, subject to the approval of the County Board of Supervisors, and the Coastal Commission Executive Director. In addition, the Landowner/Master Developer shall guarantee funding for the Wetlands Restoration Program.~~

The Wetlands Ecosystem Area is comprised of all of Planning Areas 1A, 1B, and 1D (which includes the Edwards Thumb area) as shown in Figure 3. All lands in the Wetlands Ecosystem Area shall be designated as Conservation on the Development Map of the Bolsa Chica Planned Community Program. This land use district (zone) shall allow: the restoration, creation, and protection of wetlands, ESHAs and buffers; public access for wildlife interpretation, education, and scientific study, incidental public service purposes, including but not limited to, burying cables and pipes; and on an interim basis, oil production where it currently exists.

Environmentally Sensitive Habitat Areas (ESHAs) Policies

1. ~~The Wetlands Restoration Program shall provide for the planting of a~~ minimum 20-acre native tree and shrub ESHA along the Huntington Mesa to compensate for the loss of raptor habitat provided by a eucalyptus grove on the Bolsa Chica Mesa.

Prior to issuance of the first Coastal Development Permit that results in the elimination of the Eucalyptus grove, the twenty (20) acres native tree and shrub ESHA shall be implemented. The mitigation plan shall be prepared in coordination with the Department of Fish and Game prior to implementation. Roosting poles and nesting boxes may be used during the initial implementation period to augment tree plantings. The roosting poles and nesting boxes are only an interim measure to mitigate short-term habitat loss until the ESHA becomes fully functioning.

Maintenance of the replacement ESHA shall be guaranteed by the Master Developer for a period of five years after initial implementation. At the end of the five year maintenance period, the mitigation shall be evaluated by the County Arborist, in consultation with the Department of Fish and Game, to determine if the native tree and shrub ESHA is fully functioning.

Should the ESHA not be fully functioning, an LCP amendment in the form of a remediation plan shall be required. For purposes of this policy, the ESHA shall be considered fully functioning as a raptor habitat when the number and size of trees planted have reached an 80% survival rate and the native trees and shrubs cover at least 16 acres of the planned 20 acres.

(County Policy 3.1.2.5)

Land Use Plan Suggested Modifications

2. COASTAL/MARINE RESOURCES POLICIES

Tidal Inlet and Hydrology Policies

4. ~~The Tidal Inlet~~ **Any tidal inlet** and the hydraulic regimes for the Wetlands Ecosystem Areas shall be designed to:
(County Policy 3.2.2.1)
5. A maintenance and monitoring program shall be a condition of project approval for the Coastal Development Permit, directly authorizing construction of the Tidal Inlet (any project proposed in the Commission's area of original permit jurisdiction shall require a Coastal Development Permit from the Commission) and shall:
 - a. provide for the removal of accumulated sediment from ~~the Tidal Inlet and Full Tidal~~ **any new tidal inlet and wetland** areas of ~~the wetlands~~ with disposal of all beach quality sediment on the beach areas adjacent to ~~the Tidal Inlet~~ **tidal inlet**;
 - d. provide for the long term successive operation of all water control and conveyance structures required as part of ~~the~~ **any** Wetlands Restoration Program;
 - e. monitor shoreline change to identify areas of sand loss caused by ~~the Tidal Inlet~~ **a tidal inlet**, separate from that presently occurring along Huntington Cliffs, to determine the best locations for deposition of material removed from ~~the Tidal Inlet and Full Tidal areas~~ **wetlands**.

A minimum of six monitoring locations shall be established and used to determine effects to the shoreline from ~~the Tidal Inlet~~ **a tidal inlet**. Monitoring locations shall be established at locations 500 yards and 1,500 yards north of ~~the~~ **any** proposed ~~Tidal Inlet~~ **tidal inlet**, 500 yards south of ~~the Tidal Inlet~~ **a tidal inlet**, and at existing U.S. Army Corps of Engineers survey stations 307 + 88, 367 + 85 and 427 + 74. If the U.S. Army Corps of Engineers continues to undertake shoreline surveys at stations 247 + 88 and 502 + 87, data from these survey locations shall be analyzed along with the data from the six previously identified survey locations. Locations of the U.S. Army Corps of Engineers profile sites are specified in the Coast of California Storm and Tidal Wave Study, Orange County Region.

Within one year prior to the beginning of construction of ~~the Tidal Inlet~~ **a tidal inlet**, all six survey locations shall be monitored, with profiles

Land Use Plan Suggested Modifications

extending from a stable back beach location (or a U.S. Army Corps of Engineers established baseline) seaward to -30 feet mean lower low water (MLLW). Monitoring at these six locations shall continue annually for at least five years following completion of ~~the Tidal Inlet a~~ *tidal inlet*.

Annual surveys can be undertaken at profiles to -30 feet MLLW. Every other year, wading surveys to approximately -6 MLLW can be substituted for the profiles to -30 feet MLLW. The wading surveys shall be along the same profile lines as the profiles to -30 feet MLLW and shall occur during the same season. If U.S. Army Corps of Engineers continues to undertake biennial profiles to -30 feet MLLW, this monitoring effort shall undertake profiles to -30 feet MLLW concurrently with those of the U.S. Army Corps of Engineers.

After a minimum of five years of post-construction survey data has been acquired and analyzed, the monitoring program can be reexamined. If a detectable and regular pattern of shoreline change from the inlet is identified from this assessment, the monitoring program can be completed. If no regular shoreline pattern is detected, monitoring shall either continue or be modified in frequency and spatial extent depending on the results of the data analysis. Monitoring, however, shall not be required to extend for more than ten (10) years from the date of inlet completion.

Any modifications to the monitoring program must be based on monitoring data and must be approved either as a Coastal Development Permit amendment or a new Coastal Development Permit. Should proposed revisions to the monitoring program not be consistent with the monitoring guidelines of this policy, a minor LCP amendment shall be certified by the Commission before the revisions can become effective; and

- f. establish a program of beach sand replenishment to mitigate beach and shoreline sand supply lost through ~~Tidal Inlet~~ *tidal inlet* construction and any subsequent erosion attributable to ~~the Tidal Inlet~~ *a tidal inlet*. (County Policy 3.2.2.2)

Water Quality Management Policies

8. Turbidity barriers shall be used during construction of ~~Full Tidal Areas~~ to limit the impacts of turbidity on ocean waters. A barrier shall be used as required in the vicinity of ~~the Tidal Inlet a~~ *tidal inlet* during its construction to limit turbidity in the sea. (County Policy 3.2.2.8)

Land Use Plan Suggested Modifications

3. PHYSICAL RESOURCES POLICIES

12. The 25- to 60-foot-high northeast-facing bluff below the Huntington Mesa shall be preserved and restored as set forth in ~~Policy 13~~ of this Land Use Plan's Public Access and Visitor Serving Recreation Component. This shall include the ESHA restoration *area* ~~set forth in the Wetlands Restoration Program~~. Any areas requiring remedial grading or slope stabilization shall be recontoured and revegetated with native plant material to restore the natural landform appearance. (County Policy 3.3.2.7)

C. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT

CHAPTER 4 OF THE LAND USE PLAN AMENDMENT

TRAILS POLICIES

29. A comprehensive network of bicycle and pedestrian trails shall be provided for public access. This network shall link Huntington Central Park, Harriett Wieder Regional Park, Bolsa Chica Wetlands Ecosystem Area, Bolsa Chica State Beach, Bolsa Chica State Ecological Reserve, and the Bolsa Chica Mesa bluff trail to surrounding residential, recreation, and public parking areas. *The public trail system shall be consistent with Figure 4.3-2 of the Land Use Plan which depicts the public trail system.* ~~It shall include an elevated boardwalk (i.e., Lowland Trail Corridor) through the Seasonal Ponds, connecting Harriett Wieder Regional Park with the Northeast Lowland provided such a trail is found to be consistent with wetlands restoration.~~ (County Policy 4.2.6)
30. Opportunities for wetlands observation shall be provided by overlooks provided along public trails in ~~Buffers between the residential areas and the restored wetlands. Consistent with Policies 8 and 9 of the Wetlands/Biological Resources Component,~~ limited *Limited* access interpretive trails shall *may* be provided along berms within the Wetlands Ecosystem Area *provided such trails do not adversely impact wetland resources*. Public use of the remaining trails shall not be limited. (County Policy 4.2.7)

Land Use Plan Suggested Modifications

INTERPRETIVE KAYAK/CANOE FACILITY POLICIES

35. **DELETED** (County Policy 4.2.17)

BOLSA CHICA STATE BEACH POLICIES

37. Only the portion of Bolsa Chica State Beach affected by ~~the Tidal Inlet~~ **a proposed tidal inlet** is addressed by this LCP. The California Department of Parks and Recreation may prepare a separate "Public Works Plan" (or other LUP/IAP documentation) for any and all portions of Bolsa Chica State Beach. (County Policy 4.2.21)
38. Any displacement of coastal dune habitat areas due to the construction of ~~the Tidal Inlet~~ **a proposed tidal inlet** or associated structures shall be fully mitigated. (County Policy 4.2.22)

LOCAL PUBLIC PARKS POLICIES

39. The Landowner/Master Developer shall prepare a Local Park Implementation Plan (LPIP) so as to fully satisfy the County's Local Park Code.

At a minimum, the LPIP shall require that: (1) the Bolsa Chica Mesa Community Park area at Warner Avenue be no less than 11 (eleven) acres in size and be developed as an active park; and (2) the portion of the Bolsa Chica Mesa Community Park located at the southwesterly edge of the Mesa shall be no less than 6 (six) acres in size and be developed as a passive park. Public parking for the six acre portion of the community park may be provided along the Mesa Connector roadway. ***Warner Avenue Pond and its associated residential development setback may be included within the boundaries of the Bolsa Chica Mesa Community Park, however, the Community Park shall not contain less than 17 acres exclusive of Warner Avenue Pond.*** Adequate public parking, shall be provided off-street for the active community park area. Signage visible from Warner Avenue shall be provided to direct the public to the on- and off-street parking areas. (County Policy 4.2.23)

LEGEND

- CLASS I (OFF-STREET) BICYCLE AND HIKING TRAIL
- CLASS II (ON-STREET) BICYCLE LANE
- EQUESTRIAN AND HIKING TRAIL
- o-o-o-o-o-o-o-o-o-o INTERPRETIVE TRAIL (LIMITED ACCESS)

- PUBLIC PARKS
- PUBLIC BEACH
- PROPOSED PUBLIC PARKING
- VISUAL OVERLOOK
- INTERPRETIVE AREA
- SHORELINE ACCESS
- COUNTY LCP AREA BOUNDARY

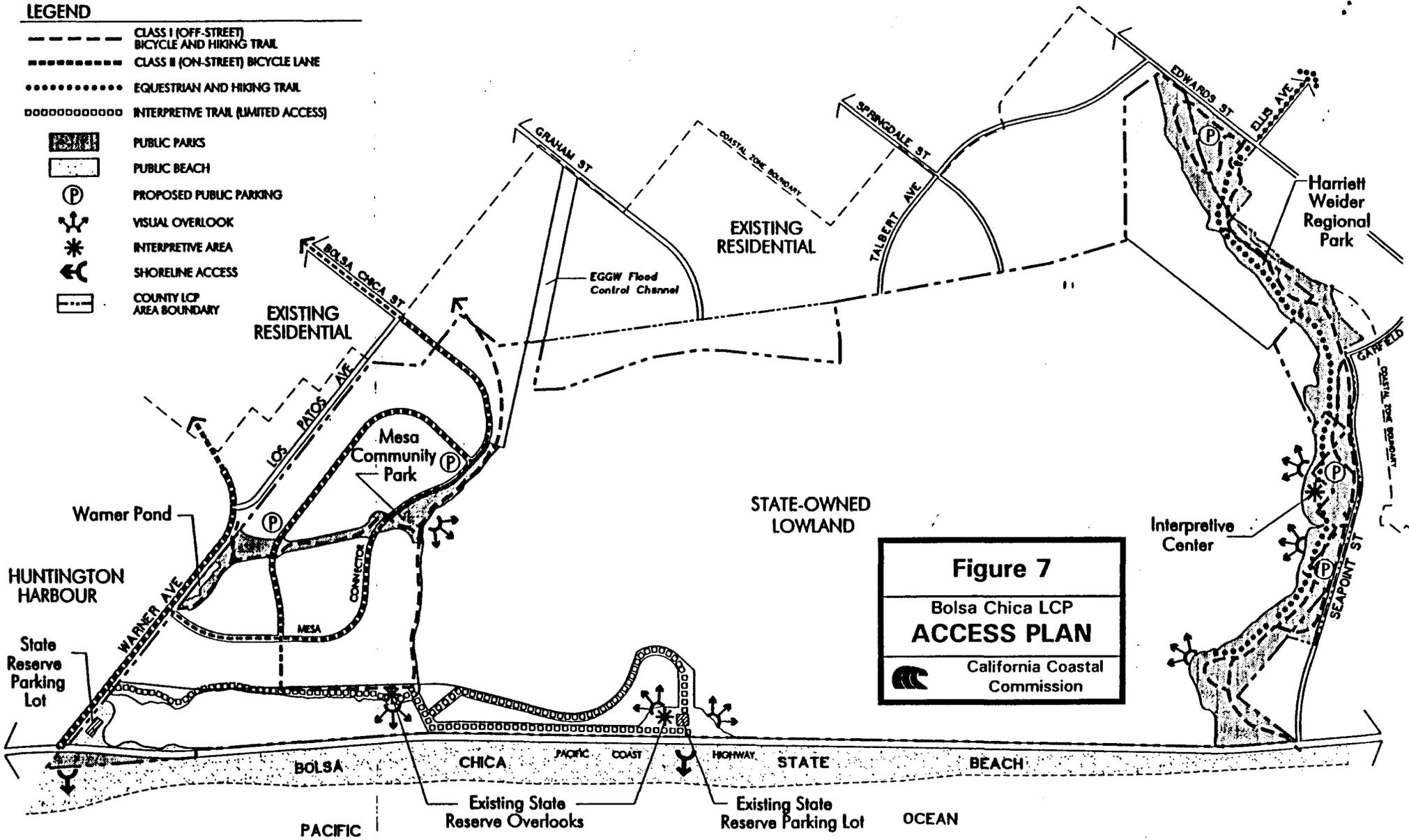


Figure 7
Bolsa Chica LCP
ACCESS PLAN
 California Coastal Commission

D. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT

CHAPTER 5 OF THE LAND USE PLAN AMENDMENT

LOCAL CIRCULATION POLICIES

7. Non-auto circulation shall be provided within the Planned Community including Class I and Class II bicycle, equestrian, and hiking trails linking community parks, Bolsa Chica State Beach, and Harriett Wieder Regional Park. Pedestrian connections from residential subdivisions to these trails shall be provided. Surrounding communities shall also have access to these trails to facilitate non-vehicular access to local and regional recreational opportunities. Safe and secure bicycle racks shall be provided at appropriate locations within the community and regional parks, *and* along the trails ~~and within the visitor serving and neighborhood commercial development~~ on the Bolsa Chica Mesa. (County Policy 5.2.14)

AIR QUALITY POLICIES

3. Project-level Coastal Development Permits shall, where feasible, incorporate vehicular trip reduction strategies including the following:
- c. Bicycle Parking: Bicycle commuting shall be encouraged through the inclusion of amenities that address unique aspects of the bicycle commuter, including Class I and Class II Bicycle Trails and the provision of safe and secure bicycle racks ~~within the visitor serving and Neighborhood Commercial development~~, along the trails and within the community and regional park areas of Bolsa Chica. (County Policy 5.2.17)

E. DEVELOPMENT COMPONENT

CHAPTER 6 OF THE LAND USE PLAN AMENDMENT

Residential Policies

3. Residential development adjacent to the Wetlands Ecosystem Area *and adjacent to Warner Avenue Pond* shall be designed to avoid adverse impacts on habitat resources to the maximum extent feasible. *Residential development shall be reasonably distributed throughout the Bolsa Chica Mesa consistent with the Planned Community Statistical Table and shall not*

Land Use Plan Suggested Modifications

exceed a total of 1,235 residential units. The Master Coastal Development Permit for the Bolsa Chica Mesa shall conform with the allocation of maximum dwelling units contained in the LCP's Planned Community Statistical Table both by Planning Area and in terms of overall limit of 1,235 residential units. Development Areas created pursuant to a Master Coastal Development Permit, as well as subsequent subdivision(s) of those Development Areas, shall not result in the creation of residential lots or parcels which do not have reasonable residential units associated with their future development. The intent of this policy is to ensure that no circumstance is created wherein the development of the Bolsa Chica Mesa would ever exceed the aforementioned 1,235 maximum residential units. This residential cap on the total number of units on the Bolsa Chica Mesa applies to and includes all current and subsequent ownerships on the Mesa, and any development rights that may accrue from the Edwards Thumb parcel. (County Policy 6.2.3)

Local Park and Community Facility Policies

50. Community parks, ~~and~~ trails ~~and an interpretive kayak/canoe facility~~ shall serve the recreational needs of local residents, and shall also supply public coastal access and staging areas for visitors to Bolsa Chica where appropriate. (County Policy 6.2.7)

53. A 50-foot-wide **residential** development setback shall be established within the development Planning Areas along the edge of the Bolsa Chica Mesa **and around Warner Pond (except where adjacent to Warner Avenue and the Mesa Connector)**. The development setback shall be landscaped primarily with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between the Wetlands Restoration **Ecosystem** Area and residential/community park areas of the Planned Community. The planting design shall avoid visually abrupt and artificially engineered changes in the type and density of plant material. Public trails required by the LCP may be included within the development setback. **The residential development setback for Warner Pond shall conform with recommendations contained in the letter from Wetlands Research Associates dated August 5, 1997.** (County Policy 6.2.22)

F. OIL PRODUCTION COMPONENT

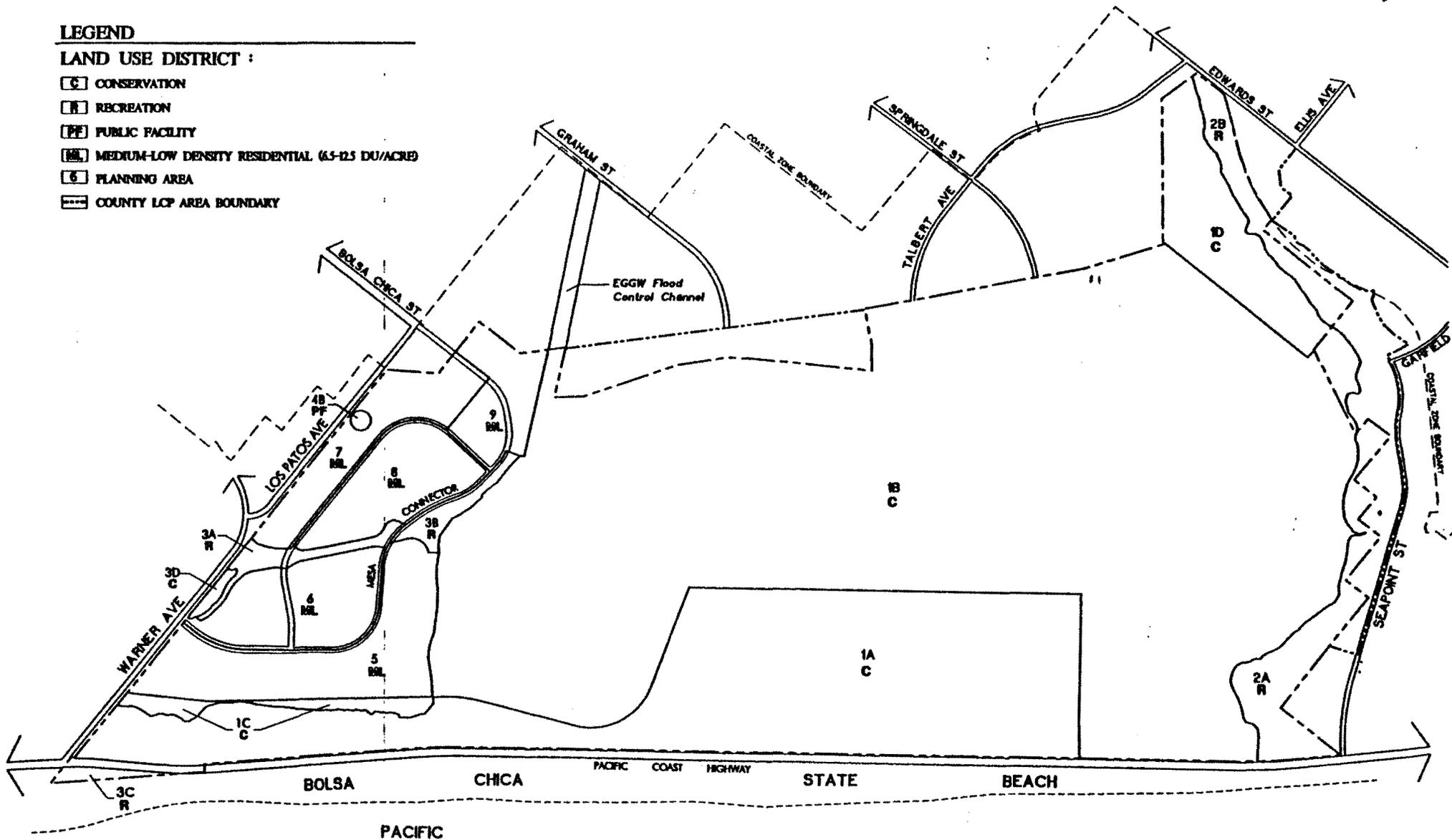
CHAPTER 7 OF THE LAND USE PLAN AMENDMENT

54. An Oil Spill Prevention Control and Countermeasure Plan (OSPCCP) and an Oil Spill Contingency Plan (OSCP) has been prepared by the current oil operators, and approved by the California State Lands Commission, the California Department of Oil Spill Prevention and Response, and the California Department of Fish and Game. ~~The Wetlands Restoration Program~~ **Any wetlands restoration program** shall incorporate the requirements of the OSPCCP and OSCP that are not inconsistent with the ~~Wetlands Restoration Program~~ and the protection of biological resources. ~~As the Wetlands Restoration Program~~ **a wetlands restoration program** is implemented, the OSPCCP and OSCP shall be updated to reflect each implementation phase. Both initial incorporation of requirements and subsequent updates shall be accomplished without requiring an amendment to the Bolsa Chica LCP. (County Policy 7.2.9)

LEGEND

LAND USE DISTRICT :

- C CONSERVATION
- R RECREATION
- PF PUBLIC FACILITY
- ML MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRE)
- 6 PLANNING AREA
- COUNTY LCP AREA BOUNDARY



BOLSA CHICA
PLANNED COMMUNITY PROGRAM

Figure 8
 Bolsa Chica LCP
Land Use Plan

California Coastal
 Commission

SUGGESTED MODIFICATIONS

0 600 1600 **FORMA**

Figure 9

Bolsa Chica LCP Zoning Map



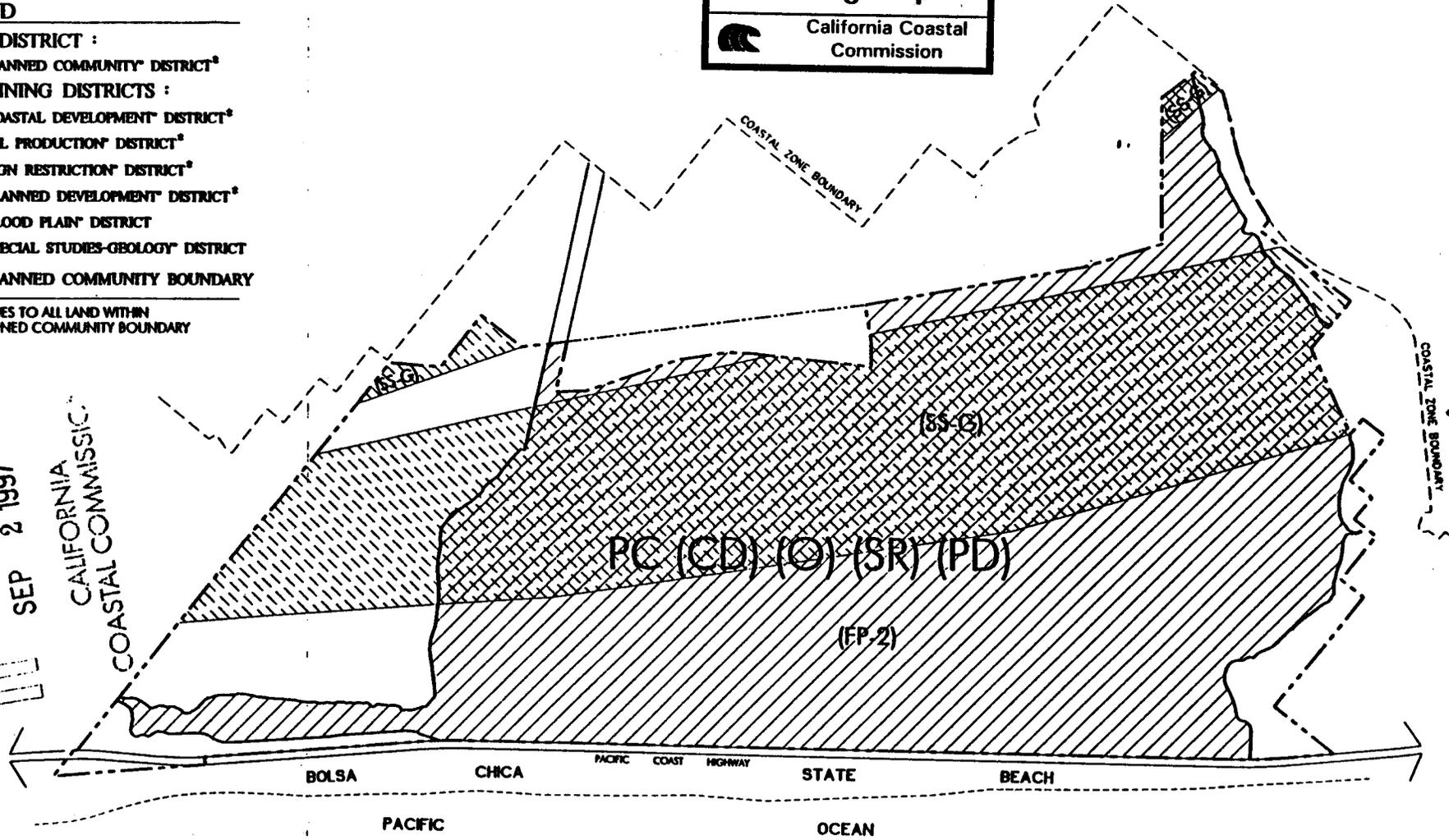
California Coastal
Commission

LEGEND

- **BASE DISTRICT :**
- [PC] "PLANNED COMMUNITY" DISTRICT*
- **COMBINING DISTRICTS :**
- [CD] "COASTAL DEVELOPMENT" DISTRICT*
- [O] "OIL PRODUCTION" DISTRICT*
- [SR] "SIGN RESTRICTION" DISTRICT*
- [PD] "PLANNED DEVELOPMENT" DISTRICT*
- [FP] "FLOOD PLAIN" DISTRICT
- [SS-O] "SPECIAL STUDIES-OBOLGY" DISTRICT
- [---] PLANNED COMMUNITY BOUNDARY

* APPLIES TO ALL LAND WITHIN
PLANNED COMMUNITY BOUNDARY

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COASTAL COMMISSION



SUGGESTED MODIFICATIONS

**BOLSA CHICA
PLANNED COMMUNITY PROGRAM**

SUGGESTED MODIFICATIONS

Figure 10

Bolsa Chica LCP
Figure B-2 of IP

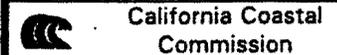


Figure B-2

**PLANNED COMMUNITY STATISTICAL TABLE
Bolsa Chica Planned Community**

LAND USE CATEGORY	PLANNING AREA	GROSS ACRES	DWELLING UNITS		
			Est. ^(a)	Max. ^(b)	
CONSERVATION					
C	Conservation (Wetlands Ecosystem Area) ^(c)	1A	296	--	--
C	Conservation (Wetlands Ecosystem Area) ^(d)	1B	891	--	--
C	Conservation (Wetlands Ecosystem Area) ^(e)	1C	11	--	--
C	Conservation (Wetlands Ecosystem Area) ^(f)	1D	51	--	--
C	Conservation (Mesa Community Park Wetlands) ^(g)	3D	2	--	--
TOTAL CONSERVATION			1,251		
RECREATION					
R	Recreation (Harriett Wieder Regional Park)	2A	38	--	--
R	Recreation (Harriett Wieder Regional Park)	2B	19	--	--
R	Recreation (Mesa Community Park)	3A ^(h)	9 ⁽ⁱ⁾	--	--
R	Recreation (Mesa Community Park)	3B	8 ⁽ⁱ⁾	--	--
R	Recreation (Beach Entry)	3C	4	--	--
TOTAL RECREATION			78		
PUBLIC FACILITY					
PF	Public Facility (Water Storage Reservoir) ^(j)	4B	1 ⁽ⁱ⁾	--	--
TOTAL PUBLIC FACILITIES			1		
RESIDENTIAL ^(k)					
ML	Medium Low (6.5 - 12.5 DU/Ac)	5	67	294	441
ML	Medium Low (6.5 - 12.5 DU/Ac)	6	45	342	513
ML	Medium Low (6.5 - 12.5 DU/Ac)	7	37	248	372
ML	Medium Low (6.5 - 12.5 DU/Ac)	8	39	198	297
ML	Medium Low (6.5 - 12.5 DU/Ac)	9	26	153	230
TOTAL RESIDENTIAL			214	1,235	--
PACIFIC COAST HIGHWAY			3	--	--
GRAND TOTAL		ALL	1,547	1,235	1,235 ^(l)

- (a) Estimated number of Dwelling Units per Planning Area.
- (b) Maximum number of Dwelling Units per Planning Area subject to footnote (l).
- (c) Lowland portion of Bolsa Chica State Ecological Reserve.
- (d) State-owned lands in the central Lowland.
- (e) Bolsa Chica Mesa portion of Bolsa Chica State Ecological Reserve.
- (f) Lands in the Edwards Thumb area of the Lowland.
- (g) Warner Avenue Pond.
- (h) Planning Area 3A includes Warner Avenue Pond as a public dedication area within the Mesa Community Park.
- (i) Local park and public facility acres shown on this Statistical Table are estimates based upon the best available information.
- (j) The circular symbol for the Water Storage Reservoir conceptually identifies and locates this public facility as an overlay within the base Medium-Low Density Residential Planning Area.
- (k) Residential density is a maximum range based upon gross acres, including roads, common recreation facilities, slopes, and landscape areas; and shall apply to each Planning Area, not any particular subarea or project.
- (l) The maximum total number of units for the Bolsa Chica Planned Community shall be 1,235.

**ATTACHMENT B
IMPLEMENTATION PROGRAM SUGGESTED
MODIFICATIONS**

IX. IMPLEMENTATION PROGRAM SUGGESTED MODIFICATIONS

Listed below are the changes to the suggested modifications of the Implementation Program contained in the June 17, 1996 Revised Findings. This attachment along with the suggested modifications to the Implementation Program in the Revised Findings document that have not been revised herein, constitute the complete set of suggested modifications to the remanded Bolsa Chica Implementing Actions Program.

A. PLANNED COMMUNITY PROGRAM

2.2.1. ~~Maximum Dwelling Units Density of Development~~

~~The maximum number of dwelling units that may be built within the Bolsa Chica Planned Community is shown on the PC Development Map and Statistical Table (see Appendix). No Residential Planning Area shall exceed the maximum number of dwelling units indicated for that Planning Area in the PC Development Map and Statistical Table.~~

Residential development shall be reasonably distributed throughout the Bolsa Chica Mesa consistent with the Planned Community Statistical Table and shall not exceed a total of 1,235 residential units. The Master Coastal Development Permit for the Bolsa Chica Mesa shall conform with the allocation of maximum dwelling units contained in the LCP's Planned Community Statistical Table both by Planning Area and in terms of overall limit of 1,235 residential units. Development Areas created pursuant to a Master Coastal Development Permit, as well as subsequent subdivision(s) of those Development Areas, shall not result in the creation of residential lots or parcels which do not have reasonable residential units associated with their future development. The intent of this policy is to ensure that no circumstance is created wherein the development of the Bolsa Chica Mesa would ever exceed the aforementioned 1,235 maximum residential units. This residential cap on the total number of units on the Bolsa Chica Mesa applies to and includes all current and subsequent ownerships on the Mesa, and any development rights that may accrue from the Edwards Thumb parcel.

Implementation Program Suggested Modifications

2.2.6 Local Park Implementation Plan

A Bolsa Chica Local Park Implementation Plan (LPIP) shall identify requirements and locations for local park sites and recreation areas within the planned community, and include an implementation program.

The Local Park Implementation Plan shall be submitted to and approved by the Orange County Planning Commission in conjunction with the first Master Coastal Development Permit, as set forth in Chapter 10.

The LPIP will implement all applicable local park policies set forth in the Bolsa Chica Land Use Plan, fully satisfy Orange County's Local Park Code requirements (i.e., County Ordinance No. 3518), and be consistent with the Orange County Recreation Element's "Master Plan of Local Parks."

The location and size of the local community parks shall be approximately as shown on the Development Map and Statistical Table for the Bolsa Chica Planned Community. At the same time, it is recognized that the final configuration of Recreation Planning Areas 3A and 3B (the Mesa Community Park and ~~Lowland Community Park~~) may be significantly revised to reflect site planning considerations and the specific park and recreation facilities set forth in the approved LPIP. Park facilities shall be designed to minimize the impacts of recreational activities (noise, lighting, etc.) on surrounding residential areas. Impacts may be reduced by locating high activity areas away from residences, and through the use of landscaping, setbacks, walls, fencing and/or other screening methods intended to achieve compatibility between the residential and recreational land uses.

At a minimum, the LPIP shall require that: (1) the north end of Bolsa Chica Mesa Community Park be no less than eleven (11) acres in size and be developed as an active park; and (2) the portion of the Bolsa Chica Mesa Community Park area at the southwesterly edge of the mesa be no less than six (6) acres in size and be developed as a passive park. ***Warner Avenue Pond and its associated residential development setback may be included within the boundaries of the Bolsa Chica Mesa Community Park, however, the Community Park shall not contain less than 17 acres exclusive of Warner Avenue Pond.*** Public parking for the six-acre portion of the community park may be provided along the Mesa Connector roadway. Adequate public parking shall be provided off-street for the active community park area. Signage visible from Warner Avenue shall be provided to direct the public to the on- and off-street parking areas.

Implementation Program Suggested Modifications

All local public parks required by the LPIP shall be irrevocably offered for dedication to the County of Orange as a condition of subdivision approvals, in accordance with the County's Local Park Code. All local parks shall be improved by the Landowner/Master Developer or the subsequent developer.

2.2.25 Warner Avenue Pond Mitigation:

~~The fill of Warner Avenue Pond on the Bolsa Chica Mesa shall be allowed only if it is found consistent with Section 30233 of the Coastal Act. Wetland impacts to Warner Avenue Pond and the isolated pocket wetlands shall be mitigated at a ratio of 4:1 (square footage of wetlands to square footage of fill). The County shall require, as a special condition of approval for a Coastal Development Permit that would allow the fill of Warner Avenue Pond or the pocket wetlands, that mitigation be implemented prior to or concurrent with the development creating the adverse impact.~~

~~The mitigation site shall be within the Bolsa Chica Lowlands unless the Lowlands are sold to a new landowner and the new landowner is unwilling to allow the proposed mitigation to proceed. In such a case the Master Developer shall find an alternative mitigation site.~~

Warner Avenue Pond, and its associated wetlands, shall be preserved with a conservation designation. Wetland residential development setbacks shall be provided consistent with the provisions of the Bolsa Chica Land Use Plan and Planned Community Program. Warner Pond and its associated residential development setback may be included within the boundaries of the Bolsa Chica Mesa Community Park (Planning Areas 3A and 3B on the Planned Community Map and Statistical Table) as provided for in LUP Section 4.3.2(2)(h), however the Community Park shall not contain less than 17 acres exclusive of Warner Avenue Pond.

Should Warner Avenue need to be widened in the future, in order to meet regional traffic demands, the County of Orange will need to process a Local Coastal Program Amendment which justifies the need to widen Warner Avenue, analyzes alternatives in order to determine the least environmentally damaging feasible alternative, and fully mitigates for any adverse environmental impacts to Warner Pond and its associated wetlands.

Implementation Program Suggested Modifications

2.2.28 Development Setback Along the Bolsa Chica Mesa

The 50-foot development setback from the edge of the Bolsa Chica Mesa, as required in Sections 4.5.3, 5.5.1, 5.5.2, and 5.5.3 of this Planned Community Program, is illustrated in Figures 2.1 and 2.2. The development setback shall be landscaped primarily with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between the Wetlands ~~Restoration~~ *Ecosystem* Area and residential/community park areas of the Planned Community. The planting design shall avoid visually abrupt and artificially engineered changes in the type and density of plant material.

Portions of the 50-foot setback will occur along the south-facing slope of the Mesa (Figure 2.1) and along the slope which adjoins Outer Bolsa Bay (i.e., Section 2.2, where the State ownership is 50 feet or less from the edge of the bluff). Public trails required by the LCP may be included within the setback. Public use of the trails shall be ensured in perpetuity by the dedication of either fee ownership or an appropriate trail easement, as determined in Coastal Development Permits for Mesa development.

2.2.30 DELETED

2.3 CONDITIONS OF APPROVAL

The following Conditions of Approval were adopted by the Orange County Board of Supervisors as part of Resolution No. 94-1341 for the Bolsa Chica Local Coastal Program. Subsequent revisions were made to Conditions 8, 13, 29, 37, 39, 53, and 71 to incorporate the Suggested Modifications to the LCP approved by the California Coastal Commission on January 11, 1996. The Bolsa Chica Planned Community Program is an Implementing Actions Program of the Local Coastal Program, and these Conditions shall regulate all land uses and development permitted within the community.

8. Prior to the issuance of each coastal development permit and building permit for each residential unit on the Bolsa Chica Mesa, the applicant shall pay a fee per dwelling unit consistent with Sections 1.2, 1.2.1, or Section 1.4 of Appendix D of the Bolsa Chica Development Agreement, as appropriate at the time of permit issuance. These fees will be deposited into a "Mesa Conservation Fund" established by the County. The funds will be used for construction, restoration, operations and maintenance of Wetland ~~Restoration~~ *Ecosystem* Area IC and/or other areas within the Recreation/Open Space or Wetlands ~~Restoration Program~~

Implementation Program Suggested Modifications

Ecosystem area. All funds collected in the Mesa Conservation Fund may be credited toward a \$7 million applicant obligation referenced under Table D-1 in the Bolsa Chica Development Agreement. The fee per dwelling unit shall be subject to an annual inflationary factor as described in the Southern California Real Estate Research Council Construction Cost Index. Adjustments to the fees should occur on January 1 of every year based on the previous four quarters' inflation.

13. Prior to the issuance of any grading permit, the applicant shall provide to the Manager, EMA Environmental Resources Division, in coordination with oil field operators, any necessary amendment to the Oil Spill Prevention Control and Countermeasure Plan (OSPCCP) and Oil Spill Contingency Plan (OSCP) enacted between the oil field operators and appropriate state agencies to prevent the oil spill and ensure the compatibility between oil field and proposed residential, wetlands and other developments, and, as required to be consistent with LCP Land Use Plan Policy 7.2.9 and ~~WRP Section 5.6~~, incorporation of Oil Spill Plan Requirements.

2.3.12 Terrestrial Biology

37. ~~Prior to the issuance of any grading permit in the lowland, the project applicant shall provide financial security for the approval of Manager, EMA Environmental Planning Division in consultation with Manager, EMA Project Planning and Manager, EMA Coastal Facilities to ensure that the approved Wetlands Restoration Plan be fully implemented to satisfy, but not limited to Construction Monitoring & Maintenance as described in the WRP, and Five Year Post Construction Monitoring and Maintenance, Long Term Monitoring and Maintenance, a plan to control the presence of invasive and/or feral pets into wildlife areas, retention of a minimum of 200 acres of pickleweed on site during all construction and restoration phases, and all other terrestrial provision of the Bolsa Chica LCP Wetland Restoration Program.~~

Prior to the issuance of the first Coastal Development Permit in Planning Area 5, the 20-acre native trees and shrubs ESHA adjacent to and/or in Harriett Wieder Regional Park shall be implemented. ***The 20-acre ESHA on the Huntington Mesa shall be planted with native trees and shrubs to compensate for the loss of raptor habitat provided by a eucalyptus grove on the Bolsa Chica Mesa. The replacement habitat, shall be installed before removal of***

Implementation Program Suggested Modifications

the eucalyptus grove, and satisfy the specific requirements of LUP Policy 3.1.2.5,

3.2.1 Principal Permitted Uses requiring a Project Coastal Development Permit Per Chapter 10 (Discretionary Permits And Procedures)

4. DELETED

4.5.3 Building setbacks:

2. Bolsa Chica Mesa: A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28. *Additionally a fifty (50) foot residential development setback shall be maintained around Warner Pond.*

4.5.12 ~~Mesa and Lewland Community Park Standards:~~

1. Design: Community Park design shall be consistent with Land Use Plan Policies 4.2.1 through 4.2.5, 4.2.11, 4.2.12, 4.2.23, and 4.2.24, Policy 6.2.7, and the Local Park Implementation Plan prepared pursuant to Section 2.2.6.
2. Buffers: Landscaping within buffer areas adjacent to the Community Parks *Park* shall consist of native, drought-tolerant plants.

5.5.1 Single-Family Detached Developments:

5. Building setbacks:

- d. Bolsa Chica Mesa -- A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28. *Additionally a fifty (50) foot residential development setback shall be maintained around Warner Pond.*

5.5.2 Single-Family Attached Developments:

5. Building setbacks:

- e. Bolsa Chica Mesa -- A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica

Implementation Program Suggested Modifications

Mesa as explained in Section 2.2.28. *Additionally a fifty (50) foot residential development setback shall be maintained around Warner Pond.*

5.5.3 Multi-Family Developments:

6. Building setbacks/separations:

- d. Bolsa Chica Mesa -- A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28. *Additionally a fifty (50) foot residential development setback shall be maintained around Warner Pond.*

B. WETLAND RESTORATION PROGRAM

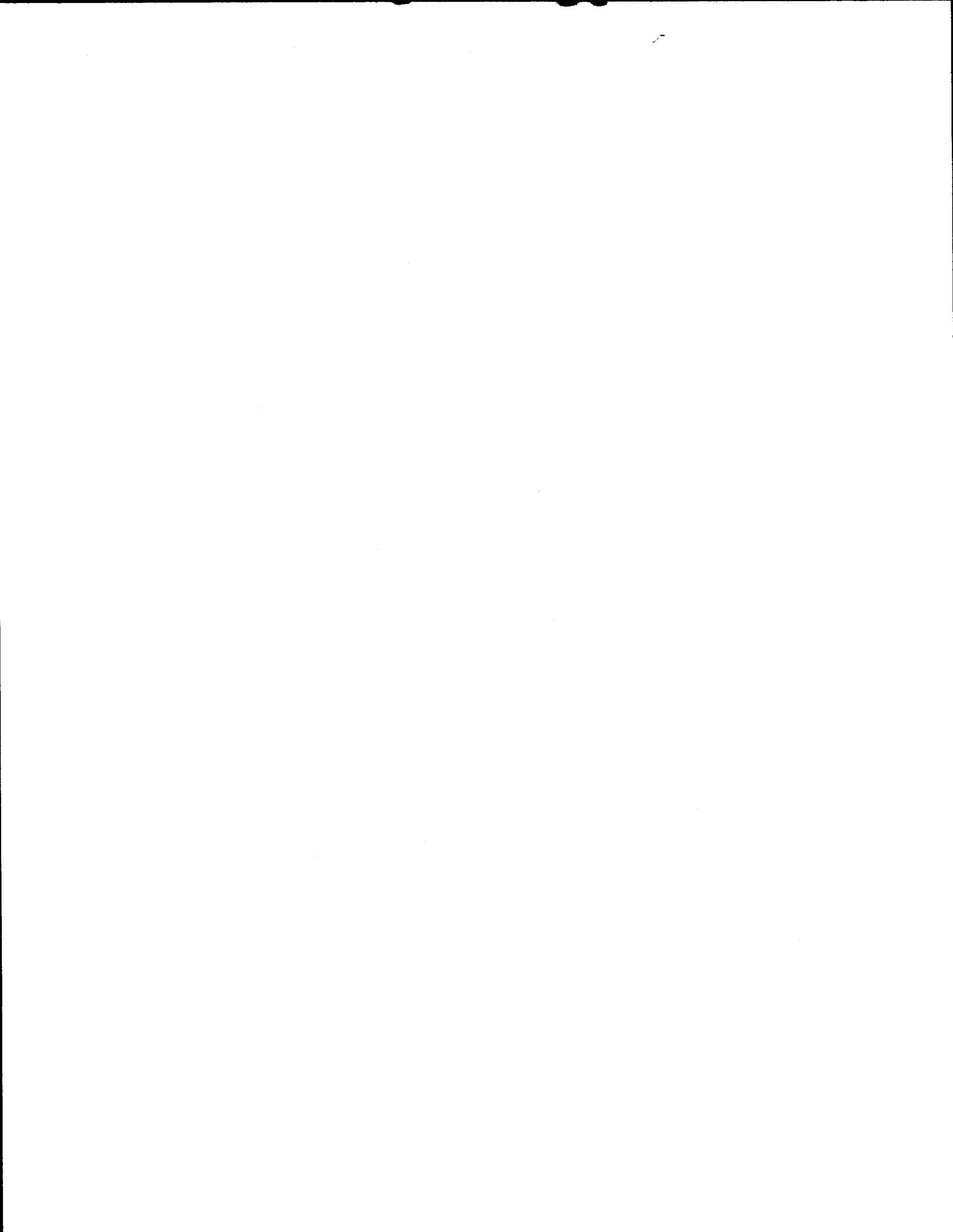
The "Wetlands Restoration Program" is deleted in its entirety from the "Implementing Actions Program".

C. DEVELOPMENT AGREEMENT

No modifications to the development agreement have been proposed.



**ATTACHMENT C
ADOPTED REVISED FINDINGS
OF JUNE 17, 1996**



CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071



June 17, 1996

TO: Commissioners and Interested Persons

FROM: Charles Damm, South Coast District Director
Teresa Henry, Assistant District Director
Steve Rynas, Orange County Area Supervisor

SUBJECT: ADOPTED REVISED FINDINGS ON BOLSA CHICA LAND USE PLAN
AMENDMENT NO. 1-95/IMPLEMENTING ACTIONS PROGRAM AS
APPROVED BY THE COMMISSION ON JUNE 12, 1996.

SUMMARY OF STAFF REPORT**SUMMARY OF COMMISSION ACTION**

At the Commission meeting of January 11, 1996, the Commission reviewed the County of Orange Local Coastal Program (LCP) Bolsa Chica Land Use Plan Amendment 1-95, and the initial submittal of the Bolsa Chica Implementing Actions Program. Extensive public testimony and subsequent Commission discussion occurred before the Commission voted on the matter. In its action, the Commission denied, as submitted, then certified with suggested modifications, Bolsa Chica Land Use Plan Amendment 1-95. Following action on the Land Use Plan Amendment, the Commission then voted to reject the Implementing Actions Program as submitted, then approved the Implementing Actions Program with suggested modifications.

The fundamental issue involved in the Commission's decision was whether allowing residential development in the lowlands, which would result in the loss of over 100 acres of degraded wetlands, was an appropriate means of assuring restoration of the remaining Bolsa Chica wetlands. The Commission found, pursuant to Sections 30233 and 30411 of the Coastal Act, that residential development in the lowlands is necessary to assure restoration of the remaining 770 acres of lowland wetlands that are currently in private ownership, and is the least environmentally damaging feasible alternative capable of achieving the objective of wetlands restoration. This decision took into account the provisions of the certified 1986 Bolsa Chica Land

Use Plan, and the 1981 California Department of Fish and Game degraded wetlands determination for Bolsa Chica. Commission staff has revised its December 21, 1995 staff report to reflect the Commission's decision concerning the lowland development. The revised findings address lowland development as well as other issues that were raised by the LCP.

COMMISSION VOTE

Resolution #1 voting (approval of proposed LUPA as submitted):

YES: None

NO: Commissioner Cava, Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Wan, Commissioner Karas, Commissioner Pavley, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

Resolution #2 voting (approval of proposed LUPA as modified):

YES: Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Karas, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

NO: Commissioner Cava, Commissioner Wan, and Commissioner Pavley

Resolution #3 voting (approval of proposed IP as submitted):

YES: None

NO: Commissioner Cava, Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Wan, Commissioner Karas, Commissioner Pavley, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

Resolution #4 voting (approval of proposed IP as modified):

YES: Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Karas, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

NO: Commissioner Cava, Commissioner Wan, and Commissioner Pavley

DESCRIPTION OF THE SUBMITTAL

The County of Orange submitted to the Commission a proposed Local Coastal Program for Bolsa Chica. The submittal consisted of an amendment to the Commission certified Land Use Plan of 1986 and an Implementation Program. The proposed amendment to the Land Use Plan would totally replace the 1986 Land Use Plan. The Implementation Program is a new submittal. The Implementation Program consists of a variety of documents. Principal documents of the implementation program include the Planned Community Program, the Wetlands Restoration Program, and Section 7-9 of the Orange County Zoning Code.

The proposed Local Coastal Program (LCP) is in support of planned residential development at Bolsa Chica. The Local Coastal Program proposes to allow 3,300 homes, build associated infrastructure, provide public recreational facilities, and undertake wetland restoration at Bolsa Chica which includes a 250 foot wide non-navigable ocean entrance. The proposed Local Coastal Program would allow the construction of 2,400 residential units on the Mesa. Mesa residential development requires the relocation of an environmentally sensitive habitat area (ESHA) from Bolsa Chica Mesa to Huntington Mesa and some wetland fill.

The remaining 900 homes would be located in the Lowlands and would require the fill of approximately 104 to 120 acres of wetland depending on the wetland delineation methodology used. The Local Coastal Program requires the conveyance of 49 acres of land to the County for inclusion into Harriett Wieder Regional Park, located on the Huntington Mesa. The Local Coastal Program also requires the dedication of approximately 770 acres of the Lowland by the developer.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission adopt the following revised findings in support of the Commission's action **DENYING** the proposed Land Use Amendment and Implementing Actions for Bolsa Chica, as submitted, and **APPROVING** the proposed local coastal program for Bolsa Chica, as modified.

ADDITIONAL INFORMATION

For further information, please contact Stephen Rynas at the South Coast District Office of the Coastal Commission, at 310-590-5071. Copies of the proposed amended Land Use Plan and Implementation Program are available for review at the Long Beach office of the Coastal Commission or at the Orange County Environmental Management Agency, 300 North Flower Street, Santa Ana, CA 92702-4048. Mr. Tippetts is the contact person for the County of Orange and he may be reached by calling 714-834-5394.

Table of Contents

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	7
II. COMMISSION RESOLUTION FOR ADOPTING REVISED FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE BOLSA CHICA LOCAL COASTAL PROGRAM WITH SUGGESTED MODIFICATIONS	12
III. PROCEDURAL PROCESS	14
IV. BACKGROUND	15
A. AREA DESCRIPTION	15
B. LOCAL HISTORY	23
C. HISTORY OF LAND USE PLANNING	24
D. DESCRIPTION OF PRESENTLY SUBMITTED LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT	29
V. SUMMARY OF PUBLIC PARTICIPATION	37
VI. LAND USE PLAN SUGGESTED MODIFICATIONS	39
A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS	39
1. WETLANDS/BIOLOGICAL RESOURCE POLICIES	39
2. COASTAL/MARINE RESOURCES POLICIES	40
3. PHYSICAL RESOURCES POLICIES	43
4. CULTURAL RESOURCES POLICIES	44
5. VISUAL AND SCENIC RESOURCES POLICIES	45
B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT	46
C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT	50
D. DEVELOPMENT COMPONENT	52
E. OIL PRODUCTION COMPONENT	53
F. FINANCING AND PHASING COMPONENT	54
VII. IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS	55
A. PLANNED COMMUNITY PROGRAM	55
B. WETLANDS RESTORATION PROGRAM	73

Table of Contents

C. COUNTY OF ORANGE ZONING CODE	77
D. DEVELOPMENT AGREEMENT	78
VIII. ERRATA MODIFICATIONS	82
A. PLANNED COMMUNITY PROGRAM	82
B. WETLAND RESTORATION PROGRAM	82
IX. FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S LAND USE PLAN AMENDMENT 1-95, AND APPROVAL WITH MODIFICATIONS	90
A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS	90
1. WETLANDS/BIOLOGICAL RESOURCE POLICIES	90
2. COASTAL/MARINE RESOURCES POLICIES	117
3. PHYSICAL RESOURCES POLICIES	123
4. CULTURAL RESOURCES POLICIES	126
5. VISUAL AND SCENIC RESOURCES POLICIES	128
B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT	131
C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT	144
D. DEVELOPMENT COMPONENT	157
E. OIL PRODUCTION COMPONENT	159
F. FINANCING AND PHASING COMPONENT	162
X. FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S IMPLEMENTATION PROGRAM, AND APPROVAL WITH MODIFICATIONS	165
A. PLANNED COMMUNITY PROGRAM	165
1. General Regulations	166
2. Recreation	166
3. Traffic And Circulation	167
4. Conservation Planning	167
5. Development	168
6. Orange County Zoning Code	168
B. WETLANDS RESTORATION PROGRAM	170
C. BOLSA CHICA DEVELOPMENT AGREEMENT	170
XI. FINDINGS FOR APPROVAL OF THE ERRATA MODIFICATIONS	172
XII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT	173

Table of Contents

LIST OF FIGURES

FIGURE 1:	LOCATION MAP	21
FIGURE 2:	OWNERSHIP MAP	22
FIGURE 3:	1986 LAND USE PLAN	28
FIGURE 4:	PROPOSED LAND USE PLAN	34
FIGURE 5:	PROPOSED ZONING MAP	35
FIGURE 6:	WETLANDS RESTORATION PLAN	36
FIGURE 7:	SOUTH DEVELOPMENT SETBACK	63
FIGURE 8:	WEST DEVELOPMENT SETBACK	64
FIGURE 9:	PROPOSED NET CHANGE IN HABITAT TYPES	114
FIGURE 10:	CONCEPT PLAN FOR THE TIDAL INLET	135
FIGURE 11:	VEGETATIVE RESOURCES MAP	141
FIGURE 12:	1986 LUP CIRCULATION PLAN	145
FIGURE 13:	ATIP COMPONENTS	152

LIST OF EXHIBITS

Exhibit A	Chapter 3 Policies of the California Coastal Act
Exhibit B	Selected Graphics from the Presentation of Dr. Josselyn

I. EXECUTIVE SUMMARY

A. SUMMARY OF COMMISSION ACTION AND LCP DESCRIPTION

On January 11, 1996 the Commission took action to deny the Land Use Plan Amendment 1-95 for Bolsa Chica, as submitted. The Commission also denied the Implementation Plan, as submitted. Suggested modifications were proposed and adopted by the Commission to bring the Land Use Plan into conformance with Chapter 3 policies of the Coastal Act and to modify the Implementation Plan so that it conforms with and is adequate to carry out the Land Use Plan, as modified. The effect of the Commission's action on January 11, 1996 was to certify the Bolsa Chica Local Coastal Program, with modifications. To complete the certification process the County of Orange (through a resolution passed by the Orange County Board of Supervisors) must accept the Bolsa Chica Local Coastal Program, as certified by the Commission with suggested modifications.

The Local Coastal Program ("LCP") consists of an amended Land Use Plan ("LUP") and an Implementation Program. The amended Land Use Plan is a significant revision of the Commission-certified 1986 Land Use Plan for Bolsa Chica and replaces the former plan in its entirety. The Implementation Program is the first implementation plan for Bolsa Chica to be submitted to the Commission. The Implementation Program consists of a variety of documents, including a Planned Community Program, a Wetlands Restoration Program, a Development Agreement, and Section 7-9 of the Orange County Zoning Code.

The Bolsa Chica LCP Area is comprised of an upland mesa-top area referred to as the Bolsa Chica Mesa (hereafter referenced as the "Mesa"), and a wetland ecosystem area referred to as the Lowland. There is also a much narrower mesa along the southeastern portion of the Local Coastal Program Area referred to as the Huntington Mesa. The Huntington Mesa is proposed as a regional park.

The Department of Fish and Game determined in 1981 that the Lowland is a severely degraded wetland system that is comprised of functioning wetlands, functioning but degraded wetlands, and former wetlands which, when viewed in relation to its historic and overall function, collectively are in need of major restoration. Currently, approximately 900 acres of the Lowlands are wetlands. Interspersed among the wetlands are approximately 350 acres of former wetland areas. The majority of the Bolsa Chica LCP Area is owned by Koll Real Estate Group, Inc. ("Koll"), which owns approximately 200 acres of the Mesa and 903 acres of the Lowland. Both the Mesa and Lowland are vacant except for oil drilling structures to support oil extraction operations that occur in the Lowland.

Executive Summary

The 1986 Land Use Plan for Bolsa Chica allowed for development of a marina with associated visitor serving commercial and residential development in a portion of the Lowland on condition that the developer restore the remainder of the Lowland. Restoration and ocean access to the marina was to be achieved through construction of an ocean entrance. The proposed land use plan amendment, when compared to the 1986 plan, has been revised to delete several project elements such as: a marina at Bolsa Chica, visitor-serving commercial development, and a "cross-gap" connector. The County through its numerous environmental analyses concluded that certain project components, such as the marina, were infeasible, that more wetlands could be restored, and that lessening the intensity and extent of the development would lessen the adverse environmental impacts.

The amended LUP provides for the construction of 3,300 homes at Bolsa Chica -- 2,400 on the Mesa and 900 in the Lowland and a restored wetland ecosystem of approximately 1100 acres. Mesa residential development would occur on 215 acres. The Lowland residential development would occur on 185 acres. The Lowland development will involve the fill of approximately 104 to 120 acres of wetlands depending on the wetland delineation criteria used. The LCP provides that a permit for Lowland development will be issued upon condition that the developer restore the remaining Lowlands through dedicating approximately 770 acres of the Lowland to a public agency and by funding the restoration program. The developer would not be required to provide funding for restoration if conditions of the Army Corps of Engineers Section 404 permit or the coastal development permit contain conditions not identified in the Local Coastal Program that raise the cost of restoration by 1% or greater (the LCP Wetlands Restoration Plan funding program contains a built in 20% contingency fund). The LCP establishes the restoration program for the Lowlands. The restoration program includes a 250 foot wide non-navigable ocean entrance. Both in 1986 and now, the County of Orange has indicated in the amended Land Use Plan that the Lowland development is necessary in order to insure sufficient revenue generation to guarantee the restoration of the remaining Lowlands not committed to development.

B. SUMMARY OF MAJOR ISSUES AND COMMISSION FINDINGS

The Commission found in taking action on the Bolsa Chica LCP submittal that greater specificity and certain substantive modifications were necessary with regards to a number of issues, including but not limited to: wetland dedication requirements, building setbacks from the Bolsa Chica Mesa bluff edge, public access and recreation LCP policies, mitigation of impacts on cultural resources, development standards criteria, and mitigation provisions associated with the proposed new ocean inlet. The Commission found that it was necessary to deny the Bolsa Chica LCP Land Use Plan Amendment 1-95 and Implementing Actions Program as submitted by the County of Orange in order to achieve the necessary

Executive Summary

specificity and certain substantive revisions relating to dedication requirements and bluff setback through suggested modifications. While the Commission adopted numerous suggested modifications to the County's submittal, the Commission also found that the documentation and evidence submitted by the County and majority landowner was convincing with regards to the LCP's conformity with the wetland preservation, restoration, and ESHA policies of the Coastal Act. The next four subheadings summarize the major issues and Commission action regarding: Lowland Development, Lowland Dedication, Mesa Development, and the Wetlands Restoration Program.

LOWLAND DEVELOPMENT: Commission staff had recommended that the Commission find that the proposed 900 residential units to be built on 185 acres of the Bolsa Chica Lowlands is inconsistent with the Coastal Act. After hearing many hours of public testimony and reviewing the evidence, the Commission reached several conclusions regarding the proposed lowland development, including the following:

1. The Bolsa Chica Lowland was deemed in 1981 by the California Department of Fish and Game (DFG) to be a severely degraded wetland system in need of major restoration.
2. The Commission in certifying the 1986 Bolsa Chica LCP Land Use Plan affirmed the DFG severely degraded wetland determination for Bolsa Chica and found that major restoration could be achieved through construction of an ocean inlet in connection with a marina and associated commercial and residential development.
3. That the Bolsa Chica Lowland wetlands system will continue to degrade without a major wetlands restoration program being implemented.
4. That consistent with Sections 30001.5, 30230, 30231, 30233, 30236 and 30411 of the California Coastal Act, in order to enhance and restore the wetland values and biological productivity of the Bolsa Chica Lowlands, it is necessary to construct an ocean inlet and that development of 900 residential units on 185 acres of the Lowlands will generate the 48 million dollars in revenue necessary to create the ocean inlet and insure the major restoration of the remaining 770 acres of wetlands still in private ownership.
5. Because the Bolsa Chica Lowland Wetlands have been deemed a severely degraded wetland system in need of major restoration by DFG pursuant to Sections 30411 and 30233(a) of the Coastal Act, and because construction of a marina in the Lowlands is no longer feasible,

Executive Summary

the Commission found that the proposed residential development in the Lowlands is an allowable use in that it is a feasible way of insuring wetland restoration, and is the least environmentally damaging alternative for insuring that wetland restoration.

The Commission concluded that the LCP set forth the least environmentally damaging, feasible way of achieving the major restoration of the Bolsa Chica Lowland wetlands consistent with the California Coastal Act.

LOWLAND DEDICATION: Commission staff also recommended that the Commission find the LCP inconsistent with the Coastal Act because it did not require that the Lowland wetlands be dedicated if the majority landowner chose to not build in the Lowlands. The Development Agreement between the County of Orange and the majority landowner, as submitted, stated that should the majority landowner receive an U.S. Army Corps of Engineers Section 404 permit and a coastal development permit (CDP) for Lowlands development but decide not to undertake development, the majority landowner is required to dedicate approximately 770-794 acres in Lowland Planning Area 1D and pay seven million dollars for restoration of Area 1C. However, if the majority landowner failed to pursue a U.S. Army Corps of Engineers Section 404 permit/CDP, the majority landowner would have been required to dedicate 88.7 acres of the Lowlands.

At the January, 1996 Commission hearing, in response to comments, and prior to the Commission vote, the County of Orange and the majority landowner suggested a modification to the LCP which would clarify that should the majority landowner voluntarily decide not to pursue a U.S. Army Corps Section 404 permit and coastal development permit for Lowland development, the majority landowner will dedicate the full 770-794 acres in Lowland Planning Area 1D and pay the seven million dollars for restoration of Area 1C. The Commission adopted the suggested modifications, as recommended by the County, finding that they further restoration goals for the Bolsa Chica Lowlands by providing an opportunity through public ownership in the event the landowner decides not to proceed with Lowland development and restoration.

With this modification suggested by the County, the Commission found that the concern over the dedication of the Lowlands in order to insure preservation of wetland habitat was resolved.

MESA DEVELOPMENT: The third major issue the Commission dealt with concerns proposed development of the Bolsa Chica Mesa. Questions regarding the adequacy of building setbacks from the bluff edge, preservation and protection of archaeological and cultural resources, parkland, public parking and public trails were all raised by Commission staff and members of the public. In response to these questions, the Commission found the County submittal lacking in specificity and

Executive Summary

denied the Bolsa Chica LCP as submitted. However, the Commission, as noted previously, then certified the LCP with suggested modifications. Those modifications required: a minimum 50 foot building setback from the Mesa bluff edge; that archaeological, cultural and paleontological resources be preserved and protected through appropriate surveys, research and monitoring of all grading activities; and, that the public parkland, public parking and public trails be appropriately signed so as to acknowledge their availability for public use. The Commission, as discussed in the next section, also found that the filling of several small isolated wetlands on the Mesa was allowable and adequately mitigated. The Commission concluded that with the suggested modifications the Mesa development could be found in conformance with the wetland protection, public access and recreation, and land resources policies of the Coastal Act.

WETLANDS RESTORATION PROGRAM: The last major issue the Commission addressed involved the adequacy of the County's proposed Wetlands Restoration Program. Once again the Commission found the submittal to be lacking the necessary details for certification as submitted. Instead the Commission certified with suggested modifications the Wetlands Restoration Program finding that additional measures were necessary to insure proper mitigation for the adverse impacts that development would have the Lowland Wetlands, that impacts to ESHA (the Eucalyptus Grove) be mitigated through proper phasing, and that the success criteria and monitoring provisions of the Wetlands Restoration Program be improved. Finally, the Commission found that the filling of several small isolated wetlands on the Bolsa Chica Mesa was allowable in order to accommodate regional traffic needs, and to insure preservation and protection of the Lowland Wetlands through, among other means, concentrating development on the Mesa and increased building setbacks from the Lowlands. The Commission found that the loss of these small isolated wetlands, totaling about three acres, was properly mitigated through the suggested modifications which require a 4:1 mitigation ratio. The Commission concluded that, with the suggested modifications, the Bolsa Chica LCP Wetlands Restoration Program was in conformance with and adequate to carry out the wetland protection policies of the Bolsa Chica LCP Land Use Plan as amended and certified by the Commission with suggested modifications.

Resolution of Adoption

II. COMMISSION RESOLUTION FOR ADOPTING REVISED FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE BOLSA CHICA LOCAL COASTAL PROGRAM WITH SUGGESTED MODIFICATIONS

Following the public hearing, staff recommends that the Commission adopt the following motion. Comments from the public concerning the findings will be limited to discussing the adequacy of the findings to support the Commission's action of January 11, 1996.

Motion #1

I move that the Commission adopt the following revised findings in support of the Commission's denial of Amendment 1-95 to the Bolsa Chica land Use Plan (as submitted) and Implementation Plan (as submitted) for Bolsa Chica and its approval with suggested modifications.

Staff Recommendation

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

Resolutions

Below is the voting summary for each resolution at the January 11, 1996 Commission meeting.

A. Resolution #1 voting (approval of proposed LUPA as submitted):

YES: None

NO: Commissioner Cava, Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Wan, Commissioner Karas, Commissioner Pavley, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

Resolution of Adoption

B. Resolution #2 voting (approval of proposed LUPA as modified):

YES: Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Karas, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

NO: Commissioner Cava, Commissioner Wan, and Commissioner Pavley

C. Resolution #3 voting (approval of proposed IP as submitted):

YES: None

NO: Commissioner Cava, Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Wan, Commissioner Karas, Commissioner Pavley, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

D. Resolution #4 voting (approval of proposed IP as modified):

YES: Commissioner Calcagno, Commissioner Doo, Commissioner Flemming, Commissioner Karas, Commissioner Rick, Commissioner Staffel, Commissioner Wolfsheimer, and Chairman Williams

NO: Commissioner Cava, Commissioner Wan, and Commissioner Pavley

III. PROCEDURAL PROCESS

STANDARD OF REVIEW: The standard of review for land use plan amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, Section 30512 states: *"(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission."*

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

COMMISSION VOTING PROCESS: Pursuant to Section 13540 of the Commission's regulations certification of the local coastal program will be based on specific written findings (this report) adopted by majority vote of the members prevailing on the motion.

HEARING LIMITATION: Comments from the public concerning the revised findings will be limited to discussing the adequacy of the revised findings to support the Commission's action.

PROCEDURAL REQUIREMENTS: Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the local coastal program will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The County of Orange did not indicate in its submittal resolution that this local coastal program would take effect automatically upon Commission approval. Further, this certification is subject to suggested modifications by the Commission. Therefore, this local coastal program will not become effective until the County of Orange formally adopts the suggested modifications and complies with all the requirements of Section 13544 including the requirement that the Executive Director determine the County's adoption of the Amendment to the Land Use Plan and Implementation Program is legally adequate.

IV. BACKGROUND

A. AREA DESCRIPTION

Bolsa Chica comprises approximately 1,588 acres of unincorporated land within the coastal zone of northwestern Orange County (see Figure 1). Currently, the land exists predominantly as open space containing both upland and wetland habitat. The site is dominated by an extensive wetland area located between two upland mesas to the north and south. The Pacific Coast Highway, Bolsa Chica State Beach, and the Pacific Ocean border the western side, while urban development occurs to the east. Bolsa Chica was formerly part of an extensive coastal lagoon/salt marsh system, which was estimated to cover 2,300 acres in 1894 by the U.S. Fish and Wildlife Service. Today, substantial portions of the wetland habitat remain in the lowland area. The two mesas consist primarily of non-native grasslands.

Bolsa Chica is a unique place along the California coast. Bolsa Chica has undergone substantial degradation caused by human interference with its natural wetlands processes commencing in the 1800's. Bolsa Chica has been used for a variety of purposes over the years, most notably for on going oil and gas production since the 1930's. Beginning in the 1960's and continuing through the late 1980's it became increasingly recognized that the wetlands at Bolsa Chica were in need of major restoration. Initially restoration was proposed to be achieved through construction of a new ocean inlet in conjunction with a marina (boating facility). Starting in the late 1980's the economic feasibility of a marina came into question, as well as questions related to potential adverse environmental impacts of a marina. The County of Orange determined in 1994 that an ocean inlet with no marina could also achieve restoration via a comprehensive development plan. Bolsa Chica is one of the largest remaining coastal wetland in southern California and, while it is severely degraded, it nevertheless offers a unique opportunity for dedication into public ownership and restoration of these degraded wetland resources in conjunction with a comprehensive development plan. Given these unique circumstances as well as the long planning history associated with Bolsa Chica, the Commission concludes that the proposed Land Use Plan amendment and implementing actions are consistent with the Coastal Act, as explained fully in these findings.

Over the past century, Bolsa Chica has been affected by urban, recreation, and oil related development. Three state oil leases occur within the lowlands, which currently support 331 oil wells (active and inactive), related oil facilities, and improved and unimproved roadways. Although development has markedly changed Bolsa Chica, the area currently contains substantial and important natural resource

Background

values. Bolsa Chica is one of the largest remaining coastal wetlands in southern California.

Based on topographic features, Bolsa Chica is divided into three subareas, the Bolsa Chica Mesa (Mesa), the Bolsa Chica Lowlands (Lowlands) and the Huntington Mesa. The Lowland is approximately 1,247 acres. The Mesa is approximately 227 acres. Huntington Mesa, the smallest subarea, is approximately 58 acres in size. Seven acres of the 1,588 acre Bolsa Chica LCP area occur outside the three subareas and consist of land occupied by Pacific Coast Highway, and a small parcel of land that is owned by the City of Huntington Beach on the seaward side of Pacific Coast Highway near the intersection of Pacific Coast Highway and Warner Avenue.

Today, the Lowlands consist mostly of wetland habitat with approximately 900 acres of wetland. Interspersed throughout the wetlands are approximately 325 acres former wetlands that are utilized for oil production activities (roads and pads) and support upland habitat. Historically, the Lowlands were part of a coastal tidal lagoon containing expansive salt marsh habitat with connection to the ocean through what is now Huntington Harbour. Prior to 1825, the Santa Ana River periodically flowed through the lowlands. During floods in 1825, the river changed course and the Lowlands were left with a relict drainage pattern. The Santa Ana River now flows into the Pacific Ocean about six miles to the southeast at the border between the cities of Huntington Beach and Newport Beach.

The movement of tidal waters into the interior of the Lowlands ended in 1899 when the Bolsa Chica Gun Club constructed a tidal dam and the historic tidal entrance filled with sand. All ocean water entering Bolsa Chica must now arrive through Anaheim Bay and Huntington Harbour. Currently, most of the lowlands do not receive regular tidal flushing with ocean water. Tidal flushing is currently limited to the State Ecological Reserve.

The western portion of the lowlands, adjacent to Pacific Coast Highway, contains Inner and Outer Bolsa Bay, which are part of a 306 acre ecological reserve managed by the Department of Fish and Game. The ecological reserve was created during 1977 and 1978. Adjacent to the Ecological Reserve is Rabbit Island which is a sand dune area. Rabbit Island was identified by the California Department of Fish and game as an important ESHA, and was shown to be comprised of tertiary sand dunes, grasslands, and Baccharis dominated scrub habitat. The dune habitat of Rabbit Island supports a wildlife population of birds, mammals, and reptiles. Further inland, the Orange County Flood Control District maintains the East Garden Grove-Wintersburg Channel, located in the Lowlands adjacent to the Mesa. The flood control channel drains into outer Bolsa Bay. The majority of the Lowland area overlies producing zones of the Huntington Beach oil field.

Background

Though human use of the site has substantially altered the natural character of Bolsa Chica, significant wetland habitat values remain. In 1981 the California Department of Fish and Game (DFG) investigated the status of the Bolsa Chica Wetlands. The Department of Fish and Game noted that the existing wetland habitat is populated by a diverse assemblage of plants and animals typical of southern California's tidal wetlands. The study states that: *"The 686 acres of non-tidal wetland are, for the most part, seasonal in nature. Winter rains inundate these areas annually, and produce population explosions in invertebrate forage animals such as brine shrimp and salt fly larvae. These invertebrates are fed upon by a large variety of waterfowl and shorebirds. The annual Audubon Christmas bird counts substantiate heavy winter use of these wetlands (listing over 80 species, and between 8,000 and 11,000 individuals, in the past three censuses). The endangered Belding's savannah sparrow is known to utilize much of the pickleweed dominated saltmarsh contained within the 686 acres of degraded wetland. The Department can document either high or moderate wetland habitat values for wetland-associated avifauna on at least 80% of these 686 acres."*

Notwithstanding its significant habitat values, the Department of Fish and Game determined, pursuant to Section 30411 that the Bolsa Chica wetland ecosystem comprises a severely degraded wetlands system in need of major restoration for the following reasons: *"The Department finds that there are 686 acres of viably functioning but degraded wetlands within the Bolsa Chica lowlands; 70 of these acres are within the State Ecological Reserve. These 686 acres of degraded wetlands are not severely degraded because they presently provide significant wildlife values and in terms of annual net productivity are extremely productive."* (from page 2 of the determination).

"For purposes of Public Resources Code Section 30411(b), the Department specifically finds that while the 686 acres of degraded wetlands are not severely degraded, the 1,000 acre wetland system (consisting of the union of 616 acres of existing wetlands and 384 acres of restorable historical wetlands outside of State ownership) is, when viewed as a whole, so severely degraded that it is in need of major restoration." (from page 2 of the determination).

"As has been previously discussed, virtually the entire study area (1,292 acres) was historically wetland. This historic wetland was tidal in nature. By virtue of tidal influence, these 1,292 acres were populated by a highly diverse complement of organisms. ... Today, these conditions are approximated only within the 166 acres which are presently under the influence of the tides. These 166 acres are therefore essentially non-degraded." (from page 8 of the determination).

"The remaining 686 acres of non-tidal wetlands have undergone a significant reduction in biological complexity in terms of species diversity. The critical factor involved in this reduction of species diversity is the loss of tidal influence within

Background

these areas. Elimination of tidal influence has resulted in loss of nearly all fish and marine invertebrates which once inhabited these 686 acres. Less obvious, perhaps, is the fact that the tidal waters which once flowed over these 686 acres were a moderating influence which aided greatly in maintaining a much more consistent environment than that which presently exists. By denying tidal influence to the subject 686 acres, a highly dynamic physical environment has resulted. Salinities, temperature, and moisture all fluctuate much more widely than was the case historically. Consequently, only those plant and animal species which are adapted to cope with such a comparatively dynamic set of physical properties may be found within the 686 acres of non-tidal wetland. Because these 686 acres of wetland are currently populated by a less complex group of organisms than which previously existed, we find that these 686 acres are degraded wetlands pursuant to our definition." (from page 8 of the determination).

"The Department finds that the greatest wetland habitat value to the greatest number of wetland-associated species can be attained by maximizing both the quality and the diversity of the wetland habitats to be provided. The Department further finds that additional study will be needed before a determination can be made as to the acreage which should be allotted to each wetland type to be established. However, it appears that these wetland types should consist of significantly expanded tidally influenced wetlands, brackish water wetlands, freshwater wetlands, and seasonal wetlands. Each of these wetland types should include both vegetated and non-vegetated areas." (from page 10 of the determination).

The California Department of Fish and Game in a letter of December 10, 1992 reaffirmed its prior finding that the Bolsa Chica wetlands continue to provide significant wildlife values by stating that: "... the Department determined that the wetlands at Bolsa Chica were, and still are, demonstrably valuable to fish and wildlife resources (most especially to migratory and resident shorebirds, waterfowl, and endangered birds)." The U.S. Fish and Wildlife Service in a letter dated April 14, 1994 stated that: "The wetlands of Bolsa Chica are used by tens of thousands of birds each year, ...". Six endangered or threatened bird species are known to use, or have been reported flying over the site. These birds are the Federally listed California least tern, California brown pelican, light footed clapper rail, peregrine falcon, and the western snowy plover, and a State listed bird the Belding's savannah sparrow. The sparrow population is dependent upon pickleweed habitat. Pickleweed habitat occupies an extensive area of the lowland and includes both full tidal and muted tidal areas. This does not change the fact, however, that the Department of Fish and Game concluded that the Bolsa Chica wetlands, when viewed as an overall system is severely degraded. In particular, the report titled "Bolsa Chica 1970-1992: Status of Habitats over the Past Twenty Years" (MacDonald, Feldmeth, and Henrickson, October 1992) concluded: "Enhancement of the State Ecological Reserve (1977 to 1978), which returned tidal flushing to a

Background

portion of Bolsa Chica Lowland for the first time since 1899, has proved highly successful. Marine invertebrates and fish, previously absent from the Lowland, have recolonized the Reserve and use of the new muted tidal habitats by water associated birds has soared. Lowland habitats and wildlife interior (landward) of the Reserve dike have also changed, but there, available evidence strongly suggests continuing degradation and decline, not enhancement." (from page ii of the report).

"Lowland aquatic habitats have changed dramatically, principally in response to impoundment by the State Ecological Reserve dike (1977-1978). These habitats have become increasingly isolated and now depend more on stormwater and urban runoff for their water supply, than on seawater leaking into the Lowland from Outer Bolsa Bay, as they used to. Seasonal variations in the area of ponding have increased, yet the total area of permanent ponds has substantially declined (from approximately 96 to 40 acres). Aquatic salinity regimes have become both more extreme and more variable; and frequent algal blooms suggest declining water quality and increasing eutrophication. There has also been a significant decline in the overall predictability, from season-to-season and from year-to-year, of Lowland aquatic habitat water levels." (from page ii of the report).

"These changes in physical variables have directly resulted in the extirpation of the two most abundant native fish species - topsmelt and California killfish - landward of the State Ecological Reserve dike. Although both species were formerly numerous in these interior habitats, they have been replaced by introduced nonnative species, Egyptian mouthbrooder and Mosquitofish, but at a much lower level of abundance." (from page ii of the report).

"Several significant changes in Lowland vegetation have also been documented. The Eucalyptus groves bordering Bolsa Chica Mesa are in sharp decline; and both the North Bolsa flats and the open sand flat and dune habitats of Rabbit Island have been increasingly colonized by introduced weedy species and low value iceplant. ..." (from page iii of the report)

"Bolsa Chica's bird populations, while generally flourishing within the tidally enhanced State Ecological Reserve system, are doing less well across the interior lowlands. Impoundment of the Lowland, and consequently less stable water level, has reduced nest-site availability for ground nesting waterbirds and the endangered Belding's Savannah sparrow. ..." (from page iii of the report)

As cited in the EIR prepared for this LCP submittal, the existing wetlands are interspersed with non-wetland areas; resulting in a non-contiguous wetland ecosystem. The proposed major restoration would, at a minimum, result in the consolidation and reconfiguration of much of the existing wetland ecosystem into a contiguous wetland ecosystem.

Background

Bolsa Chica Mesa consists primarily of non-native grasslands which have been subject to agricultural activities in the past. Additionally Bolsa Chica Mesa contains an environmentally sensitive habitat area (ESHAs) consisting of a Eucalyptus grove and a wetland area known as Warner Avenue pond. The Eucalyptus grove is located at the northwest corner of the Mesa and is approximately 7.5 acres. The Eucalyptus Grove was planted in the early 1900s. The grove is considered an ESHA since it provides habitat and nest sites for a variety of raptors, particularly red-tailed hawks. The Department of Fish and Game in their report of Environmentally Sensitive Habitat Areas at Bolsa Chica (1982) notes the presence of eleven raptor species. Species using the grove include the white tailed kite, marsh hawk, sharp-shinned hawk, Cooper's hawk, and osprey. As noted in the above excerpt from the report "Bolsa Chica 1970-1992", the Eucalyptus grove ESHA is in a state of significant decline. Warner Avenue Pond is approximately 1.7 acres and is located on the western edge of the Mesa adjacent to Warner Avenue. Warner Avenue Pond provides important wildlife habitat. The pond contains fish and is used by fish eating birds. Warner Avenue pond is used by both the endangered California least tern and California brown pelican.

Huntington Mesa contains open space, which is proposed for low-intensity recreational use as part of the Harriett Wieder Regional Park under this Local Coastal Program. Generally the site can be characterized as a field with a vegetative cover consisting of introduced annual weeds and grasses. Birds inhabiting the site are primarily seed eating species and carnivores, including several species of hawks and a burrowing owl that feed on the small rodents and rabbits.

Huntington Mesa has been used and is currently being used for oil production. The Huntington Beach Company maintains oil wells and support facilities in the Edward's Thumb area. Shell Onshore Ventures Incorporated (SOVI) oil processing and support facilities, including a helicopter pad, are located on the southwestern portion of the mesa adjacent to Pacific Coast Highway. Additionally, Huntington Mesa provides the upland drill site for offshore production from State oil leases. Figure 1 on the following page shows the location of Bolsa Chica. Figure 2 shows existing property ownership at Bolsa Chica.

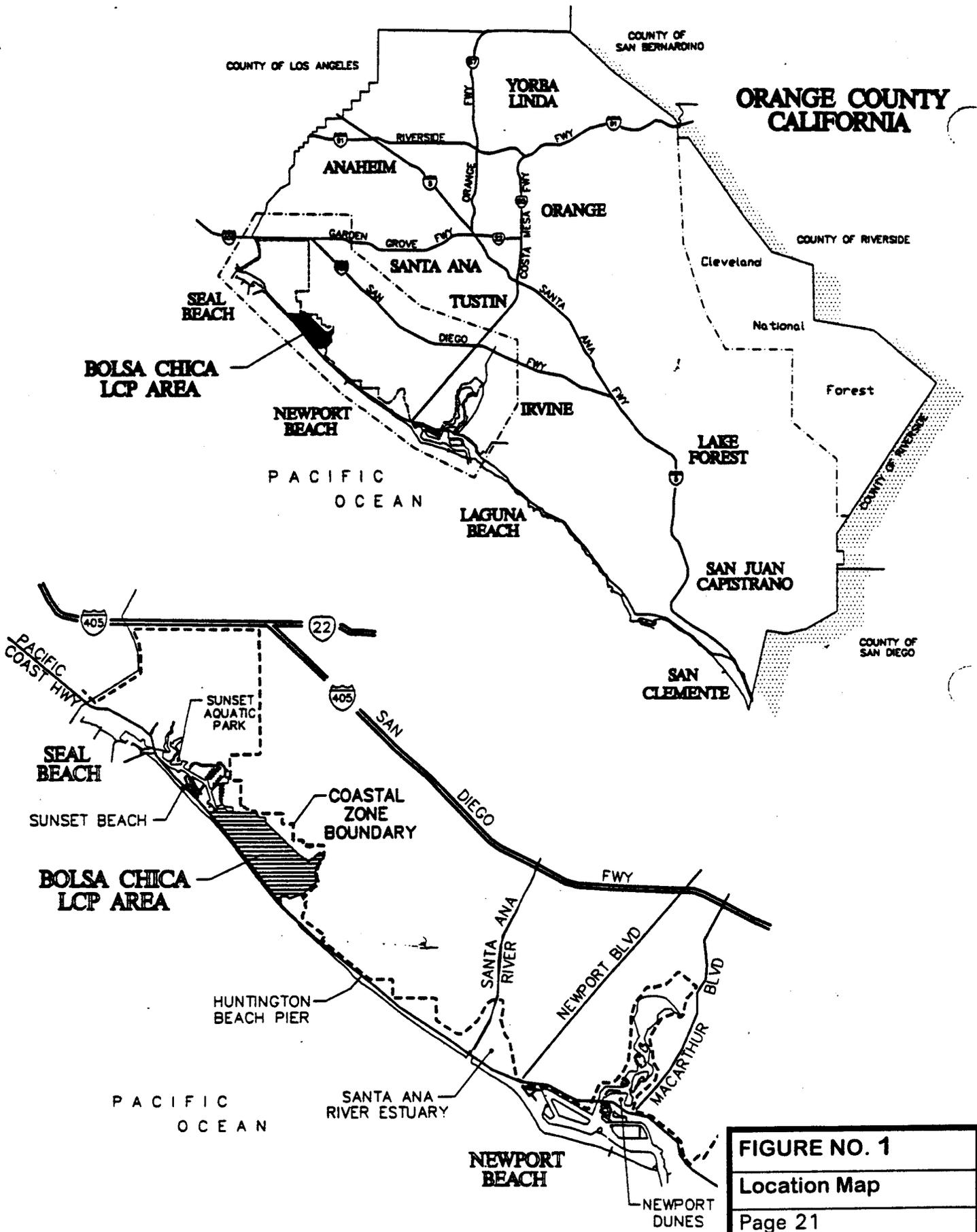


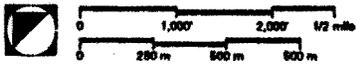
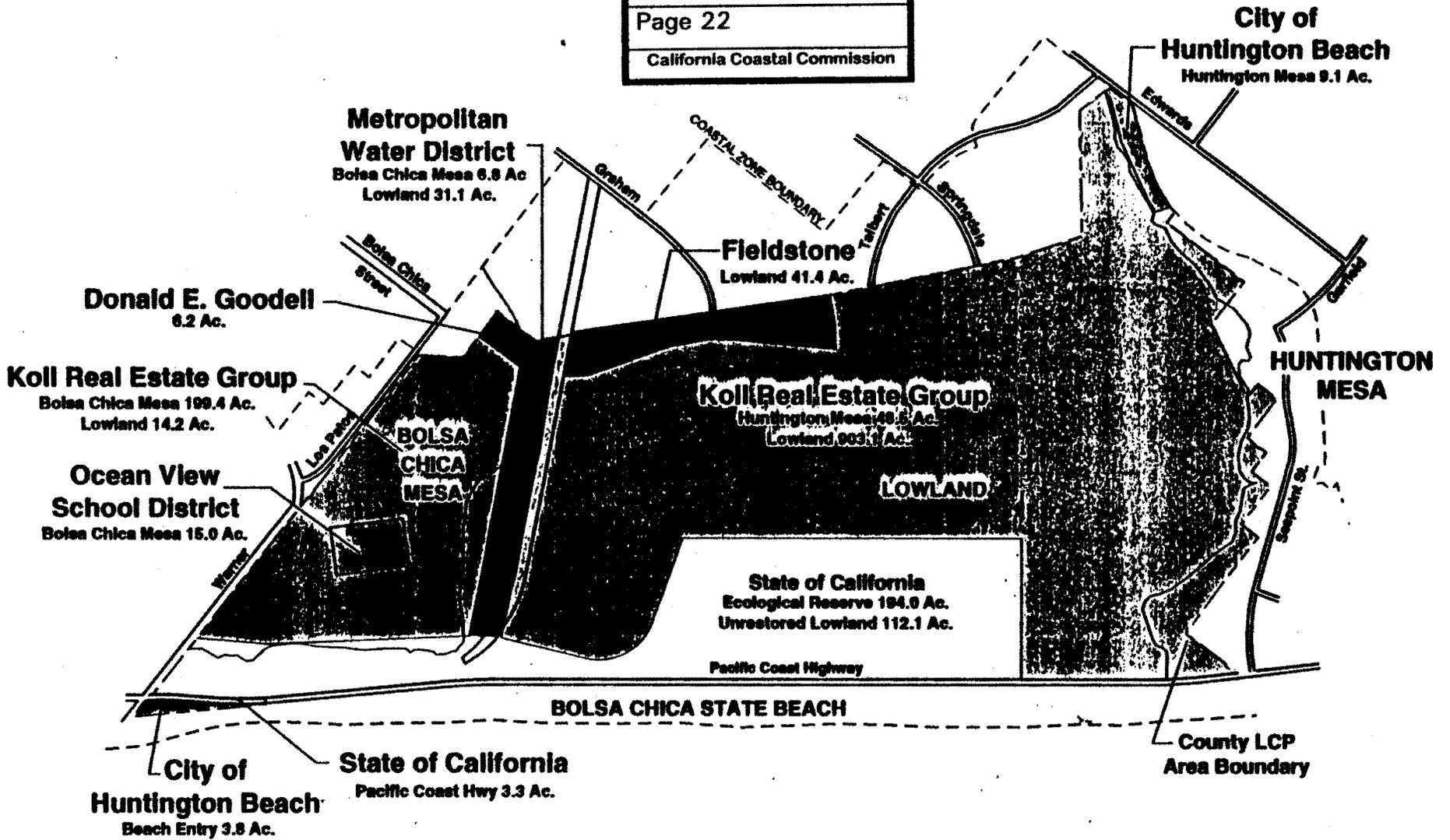
FIGURE NO. 1
Location Map
 Page 21
 California Coastal Commission

FIGURE NO. 2

Ownership Map

Page 22

California Coastal Commission



EXISTING PROPERTY OWNERSHIP MAP

B. LOCAL HISTORY

Throughout the 1800s increasing human use of the surrounding area led to cattle ranching and sheep grazing at Bolsa Chica. By the late 1890s most of Bolsa Chica's marshlands had been sold and converted to agricultural use. Only the tidal marshes along the coastal strip remained relatively unaltered. Extensive alteration to the remaining coastal marshes soon followed due to the formation of hunting clubs and intensive oil development.

The largest hunting club was the Bolsa Chica Gun Club which applied to the State in 1895 for a concession to reclaim the tidal marshes. In 1899, the Gun Club constructed a dam with tide gates extending from the southeast tip of the Mesa to the coastal sand dunes in order to reclaim the marshlands. Urbanization of the area began in the early 1900s. Small resort communities were established that eventually would become the cities of Seal Beach and Huntington Beach.

In 1904 the Huntington Beach Oil Field was discovered. In 1925 oil was discovered beneath Bolsa Chica. Refineries and natural gas plants were in operation by 1936. The Bolsa Chica Lowland remained a waterfowl preserve until 1940 when drilling rights were signed over to Signal Oil Company.

During World War II fortifications were built on the Bolsa Chica Mesa. Following World War II, rapid urbanization of the surrounding area had negligible additional impact on Bolsa Chica until 1960, when the State acquired the land for Bolsa Chica State Beach and the Wintersburg Flood Control Channel was constructed. In 1977-1978, the State Ecological Reserve was created by diking the southwestern edge of the project area.

Today, Bolsa Chica remains one of the largest remaining coastal wetlands in southern California. The communities of Sunset Beach and Huntington Beach have developed up to the edge of Bolsa Chica. Bolsa Chica State Beach is located along the southwest border and provides significant recreational benefits. The State Ecological Reserve is located just inland of Pacific Coast Highway. Oil production on the Lowland and Huntington Mesa is being phased out as the oil reserves are depleted. Although development has markedly changed Bolsa Chica, the area currently contains substantial and important natural resource values and recreational opportunities.

C. HISTORY OF LAND USE PLANNING

PLANNING BACKGROUND: The history of land use planning for Bolsa Chica is best summarized as complex and controversial. From the beginning the Commission has recognized that the complex problems and interrelationships at Bolsa Chica required the area to be planned as a single integrated unit. Land use planning for Bolsa Chica was initiated in the 1960s. In 1964, the United States Congress authorized the United States Army Corps of Engineers to study the feasibility of a small craft harbor. Additionally, in the late 1960s, the owners of the property began to prepare plans for a marina and a residential complex. In 1970 Signal Bolsa Corporation acquired the surface rights from the prior owners. Shortly after the acquisition of the site by Signal Bolsa, the State of California asserted ownership of the land based on the land's characteristics as historic tidelands subject to the public trust. A compromise was reached in 1973 to settle these two competing claims. The compromise resulted in the State of California receiving 300 acres, which is now managed by the Department of Fish and Game as the Bolsa Chica Ecological Reserve while Signal Bolsa Corporation retained title to the remainder of the site.

In 1977, the County of Orange, in response to a proposal by the City of Huntington Beach, completed a feasibility study for the creation of a linear regional park (now named Harriett Wieder Regional Park) that would connect with Huntington Central Park, the Ecological Reserve, and Bolsa Chica State Beach.

To promote coordinated planning the County of Orange along with other interested agencies and groups formed the Bolsa Chica Study Group in 1978. The Bolsa Chica Study Group reached consensus on three main issues: 1) that the Mesa was suitable for development, 2) that a linear park was desirable on Huntington Mesa, and 3) that wetland restoration would be appropriate for the lowland.

Between November 1980 and December 1981, nine alternative land use plans were developed by Orange County. The alternatives ranged from preservation of almost the entire site to intensive urban and recreational development. Ultimately, Alternative 10 was selected as the adopted plan. Alternative 10 consisted of: a navigable ocean entrance, a visitor serving marina complex with 1,800 boat slips, coastal orientated commercial support facilities, lodging, open space recreation on the lowland, 600 acres of salt marsh restoration, and 5,700 residential units. Of the proposed 5,700 residential units, 2,500 were proposed to be constructed on 335 acres of the Lowland. On January 20, 1982 the Orange County Board of Supervisors approved the land use plan. On April 22, 1982, the Commission found substantial issue with the Bolsa Chica land Use Plan as submitted and opened a public hearing. Additional hearings and Commission discussions took place on June 18, 1982 and July 30, 1982. Further hearings were scheduled for November

Background

1982, but the County of Orange withdrew the land use plan prior to Commission Action. In December 1983, the County resubmitted the land use plan. In addition, SB 429 was signed into law as Section 30237 of the Coastal Act to provide for the development of a Habitat Conservation plan for Bolsa Chica.

On November 29, 1984 the Commission held a public hearing on the County's Land Use Plan and took the following actions: (1) approved segmentation of the Bolsa Chica area; (2) denied the land use plan as submitted; (3) found substantial issue with the Habitat Conservation Plan submitted by the Coastal Conservancy and the Department of Fish and Game; and (4) certified the land use plan with modifications. As a result, the County revised the Land Use Plan to incorporate the main body of the suggested modifications. This plan was then recirculated for public review and was approved by the Orange County Board of Supervisors on May 22, 1985.

CERTIFIED 1986 LAND USE PLAN: In late May 1985, the County of Orange resubmitted the Bolsa Chica Land Use Plan to the Commission for certification. The Commission held the hearing on the proposed land use plan on October 23, 1985 and approved the resubmitted land use plan with additional suggested modifications and contingent upon the completion of a confirmation process. The confirmation process has never been completed.

In April 1995, the County of Orange submitted to the Coastal staff a document titled "Bolsa Chica land Use Confirmation Report". This document contains a detailed analysis of the actions which the County believes fulfilled the 1986 LUP confirmation stage requirements. Subsequent to submitting the "Land Use Plan Confirmation Report", Coastal staff advised County staff that the submission did not satisfy requirements of the confirmation process. Based on these consultations, the County determined to proceed with the LUP amendment rather than the confirmation stage review.

The certification of the 1986 Land Use Plan contained two land use alternatives, one of which would be adopted. The first was the navigable ocean entrance alternative which depended on the satisfactory completion of the confirmation process. The other alternative was for a non-navigable entrance which would take effect only if the confirmation standards for the first alternative were not satisfied and the County of Orange formally took action to adopt the second alternative. Exhibit A (containing the prior suggested modifications) of the staff report for the 1986 final revised findings certifying LUP contained the following: *"A detailed analysis of the alternative plans for an ocean entrance and channel system, including both non-navigable and navigable options, shall be submitted for the Commission's review and approval at the Land Use Plan Confirmation stage prior to the submission of the Implementation Program."*

Background

"The analysis shall address all alternatives to determine the least environmentally damaging feasible alternative. The analysis shall detail the environmental and recreation impacts of all alternatives; describe the proposed mitigation measures; and detail the costs and financing for construction maintenance, and operation of each alternative and its associated mitigation measures."

"Both the Preferred Option and Secondary Alternative for the Land Use Plan as described herein shall be included as explicit alternative plans in the Corps of Engineers Sunset Harbor Study to receive complete analysis and review equal to any other alternative considered."

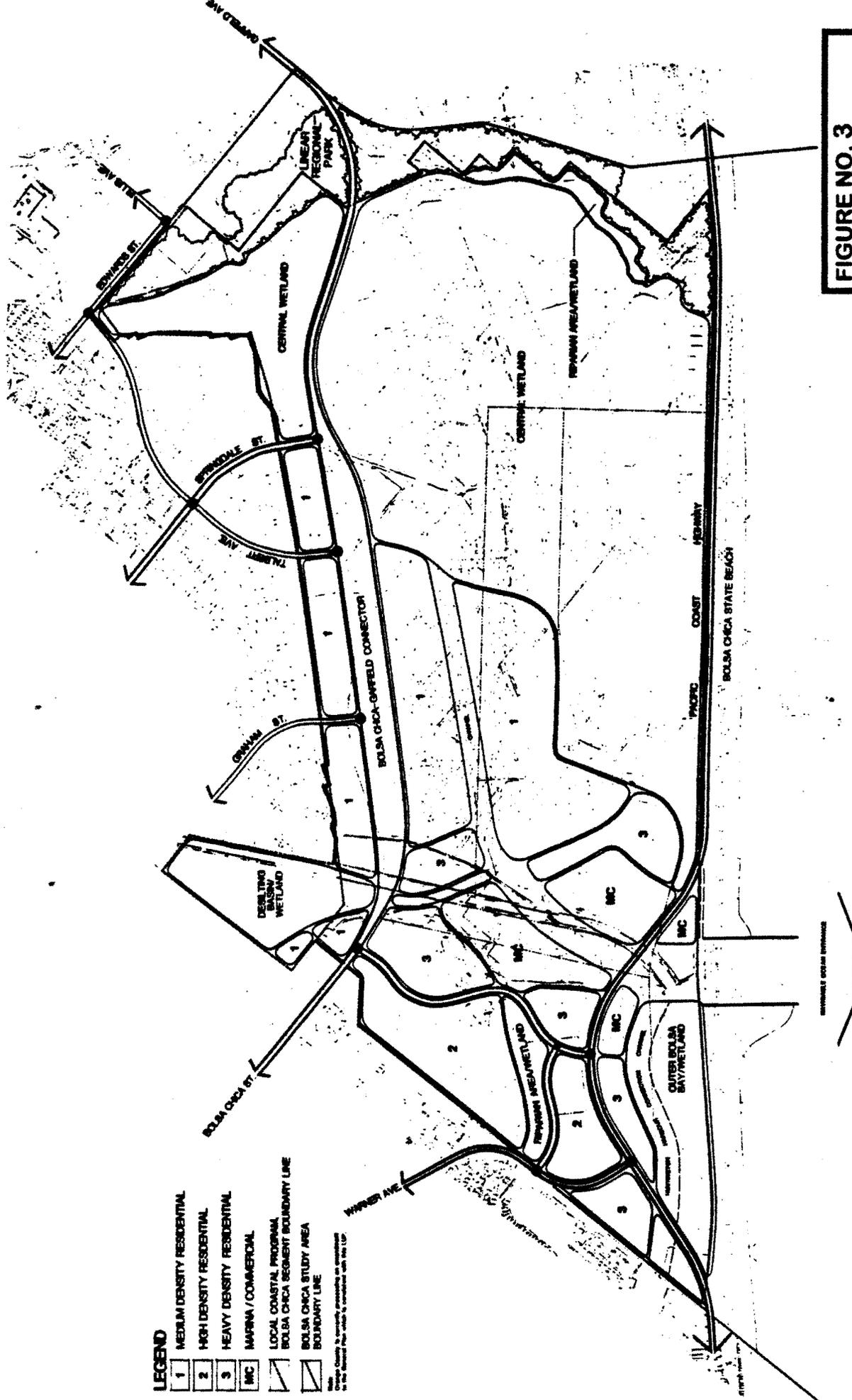
Subsequent to the certification of the 1986 LUP, the County proceeded with studies of both the Preferred Alternative marina plan and variations on the Secondary Alternative non-navigable ocean entrance alternative. The studies undertaken and the planning actions pursuant to both alternative are reviewed in the April 1995 County of Orange summary titled "Land Use Plan Confirmation Report" which was submitted to the Commission staff. None of the identified actions necessary for either alternative to become the adopted land use plan were ever completed. Principal components of the County preferred Land Use Plan alternatives are shown on Figure 3 and include:

- At least 75 acres of mixed-use marina/commercial area providing boat docks and dry storage. Marina uses would total 60 acres. The marina would have 1,300 slips (37 acres). Dry storage for 400 boats (6.5 acres). Other public features include: launch ramps (5 acres), marina parking (7.5 acres), and ancillary marina facilities (4 acres). Ancillary marina facilities include boat sales, rentals, repairs, chandlery, harbor patrol, and fuel dock.
- Visitor serving facilities included a 150 room motel, 85,000 square feet of specialty retail (including 3 restaurants), four freestanding restaurants, active and passive recreation areas, trails to promote public access, and an option for including neighborhood commercial services contiguous to high density housing. Visitor serving commercial facilities proposed would cover 15 acres. Also identified were coastal dependent commercial opportunities for commercial fishing, sport fishing, and tour boat facilities.
- Approximately 500 gross acres of medium, high, and heavy density residential development in the lowland and on Bolsa Chica Mesa.
- Realignment of Pacific Coast Highway from the existing PCH/Warner Avenue intersection, across Outer Bolsa Bay, Bolsa Chica Mesa and through the proposed marina.

Background

- Creation of the 130 acre Bolsa Chica Linear Regional Park (now named Harriett Wieder Regional Park) on Huntington Mesa and the Lowland. The trails with the park would connect with Huntington Central Park, Bolsa Chica State Beach park, the marina/commercial complex and other regional bicycle and hiking trails.
- 915 acres of restored, high quality, fully functioning full tidal, muted tidal, fresh and brackish water wetlands, with emphasis on diversity of habitat and the protection and recovery of endangered species.
- 86 acres of existing or newly created environmentally sensitive habitat.
- A 600 foot wide fully navigable ocean entrance to provide ocean water to the wetlands and recreational boating opportunities.
- A "Cross Gap Connector" an arterial roadway through the lowland.

In certifying the 1986 Land Use Plan, the Commission affirmed the 1981 California Department of Fish and Games determination that the wetland system at Bolsa Chica was severely degraded, that it was appropriate to treat Bolsa Chica under Section 30411 of the Coastal Act since the basic goal was to insure comprehensive restoration of the Bolsa Chica wetland system.



- LEGEND**
- 1 MEDIUM DENSITY RESIDENTIAL
 - 2 HIGH DENSITY RESIDENTIAL
 - 3 HEAVY DENSITY RESIDENTIAL
 - MC MARINA / COMMERCIAL
 - LOCAL COASTAL PROGRAM BOUNDARY LINE
 - BOLSA CHICA STUDY AREA BOUNDARY LINE
- Note: Quays to be removed, consistent with the Revised Plan which is consistent with the LCP.

FIGURE NO. 3
1986 Land Use Plan
 Page 28
 California Coastal Commission

Background

BOLSA CHICA PLANNING COALITION: Certification of the 1986 Land Use Plan, however, did not end the planning process. In addition to studies carried out by the County and the landowner in response to the land use confirmation stage requirements established in the 1986 LUP, the Bolsa Chica Planning Coalition (Coalition) was formed in November of 1988 as a result of growing public concern over the potential adverse impacts of the marina and the navigable ocean entrance. The purpose of the Coalition was to develop an alternative land use plan which focused on maximizing restoration of the wetlands. The Coalition was composed of the County, the City of Huntington Beach, the California State lands Commission, the Amigos de Bolsa Chica, and the land owner at that time (The Signal Bolsa Corporation). In May 1989 the Coalition adopted a conceptual land use plan.

The Coalition conceptual plan deleted the marina and reduced the amount of residential development, substituted a non-navigable ocean entrance, increased the size of the wetlands to a minimum of 1,000 acres. In consultation with State and Federal agencies and other interested parties; the Coastal Conservancy prepared six alternatives for wetland restoration in 1990, three of which included lowland development and three of which involved no lowland development. The three sets of alternatives embodied a navigable ocean entrance, a non-navigable direct ocean entrance and a Huntington Harbour tidal option. The Coalition accepted alternative 3(b) as the least environmentally damaging feasible alternative capable of restoring the wetlands. This alternative provided for a 1,081 acre wetland ecosystem encompassing full and muted tidal areas, seasonal and perennial ponds, ESHA's and buffers.

The Coalition plan was a concept plan and was never submitted to the Commission for certification. Commission staff did brief the Commission on the plan and attended the Coalition meetings. From the viewpoint of the County, the Coalition's plan and the 1990 Coastal Conservancy wetlands restoration alternatives built upon the Secondary Alternative of the certified 1986 LUP and became the basis for the County's 1995 Bolsa Chica LCP submittal to the Coastal Commission.

D. DESCRIPTION OF PRESENTLY SUBMITTED LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT

The County of Orange has submitted to the Commission a proposed Local Coastal program for Bolsa Chica. The submittal consists of an amendment to the Commission certified Land Use Plan of 1986 and an Implementation Program (titled *"Implementing Actions Programs"* by the County of Orange). The proposed amendment to the Land Use Plan would totally replace the 1986 Land Use Plan.

Background

The Implementation Program is a new submittal. The Implementation Program consists of a variety of documents. Principal documents include the Planned Community Program, the Wetlands Restoration Program, a Development Agreement, and Section 7-9 of the Orange County Zoning Code.

The proposed Local Coastal Program is in support of planned residential development and wetlands restoration at Bolsa Chica. The developer proposes to construct 3,300 homes, build associated infrastructure, and undertake wetland restoration at Bolsa Chica, resulting in a minimum wetland ecosystem of 1100 acres, which includes a non-navigable ocean entrance. The proposed residential development would result in the construction of 2,400 homes on the mesa. The remaining 900 homes would be constructed on the Lowlands and would require filling of approximately 104 to 120 acres of degraded wetland depending on the wetland delineation methodology used.

A mix of residential densities is proposed with a variety of product types, including single family detached homes and multiple family attached homes. The residential mix is proposed in two density categories: (1) Medium-Low Density Residential (6.5 to 12.5 dwelling units per acre) and (2) Medium-High Density Residential (12.5 to 18.0 dwelling units per acre). In addition, a ten (10) acre Neighborhood Commercial area has been proposed for possible development on the Bolsa Chica Mesa depending on the feasibility of such a development. It is anticipated that the site would accommodate up to 100,000 square feet of neighborhood commercial development, if constructed.

Infrastructure improvements associated with the project would include the creation of an internal road system, utilities, an area traffic improvement plan (ATIP), improvements to the Wintersburg Flood Control Channel, a water storage reservoir, and a fire station. The non-navigable ocean entrance would be 250 wide with 480 foot long jetties.

Recreation and open space improvements associated with the development include a 17 acre Mesa Community Park, an 8 acre Lowland Community Park, 290 free public parking spaces, the conveyance of 49 acres of land to the County for the Harriett Wieder Regional Park, a Kayak/Canoe interpretive facility, nature trails (2.1 miles), and bike and pedestrian trails (8.8 miles).

The proposed project would leave 1,098 acres consisting of wetlands, ESHA, and buffers designated for Conservation and subject to the Wetlands Restoration Program. Additionally, new wetlands will be created within the buffer areas but are not counted as part of the restored wetlands system. Twenty acres of ESHA will be created within Harriet Wieder Regional Park to mitigate for loss of the Eucalyptus grove ESHA. The wetland ecosystem area will be comprised of four different hydrologic regimes; ranging from full and muted tidal areas, to perennial

Background

and seasonal ponds. The resulting wetland ecosystem is anticipated to total a minimum of 1,100 acres. The developer proposes to finance the restoration effort through the collection of approximately \$48,400,000 derived from the sale of residential units constructed. Part of the \$48,400,000 obligation will be realized through a \$7,000,000 "Mesa Conservation Fund" derived from the sale of residential units located on the Mesa. The remainder (\$41,400,000) would be funded through Lowland residential development. Specific features of the Wetlands Restoration Program, as submitted, include:

- Eighty-five acres of ESHA consisting of:
 - a. the Rabbit Island ESHA,
 - b. the sand dune ESHA adjacent to the Pacific Coast Highway,
 - c. the replacement of the eucalyptus grove along the Bolsa Chica Mesa with a recreated ESHA consisting of twenty acres of native trees and shrubs on the Huntington Mesa; and
 - d. Warner Avenue Pond (Although Warner Avenue Pond is a wetland).
- Dedication of the undeveloped portion of the Lowland designated for wetlands restoration and conservation to a public agency or conservation trust. The Offer to Dedicate will be granted by the landowner upon the issuance of Section 404 Permits from the U.S. Army Corps of Engineers.
- Residential development areas would be separated from habitat areas by publicly owned 100 foot wide buffer areas. Buffer acreage is included within the 1098 acres designated for wetland, as is ESHA.
- Removal of existing oil production related infrastructure as oil production is phased out through natural depletion. Anticipate to take approximately 22 years.
- Grading of the Lowland area to construct berms, drainage facilities, and basins for the new wetland and upland areas, in accordance with the Wetlands Restoration Plan's phasing program. Approximately 66% of the degraded wetland system will be restored under Phases 1 and 2 of the Wetland Restoration Program.
- Developer will monitor, maintain, and undertake required remedial actions in the wetland ecosystem to guarantee the success of the restoration effort.
- Should Lowland residential development not occur, the developer will dedicate 88.7 acres of the Lowland and fund wetland restoration of Restoration Area 1C through the Mesa Conservation Fund.

Background

Table 1 on the next page is a summary of the proposed land use designations. Figure 4 on the page following Table 1 is a graphic of the proposed land use. A graphic depicting the wetland restoration plan appears as Figure 10.

Background

TABLE 1
LAND USE SUMMARY
Bolsa Chica Land Use Plan

LAND USE CATEGORY		PLANNING AREA	GROSS ACRES
CONSERVATION:			
C	Existing Ecological Reserve	1A, 1B, 1C	307
C	Central Lowland	1D	791
TOTAL CONSERVATION		--	1,098 Acres
RECREATION:			
R	Bolsa Chica Regional Park	2A, 2B	57
R	Mesa Community Park	3A, 3B	17
R	Beach Entry	3C	4
R	Lowland Community Park	3D	8
R	Trail (Boardwalk)	3E	1
TOTAL RECREATION		--	87 Acres
PUBLIC FACILITY:			
PF	EGGW Flood Control Channel	4A	6
PF	Water Storage Reservoir	4B	2
PF	Fire Station	4C	1
TOTAL PUBLIC FACILITIES		--	9 Acres
RESIDENTIAL			
BOLSA CHICA MESA:			
ML	Medium Low (6.5 - 12.5 DU/Ac.) ^(a)	5, 7, 9	144
MH	Medium High (12.5 - 18 DU/Ac.) ^(a)	6 ^(b) , 8	71
NORTHEAST LOWLAND:			
L	Low Density (3.5 - 6.5 DU/Ac.)	10, 11	176
TOTAL RESIDENTIAL^(c)		--	391 Acres^c
PACIFIC COAST HIGHWAY		--	3 Acres
GRAND TOTAL		ALL	1,588 Acres

^(a) Categories of residential density are based upon gross acres, including roads, common recreation facilities, slopes, and landscape areas.

^(b) Neighborhood Commercial facilities, not to exceed 10 acres, may be included within Medium High Density Residential Planning Area 6, consistent with Chapter 5 of the Bolsa Chica Planned Community Program, Zoning Code Section 7-9-89, and the Orange County General Plan.

^(c) The maximum total number of dwelling units for the Bolsa Chica LCP Land Use Plan shall be 3,300.

LEGEND

LAND USE DISTRICT :

-  CONSERVATION
-  RECREATION
-  PUBLIC FACILITY
-  LOW DENSITY RESIDENTIAL (3.5-6.5 DU/ACRE)
-  MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRE)
-  MEDIUM-HIGH DENSITY RESIDENTIAL (12.5-18 DU/ACRE)
-  NEIGHBORHOOD COMMERCIAL
-  PLANNING AREA
-  COUNTY LCP AREA BOUNDARY

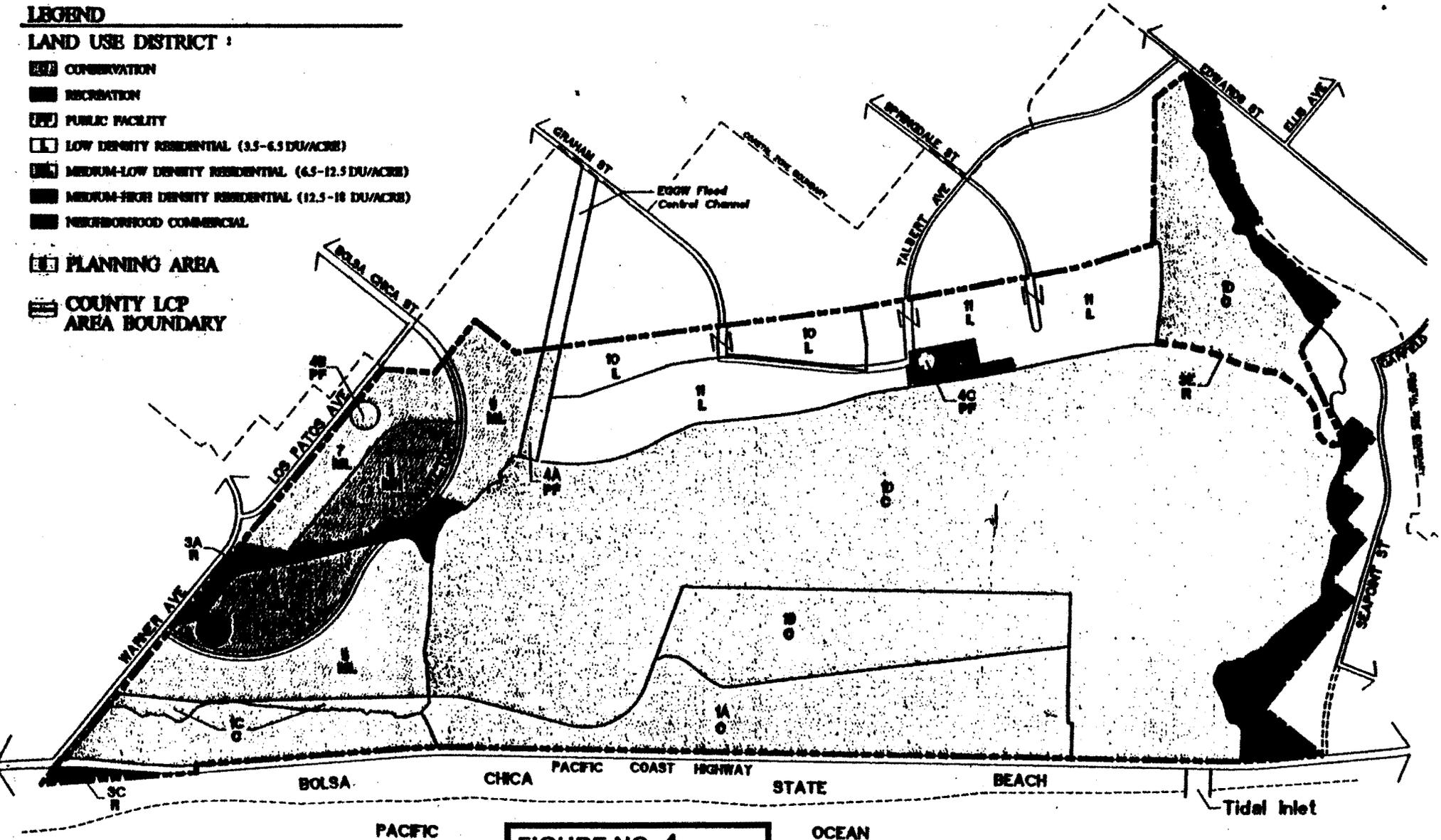
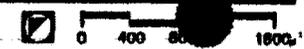


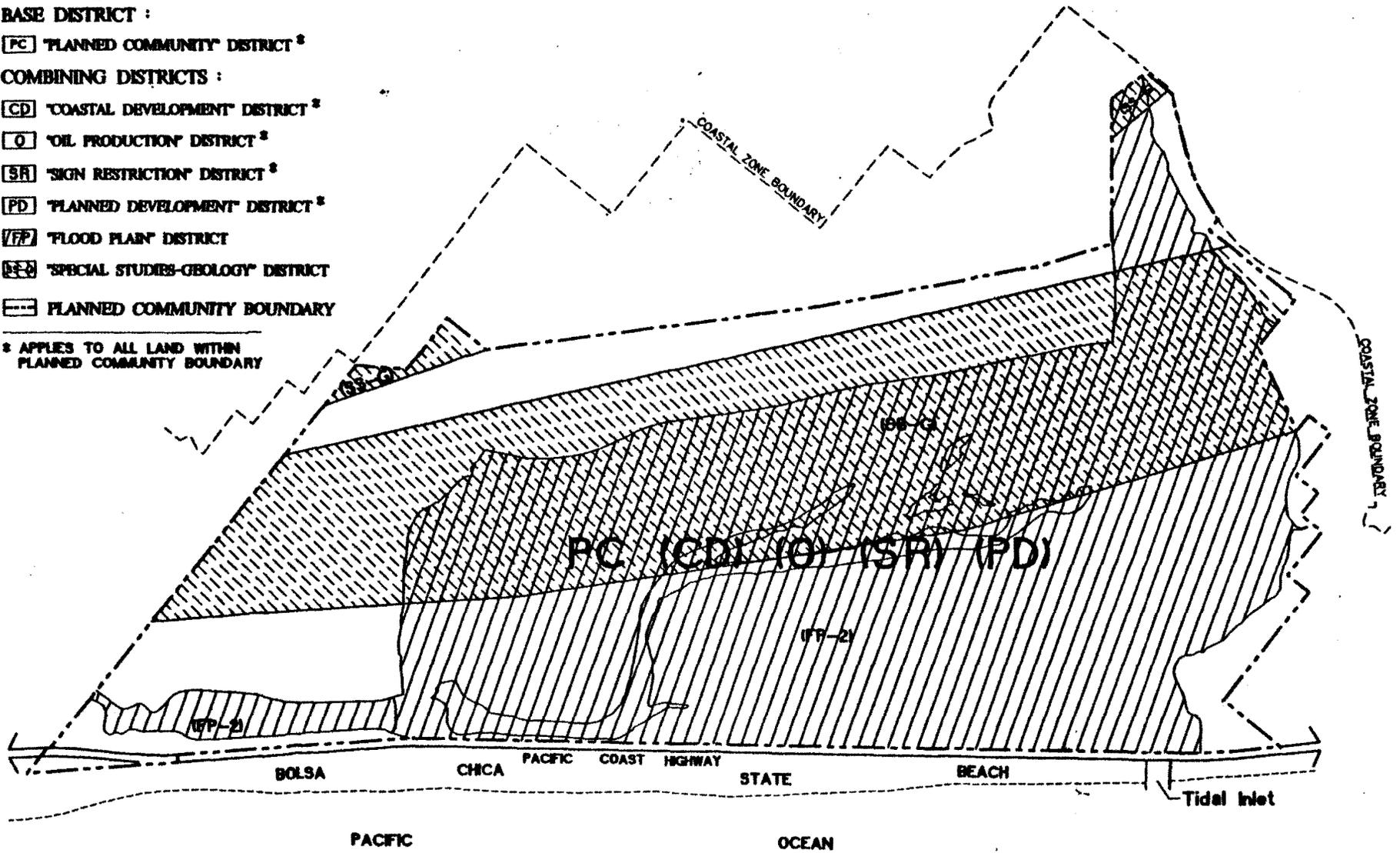
FIGURE NO. 4
Land Use Plan
 Page 34
 California Coastal Commission



LEGEND

- **BASE DISTRICT :**
 - **PC** "PLANNED COMMUNITY" DISTRICT *
- **COMBINING DISTRICTS :**
 - **CD** "COASTAL DEVELOPMENT" DISTRICT *
 - **O** "OIL PRODUCTION" DISTRICT *
 - **SR** "SIGN RESTRICTION" DISTRICT *
 - **PD** "PLANNED DEVELOPMENT" DISTRICT *
 - **FFP** "FLOOD PLAIN" DISTRICT
 - **SS-GEOLOGY** "SPECIAL STUDIES-GEOLGY" DISTRICT
- **---** **PLANNED COMMUNITY BOUNDARY**

* APPLIES TO ALL LAND WITHIN
PLANNED COMMUNITY BOUNDARY

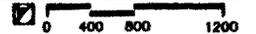


BOLSA CHICA

PLANNED COMMUNITY PROGRAM

PLANNED COMMUNITY ZONING MAP

FIGURE NO. 5
Zoning Map
Page 35
California Coastal Commission



LEGEND

 COUNTY LCP AREA BOUNDARY

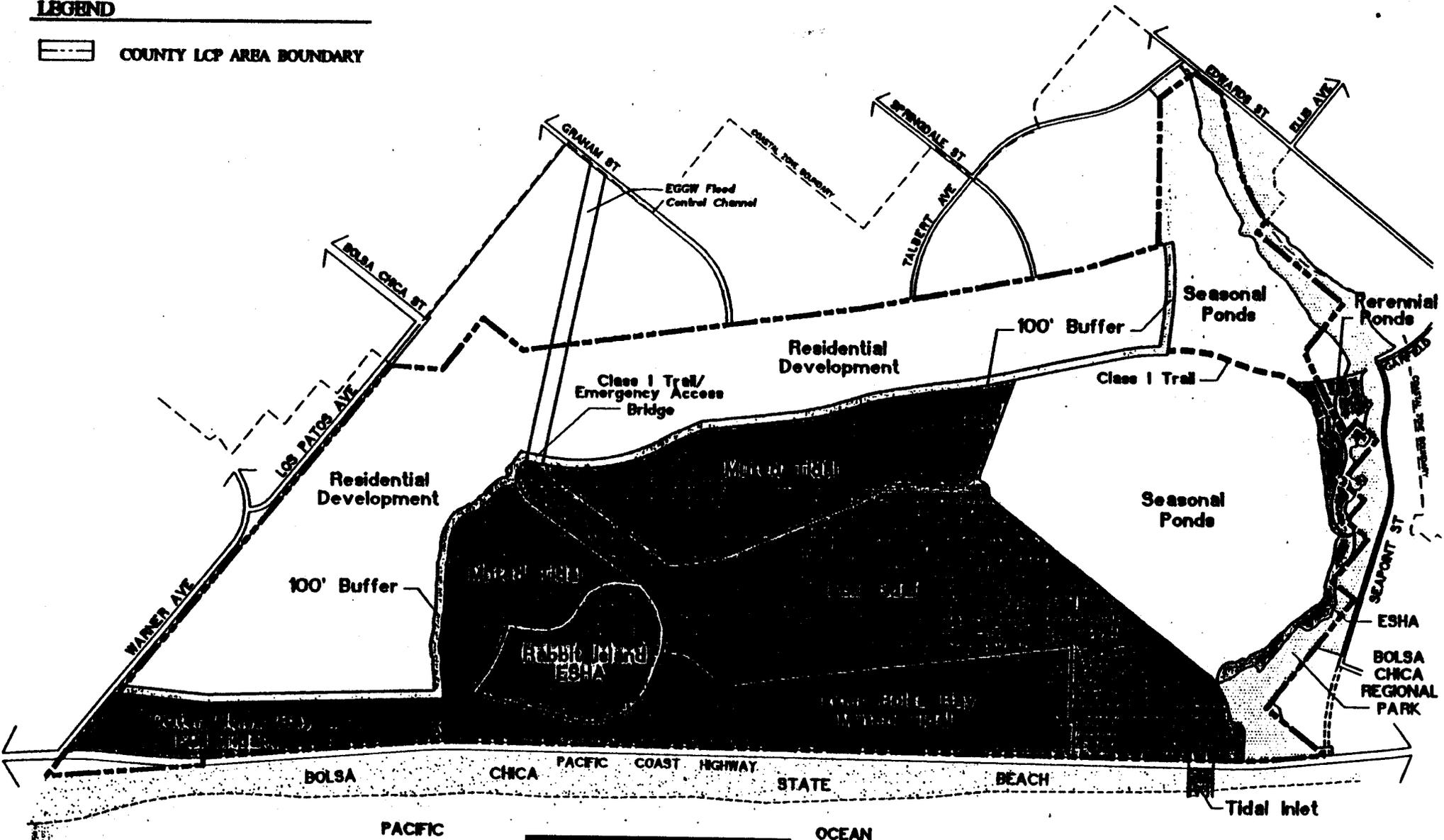


FIGURE NO. 6
Wetlands Restoration
 Page 36
 California Coastal Commission

BOLSA CHICA

WETLANDS RESTORATION PROGRAM

WETLANDS RESTORATION PLAN



V. SUMMARY OF PUBLIC PARTICIPATION

The County of Orange held eight public hearings. Seven of the hearings were held before the Planning Commission. The eighth hearing was held before the Orange County Board of Supervisors. The hearings were for both the proposed Bolsa Chica Local Coastal program and EIR No. 551 on the proposed development. The public review period for the Revised Draft EIR (August 22, 1994) was for 45 days and ran from August 23, 1994 to October 6, 1994. Comments received from the public on the Revised EIR No. 551 and the responses from the County of Orange are contained in the Final version of Revised EIR No. 551. The public comment period on the proposed LCP was for 45 days and ran from September 30, 1994 to November 14, 1994. Listed below in Table 2 are the hearing dates for both the Local Coastal Program and the EIR.

PLANNING COMMISSION EIR/LCP HEARINGS Table 2
<ul style="list-style-type: none"> • September 21, 1994 (historical background and overview) • September 28, 1994 (public comments on the LCP and EIR) • October 12, 1994 (wetland restoration) • October 24, 1994 (tidal inlet and transportation) • November 9, 1994 (schools and archaeology) • November 21, 1994 (all EIR issues) • November 30, 1994 (EIR certification and LCP approval)
BOARD OF SUPERVISORS EIR/LCP HEARING
<ul style="list-style-type: none"> • December 14, 1994

Numerous comments were received from the public during both the EIR and LCP public comment periods. Comments received were highly divergent and varied from those highly in favor of the project to those adamantly opposed. The public comments received are summarized below.

Public Participation

Those in **SUPPORT** of the proposed development expressed the following:

- Restoration of the wetlands would occur at no cost to the public.
- Economic growth through job creation from construction and tourism.
- Improved housing.
- Improved parks and recreational opportunities.
- Balances economic growth and environmental protection.
- The non-navigable ocean entrance would provide the ocean water necessary to restore historical tidal action and to ensure wetland restoration.

Those **OPPOSED** to the proposed development expressed the following:

- Not consistent with Federal and State policies advocating no net loss of wetlands and prohibitions on the fill of wetlands for residential development.
- Loss of open space that should be preserved as natural habitat instead of urban development. Development of the site would destroy the integrity of the ecosystem and would adversely alter the distribution and diversity of the affected species. Additionally the introduction of household pets would have an adverse impact on the remaining wildlife.
- The biological analysis and proposed mitigation measures are inadequate.
- Tidal inlet would pose a health hazard by allowing contamination from the flood control channel to affect Bolsa Chica State Beach.
- Development would result in the destruction of significant cultural resources, such as cogstones and human remains, which have been discovered on the site.
- The site has significant geohazards since the Newport-Inglewood fault extends through the site and the site is near sea level. Potential geohazards include: flooding, liquefaction, and seismic activity.
- Lack of adequate infrastructure. This includes: vehicular overloading of Pacific Coast Highway, possible congestion on other existing roads, lack of schools, and lack of public libraries.
- Alternatives exist which are environmentally superior and accomplish the same project objectives. These alternatives include a land swap, acquisition of the lowlands, establishing a mitigation bank for the lowlands.

Additionally two hearings were held on the Development Agreement. One hearing on the Development Agreement was with the Planning Commission on March 22, 1995. The public was notified of this hearing on March 11, 1995. The other was with the Orange County Board of Supervisors on April 18, 1995. The public was notified of this hearing on April 7, 1995.

VI. LAND USE PLAN SUGGESTED MODIFICATIONS

Suggested Modifications: The Commission certifies the following, with modifications as shown. Language proposed by Orange County is shown in straight type. Language recommended by the Commission for ~~deletion~~ is shown in ~~line-out~~. Language proposed to be *inserted* by the Commission is shown in *boldface italics*.

The addition of new policies or the deletion of proposed policies to the County's Local Coastal Program submittal will result in the renumbering of subsequent policies. Policies which must be simply renumbered and do not otherwise require any modifications are not be shown. The County of Orange has modified the policy numbers for the applicable policies. To assist the reader, after each suggested modification, the Commission has referenced the applicable County Land Use Plan Policy number. In cases were policy numbers have changed both the new and old policy number have been shown. Below are the suggested modifications.

A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS CHAPTER 3 OF THE LAND USE PLAN AMENDMENT

1. WETLANDS/BIOLOGICAL RESOURCE POLICIES

Environmentally Sensitive Habitat Areas (ESHAs) Policies

1. The Wetlands Restoration Program shall provide for the planting of a minimum 20-acre native tree and shrub ESHA along the Huntington Mesa to compensate for the loss of *raptor habitat provided by* a eucalyptus grove on the Bolsa Chica Mesa.

Prior to issuance of the first Coastal Development Permit that results in the elimination of the Eucalyptus grove, the twenty (20) acres native tree and shrub ESHA shall be implemented. The mitigation plan shall be prepared in coordination with the Department of Fish and Game prior to implementation. Roosting poles and nesting boxes may be used during the initial implementation period to augment tree plantings. The roosting poles and nesting boxes are only an interim measure to mitigate short-term habitat loss until the ESHA becomes fully functioning.

Maintenance of the replacement ESHA shall be guaranteed by the Master Developer for a period of five years after initial implementation. At the end of the five year maintenance period, the mitigation shall be evaluated by the County Arborist, in consultation with the Department of Fish and Game, to determine if the native tree and shrub ESHA is fully functioning.

Land Use Plan Modifications

Should the ESHA not be fully functioning, an LCP amendment in the form of a of a remediation plan shall be required. For purposes of this policy, the ESHA shall be considered fully functioning as a raptor habitat when the number and size of trees planted have reached an 80% survival rate and the native trees and shrubs cover at least 16 acres of the planned 20 acres.
(County Policy 3.1.2.5)

2. COASTAL/MARINE RESOURCES POLICIES

General Marine Policies

2. ***Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*** (Now County Policy 3.2.2.13)
3. ***Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*** (Now County Policy 3.2.2.14)

Tidal Inlet and Hydrology Policies

4. The Tidal Inlet and the hydraulic regimes for the Wetlands Ecosystem Areas shall be designed to:
 - d. ***mitigate, to the extent feasible, any adverse impacts on upcoast and downcoast beaches to a level of insignificance.***
(County Policy 3.2.2.1)

Land Use Plan Modifications

5. A maintenance and monitoring program shall *be a condition of project approval for the Coastal Development Permit, directly authorizing construction of the Tidal Inlet (any project proposed in the Commission's area of original permit jurisdiction shall require a Coastal Development Permit from the Commission) and shall:*
- a. provide for the removal of *accumulated* sediment ~~in~~ *from* the Tidal Inlet and Full Tidal areas of the wetlands *with disposal of all beach quality sediment on the beach areas adjacent to the Tidal Inlet;*
 - b. *fully compensate* ~~mitigate~~ for the increased operation and maintenance costs for the Tidal Inlet that otherwise would accrue to the County or other managing agency-approved organization; ~~and~~
 - c. determine specific responsibilities for operation, maintenance and liability for the Tidal Inlet and related mitigations-;
 - d. *provide for the long term successive operation of all water control and conveyance structures required as part of the Wetlands Restoration Program;*
 - e. *monitor shoreline change to identify areas of sand loss caused by the Tidal Inlet, separate from that presently occurring along Huntington Cliffs, to determine the best locations for deposition of material removed from the Tidal Inlet and Full Tidal areas.*

A minimum of six monitoring locations shall be established and used to determine effects to the shoreline from the Tidal Inlet. Monitoring locations shall be established at locations 500 yards and 1,500 yards north of the proposed Tidal Inlet, 500 yards south of the Tidal Inlet, and at existing U.S. Army Corps of Engineers survey stations 307 + 88, 367 + 85 and 427 + 74. If the U.S. Army Corps of Engineers continues to undertake shoreline surveys at stations 247 + 88 and 502 + 87, data from these survey locations shall be analyzed along with the data from the six previously identified survey locations. Locations of the U.S. Army Corps of Engineers profile sites are specified in the Coast of California Storm and Tidal Wave Study, Orange County Region.

Within one year prior to the beginning of construction of the Tidal Inlet, all six survey locations shall be monitored, with profiles extending from a stable back beach location (or a U.S. Army Corps of Engineers established baseline) seaward to -30 feet mean lower low

Land Use Plan Modifications

water (MLLW). Monitoring at these six locations shall continue annually for at least five years following completion of the Tidal Inlet.

Annual surveys can be undertaken at profiles to -30 feet MLLW. Every other year, wading surveys to approximately -6 MLLW can be substituted for the profiles to -30 feet MLLW. The wading surveys shall be along the same profile lines as the profiles to -30 feet MLLW and shall occur during the same season. If U.S. Army Corps of Engineers continues to undertake biennial profiles to -30 feet MLLW, this monitoring effort shall undertake profiles to -30 feet MLLW concurrently with those of the U.S. Army Corps of Engineers.

After a minimum of five years of post-construction survey data has been acquired and analyzed, the monitoring program can be reexamined. If a detectable and regular pattern of shoreline change from the inlet is identified from this assessment, the monitoring program can be completed. If no regular shoreline pattern is detected, monitoring shall either continue or be modified in frequency and spatial extent depending on the results of the data analysis. Monitoring, however, shall not be required to extend for more than ten (10) years from the date of inlet completion.

Any modifications to the monitoring program must be based on monitoring data and must be approved either as a Coastal Development Permit amendment or a new Coastal Development Permit. Should proposed revisions to the monitoring program not be consistent with the monitoring guidelines of this policy, a minor LCP amendment shall be certified by the Commission before the revisions can become effective; and

- f. establish a program of beach sand replenishment to mitigate beach and shoreline sand supply lost through Tidal Inlet construction and any subsequent erosion attributable to the Tidal Inlet.**
(County Policy 3.2.2.2)

Water Quality Management Policies

- 6. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and**

Land Use Plan Modifications

substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

(Now County Policy 3.2.2.9)

7. Sediment basins (e.g., debris basins and/or silt traps) shall be installed in conjunction with all initial grading operations, and shall be maintained throughout ~~the development/construction process~~ ***their intended lifetimes*** to remove sediment from surface runoff. (County Policy 3.2.2.6)
8. Turbidity barriers shall be used during construction of Full Tidal Areas to limit the impacts of turbidity on ocean waters. A barrier ~~may~~ ***shall*** be used ***as required, if feasible,*** in the vicinity of the Tidal Inlet during its construction to limit turbidity in the sea. (County Policy 3.2.2.8)
9. ***Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided by the oil field operators in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*** (Now County Policy 3.2.2.10)

3. PHYSICAL RESOURCES POLICIES

10. Structures for human occupancy, which are located in areas of liquefiable soils, shall conform with all design mitigations required by the County of Orange to minimize risk to life and property. Where appropriate, mitigation should include ***foundation designs and*** measures to increase the resistance of the underlying soils to liquefaction. (County Policy 3.3.2.1)
11. In accordance with California's Alquist-Priolo Special Studies Zone Act, all development within Bolsa Chica shall be consistent with the site planning and engineering guidelines ***and real estate disclosure requirements*** for the Earthquake Hazard Special Study Zones established for the Newport-Inglewood fault zone that traverses Bolsa Chica. (County Policy 3.3.2.2)
12. The 25- to 60-foot-high northeast-facing bluff below the Huntington Mesa shall be preserved and restored as set forth in ***Policy 13 of this Land Use Plan's Public Access and Visitor Serving Recreation Component.*** ~~the County-adopted General Development Plan/Resource Management Plan for Harriett Wieder Regional Park.~~ This shall include the ESHA restoration set forth in the Wetlands Restoration Program. Any areas requiring remedial grading or

Land Use Plan Modifications

slope stabilization shall be recontoured and revegetated with native plant material to restore the natural landform appearance. (County Policy 3.3.2.7)

13. The coastal bluff facing Outer Bolsa Bay and the steep bluff below the Huntington Mesa shall both be protected from human intrusion. Where bluff-top trails are permitted, they will be set back from *the* edge of the bluff and planted and signed to discourage pedestrians from leaving the trails. (County Policy 3.3.2.8)
14. ~~Pursuant to the County adopted Resource Management Plan for Harriett Wieder Regional Park, a 10 to~~ A 100-foot-wide ESHA/wetlands buffer zone shall be designated the length of *the Harriett Wieder Regional Park* park and provide separation between the park's equestrian trail on the Mesa and the ESHAs along the bluff and the Seasonal and Perennial Pond areas below. *Exception to the 100-foot-wide buffer shall be allowed where the park property is too narrow to accommodate a buffer of this width. Pursuant to a Coastal Development Permit for park development, a buffer of less than 100 feet in width and/or the placement of the equestrian trail within the buffer, may be allowed. The Resource Management Plan for Harriett Wieder Regional Park shall incorporate and implement this policy.* (County Policy 3.3.2.9)
15. *Development shall be sited and designed to minimize the alteration of natural land forms and shall not require the construction of protective devices that would substantially alter natural landforms except for the initial mass grading. Grading of the bluff face shall not be allowed beyond that necessary to lower the bluff as proposed in the initial mass grading and to allow construction of a public bicycle/pedestrian trail on the bluff face on the south end of the Bolsa Chica Mesa. Bluff stabilization shall be allowed if the unstable bluff possess a public safety risk, if bluff stabilization is designed to minimize land form alterations, and if the bluff is restored to a natural appearance through landscaping consisting of native, drought-tolerant vegetation.* (Now County Policy 3.2.2.11)

4. CULTURAL RESOURCES POLICIES

16. An archaeological research design for Bolsa Chica shall be completed ~~prior to approval of the first Coastal Development Permit for land use development~~ and submitted along with the first Master Coastal Development Permit application for land use development within any planning areas as required by the Planned Community Program. The research design shall: (County Policy 3.4.2.3)

Land Use Plan Modifications

17. A County-certified paleontological field observer, working under the direction of a County-certified paleontologist, shall monitor all grading operations on the Bolsa Chica Mesa and Huntington Mesa. If grading operations uncover ~~significant~~ paleontological resources, the field observer shall divert equipment to avoid destruction of ~~significant~~ resources ***until a determination can be made as to the significance of the paleontological resources. If found to be significant, the site(s) shall be tested and preserved until a recovery plan is completed to assure the protection of the paleontological resources.***
(County Policy 3.4.2.5)

5. VISUAL AND SCENIC RESOURCES POLICIES

18. ***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas shall be subordinate to the character of its setting. The purpose of this policy is to protect***~~Existing~~ existing views of the coast from public areas. ~~shall be preserved.~~ (County Policy 3.5.2.1)
19. ~~To the extent feasible, continuous public~~ ***Public*** viewing opportunities shall be provided from all trails within Bolsa Chica, including:
(County Policy 3.5.2.4)
20. The existing State Ecological Reserve overlook and exhibit area at the southerly corner of the Bolsa Chica Mesa shall be replaced with a new facility designed in consultation with the ***California Department of Fish and Game***, State Coastal Conservancy, and the Amigos de Bolsa Chica.
(County Policy 3.5.2.7)
21. The two (2) existing State Ecological Reserve parking areas and scenic overlooks (one along Pacific Coast Highway across from the State Beach and the other near the intersection of Pacific Coast Highway and Warner Avenue) shall be improved in consultation with the ***California Department of Fish and Game***, State Coastal Conservancy, and the Amigos de Bolsa Chica.
(County Policy 3.5.2.8)
22. To create a visually cohesive backdrop for the Wetlands Ecosystem Area, landscaping within development areas of Bolsa Chica shall predominantly

Land Use Plan Modifications

utilize trees used in the regional and local parks, ~~and in the Buffers.~~
Landscaping in buffer areas shall consist of native drought tolerant plants.
(County Policy 3.5.2.9)

23. ~~The planting of trees within Harriett Wieder Regional Park shall be consistent with provisions of the County adopted General Development Plan (i.e., the Landscape Character Plan which defines tree plantings of appropriate heights and densities) and Resource Management Plan (i.e., the Visual Resources Section), in particular to protect views from existing and planned adjacent residences toward the Wetlands Ecosystem Area and Pacific Ocean, and to ensure a landscape maintenance program which utilizes tree trimming to maintain views.~~ (County Policy 3.5.2.13)
24. The Planned Community Program shall limit and regulate signage within all Recreation, Public Facility, and Conservation Planning Areas so that it is only a minor visual element essential for public safety, welfare, ~~and convenience,~~ ***and to inform the public of the availability of the public recreational amenities.*** Signage shall be of a consistent coastal theme.
(Now County Policy 3.2.2.13 was County Policy 3.5.2.14)

B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT CHAPTER 4 OF THE LAND USE PLAN AMENDMENT

COMPREHENSIVE POLICIES

25. Public coastal access ***and recreational opportunities***, including opportunities for wetlands observation and passive recreation such as picnicking, shall be established within new recreation and visitor-serving facilities. ***Recreational facilities and uses shall be located and designed in such a manner that there will be no adverse impacts to wetland or ESHA resources.***
(County Policy 4.2.1)
26. ***Adequate public parking shall be distributed throughout the Bolsa Chica LCP area in a manner which encourages public use of the various recreational facilities.*** (Now County Policy 4.2.3)
27. ***Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.*** (Now County Policy 4.2.4)

Land Use Plan Modifications

28. ***A comprehensive signage program for all public access/visitor serving recreation facilities shall be provided and implemented with the construction of these facilities and shall inform the public of the availability of, and provided direction to, the on-site recreation amenities of the Bolsa Chica LCP area.*** (Now County Policy 4.2.5)

TRAILS POLICIES

29. A comprehensive network of bicycle and pedestrian trails shall be provided for public access. This network shall link Huntington Central Park, Harriett Wieder Regional Park, Bolsa Chica Wetlands Ecosystem Area, Bolsa Chica State Beach, and Bolsa Chica State Ecological Reserve, ***and the Bolsa Chica Mesa bluff trail*** to surrounding residential, recreation, and public parking areas. It shall include an elevated boardwalk (i.e., Lowland Trail Corridor) through the Seasonal Ponds, connecting Harriett Wieder Regional Park with the Northeast Lowland ***provided such a trail is found to be consistent with wetlands restoration.*** (Now County Policy 4.2.6 was County Policy 4.2.3)
30. Opportunities for wetlands observation shall be provided by overlooks provided along public trails in Buffers between the residential areas and the restored wetlands. Consistent with Policies 8 and 9 of the Wetlands/Biological Resources Component, limited access interpretive trails shall be provided along berms within the Wetlands Ecosystem Area. Public use of such trails shall be controlled to protect wildlife and habitat values. ***the remaining trails shall not be limited.***
(Now County Policy 4.2.7 was County Policy 4.2.4)

PUBLIC PARKING AND STAGING AREA POLICIES

31. ~~The~~ Harriett Wieder Regional Park, local parks, and other visitor-serving recreation facilities shall include ~~appropriate~~ ***adequate*** on- and off-street public parking and bicycle racks.
(Now County Policy 4.2.10 was County Policy 4.2.7)

HARRIETT WIEDER REGIONAL PARK POLICIES

32. The approximately 49 acres of land owned by the Landowner/Master Developer on the Huntington Mesa, shall be irrevocably dedicated to the County of Orange for inclusion within the proposed 106-acre Harriett Wieder Regional Park ~~upon final certification of the LCP~~ ***prior to issuance of the first Master Coastal Development Permit for the Bolsa Chica Mesa.***

Land Use Plan Modifications

(Now County Policy 4.2.13 was County Policy 4.2.10)

33. ~~Harriett Wieder Regional Park, as described in the County approved General Development Plan and Resource Management Plan,~~ shall provide a variety of interpretive and recreational opportunities for the public. Interpretive areas which emphasize the ecology and history of Bolsa Chica shall be the focal point of Regional Park facilities.

(Now County Policy 4.2.14 was County Policy 4.2.11)

34. ~~The Harriett Wieder (formerly Bolsa Chica) Regional Park General Development Plan and Resource Management Plan is incorporated by reference in the LCP, and may be updated by the County of Orange consistent with the Bolsa Chica LUP policies.~~ **Harriett Wieder (formerly Bolsa Chica) Regional Park shall be devoted to open space/park use. Development shall minimize the alteration of land forms, be landscaped in a manner compatible with the adjacent wetlands and ESHAs, and provide adequate off-street public parking. Any General Development Plan and Resource Management Plan prepared for the regional park shall be in conformance with the land resources protection policies (i.e. wetlands and ESHA, archaeological resources, landform alteration) and the public access policies (i.e. public parking) of the Coastal Act. The General Development Plan and Resource Management Plan may be incorporated into this Bolsa Chica LUP only through an LCP amendment certified by the Coastal Commission.**

(Now County Policy 4.2.16 was County Policy 4.2.13)

INTERPRETIVE KAYAK/CANOE FACILITY POLICIES

35. A small boat dock, ~~small quiet water swimming beach,~~ and related facilities shall be provided at an appropriate location within the ~~Recreation and/or~~ Conservation Planning Areas of the Bolsa Chica Planned Community to facilitate a ranger-managed interpretive kayak/canoe program of the wetlands for the general public **provided issues of public safety due to water velocities in the vicinity of the ocean inlet can be resolved.** Interpretive kayaks/canoes shall be restricted to the Full Tidal Area under the jurisdiction of Orange County or other managing agency.

(Now County Policy 4.2.17 was County Policy 4.2.14)

Land Use Plan Modifications

BOLSA CHICA STATE BEACH POLICIES

36. All recreation and circulation planning for the Tidal Inlet area of Bolsa Chica State Beach shall be done in coordination with the California Department of Parks and Recreation, *the California Department of Transportation, and the City of Huntington Beach.*
(Now County Policy 4.2.20 was County Policy 4.2.17)
37. Only the portion of Bolsa Chica State Beach affected by the Tidal Inlet is addressed by this LCP. The California Department of Parks and Recreation may prepare a separate "Public Works Plan" (or other LUP/IAP documentation) for any and all portions of Bolsa Chica State Beach, ~~and this State plan may be certified by the Coastal Commission without amending this LCP.~~ (Now County Policy 4.2.21 was County Policy 4.2.18)
38. *Any displacement of coastal dune habitat areas due to the construction of the Tidal Inlet or associated structures shall be fully mitigated.*
(Now County Policy 4.2.22)

LOCAL PUBLIC PARKS POLICIES

39. The Landowner/Master Developer shall prepare a Local Park Implementation Plan (LPIP) so as to fully satisfy the County's Local Park Code.
- At a minimum, the LPIP shall require that: (1) the Bolsa Chica Mesa Community Park area at Warner Avenue be no less than 11 (eleven) acres in size and be developed as an active park; and (2) the portion of the Bolsa Chica Mesa Community Park located at the southwesterly edge of the Mesa shall be no less than 6 (six) acres in size and be developed as a passive park. Public parking for the six acre portion of the community park may be provided along the Mesa Connector roadway. Adequate public parking, shall be provided off-street for the active community park area. Signage visible from Warner Avenue shall be provided to direct the public to the on- and off-street parking areas.*
(Now County Policy 4.2.23 was County Policy 4.2.19)
40. All local public parks required by the LPIP shall be irrevocably offered for dedication to the County of Orange as a condition of subdivision approvals, in accordance with the County's Local Park Code. *All local parks shall be improved by the Landowner/Master Developer or the subsequent developer.*
(Now County Policy 4.2.24 was County Policy 4.2.20)

C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT
CHAPTER 5 OF THE LAND USE PLAN AMENDMENT

REGIONAL CIRCULATION POLICIES

41. An Area Traffic Improvement Program (ATIP) shall be created and include the following elements:
- d. a traffic improvement phasing plan which ensures that road improvements are phased in conjunction with residential *and commercial* development. (County Policy 5.2.1)

ATIP FINANCING POLICIES

42. An ATIP funding program for ~~these~~ *all Full Construction and Fair-Share Participation ATIP improvements shall be submitted with the Coastal Development Permit application for approval of the first tentative tract map, except a map for financing and conveyance purposes.* ~~phases included within a subdivision shall be established at the time of tentative map approval.~~ The funding program shall be satisfactory to the Director/EMA. (County Policy 5.2.7)
43. Security for all "Full Construction" ATIP improvements within an ATIP phase shall be ~~provided before the issuance of the first building~~ *a required condition of approval of the first Coastal Development Permit* for a residential unit within that phase. Security may consist of a bond, letter of credit, or establishment of a funding mechanism such as an assessment district or community facilities district. *Security shall be provided prior to issuance of the first building permit for residential development.* (County Policy 5.2.8)
44. ~~If not included within a financing district, a fee program to fund the "Fair-Share Participation" ATIP improvements within an ATIP phase shall be established at the time of the approval of the first tentative tract map including units within that ATIP phase. Fees for residential units within an ATIP phase shall be made established before recordation of the final map which includes the residential unit. Payment of the fee shall be a special condition of approval of the first Coastal Development Permit for residential development within that ATIP phase which must be met prior to issuance of the building permit.~~ (County Policy 5.2.9)

Land Use Plan Modifications

45. An advisory committee will be established to monitor the implementation of ATIP. The County of Orange will be the lead agency and committee members will include representatives of the cities of Huntington Beach, Fountain Valley, **Seal Beach**, and Westminster along with representatives from, Orange County Transportation Authority (OCTA) and the Landowner/Master Developer. Non-participation or lack of cooperation by public agency members in implementing ATIP improvements shall not result in the County withholding development approvals.

Modifications to the ATIP phasing program within the Coastal Zone shall require an amendment to the Bolsa Chica LCP certified by the Commission. Modifications to the ATIP phasing program outside of the Coastal Zone shall not require an amendment to the Bolsa Chica LCP provided that findings are made by the County that the revision to the ATIP phasing plan will not adversely affect coastal access and that the revisions still mitigate adverse traffic impacts in the Coastal Zone resulting from buildout of the Bolsa Chica development. (County Policy 5.2.10)

ATIP PHASING POLICIES

46. ~~ATIP shall be phased as described in Table 5.1.~~ A detailed phasing plan shall be submitted to the Director of EMA ***at the time of submittal of the Coastal Development Permit application for the approval of the first tentative tract map, except a map for financing and conveyance purposes.*** ~~prior to recordation of a final map for residential development.~~ Detailed phasing plans shall be developed in accordance with the County Growth Management Plan and the Congestion Management Plan, and identify the specific improvements necessary to accommodate new development and provide a schedule for completing the improvements ***and shall be consistent with the Phasing Plan as described in Table D-4 of the Bolsa Chica Development Agreement.*** (County Policy 5.2.11)

LOCAL CIRCULATION POLICIES

47. Non-auto circulation shall be provided within the Planned Community including Class I and Class II bicycle, equestrian, and hiking trails linking community parks, Bolsa Chica State Beach, and the Harriett Wieder Regional Park. Pedestrian connections from residential subdivisions to these trails shall be provided. Surrounding communities shall also have access to these trails to facilitate non-vehicular access to local and regional recreational opportunities. ***Safe and secure bicycle racks shall be provided at appropriate***

Land Use Plan Modifications

locations within the community and regional parks, along the trails and within the visitor-serving and neighborhood commercial development on the Bolsa Chica Mesa. (County Policy 5.2.14)

AIR QUALITY POLICIES

48. Project-level Coastal Development Permits shall, where feasible, incorporate vehicular trip reduction strategies including the following:
- c. **Bicycle Parking:** Bicycle commuting shall be encouraged through the inclusion of amenities that address unique aspects of the bicycle commuter, including Class I and Class II Bicycle Trails and the provision of safe and secure bicycle racks within the ***visitor-serving and Neighborhood Commercial development, along the trails and within the community and regional park areas of Bolsa Chica. (County Policy 5.2.17)***

D. DEVELOPMENT COMPONENT

CHAPTER 6 OF THE LAND USE PLAN AMENDMENT

Residential Policies

49. Residential development adjacent to the Wetlands Ecosystem Area shall be designed to avoid adverse impacts on habitat resources ***to the maximum extent feasible. (County Policy 6.2.3)***

Local Park and Community Facility Policies

50. Community parks, ***trails and an interpretive kayak/canoe facility*** shall serve the recreational needs of local residents, and shall also supply public coastal access and staging areas for visitors to Bolsa Chica where appropriate. (County Policy 6.2.7)

Local Road and Infrastructure Policies

51. Consistent with sound civil engineering practices, utilities shall be principally located in road rights-of-way or, where necessary and feasible, in recreation and open space areas not primarily required for wildlife habitat. ***Any utilities***

Land Use Plan Modifications

located within recreation or open space areas shall be placed below grade where feasible. Where undergrounding is infeasible, utilities shall be designed in a manner which will not reduce useable recreation or parking area or be visually intrusive. New utilities shall not be located within the Wetlands Ecosystem Area ~~unless~~ *except to the extent the location of the utilities in this area constitutes an incidental public service, and in accordance with Coastal Act Section 30233(a)(5)*, there are no other feasible, less environmentally damaging alternatives as defined in the Coastal Act. Mitigation measures shall be provided to minimize adverse environmental effects of any new utilities located in this area. (County Policy 6.2.15)

52. New utilities to serve development shall be located outside of the Wetlands Ecosystem Area ~~unless~~ *except to the extent the location of the utilities in this area constitutes an incidental public service, and in accordance with Coastal Act Section 30233(a)(5)*, there are no other feasible, less environmentally damaging alternatives as defined in the Coastal Act. Mitigation measures shall be provided to minimize adverse environmental effects of any new utilities located in these areas, including utilities directly related to petroleum production, wetlands restoration and maintenance, and water quality and flood control. (County Policy 6.2.16)

53. *A 50-foot-wide development setback shall be established within the development Planning Areas along the edge of the Bolsa Chica Mesa, as illustrated in Figures 2.1 and 2.2 (Exhibits 7 and 8 to these revised findings). The development setback shall be landscaped primarily with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between the Wetlands Restoration Area and residential/community park areas of the Planned Community. The planting design shall avoid visually abrupt and artificially engineered changes in the type and density of plant material. Public trails required by the LCP may be included within the development setback.* (County Policy 6.2.22)

E. OIL PRODUCTION COMPONENT

CHAPTER 7 OF THE LAND USE PLAN AMENDMENT

54. An Oil Spill Prevention Control and Countermeasure Plan (OSPCCP) and an Oil Spill Contingency Plan (OSCP) has been prepared by the current oil operators, and approved by the California State Lands Commission, the California Department of Oil Spill Prevention and Response, and the California Department of Fish and Game. The Wetlands Restoration Program shall incorporate the requirements of the OSPCCP and OSCP *that are not*

Land Use Plan Modifications

inconsistent with the Wetlands Restoration Program and the protection of biological resources. As the Wetlands Restoration Program is implemented, the OSPCCP and OSCP shall be updated to reflect each implementation phase. Both initial incorporation of requirements and subsequent updates shall be accomplished without requiring an amendment to the Bolsa Chica LCP. (County Policy 7.2.9)

55. *To the maximum extent feasible, new or expanded oil production facilities shall be consolidated, unless consolidation will have an adverse environmental consequence and will not significantly reduce the number of producing wells or support facilities. In the context of this policy, "new or expanded" applies to development occurring outside of the graded edge of existing oil roads and the footprint of existing production pads.*
(County Policy 7.2.10)

F. FINANCING AND PHASING COMPONENT

CHAPTER 8 OF THE LAND USE PLAN AMENDMENT

56. ~~The expenditure of public funds to provide services in conjunction with public community facilities shall be made only for those service areas where development plans are fully consistent with this LCP. (Was County Policy 8.2.2)~~

WETLANDS RESTORATION PHASING AND FINANCING POLICIES

57. ~~The financial assurance for the wetlands restoration shall be provided as set forth in Table 8-1. Prior to issuance of the Coastal Development Permit for each residential unit on the Bolsa Chica Mesa the developer shall pay the County of Orange \$2,000 per unit to be held pursuant to the Mesa Conservation Fund. (Now County Policy 8.2.5 was County Policy 8.2.6)~~

VII. IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS

Suggested Modifications: The Commission certifies the following, with modifications as shown. Language proposed by Orange County is shown in straight type. Language recommended by the Commission for ~~deletion~~ is shown in ~~line out~~. Language proposed to be *inserted* by the Commission is shown in *boldface italics*.

The addition of new regulations or the deletion of submitted regulations will result in the renumbering of subsequent regulations. Regulations which must be simply renumbered and do not otherwise require any modifications will not be shown. The Planned Community Program document will be revised by the County of Orange and thereafter confirmed by the Executive Director of the Coastal Commission to incorporate the Bolsa Chica LUP Modifications certified by the Coastal Commission. Below are the suggested modifications.

A. PLANNED COMMUNITY PROGRAM

2.2.6 Local Park Implementation Plan

A Bolsa Chica Local Park Implementation Plan (LPIP) shall identify requirements and locations for local park sites and recreation areas within the planned community, and include an implementation program.

The Local Park Implementation Plan shall be submitted to and approved by the Orange County Planning Commission in conjunction with the first Master Coastal Development Permit, as set forth in Chapter 10.

The LPIP will implement all applicable local park policies set forth in the Bolsa Chica Land Use Plan, fully satisfy Orange County's Local Park Code requirements (i.e., County Ordinance No. 3518), and be consistent with the Orange County Recreation Element's "Master Plan of Local Parks."

The location and size of the local community parks shall be approximately as shown on the Development Map and Statistical Table for the Bolsa Chica Planned Community. At the same time, it is recognized that the final configuration of Recreation Planning Areas 3A and 3B (the Mesa Community Park and Lowland Community Park) may be significantly revised to reflect site planning considerations and the specific park and recreation facilities set forth in the approved LPIP. Park facilities shall be designed to minimize the impacts of recreational activities (noise, lighting, etc.) on surrounding residential areas. Impacts may be reduced by locating high activity areas away from residences, and through the use of landscaping, setbacks, walls, fencing and/or other screening methods

Implementation Program Modifications

intended to achieve compatibility between the residential and recreational land uses.

At a minimum, the LPIP shall require that: (1) the north end of Bolsa Chica Mesa Community Park be no less than eleven (11) acres in size and be developed as an active park; and (2) the portion of the Bolsa Chica Mesa Community Park area at the southwesterly edge of the mesa be no less than six (6) acres in size and be developed as a passive park. Public parking for the six-acre portion of the community park may be provided along the Mesa Connector roadway. Adequate public parking shall be provided off-street for the active community park area. Signage visible from Warner Avenue shall be provided to direct the public to the on- and off-street parking areas.

All local public parks required by the LPIP shall be irrevocably offered for dedication to the County of Orange as a condition of subdivision approvals, in accordance with the County's Local Park Code. All local parks shall be improved by the Landowner/Master Developer or the subsequent developer.

2.2.11 Off-site Roadway Improvements/Area Traffic Improvement Program

The off-site roadway improvements outlined in Chapter 5, Circulation/Transportation Component, of the Bolsa Chica LCP Land Use Plan shall be constructed in accordance with the Bolsa Chica Area Traffic Improvement Program (ATIP).

The ATIP ~~fully implements~~ ***shall be consistent with Bolsa Chica LCP Land Use Plan Policies 5.2.1 through 5.2.11, and shall fully implement*** the LUP's Regional Circulation/Transportation Policies in order to mitigate development traffic impacts within the context of the larger regional area.

2.2.12 Grading Plans

Grading Plans for all projects within the Bolsa Chica Planned Community shall be consistent with ***Bolsa Chica LCP Land Use Plan Policies 3.3.2.11, 3.5.2.1, and 4.2.16; and*** the Orange County Grading and Excavation Code, and Orange County Zoning Code Section 7-9-139, "Grading and Excavation," with the following provisions:

Implementation Program Modifications

2.2.13 Protection of Archaeological and Paleontological Resources

1. A comprehensive archaeological research design for the Bolsa Chica Planned Community shall be prepared and submitted ***along with the first Master Coastal Development Permit for land use development within any planning area*** to the County of Orange prior to approval of the first Coastal Development Permit for land use development, consistent with Section 3.4, Cultural Resources Component, of the Bolsa Chica LCP.
2. Prior to the approval of a Tentative Subdivision Map, except a map for financing or conveyance purposes, detailed mitigation programs for archaeological and paleontological resources, established in accordance with the Board of Supervisors' Archaeological/Paleontological Policies ***and consistent with Section 3.4, Cultural Resources Component, of the Bolsa Chica LCP***, shall be submitted to and approved by the Manager, Orange County EMA-Harbors, Beaches and Parks/Program Planning Division.

2.2.15 Public Infrastructure and Utilities Permitted

Public infrastructure and utility buildings, structures, and facilities including, but not limited to, electrical, gas, water, sewage, drainage, telephone, and cable television, and their storage, distribution, treatment, and/or production required to carry out development are permitted in all Planning Areas of the Planned Community, subject to a Coastal Development Permit approved pursuant to Orange County Zoning Code Section 7-9-118, "Coastal Development" District Regulations. Public infrastructure and utilities shall be located consistent with Chapter 6, Development Component, of the Bolsa Chica LUP.

Utilities must also conform to the following regulations:

1. ***Consistent with sound civil engineering practices, utilities shall be principally located in road rights-of-way or, where necessary and feasible, in recreation and open space areas not primarily required for wildlife habitat.***
2. ***Any utilities located within recreation or open space areas shall be placed below grade where feasible. Where undergrounding is infeasible, utilities shall be designed in a manner which will not reduce useable recreation or parking area or be visually intrusive.***

Implementation Program Modifications

3. ***New utilities shall not be located within the Wetlands Ecosystem Area except to the extent the location of the utilities in this area constitutes an incidental public service and, in accordance with Coastal Act Section 30233(a)(5), there are no other feasible, less environmentally damaging alternatives as defined in the Coastal Act. Mitigation measures shall be provided to minimize adverse environmental effects of any new utilities located in this area.***

4. ***New utilities to serve development shall be located outside of the Wetlands Ecosystem Area except to the extent the location of the utilities in this area constitutes an incidental public service, and in accordance with Coastal Act Section 30233(a)(5), there are no other feasible, less environmentally damaging alternatives as defined in the Coastal Act. Mitigation measures shall be provided to minimize adverse environmental effects of any new utilities located in these areas, including utilities directly related to petroleum production, wetlands restoration and maintenance, and water quality and flood control.***

2.2.25 Warner Avenue Pond Mitigation:

The fill of Warner Avenue Pond on the Bolsa Chica Mesa shall be allowed only if it is found consistent with Section 30233 of the Coastal Act. Wetland impacts to Warner Avenue Pond and the isolated pocket wetlands shall be mitigated at a ratio of 4:1 (square footage of wetlands to square footage of fill). The County shall require, as a special condition of approval for a Coastal Development Permit that would allow the fill of Warner Avenue Pond or the pocket wetlands, that mitigation be implemented prior to or concurrent with the development creating the adverse impact.

The mitigation site shall be within the Bolsa Chica Lowlands unless the Lowlands are sold to a new landowner and the new landowner is unwilling to allow the proposed mitigation to proceed. In such a case the Master Developer shall find an alternative mitigation site.

Implementation Program Modifications

2.2.26 *Bluff Protection*

Development shall be sited and designed to minimize the alteration of natural landforms and shall not require the construction of protective devices that would substantially alter natural landforms except for the initial mass grading. Grading of the bluff face shall not be allowed beyond that necessary to lower the bluff as proposed in the initial mass grading and to allow construction of a public bicycle/pedestrian trail on the bluff face on the south end of the Bolsa Chica Mesa. Bluff stabilization shall be allowed if the unstable bluff poses a public safety risk, if bluff stabilization is designed to minimize landform alterations, and if the bluff will be restored to a natural appearance through landscaping consisting of native, drought-tolerant vegetation.

2.2.27 *Amended CDP Noticing Requirements*

The following amended paragraphs (f), (h), and (i) of Section 7-9-118.6, Coastal development permit procedures, together with new paragraph (j) below, of the Orange County Zoning Code shall apply to the Bolsa Chica LCP Area, until such time as the County of Orange/Coastal Commission adopt equivalent procedures as a more comprehensive amendment to the Orange County Zoning Code:

(f) Notice of final decision.

- (1) The following section shall not apply to development which is exempt or categorically excluded pursuant to Section 7-9-118.5 of the Orange County Zoning Code.*
- (2) Within seven (7) calendar days of the final County decision, a notice of the final County action shall be sent by first class mail to the Coastal Commission district office having jurisdiction over the County and to any person or group requesting notice of such action. The notice shall be sent after all rights to appeals before the Planning Commission and County Board of Supervisors have been exhausted. The notice shall include conditions of approval and written findings. For decisions on developments which are appealable to the Coastal Commission, the notice shall include procedures for appeal of the County decision on the coastal development permit to the Coastal Commission. (Coastal Act/30333, 30620; 14. Cal. Code of Regulations/13571(a))*

Implementation Program Modifications

(h) Effective date.

The County's final decision on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired. The appeal period begins on the date of receipt by the Coastal Commission of the Notice of Final County Action. However, the County's final decision shall not become effective if either of the following occur during the appeal period:

- (1) The notice of final local government action does not meet the requirements of Section 7-9-118.6(f) above;***
- (2) An appeal is filed in accordance with Section 7-9-118.6(g) of the Orange County Zoning Code;***

When either of the circumstances in Section 7-9-118.6(g) or 7-9-118.6(f) above occur, the Executive Director of the Coastal Commission shall, within five (5) calendar days of receiving notice of final local government action, notify the County that the effective date of the County action has been suspended. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13572)

(i) Final determination.

The County's decision on the Coastal Development Permit application shall be considered final when both the following occur:

- (1) 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 and, where applicable, with the public access and recreation policies of Chapter Three of the Coastal Act; and***
- (2) all rights to appeals before the Planning Commission and County Board of Supervisors have been exhausted. (Coastal Act/30333, 30620; 14 Cal. Code of Regulations/13570).***

Implementation Program Modifications

(j) Failure to Act-Notice.

(1) Notification by Applicant of Failure to Act

If the County has failed to act on an application within the time limit set forth in Government Code Sections 65950-65957.1 and thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Sections 65950-65957.1 shall notify, in writing, the County and the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be deemed approved. (Coastal Act/30333; 30620; 14. Cal. Code of Regulations/13751(b)(1))

(2) Notification by County of Failure to Act

If it is determined by the Director of the Environmental Management Agency that the time limits established pursuant to Government Code Sections 65950 through 65957.1 have expired, and the notice required by law has occurred, the Director of the Environmental Management Agency shall, within seven (7) calendar days of such determination, notify the Coastal Commission and any persons or group entitled to receive notice pursuant to Section 7-9-118.6(d) of the Orange County Zoning Code that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and, if applicable, that the application may be appealed to the Coastal Commission pursuant to Section 7-9-118.6(g) of the Orange County Zoning Code. This section shall apply equally to a determination by the County that the development has been approved by operation of law and to a judicial determination that the development has been approved by operation of law. (Coastal Act/30333; 30620; 14. Cal. Code of Regulations/13571(b)(2))

2.2.28 Development Setback Along the Bolsa Chica Mesa

The 50-foot development setback from the edge of the Bolsa Chica Mesa, as required in Sections 4.5.3, 5.5.1, 5.5.2, and 5.5.3 of this Planned Community Program, is illustrated in Figures 2.1 and 2.2 (Exhibits 7 and 8 to these revised findings). The development setback shall be landscaped primarily with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between

Implementation Program Modifications

the Wetlands Restoration Area and residential/community park areas of the Planned Community. The planting design shall avoid visually abrupt and artificially engineered changes in the type and density of plant material.

Portions of the 50-foot setback will occur along the south-facing slope of the Mesa (Figure 2.1) and along the slope which adjoins Outer Bolsa Bay (i.e., Section 2.2, where the State ownership is 50 feet or less from the edge of the bluff). Public trails required by the LCP may be included within the setback. Public use of the trails shall be ensured in perpetuity by the dedication of either fee ownership or an appropriate trail easement, as determined in Coastal Development Permits for Mesa development.

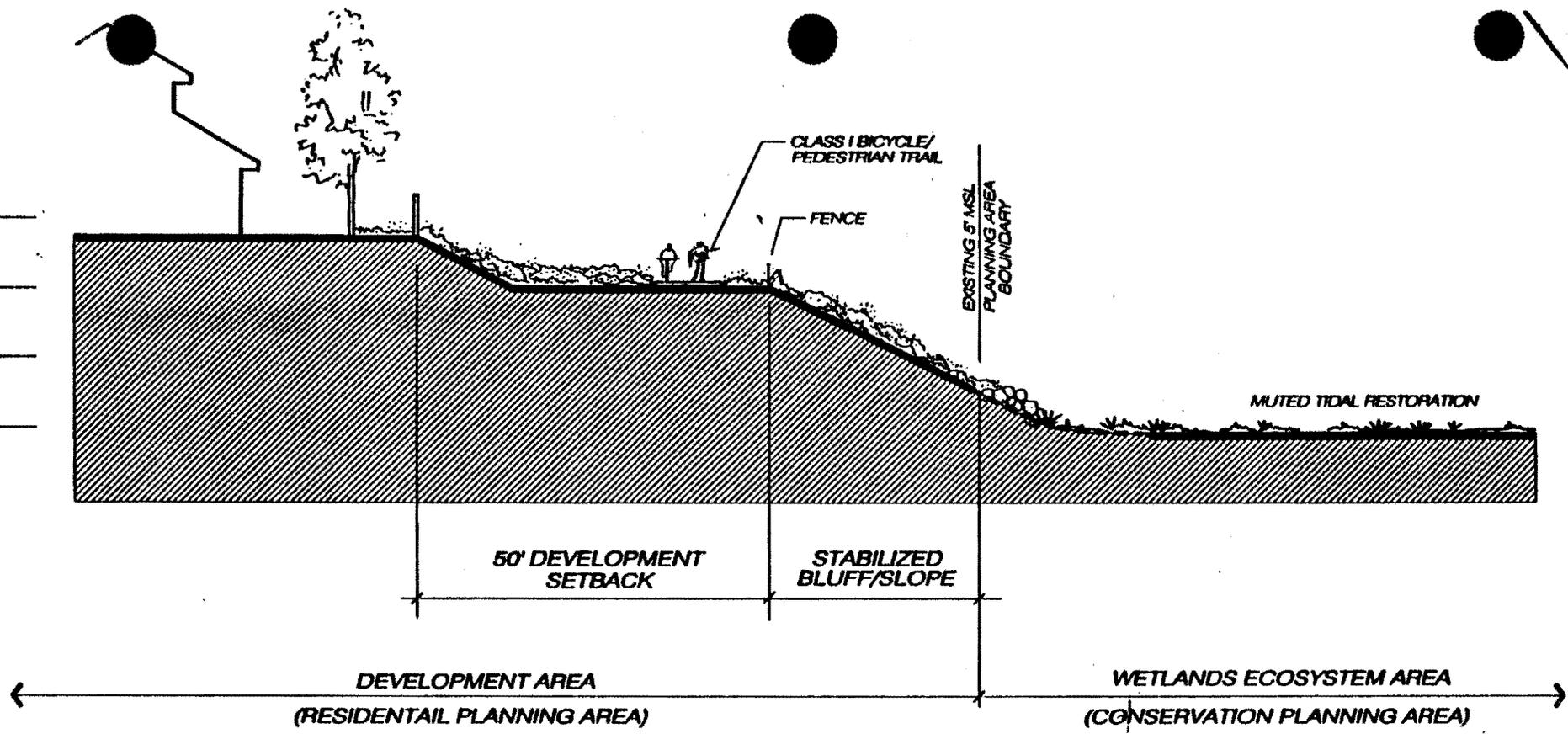
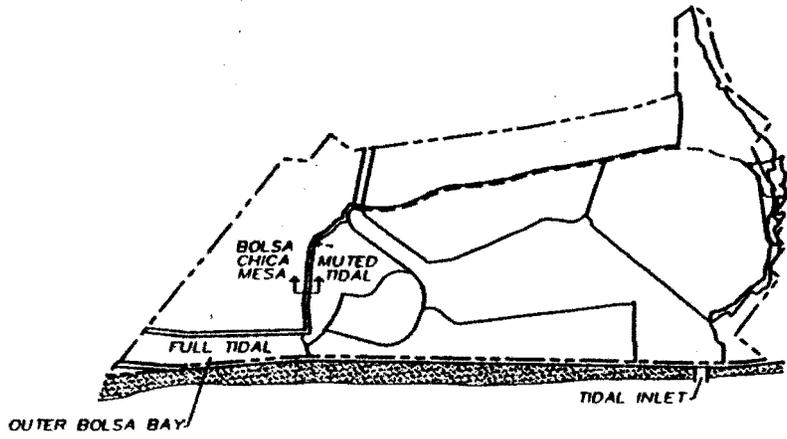


FIGURE NO. 7
South Dev. Setback
Page 63
California Coastal Commission



DEVELOPMENT SETBACK ALONG THE SOUTH-FACING SLOPE OF THE BOLSA CHICA MESA

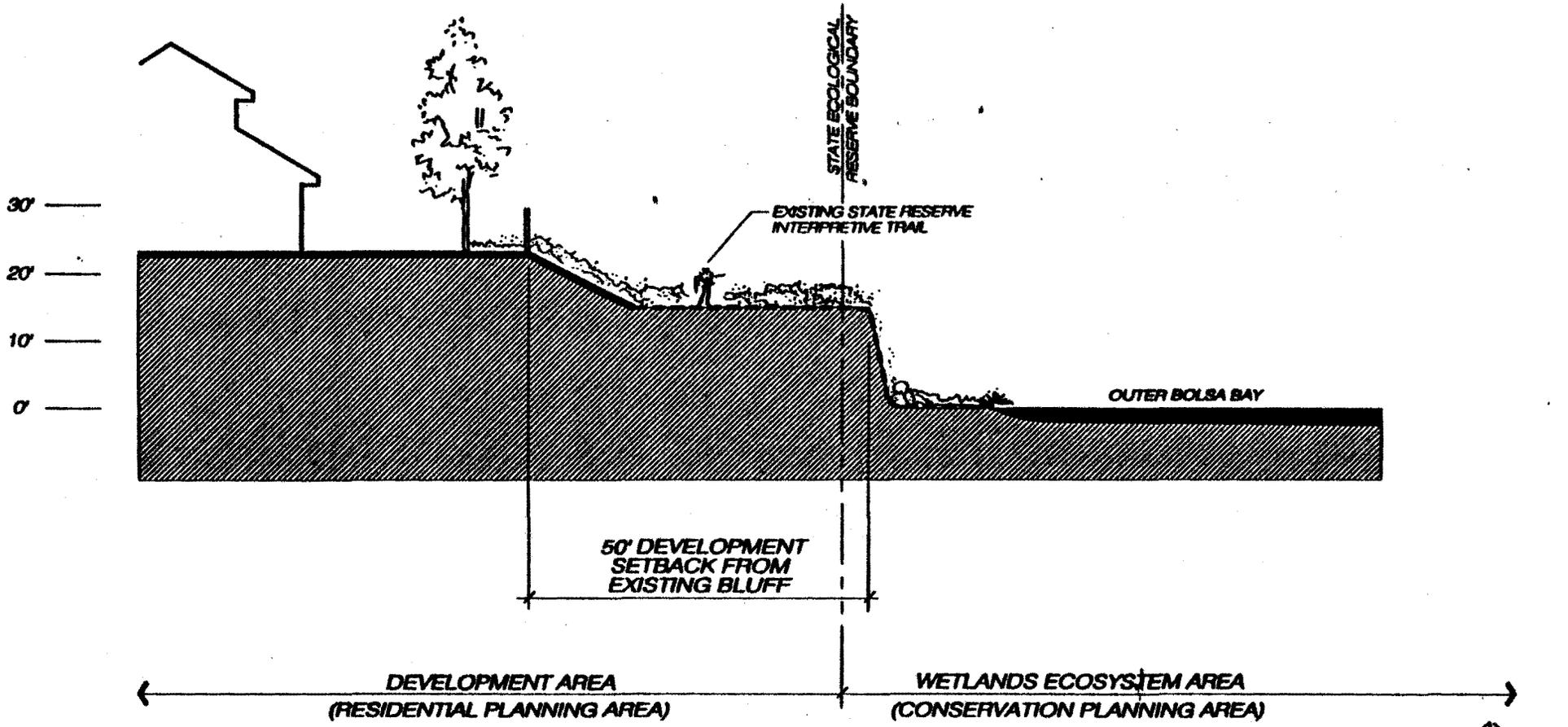
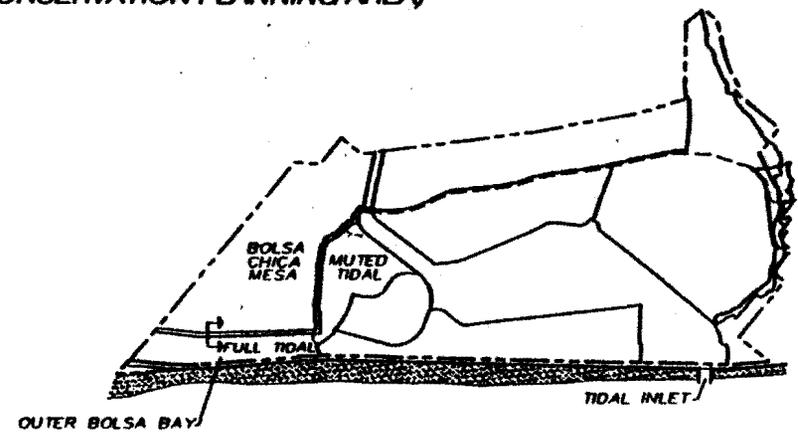


FIGURE NO. 8
West Dev. Setback
Page 64
California Coastal Commission



DEVELOPMENT SETBACK ALONG THE WEST-FACING SLOPE OF THE BOLSA CHICA MESA

BOLSA CHICA

PLANNED COMMUNITY PROGRAM

2.2.29 ATIP Financing

- 1. An ATIP funding program for all Full Construction and Fair-Share Participation ATIP improvements shall be submitted with the Coastal Development Permit application for approval of the first tentative tract map, except a map for financing and conveyance purposes. The funding program shall be satisfactory to the Director/EMA.**
- 2. Security for all "Full Construction" ATIP improvements within an ATIP phase shall be a required condition of approval of the first Coastal Development Permit for a residential unit within that phase. Security may consist of a bond, letter of credit, or establishment of a funding mechanism such as an assessment district or community facilities district. Security shall be provided prior to issuance of the first building permit for residential development.**
- 3. Fees for residential units within an ATIP phase shall be established before recordation of the final map which includes the residential unit. Payment of the fee shall be a special condition of approval of the first Coastal Development Permit for residential development within that ATIP phase which must be met prior to issuance of the building permit.**
- 4. An advisory committee will be established to monitor the implementation of ATIP. The County of Orange will be the lead agency and committee members will include representatives of the cities of Huntington Beach, Fountain Valley, Seal Beach, and Westminster along with representatives from the Orange County Transportation Authority (OCTA) and the Landowner/Master Developer. Non-participation or lack of cooperation by public agency members in implementing ATIP improvements shall not result in the County withholding development approvals.**

Modifications to the ATIP phasing program within the Coastal Zone shall require an amendment to the Bolsa Chica LCP certified by the Coastal Commission. Modifications to the ATIP phasing program outside of the Coastal Zone shall not require an amendment to the Bolsa Chica LCP provided that findings are made by the County that the revisions to the ATIP phasing plan will not adversely affect coastal access and that the revisions still mitigate adverse traffic impacts in the Coastal Zone resulting from buildout of the Bolsa Chica development.

Implementation Program Modifications

2.2.30 WRP is Regulatory Document

The Bolsa Chica Wetlands Restoration Program (WRP) is a regulatory document and, with this Planned Community Program (PCP), part of the Implementing Actions Program for the Bolsa Chica Land Use Plan (First Amendment). All land uses and development permits shall be consistent with all components of the Bolsa Chica Local Coastal Program including the WRP as well as this PCP..

2.3 CONDITIONS OF APPROVAL

The following Conditions of Approval were adopted by the Orange County Board of Supervisors as part of Resolution No. 94-1341 for the Bolsa Chica Local Coastal Program. ***Subsequent revisions were made to Conditions 8, 13, 29, 37, 39, 53, and 71 to incorporate the Suggested Modifications to the LCP approved by the California Coastal Commission on January 11, 1996.*** The Bolsa Chica Planned Community Program is an Implementing Actions Program of the Local Coastal Program, and these Conditions shall regulate all land uses and development permitted within the community.

8. Prior to the issuance of each ***coastal development permit and building permit for each residential unit on the Bolsa Chica Mesa construction***, the applicant shall pay a fee ~~of \$2,800~~ per dwelling unit ***consistent with Sections 1.2, 1.2.1, or Section 1.4 of Appendix D of the Bolsa Chica Development Agreement, as appropriate at the time of permit issuance.*** These fees will be deposited into a "Mesa Conservation Fund" established by the County. The funds will be used for construction, restoration, operations and maintenance of Wetland Restoration Area IC and/or other areas within the Recreation/Open Space or Wetlands Restoration Program. All funds collected in the Mesa Conservation Fund may be credited toward a \$7 million applicant obligation referenced under Table D-1 in ~~a proposed~~ ***the Bolsa Chica Development Agreement if said Agreement is executed by the Board of Supervisors.*** The fee ~~of \$2,800~~ per dwelling unit shall be subject to an annual inflationary factor as described in the Southern California Real Estate Research Council Construction Cost Index. Adjustments to the fees should occur on January 1 of every year based on the previous four quarters' inflation.

13. Prior to the issuance of any grading permit, the applicant shall provide to the Manager, EMA Environmental Resources Division, in coordination with oil field operators, any necessary amendment to

Implementation Program Modifications

the Oil Spill Prevention Control and Countermeasure Plan (OSPCCP) and Oil Spill Contingency Plan (OSCP) enacted between the oil field operators and appropriate state agencies to prevent the oil spill and ensure the compatibility between ~~oilfield~~ *oil field* and proposed residential, wetlands and other developments, ***and, as required to be consistent with LCP Land Use Plan Policy 7.2.9 and WRP Section 5.6, incorporation of Oil Spill Plan Requirements.***

2.3.9 Water Quality

29. Prior to the issuance of any grading permit the project applicant shall obtain a State General Construction Activity Stormwater Permit from the State Water Resources Board and provide evidence to this effect to the Manager, EMA Development Services Division. As part of this permit, the applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP), which shall establish Best Management Practices (BMPs) for: proper storage, handling, use, and disposal of fuels and other toxic materials; establishing fuel and maintenance areas away from drainage ways; and erosion, sediment and construction site chemical controls, including those measures recommended by EMA document "Evidence Specifying Management Measures for Services of Non/~~paint~~ *point* Pollution in Coastal Waters" (1993) (SC/1)

2.3.12 Terrestrial Biology

37. Prior to the issuance of any grading permit in the lowland, the project applicant shall provide financial security for the approval of Manager, EMA Environmental Planning Division in consultation with Manager, EMA Project Planning and Manager, EMA Coastal Facilities to ensure that the approved Wetlands Restoration Plan be fully implemented to satisfy, but not limited to Construction Monitoring & Maintenance as described in the WRP, and Five-Year Post-Construction Monitoring and Maintenance, Long-Term Monitoring and Maintenance, ~~20 acres of native woodland habitat, in the Harriett Wieder Regional Park,~~ a plan to control the presence of invasive and/or feral pets into wildlife areas, retention of a minimum of 200 acres of pickleweed on-site during all construction and restoration phases, and all other terrestrial provision of the Bolsa Chica LCP Wetland Restoration Program.

Prior to the issuance of the first Coastal Development Permit in Planning Area 5, the 20-acre native trees and shrubs ESHA

Implementation Program Modifications

adjacent to and/or in Harriett Wieder Regional Park shall be implemented.

39. Prior to the issuance of any building permit, the applicant shall consult with California Department of Fish and Game (CDFG) and U. S. Fish and Wildlife Service (USFWS) and prepare a relocation program for any raptors found to prey upon nesting sensitive target species or other sensitive species, to the approval of Manager Environmental Planning in consultation with Manager of Project Planning and Manager, HBP Program Planning Division. ***This program shall be implemented prior to issuance of the first Coastal Development Permit in Planning Area 5.*** (Mitigation Measure 4.8-2)

2.3.17 Cultural Resources

53. ~~Prior to the issuance of any grading permit~~ ***In conjunction with the submittal of the first Master Coastal Development Permit for land use development within any Planning Area,*** the applicant shall complete, to the approval of Manager, HBP Coastal Facilities Division the research design for recovered material analysis for the Bolsa Chica Region currently in preparation. The research design shall contain a discussion of important research topics for recovered material analysis that can be addressed employing data from the Bolsa Chica sites. The research design shall be reviewed by at least three qualified archaeologists, as required by California Coastal Commission (CCC) guidelines. (PDF-1)

2.3.21 Recreation

71. Prior to the issuance of ~~any grading permit or reoordation of any subdivision map, whichever comes first~~ ***the first Master Coastal Development Permit for the Bolsa Chica Mesa,*** the applicant shall dedicate to the County of Orange in a manner meeting the approval of the Manager, HBP Program Planning Division, 49 acres of land within the Bolsa Chica Project Area required for completion of the 106-acre Harriett Wieder Regional Park as identified in the Bolsa Chica Local Coastal Program and (PDF-1)

Implementation Program Modifications

3.2.1 Principal Permitted Uses requiring a Project Coastal Development Permit Per Chapter 10 (Discretionary Permits And Procedures)

4. Public facilities for small non-motorized boats (kayaks and/or canoes), and facilities for boats and dredges necessary to operate and maintain the Wetlands Ecosystem Area ***provided issues of public safety due to water velocities in the vicinity of the ocean inlet can be resolved***. Permitted ancillary uses shall accommodate dry storage for kayaks and/or canoes, a launching ramp, and other necessary related facilities (e.g., hoists, stacking and staging areas) to provide safe public access to, and use, of coastal waters.
6. Public works, maintenance roads, drainage improvements, flood control improvements, and other infrastructure and/or utilities necessary for the permitted development of any Planning Area, ***provided such utilities are consistent with Section 2.2.15, Public Infrastructure and Utilities Permitted***.
7. Remedial grading required to resolve geotechnical/soils engineering problems associated with the permitted development of any Planning Area and/or to satisfy engineering requirements for related infrastructure and other development-related improvements, ***provided such grading is consistent with Section 2.2.12, Grading Plans***.

3.3.1 ~~Directional and Identification Sign Program~~ ***identification signs*** per Chapter 8, in particular, ***Section 8.2.3 (Sign Programs) and Section 8.5 (Signage for Public Access/Visitor-Serving Recreation Facilities) of this Planned Community Program***.

3.5.3 Landform alterations are allowed in Conservation Planning Area 1D to the extent required to accommodate flood control improvements. ***Grading shall be consistent with Section 2.2.12, Grading Plans***.

4.1 PURPOSE AND INTENT

- (2) ~~Orange County's~~ ***Any*** approved General Development Plan and Resource Management Plan for ~~Balsa Chica~~ ***Harriett Wieder*** Regional Park;

Implementation Program Modifications

4.2.1 Principal Permitted Uses requiring a Coastal Development Permit per Chapter 10 (Discretionary Permits and Procedures):

1. All activities and facilities necessary to implement ~~the~~ *any* approved General Development Plan and Resource Management Plan for ~~Bolsa Chica Harriett Wieder~~ Regional Park *prepared consistent with Bolsa Chica LUP Policy 4.2.16*, except as modified below by 4.2.1(4).
2. Open space and passive recreation areas, *provided such utilities are consistent with Section 2.2.15, Public Infrastructure and Utilities Permitted.*
4. Active recreation areas, including tennis courts, basketball courts, volleyball courts, turf playfields, and tot-lots, except not within Recreation Planning Areas 2A and 2B ~~(Bolsa Chica (Harriett Wieder~~ Regional Park).
15. Public utility lines and facilities, *provided such utilities are consistent with Section 2.2.15, Public Infrastructure and Utilities Permitted.*
18. Remedial grading required to resolve geotechnical/soils engineering problems, associated with development Planning Areas and/or to satisfy engineering requirements for related roads, infrastructure, and other development-related improvements. *Grading shall be consistent with Section 2.2.12, Grading Plans.*

4.3.3 *Directional and identification signs per Chapter 8, in particular, Section 8.2.3 (Sign Programs) and Section 8.5 (Signage for Public Access/Visitor-Serving Recreation Facilities) of this PC Program.*

4.5.3 Building setbacks:

1. ***General:*** All buildings and/or structures shall be set back from property lines a distance at least equal to the height of the building or structure, and not less than thirty (30) feet from any adjacent development Planning Area.
2. ***Bolsa Chica Mesa:*** *A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28.*

Implementation Program Modifications

- 4.5.6 **Off-street parking:** Shall be provided in accordance with Chapter 7 (Off-Street Parking Regulations). *An adequate number of bicycle racks shall be provided in each Recreation Planning Area.*
- 4.5.8 **Signs:** Shall be permitted in accordance with Chapter 8 (Sign Regulations). *A comprehensive signage program for all public access/visitor-serving recreation facilities shall be provided and implemented with the construction of these facilities, and shall inform the public of the availability of, and provide direction to, the on-site recreation amenities of the Bolsa Chica LCP area.*
- 4.5.11 *Public coastal access and recreational opportunities, including opportunities for wetlands observation and passive recreation such as picnicking, shall be established within new recreation and visitor-serving facilities. Recreational facilities and uses shall be located and designed in such a manner that there will be no adverse impacts to wetlands or ESHA resources.*
- 4.5.12 **Mesa and Lowland Community Park Standards:**
1. **Design:** *Community Park design shall be consistent with Land Use Plan Policies 4.2.1 through 4.2.5, 4.2.11, 4.2.12, 4.2.23, and 4.2.24, Policy 6.2.7, and the Local Park Implementation Plan prepared pursuant to Section 2.2.6.*
 2. **Buffers:** *Landscaping within buffer areas adjacent to the Community Parks shall consist of native, drought-tolerant plants.*
- 4.5.13 **Harriett Wieder Regional Park Standards:**
1. **Design:** *Regional Park design shall be consistent with Land Use Plan Policies 3.3.2.7 and 3.3.2.9, and Policies 4.2.1 through 4.2.5, 4.2.10, and 4.2.13 through 4.2.16, and any approved General Development Plan and Resource Management Plan prepared for the park.*
 2. **Buffers:** *Landscaping within buffer areas adjacent to the Regional Park shall consist of native, drought-tolerant plants.*

Implementation Program Modifications

5.5.1 Single-Family Detached Developments:

5. Building setbacks:

- d. Bolsa Chica Mesa -- A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28.*

5.5.2 Single-Family Attached Developments:

5. Building setbacks:

- e. Bolsa Chica Mesa -- A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28.*

5.5.3 Multi-Family Developments:

6. Building setbacks/separations:

- d. Bolsa Chica Mesa -- A minimum fifty (50) foot development setback shall be maintained from the edge of the Bolsa Chica Mesa as explained in Section 2.2.28.*

8.5 SIGNAGE FOR PUBLIC ACCESS/VISITOR-SERVING RECREATION FACILITIES

8.5.1 *A comprehensive signage program for all public access/visitor-serving recreation facilities shall be provided and implemented with the construction of these facilities, and shall inform the public of the availability of, and provide direction to, the on-site recreation amenities of the Bolsa Chica LCP area.*

8.5.2 *Signs within Recreation, Public Facility, and Conservation Planning Areas shall be designed so they are only a minor visual element essential for public safety, welfare, convenience, and to inform the public of the availability on the public recreational amenities.*

10.2.2 Coastal Development Permits in General

All Coastal Development Permits shall be approved pursuant to Section 7-9-118, CD "Coastal Development" District Regulations, of the Orange County Zoning Code and as set forth in this Planned Community Program, *in particular with Section 2.2.27, Amended CDP Noticing*

Implementation Program Modifications

Requirements, either by the Zoning Administrator or the Planning Commission.

B. WETLANDS RESTORATION PROGRAM

Note: The Wetland Restoration Program regulations repeats policies previously stated in the amended Land Use Plan to serve as a policy reference for each regulation. Changes to Land Use Policies have not been duplicated in this section since they appear as Land Use Plan suggested modification in Chapter VI of this staff report. Further, the Wetlands Restoration Program as submitted contained two regulations that were numbered "3". The second regulation numbered "3" has been corrected to "4" and all subsequent regulations were renumbered. Regulations which only involve a change to the number are not been shown below. Regulations which involve more than a revision to the number are shown below with the regulations corrected number.

4.4 BUFFERS AND TRANSITIONS

Buffer Design Criteria

Consistent with LUP policy, the Bolsa Chica Wetlands Ecosystem Area will include 100-foot-wide buffers between hydrologic regimes and adjacent development areas. The buffer areas will contain natural vegetation, landscaped areas, open water and mudflats, ~~rip rap~~ *riprap* and/or other shoreline protection, open unvegetated areas, and public interpretive trails within the first fifty (50) feet adjacent to the development area. Figure 4.4, Alternative Buffer Treatments, demonstrates how the design criteria will be utilized to conform buffer configuration to natural conditions, and provide maximum protection of the restored area from intrusion by humans and domestic/feral animals. Conceptual design of buffer conditions for specific areas of the restoration plan area are described below.

WRP Regulation ~~10~~ 11 (LUP 3.1.2. No. 5):

To implement LUP Policy 3.1.2, No. 5, a 20.5-acre ESHA on the Huntington Mesa shall be planted with native trees and shrubs to compensate for the loss of *raptor habitat provided by* a eucalyptus grove on the Bolsa Chica Mesa as shown on the Wetlands Restoration Plan. ~~Future~~ *Prior to issuance of the first Coastal Development Permits shall require that this Permit that will directly result in the elimination of the eucalyptus grove, the* replacement

Implementation Program Modifications

habitat, including roosting poles and nesting boxes, will *shall* be installed before removal of the eucalyptus grove, and satisfy the following standards:

- a. *Roosting poles and nesting boxes shall be installed as an interim measure until such time as the ESHA is fully functioning.*
 - b. The 20.5-acre ESHA shall be implemented in conjunction with or prior to the implementation of Harriett Wieder Regional Park on the Huntington Mesa;
 - b c. The 20.5-acre ESHA shall be restricted to the slope areas of the Huntington Mesa, within or adjacent to the Regional Park;
- and
- ~~e. The d.~~ *The mitigation plan for the 20.5-acre ESHA shall be approved (in terms of the detailed planting design) by prepared in coordination with the California Department of Fish and Game; and*
 - e. *The specific requirements set forth in LUP Policy 3.1.2, No. 5, as restated above.*

WRP Regulation 20 21(LUP 3.1.2, No. 10):

- c. Conformance with Planned Community Program Section 10.3.1(4), Master Oil Facilities Plan, and Section 10.3.2(3), Oil Facilities Relocation/Consolidation Plan (if applicable); *and*
- d. *As part of the CDP submittal, the following WRP technical considerations shall be evaluated to determine if any further action is necessary:*
 - (1) *The success criteria outlined in the WRP shall be evaluated to determine if any additional, or different, success criteria are appropriate;*
 - (2) *The success criteria shall be directly linked to the goals and objectives defined during the restoration planning process;*
 - (3) *The success criteria shall be directly linked to the numerical habitat objectives set forth in the Land Use Plan;*
 - (4) *The success criteria shall be directly linked to the appropriate elements of the Monitoring and Maintenance Program;*

Implementation Program Modifications

- (5) ***The Monitoring and Maintenance Program shall be evaluated to determine if an additional, or different, efforts are appropriate.***

WRP Regulation 24 25, (LUP 3.2.2, No. 2):

To implement LUP Policy 3.2.2, No. 2:

- a. The WRP requires the preparation of a Sediment ~~and Shoreline~~ Control Plan prior to construction of RPA Phase 1B. The Sediment ~~and Shoreline~~ Control Plan shall include provisions to dredge the Tidal Inlet and nourish the beach as needed. The sediment deposited in the inlet during a major storm shall be relocated as soon as reasonably feasible to the south (downcoast) side of the jetties.
- ~~b.~~ The Sediment ***and Shoreline*** Control Plan shall contain a monitoring and maintenance program ~~for the removal of sediment through minor hydraulic dredge operations, and placement of the material in the fillets north and south of the Tidal Inlet when 40,000 to 65,000 cubic yards of material has accumulated in the inlet and flood bar areas (estimated to be every 3 to 5 years). It shall require that the inlet be dredged when one or more of the following occur:~~ ***to implement all of the conditions of LUP Policy 3.2.2, No. 2.***
 - ~~i.~~ The volume of sand in the flood tidal delta reaches between 40,000 to 65,000 cubic yards;
 - ~~ii.~~ The tidal range within the Bolsa Chica wetlands decreases by 0.25 feet; and/or
 - ~~iii.~~ Obvious beach erosion has occurred.
- e b. Prior to construction of RPA 1 B, an Oil Spill Response Plan shall be prepared that includes provisions requiring an inflatable boom be placed in the new Tidal Inlet to prevent large amounts of oil from entering the Wetlands Ecosystem Area in the event of an off-shore oil spill.
- e c. Specific responsibilities for operation, maintenance, and liability for the Tidal Inlet and related mitigations including the increased operation and maintenance costs that otherwise would accrue to the County or other managing agency because of the Tidal Inlet, shall be provided for in a Development Agreement or other agreement(s).

Implementation Program Modifications

- d. *The specific provisions of the above-reiterated LUP Policy 3.3.2, No. 2, shall be implemented as a regulation.*

WRP Regulation 26. (LUP 3.2.2. No. 14):

The specific provisions of the above-reiterated LUP Policy 3.2.2, No. 14, shall be implemented as a regulation.

WRP Regulation 27. (LUP 4.2. No. 22):

The specific provisions of the above-reiterated LUP Policy 4.2, No. 22, shall be implemented as a regulation.

MODIFICATIONS TO CHAPTER 5 OF THE WETLANDS RESTORATION PROGRAM

5.6 **INCORPORATION OF OIL SPILL PLAN REQUIREMENTS**

An Oil Spill Prevention Control and Countermeasure Plan (OSPCCP) and an Oil Spill Contingency Plan (OSCP) has been prepared by the current oil operators, and approved by the California State Lands Commission, the California Department of Oil Spill Prevention and Response, and the California Department of Fish and Game.

Consistent with LCP Land Use Plan Policy 7.2.9, prior to issuance of the first Coastal Development Permit to implement the Wetlands Restoration Program, the Wetlands Restoration Program shall be refined to incorporate the requirements of the OSPCCP and OSCP that are not inconsistent with the Wetlands Restoration Program and the protection of biological resources.

As the Wetlands Restoration Program is implemented, the OSPCCP and OSCP shall be updated to reflect each implementation phase. Both initial incorporation of requirements and subsequent updates shall be accomplished without requiring an amendment to the Bolsa Chica LCP.

Implementation Program Modifications

MODIFICATIONS TO APPENDIX C OF THE WETLANDS RESTORATION PROGRAM

5.4.3 Reporting Procedures Requirements

1. *Survey Report*

A letter report summarizing the activities completed and any potential problems or areas of concern, will be prepared by the field biologists (Marine Biologist, Ornithologist, Mammalogist/Herpetologist, and Botanist) and submitted to the Project Manager within two weeks of each survey effort.

2. *Year-end Report*

At the end of each monitoring year, a comprehensive year-end report will be prepared by the Project Manager and submitted to the landowner (or its assignees), resource agencies, and regulatory agencies for review and comment. ***The system-wide year-end report will include a compilation of all monitoring/maintenance information collected for each RPA.*** The report will also identify field methods and results, discuss monitoring and maintenance activities, rate the level of mitigation success according to specified performance criteria, and propose recommendations and remedial actions if performance criteria are not being met.

3. *Final Project Report*

~~The Project Manager will prepare a final report analyzing the long-term success of the project, and any need for continued mitigation, will be prepared at the end of the five-year mitigation monitoring and maintenance period.~~

The Project Manager will prepare a final report at the end of the five-year mitigation monitoring and maintenance period, analyzing the long-term success of the project, and any need for continued mitigation.

C. COUNTY OF ORANGE ZONING CODE

Section 7-9-118.6 Coastal Development Procedure

Portions of Section 7-9-118.6 of the Orange County Zoning Code have been amended through the Commission's Action on January 11, 1996. These changes are now located in Section 2.2.27 of the Implementation Program Suggested Modifications of this report. Since they have been relocated, they are not shown in this section of the report. The Orange County Zoning Code applies to all portions

Implementation Program Modifications

of Orange County. The Commission's action on January 11, 1996 applied to only Bolsa Chica. To limit confusion, the County requested that modifications to the Orange County Zoning Code be placed in the Implementation Plan to clearly distinguish the revised coastal development permit regulations which apply only to Bolsa Chica from other County certified areas.

D. DEVELOPMENT AGREEMENT

1.3.1 Failure to Receive Permits in Timely Manner.

- a. Denial of Permit. OWNER's applications for either (i) a Section 404 Permit or (ii) Coastal Development Permits needed to implement Lowland residential development are "denied." An application shall be deemed "denied" if :
 - i) conditions of approval of the application increases the cost of wetland creation/restoration on site by more than one percent (1%) of the projected costs as determined by OWNER and COUNTY, and
 - ii) ~~OWNER cannot or does not implement Lowland development and restoration.~~
- ~~b. Failure to Pursue Section 404 Permit and/or CDP. Three years after the Effective Date, OWNER (i) has not had a Section 404 Permit application either granted or denied and (ii) for reasons within OWNER's subjective control, no longer has a Section 404 Permit application pending for Lowland residential development (or has withdrawn its consent to a pending application for which the COUNTY is a co-applicant).~~
- ~~b.-e.~~ Failure to Receive Permits Within Five Years. Five years after the Effective Date, OWNER has applications pending for either or both of the Section 404 Permit and the CDP, but one or more of those applications has not been granted or denied.
- ~~c.-d.~~ Consequences for Failure to Pursue, Denial, and Failure to Timely Receive. Should OWNER ~~fail to pursue,~~ be "denied," or fail to timely receive either or both of the Section 404 Permit and the CDP, as described in Paragraphs 1.3.1.a. ~~b.,~~ and ~~b.-e.~~ above, within six months after the occurrence of such an event:

Implementation Program Modifications

- d.-e.** OWNER agrees that Restoration Phasing Area 1C, or the agreed upon designated acreage, may be used as a mitigation bank under the sole discretion of COUNTY.

1.3.2 Reinstatement Upon Implementation.

Should OWNER obtain those permits necessary to implement the WRP after the imposition of the "consequences" described in Paragraph **c d** above, any lands dedicated or funds paid pursuant to this section shall be credited to OWNER's total dedication and restoration obligations.

1.3.3 Failure to Pursue, Failure to Implement Section 404 Permit/CDP.

A "failure to pursue" a Section 404 Permit and a CDP for Lowland residential development shall be deemed to exist if three years after the Effective Date, OWNER (i) has not had a Section 404 Permit application either granted or denied and (ii) for reasons within OWNER's subjective control, no longer has a Section 404 Permit application pending for Lowland residential development (or has withdrawn its consent to a pending application for which the COUNTY is a co-applicant).

A "failure to implement" a Section 404 Permit and a CDP for Lowland residential development shall be deemed to exist when both a Section 404 Permit and a CDP are issued, but OWNER, for its own subjective business reasons, does not implement Lowland residential development **AND** the permits have expired and no bona fide revised applications or bona fide applications for extensions are pending.

A "failure to pursue" or a "failure to implement" shall not include any transaction described in Paragraph 1.4 of this Exhibit D.

- a) Consequences for Failure to ***Pursue*** or Implement.

Where a "failure to ***pursue***" or a "failure to implement" has occurred, then, in addition to ***the dedication of Planning Area 1D described in Exhibit D, ~~complying with~~*** Paragraph 1.1 above, OWNER shall pay COUNTY seven million dollars (\$7,000,000) to be used to restore Restoration Phasing Area 1C as that restoration is described in "Option A" in Revised EIR No. 551. This payment shall be made within six months after the occurrence of the failure to ***pursue*** or implement. All funds collected in the Mesa Conservation Fund described in Paragraph 1.2.1 above shall be credited toward this \$7,000,000.

Implementation Program Modifications

1.3.4 Failure to Provide Offer.

Except as provided in Paragraphs ~~1.3.1.d(ii)~~ *1.3.1.c.(i)* and 1.3.7, if OWNER is required by this Agreement to make an offer of dedication to COUNTY of any portion of the Lowland but fails to make that offer, COUNTY may (i) suspend or terminate this Agreement, (ii) refuse to approve any subdivision maps or issue any grading, building, or occupancy permits for Lowland development, (iii) suspend the issuance of grading, building or occupancy permits for Mesa development, and/or (iv) pursue any other remedy provided by this Agreement. If OWNER is unable through no fault of OWNER, to convey title by the date on which COUNTY has the right to and accepts OWNER's offer of dedication, said date may be extended as agreed by OWNER and COUNTY.

Implementation Program Modifications

Table D-2
Summary of Owner's Obligations Under Potential Development Scenarios

IF OWNER	<p style="text-align: center;">EITHER:</p> <ul style="list-style-type: none"> • Fails to Pursue 404 and/or CDP • Has 404 Permit or CDP "Denied"¹ • Five Years After Effective Date, Has 404/CDP Applications Pending But No Final Action² 	<p>Receives 404 and CDP, but Does Not Implement Lowland Residential Development</p> <p><i>Fails to Pursue 404 and/or CDP⁷</i></p>	<p>Receives 404 and CDP and Implements Lowland Residential Development</p>	<p>Sells Owner's entire Lowland Residential Site Area to Public Agency and all or Part of Planning Area 1D⁶</p>
OWNER MUST ...	<p>Dedicate 88.7 Acres in lowland (Restoration Area 1C)</p> <p>On the Fifth Anniversary of Effective Date, Pay \$7 Million for Restoration Area 1C³</p> <p>Construct/Fund ATIP Improvements for Required Phases (see table D-4)</p> <p>Dedicate 49 Acres for inclusion Within Harriett Wieder Regional Park⁴</p> <p>Contribute \$20 per Unit for Child Care Facilities</p>	<p>Dedicate Approximately 770-794 Acres in Lowland (Planning Area 1D)</p> <p>Within Six Months after Failure to <i>Pursue or Implement⁶</i>, Pay \$7 Million for Restoration Area 1C³</p> <p>Construct/Fund ATIP Improvements for Required Phases (See Table D-4)</p> <p>Dedicate 49 Acres for inclusion Within Harriett Wieder Regional Park⁴</p> <p>Contribute \$20 per Unit for Child Care Facilities</p>	<p>Dedicate Approximately 770-794 Acres in Lowland (Planning Area 1D)</p> <p>Implement the WRP (Approximate Cost \$48 Million)</p> <p>Construct/Fund ATIP Improvements for Required Phases (See Table D-4)</p> <p>Dedicate 49 Acres for inclusion Within Harriett Wieder Regional Park⁴</p> <p>Contribute \$20 per Unit for Child Care Facilities</p>	<p>Dedicate 88.7 Acres in lowland (Restoration Area 1C)</p> <p>Pay \$2000 Per Unit (Max \$5 Million) for Wetlands/Flood Control Improvements</p> <p>Construct/Fund ATIP Improvements for Required Phases (See Table D-4)</p> <p>Dedicate 49 Acres for inclusion Within Harriett Wieder Regional Park⁴</p> <p>Contribute \$20 per Unit for Child Care Facilities</p>
AND ...	<p>The Term of the Development Agreement is Reduced from 25 to 15 Years</p>	<p>The Term of the Development Agreement is Reduced from 25 to 15 Years</p>	<p>The Term of the Development Agreement Remains at 25 Years</p>	<p>The Term of the Development Agreement is Reduced from 25 to 15 Years</p>

Note: Footnotes 1-6 not included in the revised findings since they were not modified.

7. ***A "failure to pursue" a Section 404 Permit and a CDP for Lowland residential development shall be deemed to exist if three years after the Effective Date, OWNER (i) has not had a Section 404 Permit application either granted or denied and (ii) for reasons within OWNER's subjective control, no longer has a Section 404 Permit application pending for Lowland residential development (or has withdrawn its consent to a pending application for which the COUNTY is a co-applicant).***

VIII. ERRATA MODIFICATIONS

Suggested Modifications: The Commission certifies the following, with modifications as shown. Language proposed by Orange County is shown in straight type. Language recommended by the Commission for ~~deletion~~ is shown in ~~line-out~~. Language proposed to be *inserted* by the Commission is shown in *boldface italics*. If there is a difference in language between the certified LUP Modifications and the Errata, the LUP Modifications shall take precedence. Below are the suggested modifications.

A. PLANNED COMMUNITY PROGRAM

5. RESIDENTIAL PLANNING AREA REGULATIONS AND STANDARDS

1. Changes to 5.5.1 (1) Building site coverage within Medium Low and Medium High Density Residential Planning Areas (Pages 5-12)

5.5 SITE DEVELOPMENT STANDARDS (ML AND MH PLANNING AREAS)

5.5.1 Single-Family Detached Developments:

1. Building site coverage: ~~Fifty~~ *Sixty* percent ~~(50%)~~ *(60%)* maximum.

B. WETLAND RESTORATION PROGRAM

1. Changes to 4.4.11 Public Trail Through Seasonal Ponds (Page 4-33)

4.4.11 Public Trail Through Seasonal Ponds

The public trail within the lowland/wetlands buffer will continue across the seasonal ponds area to the Regional Park. This segment of the trail will consist of a "boardwalk" structure raised above the wetlands so as to minimally impact this area (see Section 12, Figure 4.16) *and serve as an emergency/service access to the Bolsa 8" gas line and/or the Long Beach Gas Company 14" dry gas sales line.*

Errata Modifications

2. Changes to TABLE 4-2 (Page 4-5)

TABLE 4-2
PROPOSED NET CHANGE IN HABITAT TYPES
Bolsa Chica Wetlands Restoration Program

HABITAT TYPE	EXISTING ACRES ¹	PROJECTED ACRES WITH WETLANDS RESTORATION PROGRAM ¹	NET ACREAGE GAIN (+) OR LOSS (-)
MARSH HABITATS			
Salt Marsh Habitats			
Pickleweed	330.4	345.0	+ 14.6
Saltgrass	34.4	34.3 31.0	-0.1 -3.4
Cordgrass	3.6	57.8	+ 54.2
Brackish Marsh Habitat	5.1	3.5	-1.6
Freshwater Marsh Habitat	0.7	12.6 12.7	+11.9 +11.4
TOTAL MARSH HABITATS	374.2	453.2 449.4	+79.0 +75.2
OPEN WATER/CHANNEL NON-TIDAL	49.7	11.5	-38.2
OPEN WATER/FLAT UNVEGETATED	355.1	345.4 346.5	-9.7 -8.6
OPEN WATER/BAY	121.7	219.9 221.0	+98.2 +99.3
TERRESTRIAL HABITATS			
Ruderal (Disturbed Areas/Weeds)	406.2	34.4 34.3	-371.8 -371.9
Non-Native Grassland	254.1	1.5	-252.6
Dune	20.5	40.3 41.2	+19.8 +20.7
Eucalyptus/Exotic Trees	6.5	0.3	-6.2
Coastal Bluff Scrub	4.4	12.5	+8.1
Baccharis Scrub	1.3	1.3	0.0
Other Scrub	0.2	0.2	0.0
TOTAL TERRESTRIAL HABITATS	693.2	90.5 91.3	-602.7 -601.9
AGRICULTURE	0.0	0.0	0.0
URBAN	0.5	425.5 426.3	+425.0 +425.8
ESHA²	0.0	12.9	+12.9
PARK	0.0	35.5	+35.5
OTHER LAND USES WITHIN BOLSA CHICA STUDY PROJECT AREA³	21.4	21.4	0.0
TOTAL PROJECT AREA⁴	1,615.8 Acres	1,615.8 Acres	0.0 Acres

* Source: Williamson & Schmid

¹ Acreages are rounded and therefore approximate.

² This designation describes the upland native ESHA habitat proposed along Huntington Mesa. Additional ESHAs, both existing and proposed, are included in other habitat acreages above.

³ Includes Tidal Inlet — Jetty toe to Jetty toe and that portion of PCH between sheet piles.

⁴ The Total Project Area includes the County LCP Area (1,588.3 Ac.) and 27.5 acres within the City of Huntington Beach jurisdiction.

Errata Modifications

3. Changes 6.1.4(1a) Funding of Restoration Improvements (Pages 6-4 and 6-5)

6.1.4 Funding of Restoration Improvements

1. The Development Agreement shall provide that:

- a. Within a reasonable period after all entitlements necessary to implement Lowland development as contemplated by the LCP have been obtained from all Federal, State, and local agencies (including a Section 404 Permit for Lowland residential development and restoration on terms consistent with the Landowner/Master Developer's application for that permit), the Landowner/Master Developer shall provide security in an amount sufficient to pay for all costs of completing Restoration Phases 1A, 1B, 1C, 1D, 1E, (*consistent with the natural oil depletion for 1A and 1C described in Section 6.2.3 Detailed Wetlands Phasing Plan*) and the EGGW Flood Control Channel improvements. The form of the security may be a bond, letter of credit, or other security instrument reasonably satisfactory to County.

4. Changes to 6.2.2(1.) Overview of the Wetlands Phasing Plan (Page 6-12) and the updated Wetlands Grading Plan, Figure 6.5 (Revised 1/19/95)

1. Restoration Phase 1

The *Restoration of the Seasonal Pond Area will begin* in the south central portion of the Lowlands (see Figure 6.5) ~~will be restored during as~~ the first phase of restoration activities (RPA 1A) because *cleaning and weeding of the site can be underway prior to the natural depletion of oil* operations in that area ~~is scheduled for natural depletion in 1998 2005~~. Excavation and grading activities will be conducted in an early phase (RPA 1B) of wetlands restoration to create a full tidal system. When full tidal flushing has become established in RPAs 1B, muted tidal habitat will be created in RPA 1C by removing the culvert plugs connecting RPAs 1B and 1C. As with the previous RPAs, oil producing wells and associated oil facilities will also have been removed. Sand from RPA 1B will be used for the restoration of dune and associated coastal strand habitat on Rabbit Island (RPA 1D). Restoration activities will include sand replenishment, weed eradication, and debris removal. The existing Full Tidal Area in Outer Bolsa Bay will, in large part, be preserved (RPA 1E). Construction activities will be limited to grading existing and degraded habitat at the corner of PCH and Warner Avenue.

Errata Modifications

5. Changes to Wetlands Grading Plan (Figure 6.5) of the Wetlands Restoration Program

Figure 6.5 of the Wetlands Restoration Program, which depicts the WETLANDS GRADING PLAN shall be modified to include the revised version of the Wetlands Grading Plan dated January 19, 1995.

6. Changes to Section 6.2.3 Detailed Wetlands Phasing Plan (Pages 6-13 to 6-23) of the Wetlands Restoration Program

6.2.3 Detailed Wetlands Phasing Plan

Construction activities are projected to be conducted between September 1996 and December 1996, excluding the area around South Bolsa Oil Well S-64. ~~Construction activities around South Bolsa Oil Well S-64 are projected to be conducted between September 2000 and December 2000. The Bolsa 8" wet gas line and the *active commercially productive oil wells, associated injector wells and active pipelines. Roads not being used to service wells and pipelines will be removed. The removal of the remaining wells and pipelines will depend on natural oil depletion estimated to occur between 1998 and 2005. The Long Beach Gas Company 14" 14" dry gas sales line will be relocated, as necessary, to allow after construction of the associated northerly berm and buffer separating the Lowland development and from the wetland restoration areas area.*~~

1. Phasing Area 1A: Seasonal Ponds

Restoration operations consisting of site cleanup and weeding will proceed prior to and in association with the natural depletion of oil operations in this area.

The timing of the completion of this The timing of the following phase will depend on natural oil depletion and removal of associated oil facilities by the oil operator.

Construction activities are projected to be conducted between September 1998 and December ~~1998~~ 2005:

- a. South Bolsa oil wells S54, S64, ~~S64~~, S52A, and *injectors S611, SF3 and associated oil production facilities have been removed, will be phased out and the roads removed commencing in the year 1998 until 2005 or until a buyout of oil or the wells become economically viable.*

Errata Modifications

2. Phasing Area 1B: Full Tidal

Construction activities are projected to be conducted between September 1998 and February 2000, with an interruption between March 1999 and August 1999. ~~The Bolsa 8" wet gas line and the Long Beach Gas Company 14" dry gas salesline will have been relocated prior to construction.~~ **8" gas line will have been removed from the Bolsa Mesa, Wintersburg crossing, and the proposed rerouting of the Wintersburg channel into the Full Tidal Area. The Long Beach Gas Company 14" dry gas sales line will be relocated in phases and will have been relocated from the Full Tidal Area prior to completion of the wetlands phasing area.**

- a. Remove an idle producing well (State PRC 163 No. 1011), two idle wells (State PRC 163, Nos. 1006 and 1007), and associated oil production facilities at the proposed ~~Tidal Inlet~~ **Tidal Inlet** location.
- b. Remove 8 injector and ~~16~~ **18** oil producing wells along with associated oil production facilities. The injector wells to be removed are: South Bolsa Wells S134, S133I, S93, S91, SC1, SC2, SC3, and SD3. The oil producing wells to be removed are: South Bolsa Wells S133, S124E, S122, S112D, SC103, SC102, SC101, S92-1, S92E, S91E, S83, S82, S82A, S81A, SD81, and North Bolsa Strip Well 80, **and North Bolsa 131 and 131A.**
- c. ~~Realign pipelines onto Pacific Coast Highway bridge~~ **across the Tidal Inlet.**
- d. Construct ~~Tidal Inlet~~ **Tidal Inlet** leaving entrance plugged until all other improvements are completed Tidal Inlet construction includes PCH Bridge, traffic detour, bridge approaches, pipelines, revetments, sheetpile walls, jetties, dredging, and excavation.

3. Phasing Area 1C: Muted Tidal

- c. ~~Remove North Bolsa oil wells 131, 131A, 141 and 141A along with associated oil production facilities, lower oil roads, and eliminate the oil bridge crossing at the EGGW Channel~~ **North Bolsa wells 141 and 141A will continue to produce within the Muted Tidal area and pipelines rerouted across the**

Errata Modifications

flood gates until natural depletion or until oil buyout occurs. Natural depletion is expected to occur in 2005. Oil buyout by the developer will occur when the access road is abandoned due to housing development on the northern portion of the Bolsa Mesa. Cost will be born by the developer.

7. Phasing Area 3A: Muted Tidal

- a. North Bolsa oil wells 122, 121H, 121A, 121E, 111E, *and* 111G, ~~and 113A~~ and associated oil production facilities have been removed.

8. Phasing Area 3B: Seasonal Ponds

- a. Oil well operator will have removed North Bolsa oil wells 50E, 30, 30A, and 20, along with South Bolsa oil wells SF-1, S61-E, S61-1, S41, S31, S31-E, S20A, ~~and SF5, S71 and S71A~~ and associated oil production facilities.

12. Phasing Area 5A: Muted Tidal

- a. North Bolsa oil wells 111A, 102M, 102, 102A, 102W, 101H, 101, 101A, 101E, 91E, 91A, 91, 81E, 81A, 81F, 81, 71F, 71H, ~~72, 72A, 71, 71A, 71E, 61A, 61G, 61B, 61P, 61, 62E~~ and 62A and associated oil production facilities have been removed.

14. Phasing Area 5C: Seasonal Ponds

The timing of the following phase will depend on natural oil depletion and removal of associated oil facilities by the oil operator.

Construction activities are projected to be conducted between September 2015 and December 2015:

- a. North Bolsa oil wells 13, 13A, 12, 12A, 11A, 11B, 10A, 10C, ~~20D, 21B, 21A, 21P, 21, 22A, 20B, 30F, 31C, 31M, 31B, 31A, 31, 32B32P, 32G, 32M, 32A, 33B, 40F, 41B, 41A, 41M, 42B, and 41, 50B, 51A, 51B, 51E, 52E, 53B, 60, 60B, and 60F~~ and associated oil production facilities, will have been removed.

Errata Modifications

7. Changes to Section 4.1.6(1.) Petroleum Resources (Page 21) of Appendix C.

4.1.6 Petroleum Resources

1. Monitoring Activities

All active oil facilities, including, but not limited to, pipelines, connections, valves, well heads, cellars, vessels, pumps, and separators, will be inspected by the oil operator for potential oil spills or leaks. Removal of the oil facilities (including wells, pumps, cellars, pads, pipelines, and electrical equipment), removal of oil service roads, and removal or remediation of any oil-impregnated soil will occur prior to the initiation of construction for each RPA. This will be the responsibility of the oil operator (or the restorer, *if restoration is accelerated*), depending upon the well and the construction schedule. During the removal process, a qualified oil professional will be present to ensure that no foreign fluid is introduced into the RPAs.

8. Changes to 5.1.2 Petroleum Resources (Page 34) of Appendix C

5.1.12 Petroleum Resources

1. Monitoring Activities

All active oil facilities, including, but not limited to, pipelines, connections, valves, well heads, cellars, vessels, pumps, and separators, will be inspected by the oil operator for potential oil spills and leaks. Removal of the oil facilities (including wells, pumps, cellars, pads, pipelines, and electrical equipment), removal of oil service roads, and removal or remediation of any oil-impregnated soil will occur prior to the beginning of construction for each RPA. This will be the responsibility of the oil operator ~~or the restorer, depending upon the well and the construction schedule.~~ During the removal process, an oil professional will be present to ensure that no foreign fluid is introduced into the RPAs.

Errata Modifications

9. Changes to Mitigation Monitoring Program (from EIR 551) located in Appendix E (Pages 5 and 28).

MM, PDF or SC No.	Mitigation Measure, Project Design Feature or Standard Condition	Method of Verification	Timing of Verification	Responsible Person
	Geology and Seismicity			
SC 2-5	The Proposed Project shall avoid construction of habitable structures within the Alquist-Priolo Special Studies Zones Exclusionary Zone.	Plan Check	Prior to Recordation of the Final Tract Map	Manager, Development Services/EMA
	Cultural Resources			
PDF 12-6	The Project Applicant will have the two potential archaeological sites in the Lowland, ORA-1308 and -1309, and The Lowland component of ORA-86, will be tested by a County-certified archaeologist to determine whether they represent unique or important cultural deposits. If they are determined to be unique or important deposits, the County-certified archaeologist will recommend appropriate measures to be implemented by the Project Applicant which shall be implemented at the expense of the Project Applicant. If a data recovery program is required, it shall be completed prior to issuance of a grading permit for Lowland wetlands restorations activities or Lowland urban development activities for these sites. The test program and the data recovery program shall be monitored by a qualified Native American. Reports on both the test program and the data recovery program, if one is required, will be prepared by a County-certified archaeologist documenting the testing and excavations that were performed, the cultural materials, if any, discovered, and analyzing the significance of the site. The report will be submitted to the UCLA Archaeological Information Center where they will be kept on file for reference by other archaeologists.	Field Monitoring	Prior to Issuance of Grading Permit	Manager, Harbors, Beaches and Parks/Program Planning Division

IX. FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S LAND USE PLAN AMENDMENT 1-95, AND APPROVAL WITH MODIFICATIONS

The Commission hereby finds and declares as follows. By reference the Commission hereby also adopts as findings the Background Section (Chapter IV) of this staff report. The following pages contain the specific findings for denial of the County of Orange's Bolsa Chica Land Use Plan Amendment 1-95, as submitted, and approval with modifications.

A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS CHAPTER 3 OF THE LAND USE PLAN AMENDMENT

1. WETLANDS/BIOLOGICAL RESOURCE POLICIES

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The 1986 Land Use Plan (the "1986 LUP") allowed the construction of a marina in conjunction with restoration of degraded wetlands. The Plan provided for the establishment of 915 acres of fully functioning wetlands, 86 acres of environmentally sensitive habitat areas, and protective buffers between development and wetlands. Tidal influence for the wetlands was to be provided either through a navigable ocean entrance near the intersection of Warner Avenue and Pacific Coast Highway or a non-navigable ocean entrance. If the non-navigable ocean entrance was constructed, ocean access for boats was to be through Huntington Harbour. The 1986 LUP provided that the marina could include associated visitor serving commercial facilities and ancillary residential units. The 1986 LUP allowed for ongoing oil production to continue if managed in a manner consistent with protection of biological resources. The phasing of wetland restoration would also have been influenced by the phase-out of existing oil production facilities in the Lowland.

The 1986 LUP provided that wetlands restoration would be funded by the marina developers. The restoration program was to be developed in cooperation with the California Department of Fish and Game. Specific wetland restoration criteria included: 1) No habitat of endangered species could be disturbed until an equivalent area of high quality, fully functioning habitat had been established and

Land Use Plan Findings

its maintenance assured; 2) the area of high functioning pickleweed saltmarsh could not be less than 200 acres at any time; 3) lowland development could not be initiated until the wetland restoration program was approved by all parties; 4) the area of functioning wetland could not fall below 852 acres, which was the number of wetlands acres that were degraded but viably functioning. Prior to any development within the 852 acres, new wetlands had to be created and fully functioning (for each impacted acre 1.5 new acres would be created); and 5) Prior to any land division or issuance of any grading permits or building permit on the Bolsa Chica Mesa, the landowner was required to either dedicate the lowland area or provide financial security in an amount sufficient to assure acquisition when restoration was initiated.

(2). Land Use Plan Amendment

The amended Land Use Plan provides for the establishment of an approximately 1,100 acre wetland ecosystem that includes approximately 998 acres of fully functioning wetlands, 65 acres of environmentally sensitive habitat area, and 37 acres of buffer. Tidal influence is to be provided by construction of a non-navigable ocean entrance near the south end of the Bolsa Chica Lowland.

The wetlands restoration plan provides that the area of fully functioning wetlands shall not be less than 852 acres at any time and that fully functioning environmentally sensitive habitat shall not be less than 65 acres at any time. When development would adversely impact an environmentally sensitive habitat area, replacement habitat would be created. The Rabbit Island ESHA would not be adversely impacted by the proposed development.

The Developer proposes to dedicate approximately 770 to 794 Lowland acres upon receipt of a Section 404 Permit from the Army Corps of Engineers; or, if the landowner voluntarily decides not to proceed with Lowland development (i.e. the landowner fails to pursue a Section 404 Permit and Coastal Development Permit). Should the developer have the Section 404 Permit denied, Lowland dedication would not occur; however, Mesa development would be allowed. Financing wetland restoration of the wetlands would be accomplished through Lowland residential development.

The wetland restoration program would be phased and would consist of six phases. Restoration Phases 1 and 2 would be initiated one year prior to initiating construction of residential development in the Lowland. Phases 1 and 2 would restore approximately 413 acres. Phase 3 through Phase 6 of the restoration effort would be linked to the natural depletion of oil reserves. Phases 3 through 6 would restore approximately 529 acres.

Land Use Plan Findings

(3). Applicable Coastal Act Policies

Applicable Coastal Act policies for analyzing the conformance of the amended Land Use Plan are Section 30233, Section 30240, and Section 30411. These policies pertain to the protection of coastal marine and wetland resources. Section 30233 restricts development in wetlands to eight limited uses. Section 30240 requires the preservation of environmentally sensitive habitat. Section 30411 authorizes the Department of Fish and Game to study degraded wetlands and to identify those degraded wetlands that can be feasibly restored in conjunction with a boating facility or other feasible means of restoration.

(4). Coastal Act Consistency

(a). Inadequate Development Setback on the Bolsa Chica Mesa

Sections 30231, 30233 and 30240 mandate that biological productivity of wetlands be maintained and where feasible enhanced. Urban development adjacent to wetland areas impairs the biological productivity of wetlands. In this case, 2,400 residential units will be constructed on the Bolsa Chica Mesa adjacent to existing wetlands in the Lowlands. Impacts from residential development that tend to impair biological productivity of wetlands include: disturbances to wildlife from human activity, disruptive noise and lights, introduction of pollutants, loss of peripheral terrestrial habitat, introduction of non-native plants that reduce habitat value, and domestic pets.

Buffers, transition zones, and development setbacks protect biological productivity from nearby urban development by providing the spatial separation necessary to preserve habitat values and transitional terrestrial habitat area. Spatial separation minimizes the adverse effects of human use and urban development on wildlife habitat value through physical partitioning. Buffers, transition zones, and development setbacks are upland open space areas that retain certain habitat values but also permit limited use such as passive recreation, and minor development such as trails and fences.

As submitted, the amended Land Use Plan purports to provide a horizontal 100 foot buffer between the wetlands and the Mesa development. The Commission in its "Statewide Interpretive Guidelines" recommends a buffer which is at least 100 feet wide to provide the spatial separation necessary to maintain wetland values. However, the 100 foot buffer designated in the LCP in some areas includes wetlands. The area designated as buffer is measured through two different techniques. For the portion of the Mesa facing outer Bolsa Bay the buffer is calculated from the shared property line between the Koll Real Estate Group and the

Land Use Plan Findings

Department of Fish and Game for a distance of 100 feet towards Outer Bolsa Bay (see Figure 4.5 of the Wetlands Restoration Program). For the portion of the Mesa facing the Bolsa Chica Lowlands, the buffer is measured from the Mesa's 5 foot MSL line towards the Lowland for a distance of 100 feet (see Figure 4.6 of the Wetlands Restoration Program). In some instances, Mesa residential development would be closer than the recommended 100 foot separation. Allowing development to encroach closer than the recommended 100 foot separation would allow the new urban development to adversely impact existing wetland habitats.

However, the proposed development on the Mesa would be vertically separated from the Lowland wetlands because of the bluff. The Bolsa Chica Mesa's bluff face is a variable slope that slants inland from its base and ranges from approximately 20 to 50 feet in height. Vertical separation aids in limiting adverse impacts to the wetlands from urban development on the Mesa. Vertical separation achieves this by making travel up and down the bluff difficult. The elevation separation further shields the wildlife in the wetlands from disturbances created by noise and lighting generated on the Mesa. Moreover, the bluff face is sloped, which provides horizontal separation. This horizontal separation is variable as the angle of the slope is variable. The vertical component of the bluff face itself is not a sufficient buffer between the wetlands and the Mesa development. Further, since the amount of buffer at the base of the bluff is uncertain, a horizontal setback from the blufftop edge is necessary in combination with the vertical separation created by the bluff and the existing horizontal buffer to protect the existing and restored wetlands from residential development. Therefore, the Commission finds that Section 3.1.2 of the amended Land Use Plan is inadequate, as submitted, to implement the Chapter 3 policies of the Coastal Act regarding the provision for the maintenance of habitat values.

(b). Environmentally Sensitive Habitat Values Compromised

Sections 30240 mandates that environmentally sensitive habitat be protected against any significant disruption of habitat values. The amended Land Use Plan, as submitted, allows the habitat values of the existing Eucalyptus grove ESHA on Bolsa Chica Mesa to be relocated through establishment of a native tree habitat on the Huntington Mesa. This proposed habitat relocation to Huntington Mesa was also part of the 1986 Land Use Plan.

The Eucalyptus grove is considered an ESHA solely because it provides habitat and nest sites for a variety of raptors, particularly red-tailed hawks. The Department of Fish and Game in their report of "*Environmentally Sensitive Habitat Areas at Bolsa Chica*" (1982) notes the presence of eleven raptor species. Species using the grove include the white tailed kite, marsh hawk, sharp-shinned hawk, Cooper's hawk, and osprey. Many of these raptors are dependent on the wetlands to obtain

Land Use Plan Findings

their food. Bloom (1982) considered the Eucalyptus grove significant because it provided the only nesting habitat for tree nesting raptors in the vicinity of the wetlands. In 1985 the California Department of Fish and Game designated the Eucalyptus grove as an ESHA based on its value for nesting and roosting for a variety of raptors.

Policy 1 of the amended Land Use Plan proposes the relocation of the Eucalyptus grove ESHA functions to Huntington Mesa by establishment of a 20 acre native tree and shrub ESHA on the Huntington Mesa. In its certification of the 1986 Land Use Plan, the Commission found that relocation of the habitat values of the Eucalyptus grove to the Huntington Mesa is consistent with Section 30240. The amended Land Use Plan does not change the plan to relocate the habitat values of the Eucalyptus grove. Though consistent with the 1986 Land Use Plan, as submitted, Policy 1 fails to specify when the twenty acre native tree and shrub ESHA is to be created. A significant disruption of habitat values will occur if the Eucalyptus grove is removed before the twenty acre native tree habitat has been established. Bloom (1982) stated that the loss of the hunting perches used by both resident and migratory species would probably result in the loss of most of the breeding raptor population at Bolsa Chica. Unless these raptor habitat functions are re-created on the Huntington Mesa prior to the removal of the Eucalyptus grove there will be an interim loss of habitat function. This loss will temporarily adversely affect the value of Bolsa Chica to provide habitat to support biodiversity and productivity. Therefore, the Commission finds that, as submitted, Policy 1 of the amended Land Use Plan is inadequate to implement Section 30240 of the Coastal Act regarding the preservation of habitat value.

(c). Inadequate Mitigation For The Fill of Mesa Wetlands

Bolsa Chica Mesa contains nearly 3 acres of wetlands according to Table E-2 of the Wetlands Restoration Program. The wetlands located on the Mesa consist of Warner Avenue Pond which is 1.7 acres in size and small isolated pocket wetlands which total about .3 acres. Warner Avenue Pond contains some pickleweed and provides habitat for shallow feeders such as mallard, American coot, and various herons. The Commission found the isolated pocket wetlands to qualify as wetlands under Coastal Development Permit 5-90-1143 due to the presence of wetland vegetation. Though, the Commission defines the pocket wetlands as wetlands based on the Commission's wetland delineation methodology, the U.S. Army Corps of Engineers, in 1994, deleted the pocket wetlands as qualifying for "waters of the United States" designation based on their methodology which required the presence of all three wetland characteristics. The proposed construction of 2,400 residential units and the widening of Warner Avenue will result in the fill of these wetlands. This wetland fill raises concerns with Section 30233 of the Coastal Act.

Land Use Plan Findings

Section 30233 of the Coastal Act mandates that habitat values shall be maintained and that mitigation be provided to minimize adverse environmental effects. The proposed fill of Mesa wetlands raises two concerns with Section 30233 of the Coastal Act. First, the anticipated fill of Warner Avenue Pond can be found consistent with Section 30233(a)(5) of the Coastal Act. The fill of Warner Avenue Pond can be found to be an allowable use under Section 30233(a)(5) since Warner Avenue (a public road) is proposed to be widened. Widening of an existing road to accommodate traffic is an incidental public service. The Bolsa Chica Local Coastal Program states that Warner Avenue will need to be widened with or without the buildout of Bolsa Chica Mesa. Regional growth is the driving force for widening of Warner Avenue. Following residential buildout of the Mesa, Warner Avenue Pond will become an isolated wetland area adversely impacted by adjacent urban development. Further, consistent with Section 30233, the widening of Warner Avenue when compared to building the Cross-Gap connector through the Lowlands is clearly preferable as the least environmentally damaging alternative. The Cross-Gap connector was approved in the 1986 Land Use Plan as an arterial road to accommodate area traffic. The Cross-Gap connector, however, would have been built through the Bolsa Chica Lowlands which would have adversely affected the wetlands. By not building the Cross-Gap connector the integrity of the Bolsa Chica lowlands as wetland habitat is preserved and adverse impacts by adjacent urban development are minimized. However, adequate mitigation has not been proposed under the current Land Use Plan amendment to minimize the adverse environmental effects of Mesa wetland fill.

Second, the fill of the remaining pocket wetlands on the Mesa for residential development is not an allowable use under Section 30233. These isolated pocket wetlands total approximately .3 acres. Fill of these isolated wetland can be found consistent with the Coastal Act utilizing the balancing provision of Section 30007.5 of the Coastal Act. This finding is possible since buildout of the Mesa will leave very little remaining biological values for these small isolated wetlands due to the proximity of the residential buildings and the adverse environmental impacts associated with the homes; that is, human intrusion, domestic pet intrusion, introduction of pollutants from nearby development, noise and lighting. Further, concentrating residential development on the Mesa avoids adverse impacts to the Lowland and allows the Lowlands to be maintained as a wetland ecosystem.

Though Section 30007.5 can be used to sanction the fill of the isolated pocket wetlands, a finding that the fill of the wetlands is the least environmentally damaging alternative and that adequate mitigation must still be made. If left on the Mesa, the wetlands would become isolated and would suffer loss of value for the reasons previously described. Therefore, the least environmentally damaging alternative requires that the wetland values be recreated in a site where wetland values can be recreated and would not be subject to the adverse impacts of urban development. Mitigating the adverse wetland impacts adjacent to another wetland

Land Use Plan Findings

would be an alternative that would allow the maintenance of wetland values. If the adverse impacts are mitigated by locating the mitigation site to an area adjacent to an existing wetland, mitigation will further the functioning of the wetland ecosystem by increasing its size. Section 30007.5 of the Coastal Act states:

The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Therefore, the Commission finds and determines under Section 30007.5, that on balance, concentrating development on the Mesa and mitigating the adverse impacts to the Mesa wetlands, in another location adjacent to an existing wetland, is more protective for the preservation of wetland values.

Though the fill of Warner Avenue Pond can be found consistent with Section 30233(a)(5) of the Coastal Act and the fill of the Mesa wetlands can be found consistent with the Coastal Act by utilizing Section 30007.5; the amended Land Use Plan, as submitted, lacks policies which assure that adverse impacts resulting from development will be mitigated. Missing are policies which would assure that the loss of the wetland habitat values would be mitigated through the creation of replacement wetland. Further, the Wetlands Restoration Program which is an implementing action of the amended Land Use Plan does not specifically identify mitigation sites for the Mesa wetlands nor does it identify minimum performance standards to assure that adequate mitigation has been provided.

Therefore, for the reasons cited above the Commission finds that, as submitted, the amended Land Use is inadequate to implement the applicable policies of the Coastal Act regarding the provisions for adequate mitigation to minimize the adverse impacts of development.

Land Use Plan Findings

b. APPROVAL AS MODIFIED

(1). Development Setback Resolves The Conflicts Between Proposed Residential Development And The Wetlands

The Commission has typically found that development must be setback at least 100 feet from wetlands to insure that the wetlands are protected from the adverse impacts of adjacent urban development. The Commission established this policy with the adoption of the "*Statewide Interpretive Guidelines*" on December 16, 1981. The purposes of buffers, transition zones, and development setbacks are to minimize disturbance created by urban development on wetlands through spatial separation, to provide a transitional zone between natural habitat areas and urban development, and to provide visual screening.

The Land Use Plan amendment, as submitted, purports to provide a horizontal 100 foot buffer. However, as described in the denial findings, the purported 100 foot buffer would not provide adequate spatial separation of Mesa development from the existing wetlands because the area designated as buffer contains wetlands and therefore the designated buffer does not establish a 100 foot upland area between the wetlands and the Mesa development. The Bolsa Chica Mesa's bluff face is a variable slope that slants inland from it's base and ranges from approximately 20 to 50 feet in height. Vertical separation aids in limiting adverse impacts to the wetlands from urban development on the Mesa. Vertical separation achieves this by making travel up and down the bluff difficult. The elevation separation further shields the wildlife in the wetlands from disturbances created by noise and lighting generated on the Mesa. Moreover, the bluff face is sloped, which provides horizontal separation. This horizontal separation is variable as the angle of the slope is variable. A fifty foot horizontal setback from the blufftop edge in combination with the vertical separation created by the bluff will adequately buffer the Mesa from the existing wetlands. Accordingly, the biological productivity of the restored wetland areas will be protected from Mesa development. Thus the buffer functions provided by the LCP, with incorporation of the 50 foot blufftop setback, may be summarized as follows:

- **Visual Buffer to Minimize Visual Presence to Wildlife:** vegetation screening and bluff elevations combine to protect nearby wildlife in the lowlands from the visual perception of human presence while still allowing more distant views from the public trail for educational/passive recreation purposes.
- **Physical Buffer to Minimize Human and Domestic Animal Intrusion into the Lowlands:** fencing, slope and vegetation barriers .

Land Use Plan Findings

- **Noise Buffer:** No adjacent roads, elevation and bluff setback, Mesa Park active use and parking areas located away from the bluff edge.
- **Access Regulation:** Well-defined trail system with clear public use regulations, including limiting access near sensitive species sites during nesting season.

For the reasons cited above, the Commission finds that if the amended Land Use Plan is modified to include a 50 foot development setback from the blufftop edge both existing and restored wetlands will be protected consistent with Sections 30231, 30233, and 30240 of the Coastal Act.

To incorporate the bluff protection concepts discussed above, a new Policy 53 has been inserted to require that urban development on the Mesa will be setback fifty feet as measured horizontally inland from the bluff edge. This policy will also protect the bluff face by restricting urban development on the bluff face itself. Further, landscaping vegetation within the transition zone and development setback will be limited to drought tolerant native vegetation that will provide habitat value and visual compatibility with the adjacent wetlands. Public trails and low-intensity interpretive signage will be allowed on the bluff face. These two uses are consistent with maintenance of the bluff face as a buffer since it provides a transition zone with limited urban development in an open space area which retains some habitat value.

The Commission finds that, only as modified is the Resource Restoration and Conservation Components chapter of the amended Land Use Plan consistent with the applicable Chapter 3 policies of the Coastal Act.

(2). Environmentally Sensitive Habitat Values Preserved

Section 30240 mandates that environmentally sensitive habitat be protected against any significant disruption of habitat values. The Eucalyptus grove is considered an ESHA because it provides raptor habitat. Habitat value of the Eucalyptus grove are based on: areal extent, species diversity, nesting sites, and roosting opportunities. These same values can be provided by native trees and shrubs, which, therefore, can also function as raptor habitat. Policy 1 of the amended Land Use Plan has been modified to guarantee that the process of recreating the ESHA habitat values on the Huntington Mesa by establishment of a 20 acre native tree habitat is initiated prior to the removal of the Eucalyptus grove on the Bolsa Chica Mesa. Policy 1 has been modified to require that the twenty acre native tree ESHA on Huntington Mesa will be planted prior to the issuance of the first coastal development permit that results in the elimination of the Eucalyptus grove. This includes the provision of roosting poles for raptors as an interim

Land Use Plan Findings

measure to mitigate the short-term habitat loss until the native trees planted have time to grow. The native tree and shrub habitat planted will cover 20 acres which is nearly three times the areal extent of the existing 6.5 acre Eucalyptus grove, which is continuing to shrink in size and decline in habitat value. When fully functioning the 20 acre native tree and shrub habitat will provide significantly superior raptor habitat to the declining habitat values of the existing Eucalyptus grove, in addition to providing habitat for other species.

To assure that habitat values are recreated, Policy 1 has also been modified to include the preparation of a mitigation plan. The mitigation plan will be prepared in coordination with the California Department of Fish and Game. Section 30411 of the Coastal Act designates the Department of Fish and Game as the State's principal agency responsible for the establishment and control of wildlife and fisheries management programs. Maintenance of the replacement ESHA will be guaranteed by the Master Developer for a period of five years. If the mitigation is deficient a remediation plan will be developed and implemented to resolve the deficiency.

Implementation of this ESHA relocation is also consistent with the 1986 Land Use Plan which provided for relocation of the ESHA values of the Eucalyptus grove to the Huntington Mesa. Further, relocation of the ESHA to Huntington Mesa is beneficial for three principal reasons. First, the Eucalyptus grove's suitability as habitat is in decline. The trees in the Eucalyptus grove are dying. The grove is therefore losing habitat value. The ESHA originally covered 20.5 acres and is now down to 6.5 acres. As a consequence, "preservation" of the area in which the grove is located will not achieve long-term protection of habitat values pursuant to Coastal Act Section 30240. Second, Eucalyptus trees are not native to California and possess limited habitat value. The creation of a native tree and shrub habitat would restore historical habitat values. For example, upland passerine (song birds) are associated with wooded habitats such as those found in Huntington Central Park. Third, the relocated ESHA will be in Harriet Wiedner Regional Park. The park would have significant open space adjacent to the wetlands which would be separated from urban development thereby minimizing adverse impacts to raptors and providing replacement foraging habitat lost through Mesa development.

Therefore, the Commission finds for the reasons cited above that, as modified, Policy 1 of the amended Land Use Plan is adequate to implement Section 30240 of the Coastal Act regarding the preservation of ESHA habitat values.

Land Use Plan Findings

(3). Mesa Wetland Fill Adequately Mitigated

The denial findings discussed that, as submitted, the amended Land Use Plan policies allowing for fill of Warner Avenue Pond and the 0.3 acres of isolated pocket wetlands are inconsistent with Coastal Act Section 30233 because they do not insure that the fill is adequately mitigated. As discussed previously, the fill of Warner Avenue Pond is an allowable use under Section 30233(a)(5) because the fill is necessary to expand Warner Avenue in order to accommodate current traffic demands. Further, accommodating traffic without fill of Warner Avenue Pond would require construction of the Cross-Gap Connector, which was included in the 1986 Land Use Plan and which would require fill of additional wetlands in the Lowland. Thus, the fill of Warner Avenue Pond is the least environmentally damaging alternative. The Land Use Plan policies allowing fill of Warner Avenue Pond are inconsistent with Coastal Act Section 30233 only to the extent that they do not insure that the fill of Warner Avenue Pond is adequately mitigated. Similarly, the fill of the isolated pocket wetlands is justified by balancing the Section 30233 prohibition of fill of wetlands with Section 30253 policy of concentrating development. Allowing the fill of these 0.3 acres of isolated wetlands, allows for development to be concentrated on the Mesa, thus preserving much of the Lowland wetlands. The policies of the Land Use Plan allowing fill of these isolated wetlands is inconsistent with the Coastal Act only to the extent that they do not provide for adequate mitigation of the fill of these wetlands. To bring the amended Land Use Plan into conformance with Coastal Act policies, modifications must be made to the amended Land Use Plan to provide adequate mitigation. To assure that adequate mitigation is provided for the fill of Mesa wetlands three performance standards must be provided.

First, that mitigation be undertaken in close proximity to the wetlands that will be adversely impacted since it is easier to re-create habitat values in an adjacent site. Second, that the wetlands filled be mitigated at a ratio of 4:1. The basis for imposing the 4:1 ratio is that restoration is a less than perfect science, the restoration of full biological productivity usually takes many years, and the additional acreage minimizes interim habitat loss. Thus the 4:1 mitigation ratio assures that habitat values are restored and that there is no net loss of wetland acreage. Third, that mitigation be undertaken prior to or concurrent with the development creating the adverse impact to assure that the loss of interim habitat values is minimized and to assure that full restoration is achieved.

To assure that the adverse impacts of Mesa Wetland fill are mitigated the Commission has added a new Land Use Plan policy to incorporate the provisions of Section 30233. This has been added as Policy 6 (County Policy 3.2.2.9). Additionally, a new regulation 2.2.25 has been added to the Planned Community Program to implement Policy 6 in such a manner that it clearly specifies that the adverse impacts of wetland fill will be mitigated at a ratio of 4:1 and that mitigation

Land Use Plan Findings

will be provided prior to or concurrent with the development creating the adverse impact. Further, this regulation requires that the restoration area for mitigation will be in the adjacent Lowlands, unless the Lowlands are sold and the new owner does not wish to make the site available. Should a new owner of the Bolsa Chica Lowlands not allow the Lowlands to be used for Mesa wetland mitigation, a new mitigation site must be found. Regulation 2.2.25 also requires that the fill of Warner Avenue Pond will only be allowed if it is found consistent with Section 30233 of the Coastal Act. This regulation reflects that the Commission has found that the fill of Warner Avenue Pond is an allowable use under Coastal Act Section 30233(a)(5) but is consistent with the Coastal Act Section 30233 only if the fill is adequately mitigated.

Only as modified to insure that the fill of Warner Avenue Pond and the isolated pocket wetlands are adequately mitigated is the Resource Restoration and Conservation Components chapter of the amended Land Use Plan consistent with the applicable Chapter 3 policies of the Coastal Act.

(4). Lowland Residential Development Necessary To Fund The Wetlands Restoration Program

Section 30233 and Section 30411 of the Coastal Act define the development and restoration opportunities that can be undertaken in wetlands. Section 30233 of the Coastal Act defines eight wetland uses that can be undertaken provided that there is no feasible less environmentally damaging alternative, and that feasible mitigation measures have been provided to minimize adverse environmental effects. Further, Section 30411(b) of the Coastal Act, in conjunction with Section 30233(a)(3), allows development in a degraded wetland identified by the Department of Fish and Game provided that a substantial portion of the wetland is restored and maintained as highly productive wetland. The Department of Fish and Game, in 1981 found that Bolsa Chica Lowlands were a severely degraded wetland system in need of restoration (see excerpts form the 1981 Fish and Game Determination on Section 30411 on page 103). The amended Land Use Plan proposes to achieve substantial restoration through the construction of 900 residential units in the Lowland to fund the \$48 million dollar restoration effort. Sections 30230 and 30231 of the Coastal Act mandate that marine resources, biological productivity, and water quality be maintained and where feasible restored. Discussed below is the analysis which demonstrates that the amended Land Use Plan satisfies the requirements of Sections 30230, 30231, 30233 and 30411 of the Coastal Act.

Land Use Plan Findings

(a). Section 30233 and Section 30411 Analysis

Section 30233(a)(3) of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following: ... (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland. ...

Section 30411(b) of the Coastal Act states:

(b) The Department of Fish and Game, in consultation with the commission and the Department of Boating and Waterways, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any such study shall include consideration of all of the following:

(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values.

The Commission can certify the amended Land Use Plan policies allowing the residential development in the Lowlands only if it finds that it conforms with the Coastal Act. Section 30233(a)(3) and Section 30411(b) are the two Coastal Act Sections which apply. These policies work in conjunction with each other. The requirements of Section 30233(a)(3) and 30411(b) are summarized below.

SECTION 30233(A)(3) AND SECTION 30411(B) SUMMARY

- That there is no feasible less environmentally damaging alternative.
- That feasible mitigation measures that minimize adverse impacts have been provided.
- That the wetland be identified as degraded by the Department of Fish and Game and that the wetland is so severely degraded and its natural processes are so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without a major restoration effort.
- That a substantial portion of the degraded wetland be restored and maintained as a biologically productive wetland. Whether restoration of the wetland's natural values can be most feasibly achieved in conjunction with a boating facility, or whether there are other feasible ways to achieve such values.

Wetland Designated as Degraded: The California Department of Fish and Game released on December 11, 1981 its report *"Department of Fish and Game Determination on the Status of the Bolsa Chica Wetlands"*. This report meets the requirements specified in Section 30233(a)(3) and Section 30411(b) for a determination that the Bolsa Chica Lowland is a wetland system that is so severely degraded and its natural processes are so substantially impaired that it is not capable of recovering without a major restoration effort. The report states *"For purposes of PRC Section 30411(b), the Department specifically finds that while the 686 acres of degraded wetlands are not severely degraded, the 1,000 acre wetland system (consisting of the union of 616 acres of existing wetlands and 384 acres of restorable historical wetlands outside State ownership) is, when viewed as a whole, so severely degraded that it is in need of major restoration."* Though the study identified that 384 acres were restorable, it also identified that 440 acres of historic wetlands are so severely degraded that their natural processes were impaired to the point that they no longer function as wetlands. The 440 acres of historic wetlands consist of 250 acres of roads and pads, 70 acres of agricultural land, and 120 acres of upland.

Land Use Plan Findings

In October 1992 Macdonald, Feldmeth, and Henrickson issued a report titled "*Bolsa Chica 1970-1992: Status of Habitats Over the Past Twenty Years*". This study confirmed that the physical environment and biology of the Bolsa Chica Lowland have changed in the past twenty years. In general, changes have been beneficial seaward of the Ecological Reserve dike and detrimental landward of the dike. The decline in habitat value landward of the dike, according to the report, is attributable to the creation of the Fish and Game dike which has prevented the movement of fresh ocean water. As a consequence, the inland habitats have become increasingly isolated, have been invaded in some cases by non-native plants, and are now dependent on stormwater and urban runoff for their water supply. This has led to declining water quality and increasing eutrophication. These physical, chemical, and biological changes, in turn, have had other biological consequences such as the extirpation of two native fish species, a decline in the size of the Eucalyptus grove, and reduced nest-site availability for ground nesting waterbirds. The report concluded that without remedial action, further habitat degradation can be expected to continue into the future.

Based on the Department of Fish and Game's severely degraded wetlands determination and the follow-up study by Macdonald, Feldmeth, and Henrickson; the Commission finds that the Bolsa Chica Wetlands are degraded and that their natural processes are so substantially impaired that they are not capable of recovering without major restoration.

Residential Development is Another Other Feasible Method of Achieving

Restoration: The issue that the Commission must address in approving wetland restoration concerns the two part requirement of Section 30411(b)(3). The first part of Section 30411(b)(3) allows restoration to be undertaken in conjunction with a boating facility. The second part of Section 30411(b)(3) allows other feasible ways to achieve restoration.

The proposed amended Land Use Plan does not authorize construction of a marina. Section 30411(b)(3) states, in part, "*can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve such values*". Instead the wetland restoration program will be funded through the construction and sale of 900 residential units in the Lowland. Section 30411(b)(3) clearly requires that restoration must be achieved in conjunction with a boating facility unless there are other feasible means of achieving restoration. Section 30108 of the Coastal Act defines "*feasible*" to mean capable of being accomplished in a successful manner with a reasonable period of time, taking into account economic, environmental, social, and technological factors.

To address the feasibility of a marina serving as the basis for restoration, the County of Orange from 1986 to 1990 reviewed a variety of studies and

Land Use Plan Findings

participated in various planning efforts. The Bolsa Chica Planning Coalition (Coalition) was organized in 1988 to review the development options at Bolsa Chica. Executive members of the Coalition were the Amigos de Bolsa Chica, the California State Lands Commission, the City of Huntington beach, The County of Orange, and Signal Landmark (the major landowner at the time). In May 1989, the Coalition, (after consultation with a wide variety citizen groups) adopted a land use plan concept. The adopted concept plan, eliminated the marina and navigable ocean entrance. The Coalition concluded that the marina development was no longer economically or technically feasible, that the boating facility would have greater environmental impacts than residential development alone, and that less intense development would result in greater restoration with less adverse environmental consequences. Based the follow-up studies prepared for the confirmation requirements of the 1986 Land Use Plan, the County of Orange determined that the construction of a major marina, either through a direct ocean entrance or through a Huntington Harbour connection was economically and socially infeasible.

The County of Orange re-evaluated the marina concept in its CEQA environmental review (1994) and concluded that the marina would be economically and technically infeasible as well as infeasible because of political and community opposition to the density of urban development and various commercial and residential uses proposed. The County formalized the infeasibility of a marina through adoption of Resolution 94-1341 passed on December 14, 1994. Resolution 94-1341 related to the submission of the Bolsa Chica Local Coastal Program and stated that: *"WHEREAS, as a result of the subsequent studies the County has determined that the marina element approved in the 1986 Land Use Plan is no longer feasible and that a wetlands restoration plan incorporating a non-navigable tidal inlet similar to the Secondary Alternative approved by the Coastal Commission in 1986 would have less environmental impacts and be more feasible than the 1986 Land Use Plan Preferred Alternative with the marina;"*. Accordingly, the Commission finds that construction of a marina in the Lowlands is infeasible.

Given the infeasibility of a marina, the residential development qualifies as a more feasible method of achieving restoration with fewer environmental impacts. The proposed residential development is a feasible method of achieving restoration since the construction and sale of the Lowland residential units would fund the restoration program and allow it to be implemented. The dredging operation would create the conditions necessary to restore tidally influenced habitat values. This dredging operation and the non-navigable tidal inlet (including the submission of a wetlands restoration program) complies with Sections 30230 and 30231 of the Coastal Act which promote the maintenance and restoration of marine resources, water quality, and biological productivity. The dredged fill would then have a secondary use as a foundation material for the residential development. The failure

Land Use Plan Findings

to implement a restoration program would result in continued degradation of the Bolsa Chica wetlands.

The current proposal, when compared to the two alternatives certified by the Commission in 1986, is environmentally superior for three principal reasons. First, it eliminates some uses that are incompatible with wetland restoration objectives. The current proposal would eliminate project elements such as the Cross-Gap Connector and the relocation of Pacific Coast Highway and their attendant impacts on wetlands and ESHAs. The 900 foot wide navigable ocean inlet under the 1986 Plan would have resulted in a significant loss of recreational beach because of its width and its location in a prime area of the beach. The current proposal will have less adverse impacts to the beach since it places the non-navigable ocean inlet away from the heavily used portion of Bolsa State beach and it is narrower being only 250 feet wide.

Under the 1986 Plan, Rabbit Island would have been removed to make room for the navigable ocean inlet and the marina commercial development. The Rabbit Island ESHA encompasses approximately 51 acres. Rabbit Island is considered an ESHA based on the fragile nature and rarity of undisturbed coastal dunes, the presence of wetland habitats, and baccharis scrub all of which supports upland and some wetlands species of birds. The U.S. Fish and Wildlife Service (1982) stated that Rabbit Island provides valuable resting, roosting, foraging, and nesting habitat for a number of species. These species include the great blue heron, black-crowned night heron, short-eared owl, northern harrier, Belding's savannah sparrow, and mallard. Passerine species seen in the grasslands include the western meadowlark and song sparrow (Chambers Group 1992). Rabbit Island is the only area within Bolsa Chica that provides suitable nesting habitat for the short-eared owl and the northern harrier. In contrast with major impacts on the Rabbit Island ESHA necessitated by the relocation of Pacific Coast Highway under the 1986 Land Use Plan. The current proposal preserves Rabbit Island as an ESHA.

Second, the reduction in development density allows this alternative to be environmentally superior since it would result in greater wetland restoration. Under the 1986 Land Use Plan, the wetland restoration program would result in 915 acres of wetlands. The amended Land Use Plan proposes to establish a larger wetland containing a minimum of 1,000 acres. The total wetland ecosystem when restored will total approximately 1,100 acres.

Third, it is environmentally superior since the adverse impacts associated with high density urban development would be reduced through less intensive urban development with a corresponding reduction in collateral adverse environmental impacts. Less intensive urban development results in both less hardscape and less human intrusion and use of the wetlands. Less intensive residential development allows the placement of the Lowland residential homes to be located primarily on

Land Use Plan Findings

severely degraded inland areas adjacent to existing residential development, thereby maximizing contiguous wetland habitat. In contrast, the 1986 Land Use Plan would have allowed a major marina, commercial recreation facilities and residential development in the Lowlands.

When compared to the current proposal, human use of the wetlands in association with a marina would have adverse impacts attributable to boating, such as: habitat interference, water quality problems associated with boating (anti-fouling paint and fuel), adverse impacts to shoreline processes, and litter. Increased human use of the area would generate adverse impacts in the form of light, noise, air pollution, pets, and increased traffic. The EIR estimates that a marina development would generate approximately 66,500 vehicle trips per day on an average workday. This increase in vehicle trips per day is approximately 100% more than the proposed project. The amended Land Use Plan, through less intensive development, minimizes these adverse impacts.

Further, the proposed Land Use Plan amendment, since it would be less dense than a commercial marina development, would have fewer impacts on visual resources and less land form alterations. This would minimize the adverse impacts associated with urban development by creating opportunities to minimize the development footprint and concentrate residential development area adjacent to existing development. Since the proposed plan will not maximize urban development at the expense of the environment, the proposed Land Use Plan amendment is superior at integrating human use of the area with the preservation of habitat values in the wetlands. Further, the Koll Real Estate Group states that the proposed development is the minimum development necessary to fund the wetland restoration program.

The reduction in the intensity of development and the increased restoration to be accomplished is clearly beneficial to the Bolsa Chica Lowlands. The Commission finds that the amended Land Use Plan is a superior alternative and qualifies as another "feasible way" under Section 30411(b) to achieve the goals of Coastal Act for promoting the restoration of wetlands and maximizing the wetlands to be enhanced. This determination is also consistent with the Commission's Statewide Interpretive Guidelines (pages 55-56) which describes the requirements applicable to restoration of degraded wetlands using projects other than a boating facilities.

Under these 1981 Guidelines, the Commission has interpreted Sections 30233 and 30411 as allowing for restoration of a degraded wetland through residential development under limited circumstances. The Guidelines recognize that residential development can be allowed when a boating facility is infeasible and not the least environmentally damaging alternative. The Commission's approval of the Coastal Conservancy's plans for restoration of the Los Cerritos wetlands is an example of

Land Use Plan Findings

an analogous, although not identical, application of Sections 30233 and 30411 as interpreted in the Guidelines.

Substantial Restoration Is Achieved: Section 30411(b)(2) requires that a substantial portion (but in no event less than 75 percent) of the degraded wetland be restored and maintained as a highly productive wetland. Under existing conditions the total wetland acres (as waters of the United States) is estimated at approximately 903 acres based on the 1989 Environmental Protection Agency's study. However, approximately 236 acres of wetland are in the State Ecological Reserve under the jurisdiction of the Department of Fish and Game. This leaves approximately 667 acres under the ownership of the developer who is proposing the residential development in the Lowland. This figure (667 acres) will be used as the basis for determining if a substantial portion of the wetland is proposed for restoration.

Lowland residential development will result in the fill of between 104 to 120 acres of wetland depending on the wetland delineation criteria used¹. Based on the 104 acre fill, approximately 84 percent of the wetlands would not be impacted by Lowland development. Based on the 120 acres of wetland fill, 82 percent of the wetlands would not be impacted by the Lowland development. Wetland impacts will range from 16 to 18 percent. Further, the developer proposes to replace the filled wetlands and to convert approximately 127 acres of upland to wetland. This would result in an increase of 19 percent in total wetland area based on the 667 acres owned by the developer. Based on the entire 903 acres of existing wetland the 127 acre increase would be a 14 percent increase. Based on these figures, the County of Orange clearly meets the criteria of limiting wetland loss to a maximum of 25 percent of the impacted wetland since less than 25 percent of the wetland is impacted.

To meet the substantial restoration and maintenance objectives of Section 30411(b), the County of Orange has pledged to enhance and maintain the wetland and associated upland to provide a highly productive wetland system just over 1,100 acres. This involves the removal of filled material which will restore tidal influence to historic wetlands. The Department of Fish and Game in their 1981 study concluded that the removal of 384 acres of fill in historic wetlands constituted substantial restoration. The developer has also agreed to dedicate the portion of the Lowland not used for residential development to a public agency which will place the wetlands into public ownership.

¹ The difference between the 104 and 120 acreage figure is based on different wetland delineation methodologies. The 104 acre figure is based on using the presence of all three wetland delineation criteria to define a wetland area. This method is used by the U.S. Army Corps of Engineers. The 120 acre figure is based on using any one of the three wetland delineation criteria for defining a wetland area. This method is used by the Coastal Commission.

Land Use Plan Findings

Consistent with the overall wetlands restoration goals of the 1986 LUP, the goals of the Wetlands Restoration Plan defined in the LCP are as follows:

- Halt the decline in wetland habitat.
- Re-create the historic ocean inlet and tidal influence, with resulting habitat benefits as articulated in the 1981 CDFG determination
- Increase the diversity and quality of natural habitats.
- Expand habitat for rare and endangered species.
- Improve water quality.
- Provide opportunities for managed public educational/passive recreation access.

To guide implementation of the restoration program, the County of Orange submitted a wetland restoration program. This plan contains a wide variety of performance objectives, a maintenance program, and monitoring requirements to insure that the goals of the restoration program are achieved. This implementation plan would be funded through the construction and sale of Lowland residential housing. When complete, the restoration effort would result in just over 1,100 acres of fully functioning wetlands with associated ESHAs at Rabbit island, the dune area and the ESHA creation area in Harriet Wieder Regional Park (additional upland habitat support areas will be provided by the Regional Park.). See Figure 9 on page 114 which summarizes the changes in habitat resulting from the Wetlands Restoration Program. The Wetlands Restoration Plan consists of five major elements, each of which provides for major habitat protection, enhancement and restoration benefits:

- A new direct ocean outlet to restore tidal action, with major benefits for water quality.
- The restoration of a tidally influence coastal wetland system will restore historic tidal estuarine conditions to large areas of the Bolsa Chica lowlands.
- Pickleweed habitats will be restored
- Seasonal ponds and wetlands will be enhanced

Land Use Plan Findings

- ESHA's will be protected and provided with physical contiguity with the existing ecological reserve as a result of the flood control channel relocation.

The central element of the restoration program which insures that substantial restoration would be achieved and maintained is the construction of a tidal inlet. The tidal inlet will provide substantial improvement through the introduction of ocean water to the interior of the wetland. Currently the residence time for water subject to tidal action is estimated to be 28 days. The new tidal inlet will reduce the residence time of water (in the tidally influenced wetlands) to about 3 days. According to Dr. Michael Josselyn, a residence time of about seven days or less must be achieved in tidally influenced wetlands to promote biological productivity. Thus the proposed tidal inlet, since it will provide the ocean water to promote biological productivity, will be a substantial project component for restoring and maintaining the wetlands (see Exhibit B).

Finally, it should be noted that under Section 30411(b)(2) the County of Orange could impact a total of 25 percent of the wetland provided that the remainder of the wetland was fully restored. The County of Orange has not proposed to impact the full 25 percent of the wetland, but only about 16-18 percent. Further, the County of Orange has proposed to create an additional 127 acres of new wetland out of upland so that there would be a net increase in the quantity of wetlands. The following specific habitat benefits result from the restoration of direct tidal action:

- Significant restoration of habitat and water quality conditions for marine and estuarine fish.
- Significant increase in biodiversity.
- Creation of an aquatic regime that promotes a self-sustaining and resilient ecosystem.
- Improvement in water quality by providing the highest water quality feasible, with a significant improvement in the residence time of tidal waters in the existing CDFG Ecological Reserve and optimal residence times in the newly restored wetland areas.

Bird Species will also benefit from the Wetlands Restoration Plan. Habitat benefits provided by the Wetlands Restoration Plan for the following species are set forth in Section 3.1 of the LCP under "Endangered Species Considerations:" California least tern, California Brown Pelican, Western Snowy Plover, Elegant Tern, Light-Footed Clapper Rail, Peregrine Falcon and Belding's Savannah Sparrow.

Land Use Plan Findings

For the reasons described above, the Commission finds, as required by Section 30411(b)(2) that a substantial portion of the degraded wetland will be restored and maintained as a high quality biologically productive wetland. The LCP program for restoring tidal flushing in the Bolsa Chica lowlands and thereby restoring and maintaining historic marine habitat is supported by and furthers the policies of Coastal Act Sections 30230 and 30231. Accordingly, the LCP Wetlands Restoration Plan constitutes "major restoration" for purposes of Coastal Act Sections 30411 and 30233.

No Feasible Less Environmentally Damaging Alternative Exists: Section 30233(a)(3) requires that a project involving wetland fill demonstrate that there are no feasible less environmentally damaging alternatives. To evaluate potential alternative development proposals, the County of Orange prepared an environmental impact report in 1994. As a first step, the County of Orange identified a total of 35 development scenarios. Twenty-five of the development alternatives were dropped from further consideration. Many of these alternatives were dropped because they were considered variations of the ten remaining alternatives, or because they were not considered feasible. The ten remaining alternatives included the proposed Land Use Plan, a "no-project" alternative, plus eight alternatives that ranged from restoration only to more intensive urban development than currently proposed. Following is a brief discussion of why the proposed Land Use Plan amendment is the most feasible less environmentally damaging alternative.

The "no project" alternative is not feasible since remedial action is needed to restore the degraded wetlands. In 1981 the Department of Fish and Game determined that the Bolsa Chica Wetlands were degraded and in need of major restoration. Follow-up studies support the need for initiating restoration as soon as possible. For example, the study by Macdonald, Feldmeth, and Henrickson (1992) concluded that the Bolsa Chica Wetlands are continuing to degrade and are in need of restoration. Macdonald, Feldmeth, and Henrickson believe that the decline in habitat value at Bolsa Chica is the result of diking which has cut off tidal influence. In the report *"Comparative Analysis of the Bolsa Chica LCP Direct Tidal Inlet Alternative and The Huntington Harbour Connection Alternative for Wetlands Restoration at Bolsa Chica"* by Josselyn (April 1995) the report states that the maximum residence time for healthy water quality in an estuarine environment is seven days. The existing residence time is approximately 28 days or 4 times longer than what is considered healthy for supporting wetland habitat. Finally, the submitted Land Use Plan amendment states that the Eucalyptus grove has declined from 17 acres in 1970 to 6.5 acres in 1992 thus reducing its habitat value. Since the "no-project" alternative would result in continued degradation of the wetlands, the wetlands would not be transferred into public ownership, and the objective of restoring the wetlands would not be achieved, the Commission believes that the "no-project" alternative is not a feasible alternative that should be sanctioned.

Land Use Plan Findings

Several alternatives evaluated in the EIR were less intense in terms of urban development than the current Land Use Plan amendment under evaluation. These alternatives included preserving the lowlands in open space and limiting residential development to the Mesa. These alternatives (like the "no-project" alternative) are not feasible since the objectives of wetland restoration and the transfer of the Lowlands into public ownership would not be achieved. The alternatives that avoid Lowland development, though they would maintain the wetlands in open space, are not feasible since a funding source for implementing wetland restoration does not exist and these alternatives would not result in the wetlands being transferred into public ownership. For example, in late 1995 the U.S. Fish and Wildlife Service, and the Ports of Long Beach and Los Angeles proposed to buy the Bolsa Chica Lowlands from the Koll Real Estate Group, but the funds necessary for acquisition were not available. For the reasons cited above, the Commission finds that alternatives which do not involve development on the Lowlands, even though they would preserve the lowlands in open space, are not feasible since the wetlands would continue to degrade as described in the "no-project" analysis. Further, none of these alternatives would result in the transfer of the Lowland to public ownership which is a necessity to achieve preservation in perpetuity.

Several alternatives evaluated in the EIR were more intense in terms of urban development than the current Land Use Plan amendment under evaluation. Though feasible, alternatives proposing greater urban development would result in unnecessary adverse environmental impacts. One alternative analyzed by the EIR was Alternative G which proposed the construction of a marina and 4,286 residential dwelling units. This project is very similar to the previously certified 1986 Land Use Plan.

Increased adverse impacts would be derived from increased development density, greater human use of the area, incompatibility with adjacent development, and adverse impacts to the wetlands. For example, increased development density would result in a greater population density and urban development surrounding the fragile wetlands. The marina would create adverse impacts through boating activities that could disturb wildlife, discharge toxic hydrocarbons into the wetlands, and litter thrown overboard. This alternative would also adversely effect local recreational opportunities since the proposed park acreage would fall 10.4 acres short of County requirements.

The lowland residential development allowed in the LCP will have much less environmental impacts than a marina, comparable to that in the 1986 Land Use Plan, with associated commercial and residential development while at the same time providing for restoration of the wetlands. The major landowner has identified the level of residential development necessary to fund the wetlands restoration. Since higher density alternatives are not environmentally superior, they do not

Land Use Plan Findings

comply with Coastal Act mandates for preserving and enhancing environmental values. Environmental benefits from a scaled back development proposal represented by the current LCP include: a smaller tidal inlet with less loss of recreational sand to Bolsa Chica State Beach, less impact on shoreline process, and preservation of Rabbit Island. Thus the adverse impacts associated with high density development are not required to achieve restoration of the wetlands. Therefore, the Commission finds that high density development is not the least environmentally damaging feasible alternative.

The Commission compared the land use and habitat components of four restoration alternatives with a direct tidal inlet: (1) the 1986 LUP Coastal Commission Secondary Alternative; (2) the 1989 Bolsa Chica Planning Coalition Concept Plan; (3) the 1990 Coastal Conservancy Wetlands Restoration Plan 3B ; and (4) the 1996 County of Orange Bolsa Chica LCP. These plans are shown in Chapter Two of the Land Use Plan amendment. The 1996 County LCP distinctly resembles, builds upon and improves upon the prior three alternatives. The Commission finds that the 1996 LCP provides for the least amount of lowland development, the greatest amount of wetland protection and restoration and the greatest level of protection and restoration of ESHAs.

For the reasons cited above, the Commission finds that, the amended Land Use Plan, as conditioned through suggested modifications, is the most feasible less environmentally damaging alternative since it is the minimum development necessary to achieve substantial, comprehensive wetland restoration and dedication of the Lowland into public ownership.

Feasible Mitigation Measures Have Been Provided: Section 30233(a)(3) requires that a project involving wetland fill document that feasible mitigation measures have been incorporated into the project design to minimize adverse impacts created by the project. The proposed residential development will result in adverse environmental impacts such as the fill of between 104 to 120 acres of wetland (depending on the wetland delineation criteria used²) To meet the obligation of providing feasible mitigation measures, the County of Orange has proposed a wetlands restoration program to address this concern. This plan contains a wide variety of performance objectives, a maintenance program, and monitoring requirements to insure that the goals of restoration program are achieved. This implementation plan would be funded through the construction and sale of Lowland residential housing. When complete, the restoration effort would result in just over 1,100 acres of fully functioning wetlands and associated upland habitat. See

² The difference between the 104 and 120 acreage figure is based on different wetland delineation methodologies. The 104 acre figure is based on using the presence of all three wetland delineation criteria to define a wetland area. This method is used by the U.S. Army Corps of Engineers. The 120 acre figure is based on using any one of the three wetland delineation criteria for defining a wetland area. This method is used by the Coastal Commission.

Land Use Plan Findings

Types below. Principal elements of the wetlands restoration program meeting this obligation include: the restoration of filled wetlands, the creation of approximately 127 acres of new fully functioning wetlands, enhancing existing habitat values, and constructing an ocean inlet to provide ocean water to the tidally influenced wetlands. For the reasons stated in the previous section, the ocean inlet would substantially improve water quality and water quantity for the restored wetlands.

Figure 9: PROPOSED NET CHANGE IN HABITAT TYPES
Bolsa Chica Wetlands Restoration Program

HABITAT TYPE	EXISTING ACRES	PROJECTED ACRES WITH WETLANDS RESTORATION PROGRAM ¹	NET ACREAGE GAIN (+) OR LOSS (-)
MARSH HABITATS			
Salt Marsh Habitats			
Pickleweed	330.4	345.0	+14.6
Saltgrass	34.4	31.0	-3.4
Cordgrass	3.6	57.8	+54.2
Brackish Marsh Habitat	5.1	3.5	-1.6
Freshwater Marsh Habitat	0.7	12.1	+11.4
TOTAL MARSH HABITATS	374.2	449.4	+75.2
OPEN WATER/CHANNEL NON-TIDAL	49.7	11.5	-38.2
OPEN WATER/FLAT UNVEGETATED	355.1	346.5	-8.6
OPEN WATER/BAY	121.7	221.0	+99.3
TERRESTRIAL HABITATS			
Ruderal (Disturbed Areas/Weeds)	406.2	34.3	-371.9
Non-Native Grassland	254.1	1.5	-252.6
Dune	20.5	41.2	+20.7
Eucalyptus/Exotic Trees	6.5	0.3	-6.2
Coastal Bluff Scrub	4.4	12.5	+8.1
Baccharis Scrub	1.3	1.3	0.0
Other Scrub	0.2	0.2	0.0
TOTAL TERRESTRIAL HABITATS	693.2	97.3	-601.9
AGRICULTURE	0.0	0.0	0.0
URBAN	0.5	426.3	+425.8
ESHA	0.0	12.9	+12.9
PARK	0.0	35.5	+35.5
OTHER LAND USES WITHIN BOLSA CHICA PROJECT AREA	21.4	21.4	0.0
TOTAL PROJECT AREA	1,615.8 Acres	1,615.8 Acres	0.0 Acres

* Source: Williamson & Schmid

The Wetlands Restoration Program also provides mitigation of potential adverse effects from the restoration actions themselves through a funded "Monitoring and Maintenance Program" including the following:

Land Use Plan Findings

- Baseline conditions have been documented to establish habitat and species parameters for LCP monitoring.
- Construction monitoring and habitat/species protection measures have been incorporated.
- Post-construction monitoring will: (1) following the implementation of each phase of restoration; (2) incorporate hydrologic, water quality and biological components and (3) provide a long-term restoration data base.
- Provisions are made for assuring the implementation of necessary remedial actions.
- Provisions are made for "adaptive management".

Pursuant to Coastal Act Sections 30230, 30231, 30411 and 30007.5 any conflict between the actions necessary to carry out the Wetlands Restoration Program and the specific dredging requirements of Coastal Act Section 30233 are resolved in favor of the long-term restoration benefits of the Program carrying out the policies of Coastal Act Sections 30230 and 30411.

Additionally, the Commission has provided suggested modifications to the Land Use Plan amendment and the Implementation Plan to insure that adverse impacts created by the proposed development are mitigated. The suggested modifications mandate that adverse impacts to environmentally sensitive areas be mitigated by requiring that the replacement habitat be created prior to the existing habitat being destroyed; that the tidal inlet be monitored and that any adverse impact to sand supply be mitigated, that the biological productivity and quality of coastal waters be protected, that development shall be sited and designed to minimize the alteration of natural land forms, and that development be setback fifty feet from the bluff edge.

The Commission finds that the proposed wetland restoration program plus the suggested modifications ensures that feasible mitigation measures have been provided and will be implemented to minimize and mitigate any adverse impacts resulting from the proposed development.

(b). Section 30230 and Section 30231 Analysis

Section 30230 of the Coastal Act mandates that marine resources shall be maintained, enhanced, and where feasible restored. Section 30231 of the Coastal Act mandates that the biological productivity and quality of coastal waters and

Land Use Plan Findings

wetlands shall be maintained and where feasible restored. To meet these goals, the County of Orange has submitted a Wetlands Restoration Program as an implementation action of the amended Land Use Plan. Policies 3.1.2.2, through 3.1.2.12 of the amended Land Use Plan provide the guidance for the wetland restoration program which is a part of the Implementation Program. (Policy 3.1.2.5 has been modified through a suggested modification; see Policy 1.)

Through the Wetlands Restoration Program the County has pledged to enhance and maintain the wetlands and associated upland to provide just over 1,100 acres of highly productive habitat. This plan contains a wide variety of performance objectives, a maintenance program, and monitoring requirements to insure that the goals of the restoration program are achieved. The developer has also agreed to dedicate the portion of the Lowland not used for residential development to a public agency which will place the wetlands into public ownership. This implementation plan would be funded through the construction and sale of Lowland residential housing. When complete, the restoration effort would result in just over 1,100 acres of fully functioning wetlands with associated upland habitat. See Figure 9 on page 114 which summarizes the changes in habitat resulting from the Wetlands Restoration Program.

One element of the restoration program which insures that biological productivity and water quality for promoting the enhancement of marine resources would be achieved and maintained is the tidal inlet. The tidal inlet will provide substantial improvement through the introduction of ocean water to the interior of the wetland. Currently the residency time for water subject to tidal action is estimated to be 28 days. The new tidal inlet will reduce the residence time of water (in the tidally influenced wetlands) to about 3 days. According to Dr. Michael Josselyn, a residence time of about seven days or less must be achieved in tidally influenced wetlands to promote biological productivity. Additionally, the mouth of the East Garden Grove Wintersburg Channel will contain a sediment basin to trap heavy urban contaminants before they enter the restored wetlands. The sediment basin will be periodically cleaned out.

For the reasons described above, the Commission finds that the Wetlands Restoration Program, as modified, assures that the marine resources and biological productivity of the Bolsa Chica wetlands will be provided for and that it is consistent with the applicable Chapter 3 Policies of the Coastal Act.

(5). Conclusion

The proposed development is necessary to fund wetland restoration and is the amount of development necessary to guarantee wetland restoration. The Department of Fish and Game has determined that the wetland is degraded to the

Land Use Plan Findings

point that its natural processes are so substantially impaired that it is not capable of recovering without major restoration. Further there are no other feasible less environmentally damaging alternatives, substantial restoration has been proposed, and adequate mitigation has been provided. To achieve the restoration goals, the wetland, biological resource, and environmentally sensitive habitat policies of the amended Land Use Plan have been modified to conform to the Chapter Three policies of the Coastal Act. As modified, the Commission finds that the amended Land Use Plan is in conformance with and adequate to carry out the wetland, marine resource, and environmentally sensitive habitat protection policies of the Coastal Act.

2. COASTAL/MARINE RESOURCES POLICIES

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The 1986 Land Use Plan proposed to create 915 acres of fully functioning wetlands that would be connected to the Pacific Ocean. To connect the wetlands to the ocean, the Land Use Plan called for the creation of either a navigable ocean entrance near the intersection of Warner Avenue and Pacific Coast Highway or a non-navigable ocean entrance. Additionally, there would be interior navigable waterways providing navigation connections to the Marina, waterfront residential housing, and Huntington Harbour.

The non-navigable ocean entrance would have allowed ocean access for boats through Huntington Harbour. The navigable ocean entrance would have been 900 feet wide. The decision on which alternative ocean entrance would be implemented was to be made following completion of a study and other actions concerning whether the navigable ocean entrance was the least environmentally damaging alternative. None of the identified actions necessary make this determination were completed.

(2). Land Use Plan Amendment

The amendment to the Land Use Plan proposes to create a wetland ecosystem of 1,100 acres within the LCP area. To connect the wetlands to the ocean, the Land Use Plan amendment calls for the creation of a non-navigable ocean entrance. The ocean channel is estimated to be 250 feet wide and would be graded to -5 feet mean sea level. The entire width of the ocean inlet, including the jetties, is

Land Use Plan Findings

estimated to be 420 feet. The non-navigable ocean entrance would be located at the south end of Bolsa Chica.

To improve fresh water flows into the wetlands and to provide up-stream flood control, the East Garden Grove Wintersburg (EGGW) Channel would be upgraded to handle a 100 year flood event and would be relocated so that it would empty into the full tidal wetlands.

(3). Applicable Coastal Act Policies

Applicable Coastal Act policies for analyzing the conformance of the amended Land Use Plan are Section 30230, Section 30231, Section 30232, and Section 30235. These policies pertain to the protection of marine resources. Section 30230 calls for the protection and enhancement of marine resources. Section 30231 calls for protecting and enhancing biological productivity of coastal waters and the protection of human health. Section 30232 calls for the protection against the spillage of petroleum products, and Section 30235 allows jetties only for coastal dependent uses when designed to eliminate or mitigate adverse impact on local shoreline sand supply.

(4). Coastal Act Consistency

The Coastal Act mandates that marine resources shall be maintained, enhanced, and where feasible restored to protect biological productivity and water quality. Additionally, these Coastal Act policies mandate that proposed allowable development minimize adverse impacts to coastal processes. The Land Use Plan amendment as submitted lacks policies which fully implement these mandates. The policies contained in the Coastal/Marine Resources Section of the Land Use Plan amendment contain project specific policies concerning the tidal inlet and hydrology. Broad policies which call for the maintenance and enhancement of marine resources and the protection of human health are lacking.

Without policies similar to Sections 30230, 30231, 30232, and 30235 the Land Use Plan amendment would not be in conformance nor adequate to carry out these sections of the Coastal Act. For example, this section of the Land Use Plan amendment does not contain policies which specifically call for the protection and enhancement of biological productivity, enhancement of coastal water quality, nor the protection of human health. The necessity of the Land Use Plan amendment to incorporate these policies relate to urban run-off and the continued production of petroleum products.

Land Use Plan Findings

Bolsa Chica is a known oil producing area; but, as submitted, there is no policy which mandates the protection against the spillage of petroleum products in the Resource Restoration and Conservation Component. As an oil producing area there is always the potential for an oil spill. The spillage of a hazardous substance into the wetlands or into tidal waters would have a significant adverse impact on water quality and the biological resources. During restoration activities the potential for a spill would be increased from grading operations accidentally dislodging old pipes. Consequently, policies must exist in the Land Use Plan amendment to prevent and contain petroleum spills. The Wetlands Restoration Program does contain regulations which address this issue. However, the umbrella Land Use Plan policy which justifies the presence of these regulations contained in the Wetlands Restoration program is lacking.

The East Garden Grove Wintersburg Channel is a flood control channel which drains a 27.3 square mile urban watershed into Bolsa Chica. The channel currently deposits stormwater and other urban runoff into Outer Bolsa Bay. During storms, debris and contaminants that have accumulated during the summer dry months are washed down the channel and into Outer Bolsa Bay. Storm runoff, according to the environmental documentation is generally characterized by increased coliform counts, trash, turbidity and trace metals, oil, and grease. In a letter of September 20, 1995 Moffatt and Nichol Engineers stated that total coliform levels were strongly correlated to rainfall events.

Water column measurements between 1973 and 1987 for the EGGW Channel at the Golden West Street Bridge were evaluated in the environmental impact report. The environmental impact report documented, in the past, consistently high levels of copper in the channel and sporadic high pulses of zinc, lead, cadmium, and mercury. Urban runoff via the EGGW Channel may thus be the source of these metals in Bolsa Bay. Recent water quality data between 1982 and 1991 shows that water quality standards for lead, zinc and copper are periodically exceeded.

The submitted Bolsa Chica Local Coastal Program proposes to reconfigure the channel so that urban runoff would empty into the restored wetland and then discharge through the tidal entrance. Some citizen groups and public agencies oppose this reconfiguration asserting that the urban runoff directly into the wetlands would adversely affect the biological productivity of the restored wetland. These groups and public agencies also assert that recreational opportunities at Bolsa Chica State Beach would be adversely affected through increased bacterial contamination passing through the tidal entrance. Moffatt and Nichol, in their letter of September 20, 1995 acknowledge that reconfiguration could result in an increase in bacterial concentrations at the tidal inlet and adjacent beach. However, they also concluded that this increase is expected to be limited to storm events and would be ameliorated through: 1) rapid dilution, 2) the wetland serving as a filter, and 3) accelerated decay of bacteria from contact with saline water. Additionally

Land Use Plan Findings

to lessen the entrants of contaminants into the wetlands, the Wetlands Restoration Program contains provisions for the preparation of a water quality management plan including a sediment basin at the mouth of the EGGW channel. This sediment basin will be periodically cleaned out. Though the LCP contains some very specific procedures to address water quality, the local coastal program as submitted does not contain umbrella policies which would guide the formulation of implementing actions to assure that these water quality issues are resolved.

The lack of umbrella policies similar to those found in the Coastal Act (mandating the protection and enhancement of water quality for biological productivity and for the protection of human health) makes the submitted local coastal program inadequate to carry out the policies of the Coastal Act. Policies which have been submitted are specific in nature. Examples include policies which call for the preparation of a Water Quality Management Plan, and that urban runoff shall comply with all existing laws. However, umbrella policies similar to Coastal Act Sections 30230 and 30231 are required to guide proposed and future development to assure biological productivity and quality of coastal waters to maintain optimum populations of marine organisms, to enhance marine resources where feasible, and for the protection of human health.

Therefore, for the reasons cited in the preceding paragraphs, the Commission finds that, as submitted, the Land Use Plan amendment is not in conformance with nor adequate to carry out the coastal and marine policies of the Coastal Act regarding water quality, biological productivity, and human health.

Furthermore, the local coastal program, as submitted, lacks a policy similar to Section 30235 of the Coastal Act which limits shoreline development that alters natural shoreline processes. A policy consistent with Section 30235 is necessary since the local coastal program proposes to allow the construction of a tidal inlet. The non-navigable ocean entrance would be 250 wide with 480 foot long jetties. The proposed jetties will extend seaward approximately 480 feet. These jetties have the potential to adversely affect the littoral drift of sand. The submitted local coastal program states: *"These jetties will partially block the downcoast flow of sand, causing sand to accumulate along the upcoast jetty. Also, sand may accumulate in an ebb-tidal bar near the mouth, in a flood-tidal bar in the lagoon, and eventually within the inlet channel."* As submitted, Policy 5 does not fully guarantee that adverse impacts would be mitigated. Further, umbrella policies for guiding future development are lacking. Based on proposed development that would affect shoreline process, the Commission finds that the lack of a policy which limits shoreline development that alters natural shoreline process makes the Coastal/Marine Resources Policies of the submitted Bolsa Chica Local Coastal Program not in conformance with nor adequate to carry out the Coastal Act and must be denied.

Land Use Plan Findings

b. APPROVAL AS MODIFIED

Several of the proposed policies have been modified to bring this section of the Land Use Plan amendment, as submitted, into conformance with the Coastal Act. Since general policies regarding the maintenance and enhancement of marine resources were lacking in the submittal, Sections 30230 and 30231 of the Coastal act have been incorporated into the Coastal/Marine Resources Policies Section. Section 30230 has been incorporated as Policy 2. Section 30231 has been incorporated as Policy 5.

Similarly, Section 30235 of the Coastal Act has been incorporated into the Coastal/Marine Policies Section (as Policy 3) since this section lacked polices which would minimize the adverse impact of a proposed development on coastal process.

Bolsa Chica is an oil producing area. The Land Use Plan amendment, as submitted, did not contain a policy in the Coastal/marine Resources Policies section that mandate the protection against the spillage of hydrocarbon products. Section 30232 of the Coastal Act has been incorporated as Policy 9 of the Coastal/Marine Policies section to assure that the marine resources within Bolsa Chica are protected from the spillage of hydrocarbon products.

Additionally, two policies (as submitted) have been modified to strengthen the intent of minimizing adverse impacts to coastal and marine resources. Policy 4(d), as originally submitted, has been modified to require that any adverse impacts to coastal resources be mitigated to a level of insignificance. Policy 5 has been modified to require that shoreline changes be monitored and that adverse impacts to the sand supply shall be mitigated. Policy 8, as originally submitted, has been modified to require that turbidity barriers shall be used when construction of the tidal inlet is under way.

The modifications to this section, will provide guidance to the Wetlands Restoration Program. The Wetlands Restoration Program is part of the Implementation Program for this amended Land Use Plan. Specific project components contained in the Wetlands Restoration Program can be potentially amended in response to unexpected events or problems associated with implementation. The lack of policies relating to the preservation of water quality and promoting biological could result in amendments to the Wetland Restoration Program that would not further these goals. In the event that amendments to the Wetland Restoration Program are contemplated, the broad land use policies added in this section will provide the criteria for determining if amended project components are in conformance with the amended Land Use Plan regarding the preservation of water quality and promoting biological productivity. The inclusion of this marine resource policies into the

Land Use Plan Findings

amended Land Use Plan makes it possible for the Commission to also accept the Wetlands Restoration Program.

Therefore, as modified, the Commission finds that the Land Use Plan amendment is in conformance with and adequate to carry out the coastal and marine resource policies of the Coastal Act. Finally, regarding the realignment of the EGGW flood control channel, this issue was addressed by the County and the consultants for the major landowner. The consultants, Moffatt and Nichol Engineers and Dr. Michael Josselyn, stated that the realigned channel would benefit water quality through eliminating low flows into Outer Bolsa Bay and Anaheim Bay, by the increased tidal prism created by the new tidal inlet and its positive effects on diluting and neutralizing any pollutants, and by eliminating the need for expensive and environmentally damaging upgrading of Outer Bolsa Bay and Huntington Harbour to accommodate the flood waters of a 100 year storm event. Finally, by relocating the Flood Control Channel, the benefits of direct tidal action will be brought to the existing CDFG Ecological Reserve, decreasing residence times from 28 days to 4-6 days.

Exhibit B, attached to this staff report, provides a comparison of the proposed flood control channel relocation with tidal exchange under restored tidal action conditions. As that chart indicates under normal conditions (97.7% of the time), the Flood Control Channel discharge represents only 2-3% of the total volume of tidal exchange. That percentage increases only slightly for small storms that occur 2.2% of the time. The percentage does increase for major storms, but these storms only occur 0.1% of the time, and equally importantly, the residence time of flood control discharges decreases significantly during major storm events

Additionally, as submitted (except for Policy 5), the tidal inlet is consistent with a variety of policies of the Coastal Act. First, the tidal inlet will provide the ocean water necessary to revive the wetlands to biological productivity. Thus the tidal inlet is consistent with Sections 30230 and 30231 of the Coastal Act. Section 30230 of the Coastal Act mandates that marine resources shall be maintained, enhanced, and where feasible restored. Section 30231 of the Coastal Act mandates that the biological productivity and the quality of coastal waters, wetlands, and estuaries maintain optimum populations of marine organisms. The tidal inlet will accomplish these goals by providing the ocean water necessary to restore tidal influence into the wetlands. Further, the tidal inlet was previously found consistent in this staff report, as modified for a monitoring program by Policy 5, with Section 30235 which states that revetments, breakwaters, and other such construction that alters shoreline processes will be permitted when required to serve coastal dependent uses. Restoration of the Bolsa Chica Wetlands is a coastal dependent use. These wetlands were historically tidal wetlands and they are dependent on a source of ocean water. Thus, an ocean inlet is necessary for the restoration and long term maintenance of these wetlands. Therefore, the jetties, which are

Land Use Plan Findings

necessary to keep the ocean inlet open are necessary to serve a coastal dependent use. Section 30001.5 of the Coastal Act states that coastal dependent uses are a high priority use within the coastal zone. For the reasons cited above the Commission finds that the tidal inlet is consistent with the Coastal Act.

3. PHYSICAL RESOURCES POLICIES

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The Land Use Plan proposed mitigation measures address a variety of geotechnical problems. These mitigation measures included the requirement for site specific engineering studies prior to subdivision approval, that geotechnical studies be prepared for development near the Newport-Inglewood fault, and the requirement that development be set back a distance sufficient to protect the structure from the threat of erosion for a period of fifty years.

(2). Land Use Plan Amendment

The amendment to the Land Use Plan proposes mitigation measures to address a variety of geotechnical problems. These mitigation measures include the grading of slopes that are believed to be unstable, the requirement that areas subject to liquefaction improve the resistance of soils to liquefaction, that development near the Newport-Inglewood fault be in conformance with engineering guidelines, and the requirement that development be set back a distance sufficient to protect the structure from the threat of erosion for a period of fifty years. The amended Land Use requires that graded slopes be recontoured and landscaped to restore the natural landform appearance.

(3). Applicable Coastal Act Policies

The applicable Coastal Act policy for analyzing the conformance of the amended Land Use Plan is Section 30253. Section 30253 requires that new development shall minimize risks to life and property. Further, new development shall be designed in a manner that would not contribute to geologic hazards nor require the presence of protective devices.

Land Use Plan Findings

(4). Coastal Act Consistency

Coastal Act mandates that development be carried out in manner which minimizes the impact of the development on natural land forms. Additionally, development which is allowed to occur in hazardous areas should be designed to minimize the risk to life and property. Bolsa Chica, is subject to a variety of potentially hazardous events. The Newport-Inglewood fault crosses the entire site. Development located on the Mesa is susceptible to bluff failure. Additional hazards in the Lowland areas include flooding, liquefaction, and subsidence. As an oil producing region, toxic hazards include submarine hydrocarbon seepage, subterranean gas accumulation, and corrosive soils. The land use plan amendment, as submitted, contains policies which do not fully adhere to these Coastal Act policies for minimizing the risk to life and property. Specifically, the Local Coastal Program would allow new development to be placed close to the bluff edge, and would allow alteration of the bluff face.

Allowing excessive bluff face alteration and inappropriate bluff setbacks, also creates inconsistency with the access and scenic resource sections of the Coastal Act: Sections 30211, 30212, 30212.5, and 30213 of the Coastal Act mandate that new development not interfere with existing access to the coast, that new development provide access to the coast, and that lower cost visitor serving recreational opportunities be provided. The proposed setback (as submitted) would be inadequate in terms of providing sufficient open space to promote public use of the buffer areas between the wetland and the residential development. This analysis is more fully described in the findings for the Public Access/Visitor Serving Recreation Component.

Section 30251 of the Coastal Act states that scenic and visual qualities shall be protected and that landform alteration be minimized. The LCP as submitted would allow extensive grading (an estimated 1,500,000 cubic yards of cut and 1,500,000 cubic yards of fill), bluff face alteration, and the placement of residential units close to the bluff face. All these project elements taken together would change the appearance of the Bolsa Chica Mesa from open space to urban residential development. Additionally, locating development close to bluff edges creates risk that the structures may be affected by slope failure.

Therefore, the Commission, for the reasons cited above, finds that the land use plan amendment (as submitted) is not in conformance with, nor adequate to carry out the development policies of the Coastal Act concerning development in potentially hazardous areas.

Land Use Plan Findings

b. APPROVAL AS MODIFIED

Section 3.3.2 of the amended Land Use plan contains the policies for minimizing hazards to life and property. Most of the policies in this section comply with Section 30253. Policies exist to require that subsidence will be monitored, that geotechnical reports be prepared to determine structural setbacks, and that degraded slopes be remedially graded. Additionally the EIR for Bolsa Chica contains project design features to minimize geotechnical hazards. These project design features include dynamic deep compaction to minimize liquefaction, the construction of a cutoff wall to reduce the potential for water intrusion, Lowland residential construction can not be initiated until the Lowland is removed from the Santa Ana River floodplain, and the preparation of remediation plans to remove toxic substances that are encountered. However, several policies must be modified to bring this section into conformance with Section 30253 of the Coastal Act.

To bring this section of the land use plan amendment, as submitted, into conformance with Section 30253 of the Coastal Act; two policies have been added and five policies have been modified through minor wording changes. Policy 15 has been added to incorporate the provisions of Section 30253 while still allowing the initial mass grading. Policy 53 has been added to specify that development would be setback fifty feet from the bluff edge.

Policy 15 requires that new development shall be sited and designed to minimize the alteration of land forms. However, the Commission also recognizes that residential development as proposed would involve mass grading. Though mass grading would affect the topography of the Mesa top, Policy 15 would only permit grading as a one time event to accommodate the development. Following the initial mass grading Policy 15 requires that land form alterations be minimized. The avoidance of geological hazards through increased setbacks is a preferred and feasible option for minimizing the potential that a bluff failure would adversely impact the residential development. Further, Policy 14 has been modified to minimize future land form alterations through increased buffer area. Increased private residential setbacks would also permit the blufftop buffer to be used for public access purposes. Bluff stabilization, however, would still be allowed if an unstable bluff possess a public safety risk.

The modifications to Policies 12 and 14 reflect back to modifications to the Public Access and Visitor Serving Component and General Development Plan/Resource Management Plan for Harriett Wieder Regional Park and are not part of this analysis. The Mesa and Lowland residential development would still be subject to earthquake hazard. Through these suggested modifications risks to property and life would be minimized and the amended Land Use Plan could be found consistent with Section 30253 of the Coastal Act as most of the risks to life and property would be resolved.

Land Use Plan Findings

Therefore, as modified, the Commission finds that the land use plan amendment is in conformance with and adequate to carry out the development policies of Section 30253 the Coastal Act regarding hazardous areas and minimizing the risk to life and property.

4. CULTURAL RESOURCES POLICIES

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The 1986 Land Use Plan required that cultural and paleontological resources be protected either in place or through recovery, identification, and analysis of such resources so that their scientific and historical values are preserved. Additionally the Land Use Plan required that appropriate mitigation measures be developed for archeological site ORA-83. County certified Archeologists and Paleontologists were required to monitor all grading operations to insure that any significant resources would not be destroyed.

(2). Land Use Plan Amendment

The amended Land Use Plan requires that cultural and paleontological resources will be protected either in place or through recovery, identification, and analysis of such resources so that their scientific and historical values are preserved. Additionally the recommendations of the Most Likely Descendants, as designated by the California native American Heritage Commission, will be obtained prior to the reburial of any prehistoric Native American human remains that may be encountered during any archeological investigation. County certified Archeologists and Paleontologists will monitor all grading operations to insure that significant resources will not be destroyed.

(3). Applicable Coastal Act Policies

The applicable Coastal Act policy for analyzing the conformance of the amended Land Use Plan is Section 30244. Section 30244 requires that when new development would adversely impact archaeological or paleontological resources that mitigation will be provided.

(4). Coastal Act Consistency

The Coastal Act mandates that reasonable mitigation measures shall be required when development would adversely impact archaeological and paleontological resources as identified by the State Historic Preservation Officer. The cultural resource policies contained in the land use plan amendment as submitted do not fully comply with this mandate. Section 3.4.2 of the amended Land Use Plan recognizes that cultural resources are to be protected. Policy 16, as submitted, requires that the archeological research design be completed prior to the approval of the first coastal development permit authorizing construction. The submission of an archeological research design immediately prior to the initiation of construction is too late for assuring that adequate mitigation for archeological resources have been provided. To be effective the archeological research design must be completed at the design phase of proposed construction, which is at the Master Coastal Development Permit stage. At the design stage, mitigation can be incorporated into proposed development to address problems which would not be the case when construction is about to begin. Having the research study completed prior to issuance of the Master Coastal Development Permit will allow the proposed development to be effectively designed based on a completed cultural resource study.

Section 3.4.2 of the amended Land Use Plan recognizes that paleontological resources are to be protected. Policy 17 as proposed only protects those paleontological resources deemed significant by a County certified paleontological field observer. Because the significance of all paleontological resources cannot always be immediately ascertained, all paleontological resources must be preserved until they can be evaluated. If not properly located and designed development could significantly adversely impact archeological and paleontological resources. Excavation commonly performed as part of the site preparation process can easily obliterate archeological and paleontological artifacts. Archeological artifacts have great cultural and religious significance. Paleontological artifacts can possess scientific importance.

To protect archeological and paleontological resources Section 30244 of the Coastal Act requires that when development would adversely impact these resources, reasonable mitigation measures shall be required. Delaying the adverse impact of development until a determination can be made on how to effectively preserve an archeological or paleontological artifact is to be preserved is a reasonable mitigation measure. Therefore, the Commission finds that, as submitted, the land use plan amendment is not in conformance with and not adequate to carry out the policies of the Coastal Act concerning the protection of cultural and paleontological resources.

Land Use Plan Findings

b. APPROVAL AS MODIFIED

To bring this section of the Land Use Plan amendment, as submitted, into conformance with Section 30244 of the Coastal Act, Policy 16 and Policy 17 have been modified. Policy 16 has been strengthened by requiring that the results of archeological research design be submitted as part of the application for the first Master Coastal Development Permit. This protects archeological resources by requiring that the research be completed before development plans are approved. Thus, a project that could adversely impact cultural resources will be conditioned or redesigned at the design stage (Master Coastal Development Permit) to mitigate adverse impacts. Policy 17 has been modified to require that a determination of a paleontological artifact be made prior and if found to be significant that a recovery plan be completed before construction is allowed to continue. Therefore, as modified, the Commission finds that the land use plan amendment is in conformance with and adequate to carry out Section 30244 the Coastal Act regarding cultural and paleontological resource policies.

5. VISUAL AND SCENIC RESOURCES POLICIES

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The 1986 Land Use Plan proposed to create new viewing opportunities through public perimeter trails and a series of scenic public overlooks. The construction of a realigned Pacific Coast Highway, 75 acre marina/commercial complex, bridges, cross gap corridor road, and the excavation of a Huntington Harbour connection channel would have created a significant alteration to landforms and the visual character of the area. Additionally, high density residential development on the Mesa and low density residential development in the Lowland would have changed the character of the area from open space to urban. The visual impact of marina, commercial, and residential development would have been softened through landscaping.

Land Use Plan Findings

(2). Land Use Plan Amendment

The amended Land Use Plan proposes to enhance visual and scenic resources of Bolsa Chica through wetlands restoration, the removal of existing industrial development, and the creation of new public viewing opportunities. The visual impacts of new urban development will be mitigated through a variety of techniques such as grading, landscaping, and development setbacks. New viewing opportunities would be provided by public perimeter trails and a series of scenic public overlooks. The proposed public access and recreation plan is contained in Figure 4.3-2 of the Land Use Plan. The public currently has only limited access to the two Fish and Game overlooks and the immediate area around Outer Bolsa Bay and Inner Bolsa Bay. Following implementation of the public access and recreation program, public access will be provided along the perimeter of the Bolsa Chica Lowlands including the south blufftop of Bolsa Chica Mesa.

The proposed jetties associated with the tidal inlet would have a mixed effect on visual resources. On the positive side the jetties would provide an elevated platform out in the ocean on which the public will have long range views up and down the beach. A negative impact is that the jetties would interrupt sand-level views along the length of the beach. The construction of 3,300 homes on the Mesa and the Lowland would change the character of the area from open space to urban development. The visual impact of residential development would be softened through landscaping.

(3). Applicable Coastal Act Policies

The applicable Coastal Act policy for analyzing the conformance of the amended Land Use Plan is Section 30251. Section 30251 requires that scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.

(4). Coastal Act Consistency

Section 30251 of Coastal Act mandates that the scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. Additionally, development should be sited and designed to protect views to and along the ocean. The new residential development will detract from the site's current use as open space. This will be mitigated through landscaping and the removal of the oil and gas facilities in the Lowland. Public views of the ocean shoreline, and the wetlands which are now obscured by the dikes, fences, and oil operations will be enhanced by the removal of the oil related industrial development.

Land Use Plan Findings

However, overall, the visual and scenic resource policies submitted do not fully implement Section 30251 of the Coastal Act. Specifically missing are the policy requirements that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Also missing is the requirement that development be sited to protect public views of the ocean, to minimize the alteration of natural land forms, and that development be compatible with the character of surrounding areas.

The Bolsa Chica Local Coastal Program, as submitted, would allow development not in conformance with Section 30251 of the Coastal Act since the Visual and Scenic Resources Component does not contain similar policies. Conflicts with Section 30251 related to bluff top set backs were analyzed in the preceding section (Physical Resources Component). This analysis pointed out that development near bluff top edges would eliminate the natural appearance of the slope. Additionally placing development near bluff tops is not consistent with the concept of visual compatibility and that new development in scenic areas will be subordinate to the character of its setting.

Therefore, the Commission finds that, as submitted, the land use plan amendment is not in conformance with nor adequate to carry out Section 30251 of the Coastal Act concerning minimizing land form alterations and protecting visual and scenic resources.

b. APPROVAL AS MODIFIED

To bring this section of the land use plan amendment, as submitted, into conformance with Section 30251 of the Coastal Act Policies 18 through 24 have been modified.

Policy 18 is being modified to incorporate the language of Section 30251 of the Coastal Act. As submitted, the specific visual and scenic resource policies focus on specific issues and do not address the broad policy mandates of Section 30251. Incorporation of Section 30251 will provide the general policy direction to be followed in situations not covered by the policies as submitted. Policy 19 has been modified to clarify that public views are to be provided. Policies 20 and 21 have been modified to include the California Department of Fish and Game. The California Department of Fish and Game is the agency responsible for the management of the State Ecological Reserve and they should be included in any management decisions regarding the Ecological Reserve.

Policy 22 has been modified to include native drought tolerant vegetation. Policy 23 has been deleted pending the development of a new park master plan for Harriet

Land Use Plan Findings

Wieder Regional Park. Finally, Policy 24 has been modified to incorporate a requirement to provide informative signage to direct the public to public recreational facilities.

Therefore, as modified, the Commission finds that the land use plan amendment is in conformance with and adequate to carry out Section 30251 of the Coastal Act regarding visual and scenic resources.

B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT CHAPTER 4 OF THE LAND USE PLAN AMENDMENT

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan - Public Access/Visitor-Serving Amenities

One of the primary components of the 1986 LUP was the 60 acre marina/15 acre visitor-serving commercial complex located both in the Lowlands and on the south and southwesterly portion of the Bolsa Chica Mesa. The marina/commercial facility included a 1,300-slip marina, dry storage for at least 400 boats, public launch ramps, a 150 room motel, 85,000 sq. ft. of specialty retail (including 3 restaurants), 4 additional freestanding restaurants, and passive recreation area as well as an option for neighborhood commercial services adjacent to proposed housing. Trails linked the proposed marina/visitor-serving commercial and wetlands areas to the proposed Bolsa Chica Regional Park on the Huntington Mesa and the Bolsa Chica State Beach.

(2). Land Use Plan Amendment

The current Land Use Plan amendment eliminates the marina and associated boat storage and support uses as well as the previous 75 acre marina/commercial development which included 15 acres of visitor-serving retail, restaurant and overnight lodging uses on the Bolsa Chica Mesa and Lowlands. The current LUP provides no visitor-serving commercial uses. It allows the optional provision of up to 10 acres of neighborhood commercial use on the Bolsa Chica mesa. The actual land use designation of the optional neighborhood commercial area is "medium density residential".

However, on the positive side, the public access and recreation amenities of the amended LUP include an active and passive park on the Bolsa Chica Mesa; an active and passive park in the proposed Lowland residential area; the development

Land Use Plan Findings

of Harriett Wieder Regional Park on the Huntington Mesa (approximately 58 acres within the LCP area); and a 4-acre kayak/canoe/beach facility within the Conservation Planning Area on the inland side of Pacific Coast Highway, opposite the proposed tidal inlet. Equestrian and hiking trails are planned for the regional park and Class I and Class II bicycle trails and pedestrian trails are proposed on both mesas and within the Lowland wetlands restoration area. Interpretive trails with controlled public access are proposed within the Wetlands Restoration Area and the existing 306-acre State Ecological Reserve.

(3). Applicable Coastal Act Policies

The Chapter 3 Coastal Act policies which mandate public access and public recreation provisions include 30210, 30211, 30212, 30212.5, 30213, 30214, 30220, 30221, 30222 and 30223. In summary, the public access policies require the provision of maximum public access to the ocean in new development whenever appropriate and feasible, and prohibits new development from interfering with existing public access. Additionally, Chapter 3 policies encourage lower cost visitor recreation facilities and dictate a preference for visitor-serving commercial recreational facilities which enhance public opportunities for coastal recreation over private residential or general commercial uses of land.

(4). Coastal Act Consistency

The introductory section of the LUP Public Access and Visitor-Serving component states that the Plan "maximizes public access and public recreation/visitor-serving opportunities while respecting the environmentally sensitive Bolsa Chica wetlands". It further states that the "plan showcases the unique coastal resources at Bolsa Chica while protecting the wetlands and ESHAs from inappropriate uses."

The amended LUP provides various recreational amenities, as described above, which afford the opportunity for public enjoyment and access to the coast and the coastal resources of the LCP area. The Bolsa Chica mesa active and passive parks, Lowland active park, Lowland pedestrian trails providing public access to the coastal wetlands and offering wetland viewing opportunities, and pedestrian and bicycle trails linking the Bolsa Chica Mesa to the Harriett Wieder Regional Park on the Huntington Mesa meet the Coastal Act requirement in terms of the amount of lower cost recreational uses being provided and made available to the public. Further, the Coastal Act requirement of assuring that the recreational needs of the new residents not overload the nearby coastal recreation areas is accomplished through the provision of the two active parks adjacent to the residential areas.

Land Use Plan Findings

However, as submitted, the amended LUP is not consistent with the public access, public recreation and marine and land resources protection policies of the Coastal Act in that construction of the tidal inlet will result in the loss of three acres of sandy beach area from the Bolsa Chica State Beach and other adverse impacts to the recreational use of the beach without any mitigation; public access to the State Ecological Reserve trails is proposed to be restricted; the Harriet Wieder Regional Park development plan does not provide adequate public parking and does not protect wetlands and other environmentally sensitive vegetation; and the proposed kayak/canoe facility raises concerns over public health and safety. Therefore the Commission denies the amended LUP as submitted.

Loss of Existing Sandy Beach Area

The proposed amended Land Use Plan will result in the loss of approximately three acres of sandy beach with the construction of a 250 ft. wide non-navigable ocean inlet. In addition to the loss of sandy beach the Department of Parks and Recreation contends that there will be other adverse recreational impacts associated with the tidal inlet including the bisecting of the beach during and following storm and high tide conditions, adverse wave conditions affecting surfing, and dangerous ebb tide conditions affecting public safety.

The purpose of the ocean inlet is to provide water to the wetlands in order to restore it to high quality functioning habitat. An alternative to the tidal inlet is providing water to the restored wetlands through the existing Huntington Harbor, as is the current situation. While the current situation is the superior alternative in terms of not resulting in the loss of sandy beach and the other impacts to the Bolsa Chica State Beach, it is not the best alternative for the biological productivity of the restored wetlands due to water quality issues. The biological (water quality) issues raised by the tidal inlet alternatives were discussed in the earlier findings in this report in Chapter Three.

The proposed tidal inlet raises issues of achieving one Coastal Act goal, the protection and enhancement of wetlands, at the expense of causing adverse impacts to another important coastal resource, recreational beach use. The Coastal Act recognizes in Section 30007.5 that conflicts may occur between one or more Chapter 3 policies. When there are conflicts between Coastal Act policies the Commission is required to resolve the conflict in a manner which on balance is the most protective of significant coastal resources. It is important to note that, under historic conditions prior to man-made alterations to the Bolsa Chica wetlands system, the beach was in fact breached by the natural creek discharge/tidal inlet. In a literal sense, the wetlands restoration program is returning the beach to its historic conditions, albeit with the tidal inlet breach of the beach at a different location. Therefore, in restoring both the wetlands system and the beach to

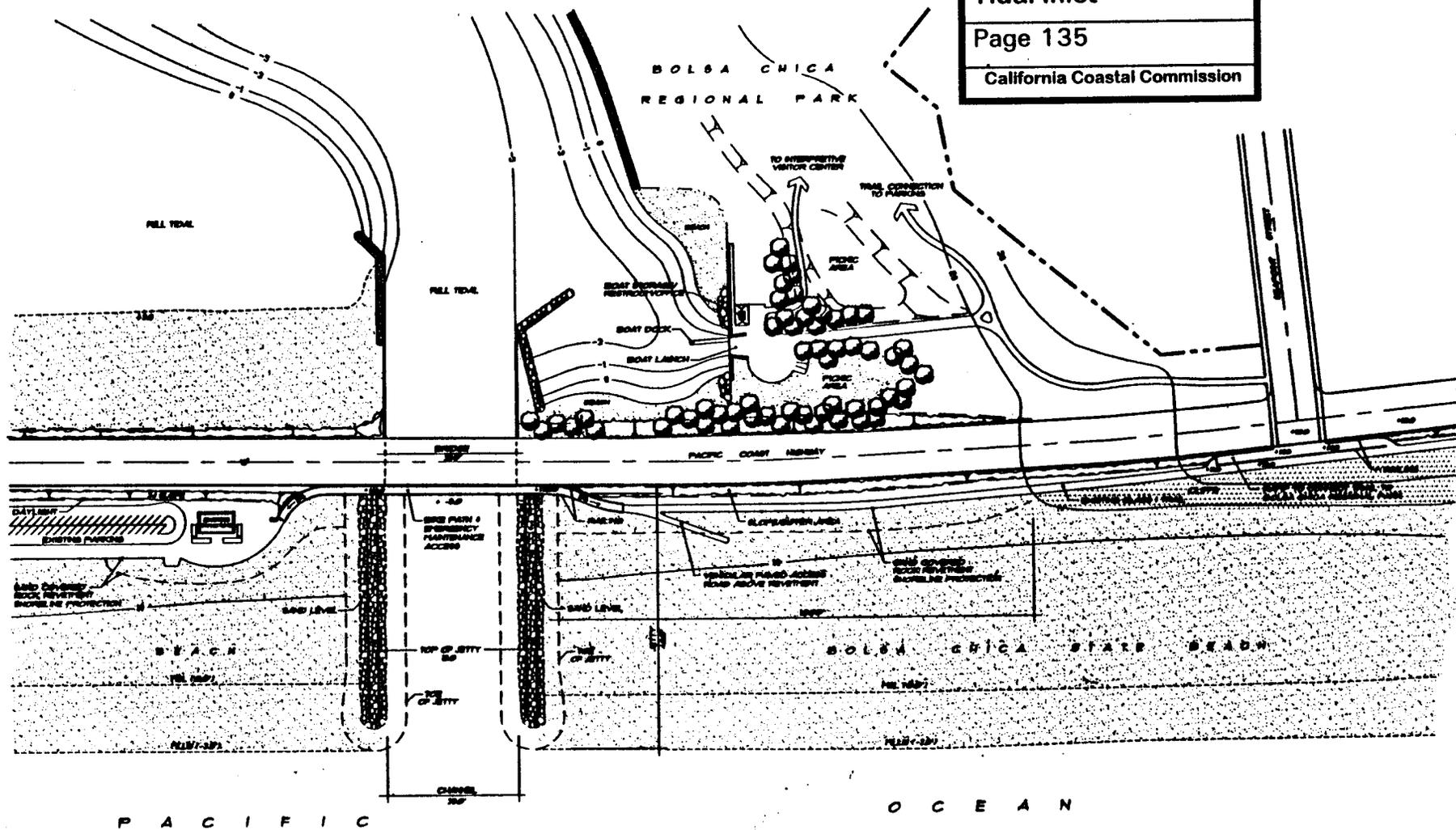
Land Use Plan Findings

historic tidal conditions pursuant to Coastal Act Sections 30230, 30231 and 30411, the Commission may approve the amended LUP with the tidal inlet even if it results in significant adverse impacts to a limited stretch of public beach if there is no other feasible less damaging alternative way to restore the wetlands, and if mitigation is provided for those adverse impacts which can be feasibly mitigated.

The Commission finds that the goal of establishing a fully functioning, biologically productive wetland at Bolsa Chica outweighs the loss of 3 acres of sandy beach, the periodic bisecting of the beach and other adverse impacts. Wetlands in southern California, including the Bolsa Chica wetlands, are rare and unique. Roughly 75% of the wetlands of southern California have been filled and permanently lost to urban development. The Bolsa Chica wetlands, if they are to be restored to a fully functioning, biologically productive resource, need a source of ocean water such as the proposed tidal inlet. On the other hand, there is additional easily accessible public sandy beach area both within the LCP area and the immediate vicinity that will not be impacted by the tidal inlet. Therefore the 3 acre loss is small when compared to the amount of beach that will be unaffected by the tidal inlet.

While the Commission finds that the loss of the 3 acres of sandy beach area and some of the other adverse impacts associated with the tidal inlet are unavoidable impacts, the Commission also finds that some of the unavoidable impacts can be feasibly mitigated. Potential mitigation includes, but is not limited to, beach nourishment and the funding of an additional lifeguard to be located in the vicinity of the tidal inlet to deal with public safety. However no mitigation for the adverse beach impacts is proposed in the amended LUP submittal. Therefore the submittal must be denied as it is inconsistent with the public recreation and balancing provisions of the Coastal Act.

FIGURE NO. 10
Tidal Inlet
Page 135
California Coastal Commission



Land Use Plan Findings

Bolsa Chica State Ecological Reserve Trails

The Bolsa Chica LCP area includes the 306 acre Bolsa Chica State Ecological Reserve. Most of the Reserve is located in the Lowlands and contains the restored wetlands and Inner and Outer Bolsa Bay. The Reserve also includes two parking lots and two interpretive viewing areas and a mesa trail and a boardwalk trail in a portion of the wetlands. The upper portion of the reserve is located along the western bluff top edge of the Bolsa Chica Mesa and includes one of the two interpretive viewing areas and a trail along the entire western bluff top edge. The boardwalk trail in the restored wetlands does not appear to be modified in the amended LUP. While the amended LUP proposes to retain the upper trail, it will be relocated to the bluff face and access to the trails will be limited.

The face of the Bolsa Chica Mesa will be significantly altered during the initial mass grading in order to stabilize the bluff and to accommodate residential development. With the alteration of the bluff area the upper trail will be relocated from its current location on the western bluff top edge to the western bluff face overlooking Outer Bolsa Bay. Because the location of the trail is essentially the same there will be no significant difference in the view from the trail in its current location and the view from the bluff face, the proposed location.

Access to the two Bolsa Chica State Ecological Reserve parking lots and the wetland and upper trails is currently unrestricted. According to the Coastal Access and Recreation Plan, Figure 4.3-2 of the amended LUP, access along both public trails will be limited. The details of the management of the limited access are not provided. The Ecological Reserve is owned by the State of California, State Lands Commission and managed by the state Department of Fish and Game. The State Lands Commission nor Fish and Game have consented to the proposed alteration and relocation of the trail nor to restriction of access to the trails. Restricting public access to publicly owned trails is inconsistent with the Chapter 3 public access provisions of the Coastal Act unless a finding is made that access must be restricted in order to protect fragile resources. No such finding has been made. The amended LUP is therefore inconsistent with the public access provisions of the Coastal Act and is therefore denied as submitted.

Harriett Wieder Regional Park

The LUP amendment also proposes public access and recreational facilities on the Huntington Mesa. Those provisions likewise fall short of the requirements of the Coastal Act. The portion of the Huntington Mesa within the LCP area will be developed with Harriett Wieder Regional Park, formerly known as the Bolsa Chica Regional Park. As stated above, only approximately 58 acres of the 106 acres of the regional park are within the Bolsa Chica LCP area. The Landowner/Master

Land Use Plan Findings

Developer will dedicate 49 acres of land on the Huntington Mesa to the regional park. The remaining acres are located within the City of Huntington Beach and are covered by the certified Local Coastal Program of the City of Huntington Beach. The Huntington Mesa also includes several large residential parcels within the City of Huntington Beach which are designated high density residential land use.

The current amended Land Use Plan incorporates the 1992 Bolsa Chica Regional Park General Development Plan and Resource Management Plan (GDP). Although the GDP was approved by the Board of Supervisors it has never been reviewed by the Coastal Commission. However, because it is now proposed to be included within the amended LUP the Commission must determine whether the GDP is consistent with the applicable Chapter 3 Coastal Act policies including the public access and public recreation provisions.

The Bolsa Chica Regional Park General Development Plan and Resource Management Plan (GDP) is inconsistent with the Coastal Act provisions requiring protection of wetland resources, environmentally sensitive habitat areas, archaeological resources, natural landforms as well as public parking in the promotion of public access and public recreational use of the park. As stated above, the long term oil operations and toxic waste clean up requirements also hinder actual park development of a significant portion of the proposed regional park.

Public access to public recreation facilities, including parks, is enhanced when adequate off-street parking is provided. The narrative section of Chapter 4 of the Land Use Plan states that the regional park will provide 130 public parking spaces. However the regional park policies of the amended Land Use Plan do not specify the number of public parking spaces to be provided. Instead, the Public Access/Visitor-Serving policy for the Harriett Wieder Regional Park states that the park shall be developed consistent with the GDP. The GDP fails to specify the number of parking spaces to be provided. The GDP states that off-street parking will be provided within three areas of the regional park and indicates the general location with a graphic. The lack of adequate on-site public parking is inconsistent with the public access and public recreation policies of the Coastal Act.

The County has already received approval for the development of one portion of the park without providing parking. In 1993 the County segmented what was to be a 15 acre first phase (Phase IA) development of the regional park and sought approval of only a 3 acre portion of the park (Increment I of Phase IA). The 15 acre segment was to contain a 40 space on-site parking lot. Partially due to strong objection from some of the adjacent residents, in conjunction with the revised project description, the County noted that on-street parking was available adjacent to the park and no on-site parking was provided. Because only a very small segment of park was being developed the Commission did not impose public on-site

Land Use Plan Findings

parking at that time. The public access and public recreation provisions of the Coastal Act require that additional segments of the regional park include adequate on-site parking.

The public has to rely on public on-street parking adjacent to the regional park site for the modified first park phase. The area surrounding the park is developed or planned to be developed with medium high and high density housing. The streets surrounding the park are also not within the jurisdiction of the County but are located within the City of Huntington Beach. The County therefore can not ensure that the public on-street parking will remain available to park users. When public parks or other public use areas do not have adequate off-street parking and must rely on street parking, nearby residents have in some cases petitioned for preferential permit parking or illegally red curbed the street preventing public parking and thus public access to coastal recreation facilities.

One such example of how public access to parks can be lost if parking is not provided on-site is Badlands Park, now in the City of Laguna Beach. The County of Orange conditioned the approval of a residential subdivision to dedicate land for the establishment of Badlands Park and trail system and provisions for access to the park. The County also required public access signage, a public pedestrian gate through the subdivision for public access to the park, and an easement across the entire width of the main road to allow public parking for access to the park.

At some point later the homeowners association of the approved subdivision illegally posted "no parking" signs and painted the curb red within the public easement of the main road into the park preventing the public from parking on the street and thus interfering with public access to park and trail. In 1994 the County filed suit against the homeowners association in order to regain public access to the street for parking purposes in order to restore access to the park. The GDP must be denied as submitted because it fails to provide adequate on-site parking as required by the public access and recreation policies of the Coastal Act.

While the GDP is not written in a format containing policies, the development plan proposes five acres of fill in and adjacent to a ravine containing riparian and wetland resources for the stated purpose of increasing useable park area and correcting a potential public safety hazard. The fill of wetlands for these purposes are not allowed under the land resources protection policies (Section 30233) of the Coastal Act. According to the GDP, three other areas of the park will be filled (150,000 cubic yards) to create more useable area.

The biological resources of the Huntington Mesa have been heavily disturbed by past and continued oil and gas operations and weed abatement activities. The mesa was once dominated by Diegan coastal sage scrub and southern coastal bluff scrub communities according to the environmental overview of the Bolsa Chica

Land Use Plan Findings

Regional Park General Development Plan and Resource Management Plan (GDP). However there are isolated remnant coastal sage and riparian plants, such as California sage, coyote bush, toyon, elderberry, mule fat, salt grass, and arroyo willow still existing on the mesa today as shown on Figure 11, the Vegetative Resources Map. The central portion of the mesa contains a drainage gully containing arroyo willow, cat-tail and other riparian/wetland plants. At the base of the gully, within the lowland area (not within the regional park boundary) is a fresh water marsh wetland area. Most of the remnant environmentally sensitive plants are located in the northwestern portion of the Huntington Mesa north of Garfield Avenue as shown on the map of Vegetative Resources which follows. The GDP proposes that none of the mesa's environmentally sensitive habitat be retained in the development of the regional park. The 1992 GDP also does not propose any mitigation for the loss of the sensitive habitat. The GDP does however call for the establishment of a 15 acre environmentally sensitive habitat area (ESHA) within the regional park as mitigation for loss of an ESHA on the Bolsa Chica Mesa due to residential development plans.

The Master landowner of the LCP area owns approximately 49 of the 58 acres which are to become part of the regional park. According to Policy 32 of the Public Access/Visitor Recreation Component of the Land Use Plan, the Master Landowner/Developer has to dedicate the 49 acres to the County for regional park purposes upon final certification of the LCP. However a fairly significant portion of this land is currently leased to third parties for such uses as long term oil operations, a gas plant facility, existing oil wells, or existing pipelines. Therefore the public will not be able to access this area nor will it be developed for park use for some time. The regional park is to be developed over a period of 30 years or more due to the existing oil leases. Additionally, before the City or County can accept a land dedication offer, the long term lease must expire, the oil operations equipment and pipelines removed, and the toxic soils and other non-compatible materials have to be removed from the site.

Additionally, the LUP amendment proposes to relocate the 7.5 acre Eucalyptus grove raptor habitat from the Bolsa Chica Mesa to the regional park and it expand it to 20 acres. However, due to the long term regional park land acquisition and required clean up prior to park development it is unclear as to when the ESHA will be replaced on the Huntington Mesa. Other park phasing uncertainties arise from the fact that an unknown portion of the 150,000 cubic yards of fill material the County is planning to use within the park is to come from private residential sites located adjacent to the park but within the City of Huntington Beach. The County does not know when construction will occur on these residential sites. Therefore the County does not know when the 150,000 c.y. of fill will become available.

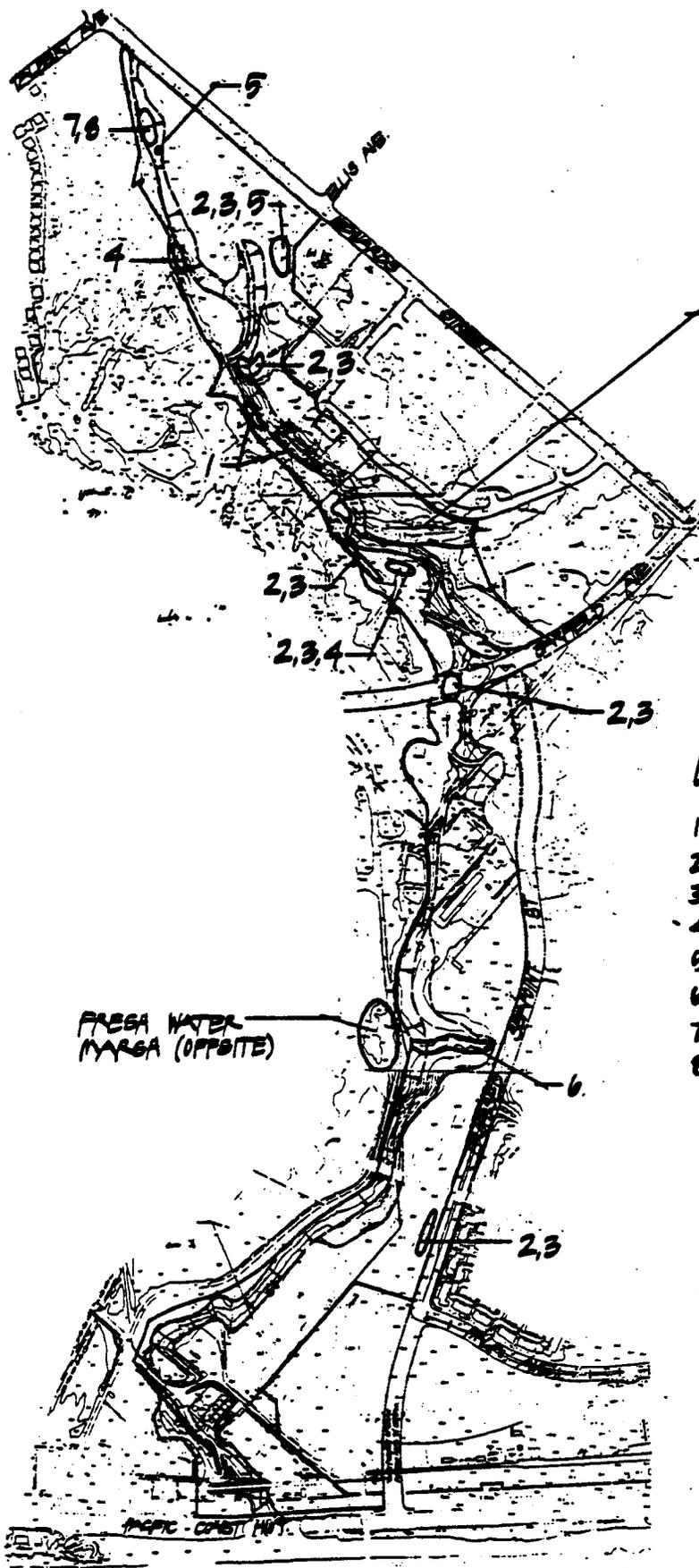
Although the regional park plan contains a three part park phasing plan that was to allow for 47 acres of the park to be developed by 1994, that phasing plan was

Land Use Plan Findings

apparently modified in 1993 when the County further segmented Phase 1A and obtained approval for development of a 3 acre portion of the park from the City of Huntington Beach and the Coastal Commission on appeal.

Because the Bolsa Chica Regional Park General Development Plan and Resource Management Plan (GDP) is inconsistent with several provisions of the Chapter 3 policies of the Coastal Act including the public access and public recreation provisions it can not be incorporated into the amended LUP as provided in Policy 34. Development of the regional park must be consistent with the applicable Coastal Act land resource protection and public access and public recreation policies.

Throughout the background narrative of the Public Access/Visitor-Serving Recreation Component there is discussion of a proposed 10,000 sq. ft. interpretive/visitor center to be built in Harriett Wieder Regional Park. The formal center is planned on a portion of the 49 acres of land to be dedicated to the regional park by the master developer. Policy 33 of the Land Use Plan dealing with the Harriet Wieder Regional Park states that the Park shall provide a variety of interpretive and recreational opportunities for the public, as described in the County-approved General Development Plan. However the County approved plan contains no policies and refers to the 10,000 sq. ft. visitor center only as an optional facility. The interpretive center is not shown on Table 2 of the Implementation Cost Estimate of the GDP which is a listing the park development components.



AREA TO BE EVALUATED
IN SPRING SEASON FOR
NATIVE PLANTS

LEGEND

- 1. CALIFORNIA GAGE
- 2. MULE FAT
- 3. COTTE BUSH
- 4. SALT GRASS
- 5. TITON
- 6. ARROYO WILLOW
- 7. ELDERBERRY
- 8. POISON OAK

FRESA WATER
MARGA (OPPOSITE)

FIGURE NO. 11
Veg. Resources Map
Page 141
California Coastal Commission

BIOLOGICAL RESOURCES
BOLSA CHICA
REGIONAL PARK

Land Use Plan Findings

Kayak/Canoe Facility

The LUP narrative and policies discuss a proposed "*ranger-managed interpretive kayak/canoe facility*" to include a non-motorized boat dock, small quiet water swimming and sandy beach area, picnicking, ancillary uses such as dry boat storage, launching ramp, etc. to be located on the inland side of Pacific Coast Highway opposite the proposed tidal inlet, see Figure 10, Concept Plan for the Tidal Inlet. The public access and recreation policies of the Coastal Act promote new opportunities for access to the ocean such as the creation of a quiet water swimming beach. Likewise, Coastal Act Section 30224 promotes recreational boating and the provision of facilities necessary for this coastal dependent activity. However, there are public safety concerns regarding such facilities. The kayak/canoe facility would be opposite the proposed ocean inlet. The State Department of Parks and Recreation, on whose property the ocean inlet would be built, has concerns that the ebb and flow of the tide in the ocean inlet could lead to drowning and other water mishaps. Also because the water of the proposed beach would include water from the realigned flood control channel the quality of the beach water may not be suitable for body contact. As proposed the amended Land Use Plan does not take these public health and safety issues into consideration.

b. APPROVAL AS MODIFIED

As detailed in the denial findings above, the Public Access/Visitor-Serving Recreation component of the amended LUP as submitted is inconsistent with the public access, public recreation, land and marine resources protection policies of the Coastal Act. As submitted the LUP results in the loss of 3 acres of sandy beach and creates other adverse recreation impacts to the Bolsa Chica State Beach and does not provide for mitigation of the impacts. Suggested modification 13 requires that the loss of sandy beach be mitigated through a beach nourishment program and the mitigation of any subsequent erosion attributable to the tidal inlet. Additionally, County Policy 4.2.20 as modified requires in part that all recreation planning for the tidal inlet be done in coordination with the Department of Parks and Recreation. That agency's concerns with the safety issues associated with the tidal inlet can be addressed at that time and appropriate mitigation imposed through the coastal development permit process. Only as modified is the proposed tidal inlet consistent with the public access, public recreation and balancing provisions of the Coastal Act.

As submitted the amended LUP is also inconsistent with the public access provisions of the Coastal Act in that it restricts access to the State Ecological Reserve trails on the Bolsa Chica Mesa and in the Lowlands without demonstrating that unrestricted access will adversely impact any fragile resources. As modified, County Policy 4.2.7 allows limitations on access only to the trails within the

Land Use Plan Findings

Wetlands Ecosystem Area and only if unlimited access is inconsistent with the wetlands restoration and preservation efforts. The upper Reserve trail is not within the Wetlands Ecosystem Area. Only as modified is the amended LUP consistent with the public access provisions of the Coastal Act with regards to public access to existing and proposed trails.

As submitted the amended LUP is also inconsistent with the public access and land and marine resource protection policies of the Coastal Act in that the LUP incorporates the County adopted regional park development plan which was not reviewed by the Commission for Coastal Act consistency prior to adoption. The park development plan is not consistent with the Chapter 3 policies of the Coastal Act with regards to the provision of adequate on-site parking to serve park users. Further, the park plan is not consistent with the marine and land resources protection policies of Chapter 3 of the Coastal Act in that the plan does not require that the on-site wetland and other environmentally sensitive habitat be preserved in a manner consistent with Sections 30233 and 30240 of the Coastal Act. Therefore the submitted GDP must be deleted from the Land Use Plan amendment currently under Commission consideration. When the GDP policies have been revised and before the park can be developed, the GDP must be submitted to the Commission for certification as a Land Use Plan amendment. Only as modified to delete the submitted GDP from the Land Use Plan amendment and to require that a GDP be submitted as a Land Use Plan amendment in the future, prior to development of the park, is County Policy 4.2.16 consistent with the public access and land and marine resources protection policies of the Coastal Act.

As submitted the amended LUP is not consistent with the recreation policies of the Coastal Act with the regards to the proposed kayak/canoe facility in that it does not consider the public safety concerns of such a facility opposite the proposed tidal inlet. Further, it does not assure that the water quality of the proposed quiet water swimming beach is adequate for human body contact. Only as modified in County Policies 4.2.17 and 4.2.20 is the proposed boating facility consistent with the Coastal Act in that the proposed swimming beach is eliminated and the public safety concerns required to be satisfactorily addressed if a kayak/canoe facility is to be operated.

Land Use Plan Findings

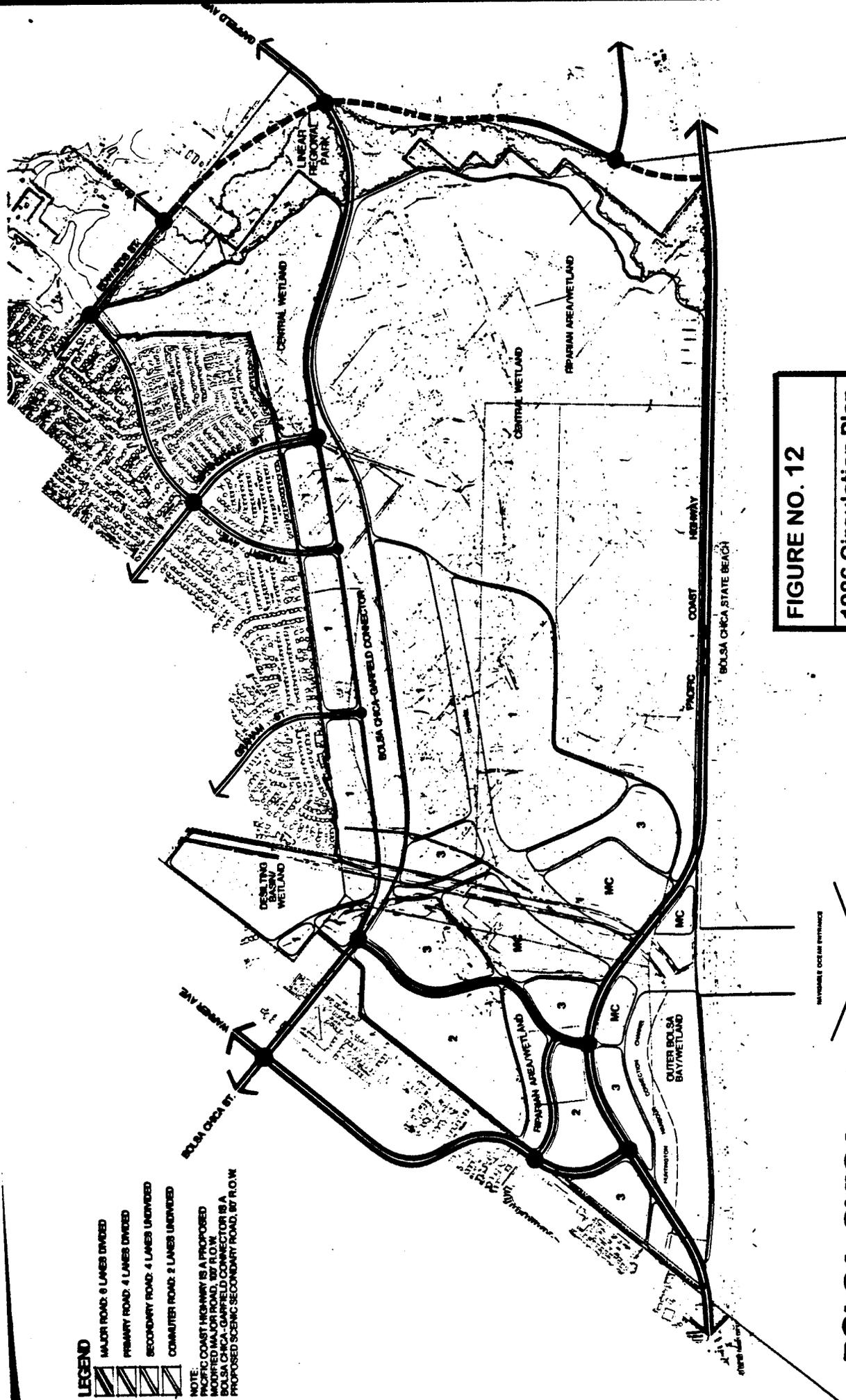
C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT CHAPTER 5 OF THE LAND USE PLAN AMENDMENT

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The 1986 LUP permitted a 75 acre marina/visitor serving commercial complex and up to 5,700 residential units. Significant transportation/circulation improvements were necessary to support this level of development. The figure that follows this page is of the 1986 LUP proposed circulation/transportation improvement. Some of the major components were:

- Widening of PCH between the downcoast project boundary and the proposed ocean inlet (near Warner Avenue) to modified Major Arterial Highway standards (six lanes separated by a 10 ft. median).
- Realignment and bridging of PCH to traverse Bolsa Chica Mesa between the existing Warner Avenue/PCH intersection and the proposed ocean inlet.
- A four lane divided highway to cross the Lowlands connecting Bolsa Chica Street on the north with Garfield on the south (Cross-Gap Connector).
- Extension of Springdale Street, Graham Street and Talbert Avenue into the Lowland and intersecting with the Cross-Gap Connector;
- Realignment of Warner Avenue to intersect with the realigned PCH on the Bolsa Chica Mesa; and
- Secondary arterial connections between Bolsa Chica Street and PCH adjacent to the marina/commercial complex and an additional secondary arterial connection across Bolsa Chica Mesa between Warner and the Bolsa Chica Street/PCH connection



LEGEND

- MAJOR ROAD: 8 LANES DIVIDED
- PRIMARY ROAD: 4 LANES DIVIDED
- SECONDARY ROAD: 4 LANES UNDIVIDED
- COMPUTER ROAD: 2 LANES UNDIVIDED

NOTE:

PACIFIC COAST HIGHWAY IS A PROPOSED
 MODIFIED MAJOR ROAD, 80' F.O.W.
 BOLSA CHICA-GARFIELD CONNECTOR IS A
 PROPOSED SECONDARY ROAD, 80' F.O.W.

FIGURE NO. 12
1986 Circulation Plan
 Page 145
 California Coastal Commission

BOLSA CHICA
 NORTH COAST PLANNING UNIT
 LOCAL COASTAL PROGRAM
 ENVIRONMENTAL MANAGEMENT AGENCY



Land Use Plan Findings

(2). Current LUP Amendment

The current LUP amendment proposes up to 3,300 residential units, potentially up to 100,000 square feet of neighborhood commercial development, a 58 acre regional park and 25 acres of local park land on the Bolsa Chica Huntington Mesas and in the Lowlands in addition to an approximately 1,100 acre wetland ecosystem restoration effort, and pedestrian and bicycle trails. The residential units and commercial development would be built in phases and expected to be completed by the year 2010. The proposed level of residential and commercial development will increase traffic on adjacent roadways. Because the LCP area is located opposite the Bolsa Chica State Beach and also includes within its boundary a significant coastal resource, the Bolsa Chica Wetlands, traffic impacts could have the potential of adversely impacting public access to the coast.

The current proposal eliminates the Cross-Gap Connector through the Lowlands. It is replaced with a new secondary arterial connecting Graham Street on the north with Talbert Avenue on the south. Springdale Street is also extended into the Lowland area. Pacific Coast Highway will remain in its current alignment. According to the EIR, the level of development proposed in the Bolsa Chica LCP does not require the widening of Pacific Coast Highway. The Landowner/Master developer has to nevertheless dedicate the necessary right-of-way for the future widening of Pacific Coast Highway to the ultimate width of 120 feet south of Warner Avenue. Although PCH does not need to be widened to accommodate the level of residential development proposed in the LCP, Warner Avenue will need to be widened to the Primary Arterial width requiring a 30 foot right-of-way dedication on the Bolsa Chica Mesa in order to accommodate the LCP level of development. Warner Pond, a wetland on the Bolsa Chica Mesa is located immediately adjacent to Warner Avenue and therefore will be eliminated when the road is widened.

The EIR for the amended Land Use Plan identifies adverse traffic impacts that would result from the LCP build-out provided for in the amended Land Use Plan and proposes the necessary roadway and intersection improvements to mitigate these impacts. However, the circulation and traffic component of the amended Land use Plan which incorporates these improvements, is inconsistent with the Coastal Act because the Area Traffic Improvement Program (ATIP) would allow construction of homes to be approved before required circulation improvements are implemented as allowed in Policy 43. The Land Use Plan sets up an ATIP Advisory Committee to monitor required traffic improvements. The City of Seal Beach is not a member although roadways within their jurisdiction are included in the ATIP. Without the participation of the City of Seal Beach on the Advisory Committee there is not guarantee that necessary improvements in Seal Beach will be carried out. As submitted, the amended Land Use Plan contains a policy that would allow development to proceed even if the necessary traffic improvements of the ATIP are not implemented due to "non-cooperation" of the Advisory Committee. Thus the

Land Use Plan Findings

amended Land Use Plan is inconsistent with the applicable Chapter 3 policies of the Coastal Act as stated below.

(3). Applicable Coastal Act Policies

The Chapter 3 policies of the Coastal Act that pertain to circulation and transportation include Sections 30250 and 30252. In summary, these Coastal Act provisions require that new development include adequate parking facilities, public transit opportunities, and non-automobile circulation within the development allowed by the LCP so that public access to the coast and coastal resources are not adversely impacted. The full text of these Coastal Act policies is found in Exhibit A of this staff report.

(4). Coastal Act Consistency

(a). EIR Traffic Study Analysis

(i). Study Design

The EIR prepared for the Bolsa Chica LCP includes a traffic study by Robert Kahn, John Kain & Associates (August 12, 1994) entitled Bolsa Chica Project Traffic Analysis Report. The traffic analysis used computerized traffic modeling forecasts (Santa Ana River Area or SARA Traffic Analysis Model) with the basis being the Orange County Congestion Management Program (CMP) and the County of Orange Growth Management Program (GMP). The GMP criteria states that the traffic study area shall include all locations where project traffic results in a measurable increase in the peak hour intersection capacity utilization (ICU). Based on this requirement the study area included the road system within four miles of the LCP site and covered 131 existing and proposed intersections, including Pacific Coast Highway, Beach Blvd., Bolsa Chica Avenue, Warner Avenue, the San Diego Freeway (I-405), the Garden Grove Freeway (SR-22).

The goal of both County programs is to eliminate or minimize the impact of changes in land use on the transportation system. A traffic impact is considered significant if a project contributes measurable traffic to a location and if the project traffic contribution substantially and adversely changes the Level of Service at the location. The County's GMP considers a measurable impact as any increase in the existing ICU of one percent or more caused by the addition of project traffic. The EIR used the GMP criteria in its analysis of the projected traffic impacts for the LCP. The County's CMP requires that a project pay a pro-rata share for improvements at any location where the project causes impacts as well as for improvements to locations which are already deficient where the project contributes traffic greater

Land Use Plan Findings

than 3 percent of the roadway link capacity within a CMP network. The EIR traffic analysis has been prepared using both the CMP and GMP standards.

The EIR traffic study incorporated the build-out level of development provided for in the LCP as well as the build-out level of development of the surrounding cities. The year 2020 is the predicted date for build-out of the County General Plan. The traffic study also analyzed what the "no project" traffic situation would be at full build-out. Traffic projections were made also at five year increments (beginning with the year 2000) for the "no project" alternative and the LCP level of development. Up to 100,000 square feet of neighborhood commercial development on the Bolsa Chica Mesa was also included in the EIR traffic analysis.

The traffic study evaluated the general traffic conditions at mid-block locations based on average daily traffic (ADT) as well as Intersection Capacity Utilization (ICU) methodology for analysis of the traffic flow conditions at various intersections.

(ii). Existing Conditions and "No Project" Alternative

Under existing conditions analyzed in the EIR five roadway segments serve daily traffic volumes in excess of estimated capacities including Pacific Coast Highway between First Street (in the City of Seal Beach to the north) and Warner Avenue. Additionally, nine of the 129 intersections analyzed currently operate at a peak hour Level of Service (LOS) E or worse. One of the deficient intersections is Pacific Coast Highway at Seal Beach Boulevard which is located in the City of Seal Beach. The other roadway deficiencies occur at three intersections along Beach Blvd. which is a 6-lane divided highway, one intersection along Brookhurst, also a 6-lane divided highway and one intersection along Magnolia Street a 4-lane divided highway.

The EIR traffic study indicates that by the year 2020 (build-out condition) there will be an 18% increase (300,000) in the number of trip-ends generated within the vicinity of the LCP area under the "no project" scenario. A total of 57 roadway segments are projected to carry ADT volumes in excess of capacity. Twenty-two intersections would be at LOS E or worse under the year 2020 "no project" scenario. Additionally, Pacific Coast Highway would need to be widened to six lanes north of Warner Avenue even without the proposed LCP development. However the County's Master Plan of Arterial Highways (MPAH) shows the section of Pacific Coast Highway north of Warner Avenue will remain a Primary Arterial Highway (4-lanes divided).

During the interim years prior to full General Plan build-out conditions, the projections indicate that there would be a number of peak hour deficiency

Land Use Plan Findings

conditions. They range from 8 intersections in the year 2000 to 16 locations by the year 2010.

(iii). Traffic Analysis with LCP Approved Level of Development

The EIR traffic modeling contains projections of what the traffic impacts would be with the level of development proposed in the LCP. The 3,300 residential units and 100,000 sq. ft. of commercial space was found to result in additional partial impacts to the identified roadway segments and intersections. Specifically the LCP area at full build-out is expected to generate a total of approximately 32,940 daily trip-ends. This figure would account for about 1.5 percent of the total future trip-ends. During the AM peak hour the number of trip-ends is 2,805 while the PM peak hour trip-ends is projected to be 3,305.

The EIR analyzed the traffic impacts for the interim years and Year 2020 build-out conditions of the LCP proposed development alone. This analysis indicates that 30 locations would experience deficient peak hour operations, an increase from 22 roadway segments under the "no project" condition. With regards to peak hour intersection operations, under the LCP level of development, six additional intersections would have a measurable adverse impact over and above the deficiencies that would occur even without the LCP development.

In summary, the EIR traffic projections indicate that with the level of development allowed in the amended Land Use Plan there would be significant adverse traffic and circulation impacts. However, even if the Land Use Plan development were not allowed, significant adverse traffic and circulation impacts would occur from the build out of the surrounding communities. Specifically, without the amended Land Use Plan level of development, by the year 2020, 22 intersections would be at LOS "E" or worse. With the LCP development, 8 additional locations would be similarly impacted.

(iv). Proposed Area Traffic Improvements Program (ATIP)

To address the increase in traffic deficiencies caused by the LCP development the EIR proposes certain traffic improvements on identified roadway segments and intersections along with standard conditions and project design features as outlined in the EIR. The standard conditions address the submittal of a construction traffic control plan, including grading haul road routes prior to the start of each phase of development to ensure that construction traffic impacts can be minimized. Also required is the preparation of Deficiency Plans per the requirements of the County's Congestion Management Program when not all projected roadway deficiencies can be mitigated by actions of the County. This is because many of the roadways and intersections with projected deficiencies are outside the LCP area or in the case of

Land Use Plan Findings

Pacific Coast Highway, is a state highway. The two project design features include the requirement to prepare and implement an Area Traffic Improvement Program (ATIP) to mitigate the identified measurable increase in adverse traffic conditions caused by the LCP level of development and a requirement to prepare a Transportation Demand Management (TDM) Program in compliance with the South Coast Air Quality Management District regulations to increase average vehicle occupancy and decrease peak hour trip generation and congestion.

The Area Traffic Improvement Program or ATIP is a program designed to finance, implement and monitor the identified circulation improvements that will be necessary to accommodate the proposed LCP development. The ATIP contains two components: Full Construction and Fair-Share Participation. The Full Construction component includes roadway segment and intersection improvements which the LCP landowner/master developer will be fully responsible to implement at the time development occurs. These specific improvements were chosen because a significant percentage of the LCP traffic is anticipated to use the roadway segments and intersections, the level of deficiency and proximity to the LCP area. They have also been identified by the County as well as the local agencies having jurisdiction over the improvements as key access corridors for the regional transportation system.

The ATIP Full Construction component focuses on Bolsa Chica Street as an alternative route to Pacific Coast Highway since PCH will not be widened beyond four lanes north of the LCP area (Warner Avenue). Regionally significant freeway interchanges of the San Diego Freeway (I-405) and the Garden Grove Freeway (SR 22) are also included within the Full Construction component of the ATIP. The Fair-Share Participation components include all the remaining intersection and roadway improvements to which the LCP is expected to contribute measurable traffic increase and where the facility will experience deficient operations without improvement.

Many of the ATIP components are located within the jurisdiction of the cities that surround the LCP area. Therefore the ATIP implementation has to be coordinated with these other jurisdictions. The LCP proposes various techniques to finance, construct, and monitor the ATIP program. They include an ATIP phasing program and an ATIP advisory committee made up of the other affected local agencies and the Landowner/Master Developer. The EIR states that the landowner/master developer will pay his pro-rata share of the ATIP Fair-Share Participation improvements on a phased basis prior to the construction of the particular phase of the residential and commercial development. The EIR further suggests that this funding may be secured by a Development Agreement between the landowner/master developer and the County of Orange.

(b). Proposed LUP Amendment Traffic Provisions

Chapter 5 of the Land Use Plan includes Policy 46 which states that the ATIP components are to be phased as described in Table 5.1. Table 5.1 is found in the Technical Plans and Information section of the chapter and not within the policy section. Table 5.1 is entitled "ATIP COMPONENTS Bolsa Chica Land Use Plan". Table 5.1 is very similar to the list of ATIP components identified as necessary in the EIR traffic study, with a few exceptions. The list of roadway segment and intersection improvements in the LUP and the EIR are identical. The two documents are also identical with regards to which improvements are Full Construction by the Landowner/Master Developer versus those that are to be done on a pro-rata basis. Likewise, the two documents state that the LCP area housing should be fully built out by the year 2010 but the ATIP plans show additional traffic improvements to be done through year 2020 in order to be consistent with the Orange County General Plan build-out which is projected to occur year 2020. The LUP Table 5-1 and the EIR traffic improvements exhibit both contain a footnote which states that the improvements are to be phased on or before the projected year, subject to a more detailed phasing analysis approved by the Director, EMA.

However the phasing of the improvements is not identical in the EIR and LUP. The EIR and LUP traffic improvement plans should not differ since the basis for the LUP traffic policies is the 1994 traffic study contained in the EIR.

The EIR and LUP ATIP plans differ in the number of total residential units and the phasing of the traffic improvements. The EIR analyzes a total of 3,200 units while the LUP contains 100 more units for a total of 3,300. The EIR traffic study was prepared in August, 1994. The LUP was adopted in December, 1994. In October, 1994 Orange County Environmental Management Agency planning staff recommended to the Planning Commission that they increase the number of residential units on the Bolsa Chica Mesa by 100 for a total of 2,500 units and decrease the size of the Lowland Community Park from 15 to 8 acres in order to fund a newly proposed tidal inlet for the restoration of the Bolsa Chica wetlands. The planning staff stated that no additional analysis was necessary due to the 100 additional residential units.

Land Use Plan Findings

Figure 13: ATIP COMPONENTS
(From Table 5-1 of the LUP)

ATIP COMPONENTS
Bolsa Chica Land Use Plan

PHASE (YEAR) ¹	DWELLING UNITS	STATUS	LOCATION OF IMPROVEMENTS	DESCRIPTION OF IMPROVEMENTS
Phase 1 (1998)	1 to 500	Full Construction	Pacific Coast Highway at Warner Avenue	East Leg - Add 2nd left-turn lane - Add 3rd eastbound thru lane - Extend free right-turn lane
Phase 1 (1998)	1 to 500	Full Construction	Warner Avenue at Bolsa Chica Street	East Leg - Add 2nd westbound left-turn lane West Leg - Add 2nd eastbound left-turn lane
Phase 1 (1998)	1 to 500	Fair-Share Participation	Pacific Coast Highway, Warner Avenue to Los Angeles County Line	Improvements to PCH consistent with its designation as a Primary Arterial
Phase 1 (1998)	1 to 500	ROW Dedication	Pacific Coast Highway adjacent to Landowner/Master Developer holdings	Dedication of half-section ROW for future improvement of PCH as a Major (120-foot ROW) Arterial
Phase 1 (1998)	1 to 500	Fair-Share Participation	Beach Boulevard at Warner Avenue	North Leg - Add 4th southbound thru lane
Phase 1 (1998)	1 to 500	Fair-Share Participation	Magnolia Street at Warner Avenue	South Leg - Add 3rd northbound thru lane East Leg - Add 4th westbound thru lane West Leg - Add 4th eastbound thru lane - Add 2nd eastbound left-turn lane
Phase 2 (2000)	501 to 1,235	Fair-Share Participation	Pacific Coast Highway, Golden West Street to Warner Avenue	Improvement of PCH to its MPAH designation as a Major (120-foot ROW) Arterial
Phase 2 (2000)	501 to 1,235	Full Construction	Bolsa Chica Street at Garden Grove Boulevard and through I-405 and SR-22 Interchanges, including roadway widening to 200 feet south of eastbound I-405 off-ramp	North Leg - Add 3rd southbound thru lane South Leg - Add 3rd northbound thru lane - Add 2nd northbound right-turn lane East Leg - Add 2nd westbound left-turn lane - Add westbound free right-turn lane

¹ These improvements are to be phased on or before the projected year, subject to a more detailed phasing analysis approved by the Director of EMA prior to recordation of any map.

Land Use Plan Findings

Figure 13: ATIP COMPONENTS
(From Table 5-1 of the LUP)

ATIP COMPONENTS
Bolsa Chica Land Use Plan

Phase 2 (2000)	501 to 1,235	Full Construction	Bolsa Chica Street at Warner Avenue	North Leg - Add 2nd southbound thru lane South Leg - Add primary section (with acquisition of ROW)
Phase 2 (2000)	501 to 1,235	Fair-Share Participation	Springdale Street at Westminster Avenue	South Leg - Add 3rd northbound thru lane - Add northbound free right-turn lane East Leg - Add 2nd westbound left-turn lane West Leg - Add 3rd eastbound thru lane
Phase 2 (2000)	501 to 1,235	Fair-Share Participation	Beach Boulevard at Slater Avenue	North Leg - Add 4th southbound thru lane - Add 2nd southbound left-turn lane South Leg - Add 4th northbound thru lane - Add 2nd northbound left-turn lane East Leg - Add 3rd and 4th westbound thru lanes - Add 2nd westbound left-turn lane
Phase 3 (2005)	1,236 to 2,820	Full Construction	Bolsa Chica Street at Edinger Avenue	North Leg - Add southbound right-turn lane - Add northbound bike lane
Phase 3 (2005)	1,236 to 2,820	Full Construction	Golden West Street at Slater Avenue	East Leg - Add westbound right-turn lane
Phase 3 (2005)	1,236 to 2,820	Fair-Share Participation	Hoover Avenue at Bolsa Avenue	South Leg - Add northbound free right-turn lane
Phase 3 (2005)	1,236 to 2,820	Fair-Share Participation	Gothard Street at McFadden Avenue	South Leg - Add 2nd northbound left-turn lane
Phase 3 (2005)	1,236 to 2,820	Fair-Share Participation	Beach Boulevard at Slater Avenue	West Leg - Add 3rd eastbound thru lane
Phase 3 (2005)	1,236 to 2,820	Fair-Share Participation	Newland Street at Warner Avenue	South Leg - Add 3rd northbound thru lane
Phase 3 (2005)	1,236 to 2,820	Fair-Share Participation	Magnolia Street at Warner Avenue	North Leg - Add 3rd southbound thru lane
Phase 3 (2005)	1,236 to 2,820	Fair-Share Participation	Magnolia Street at Slater Avenue	North Leg - Add 3rd southbound thru lane

¹ These improvements are to be phased on or before the projected year, subject to a more detailed phasing analysis approved by the Director of EMA prior to recordation of any map.

Land Use Plan Findings

Figure 13: ATIP COMPONENTS
(From Table 5-1 of the LUP)

ATIP COMPONENTS
Bolsa Chica Land Use Plan

Phase 4 (2010)	2,821 to 3,300	Full Construction	Bolsa Chica Street, I-405 and SR-22 Interchanges	East Leg - Add 3rd westbound left-turn lane
Phase 4 (2010)	2,821 to 3,300	Full Construction	Bolsa Chica Street at Westminster Avenue	North Leg (200 feet) - Add 4th southbound thru lane South Leg (200 feet) - Add 4th southbound thru lane
Phase 4 (2010)	2,821 to 3,300	Fair-Share Participation	Springdale Street at Westminster Avenue	North Leg - Add 3rd southbound thru lane
Phase 4 (2010)	2,821 to 3,300	Fair-Share Participation	Hoover Avenue at Bolsa Avenue	North Leg - Add 2nd southbound left-turn lane East Leg - Add westbound right-turn lane West Leg - Add eastbound right-turn lane
Phase 4 (2010)	2,821 to 3,300	Fair-Share Participation	Gothard Street at McFadden Avenue	North Leg - Add 3rd southbound thru lane
Phase 4 (2010)	2,821 to 3,300	Fair-Share Participation	Beach Boulevard at Slater Avenue	West Leg - Add 2nd eastbound left-turn lane
Phase 4 (2010)	2,821 to 3,300	Fair-Share Participation	Magnolia Street at Warner Avenue	North Leg - Add 2nd southbound left-turn lane
Phase 4 (2010)	2,821 to 3,300	Fair-Share Participation	Magnolia Street at Slater Avenue	South Leg - Add 3rd northbound thru lane
Phase 4 (2010)	2,821 to 3,300	Full Construction	Warner Avenue at I-405 Interchange	West Leg and East Leg - Add 3rd westbound thru lane on bridge
Phase 4 (2010)	2,821 to 3,300	Full Construction	Warner Avenue, Huntington Harbour Connection Channel to Los Patos Avenue	Provide complete half-section improvement of Warner Avenue as a Major (120-foot ROW) adjacent to the project
Phase 5 (2020 ²)	2,821 to 3,300	Full Construction	Bolsa Chica Street at Westminster Avenue	South Leg - Add 3rd northbound left-turn lane
Phase 5 (2020 ²)	2,821 to 3,300	Full Construction	Bolsa Chica Street at Edinger Avenue	West Leg - Restripe eastbound thru lanes
Phase 5 (2020 ²)	2,821 to 3,300	Full Construction	Graham Street at Warner Avenue	North Leg - Add southbound right-turn lane

¹ These improvements are to be phased on or before the projected year, subject to a more detailed phasing analysis approved by the Director of EMA prior to recordation of any map.

² Although the project is anticipated to be completed by Year 2010, additional improvements have been identified for General Plan build-out (Year 2020) conditions. Because these improvements are not directly related to project phasing, the timing of Year 2020 full construction and fair-share contribution components have been allocated to the Year 2010 project phase.

Land Use Plan Findings

Figure 13: ATIP COMPONENTS
(From Table 5-1 of the LUP)

ATIP COMPONENTS
Bolsa Chica Land Use Plan

Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Springdale Street at Westminster Avenue	South Leg - Add 2nd northbound left-turn lane North Leg - Add 2nd southbound left-turn lane
Phase 5 (2020 ²)	2,821 to 3,300	Full Construction	Edwards Street at Talbert Avenue	West Leg - Add eastbound right-turn overlap
Phase 5 (2020 ²)	2,821 to 3,300	Full Construction	Golden West Street at Edinger Avenue	North Leg - Add 2nd southbound left-turn lane
Phase 5 (2020 ²)	2,821 to 3,300	Full Construction	Golden West Street at Slater Avenue	South Leg - Add 3rd northbound thru lane - Maintain bike lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Golden West Street at Garfield Avenue	East Leg - Add 2nd westbound thru lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Golden West Street at Yorktown Avenue	East Leg - Add westbound right-turn overlap
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Hoover Avenue at Bolsa Avenue	North Leg - Add 3rd southbound thru lane South Leg - Add 2nd northbound left-turn lane West Leg - Add 3rd eastbound thru lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Gothard Street at McFadden Avenue	North Leg - Add southbound right-turn lane South Leg - Add 3rd northbound thru lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Gothard Street at Warner Avenue	East Leg - Add westbound right-turn lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Pacific Coast Highway at Beach Boulevard	South Leg - Add 3rd northbound thru lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Newland Street at Warner Avenue	East Leg - Add 4th westbound thru lane West Leg - Add 4th eastbound thru lane
Phase 5 (2020 ²)	2,821 to 3,300	Fair-Share Participation	Bushard Street at Slater Avenue	West Leg - Add 3rd eastbound thru lane

¹ These improvements are to be phased on or before the projected year, subject to a more detailed phasing analysis approved by the Director of EMA prior to recordation of any map.

² Although the project is anticipated to be completed by Year 2010, additional improvements have been identified for General Plan build-out (Year 2020) conditions. Because these improvements are not directly related to project phasing, the timing of Year 2020 full construction and fair-share contribution components have been allocated to the Year 2010 project phase.

b. APPROVAL AS MODIFIED

As detailed in the above denial findings for the regional circulation/transportation component of the LUP amendment, the proposal is inconsistent with Sections 30250 and 30252 of the Coastal Act. As submitted the ATIP policies would allow the approval of a coastal development permit for residential development without assurance that the traffic improvements that are the sole responsibility of the Landowner/Master Developer as well as those that the Landowner/Master Developer is only partially responsible are provided. This would occur because ATIP assurances are tied to the issuance of building permits and not approval of the coastal development permit.

The modifications to the circulation/transportation component assures that all of the affected local jurisdictions are members of the ATIP Advisory Committee that oversees traffic improvements, and assures that traffic improvements are required as a condition of the coastal development permit and are constructed prior to occupancy of the homes requiring the improvements.

Only if modified as suggested is the regional circulation/transportation component of the LUP amendment consistent with the applicable Chapter 3 provisions of the Coastal Act.

D. DEVELOPMENT COMPONENT

CHAPTER 6 OF THE LAND USE PLAN AMENDMENT

a. DENIAL OF LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The previously certified LUP approved up to 5,700 residential units on approximately 500 acres on both the Bolsa Chica Mesa and in the Lowlands. Also proposed in the 1986 LUP was a 60 acre marina complex which included 1,300 boat slips and other associated marina development and a 15 acre visitor-serving retail/restaurant/overnight lodging commercial complex. The previous submittal included 915 acres of restored wetlands, a navigable ocean entrance, a 130 acre Bolsa Chica Regional Park and trails linking the Lowlands and the regional park and the Bolsa Chica State Beach across Pacific Coast Highway. The previous submittal was an LUP only and the details for the phasing of the development were not included.

(2). Current LUP Amendment Proposal

The current amendment would result in a less intensive development with a total of 3,300 residential units spread among the Bolsa Chica Mesa and the Lowlands. Wetlands restoration is also proposed through a combination of creation of wetlands in areas that currently do not contain wetlands and the enhancement of existing wetlands. Up to 900 residential units, an 8 acre passive and active local park and a fire station are also proposed in the Lowlands. A public bicycle/pedestrian trail will ring the wetlands providing controlled public access through the wetlands ecosystem area. A portion of the Lowlands will include bicycle trails.

The Landowner/Master Developer is also dedicating 49 acres of land for the development of the Harriett Wieder Regional Park (formerly Bolsa Chica Regional Park). The County's 1992 development plan for the ultimate 106 acre regional park is also incorporated into the current LUP amendment.

(3). Applicable Coastal Act Policies

Most of the Chapter 3 policies of the Coastal Act pertain to the new development component of the amended Bolsa Chica LUP. The marine resources policies of the Coastal Act protect wetlands and allow them to be filled only for certain specific uses and only under certain circumstances; the land resources protection policies

Land Use Plan Findings

protect environmentally sensitive habitat areas and archaeological and paleontological resources; the development policies protect the scenic and visual qualities of the coastal areas, and require adequate parking provisions for new development.

(4). Coastal Act Consistency

As detailed in Chapter III of this report, the Bolsa Chica LCP, as amended allows up to 900 residential units in the Lowlands. Lowland residential development will result in the fill of approximately 18% of the wetlands. The residential development in the Lowlands were found to be an allowable use pursuant to Sections 30233 and 30411 of the Coastal Act and to be necessary to fund the proposed wetland restoration activities. The wetlands restoration efforts include replacement of the wetlands lost due to residential development and the conversion of an additional 127 acres of upland areas into fully functioning wetlands resulting in a 19% increase in total wetlands.

Also included within the Lowland residential area is an 8 acre community park which provides recreational opportunities for the new residents of the area as well as the general public and a fire station, a necessary public safety facility.

The development policies of the Land Use Plan amendment are not consistent with the protection of marine resources and the public access/public recreation policies of the Coastal Act. As submitted they do not require residential development adjacent to the wetlands ecosystem area to avoid adverse impacts to the maximum extent feasible. Further, as submitted the development policies do not ensure that the general public will have access to all of the recreational facilities of the LCP area. Finally, the plan does not ensure that useable open space or parking areas will not be reduced by new infrastructure and utilities if they can not be undergrounded.

b. APPROVAL AS MODIFIED

The Development Component of the Land Use Plan amendment must be modified to bring it into conformance with the marine resources and public access/public recreation policies of the Coastal Act. Policy 49 (County Policy 6.2.3) must be modified to provide for the maximum protection of the wetlands ecosystem area from impacts of adjacent residential development. Policy 52 (County Policy 6.2.16) makes it clear, as modified, the circumstances under which new utilities to serve adjacent residential areas may be allowed within the wetlands. Policy 50 (County Policy 6.2.7) is modified to ensure that all of the community facilities of the LCP area provide public coastal access. Finally, Policy 51 (County Policy 6.2.15) must

Land Use Plan Findings

be modified to ensure that useable public recreation or public parking areas are not reduced due to infrastructure siting.

Only as modified are the development policies consistent with the applicable Chapter 3 policies of the Coastal Act.

E. OIL PRODUCTION COMPONENT CHAPTER 7 OF THE LAND USE PLAN AMENDMENT

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

Oil production in Bolsa Chica would be allowed to continue and would be phased out as reserves are depleted. The 1986 Land Use Plan also allowed for the consolidation of facilities to facilitate the implementation of the wetlands restoration effort.

(2). Current LUP Amendment Proposal

Oil production in Bolsa Chica would be allowed to continue. Phases 1 & 2 of the Wetland Restoration program are not dependent on the phase out of oil production. However, the remaining phases of the Wetland Restoration Program (Phases 3-6) would be dependent on the depletion of the oil reserves. The amended Land Use Plan does not preclude early public acquisition and abandonment of oil leases to facilitate accelerated implementation of the Wetlands Restoration Program.

Oil production is intended to be carried out in a manner to protect biological resources to the maximum feasible. To achieve this objective an Oil Spill Prevention Control and Countermeasure Plan and Oil Spill Contingency Plan has been prepared.

(3). Applicable Coastal Act Policies

Bolsa Chica is an oil producing area. Sections 30260 and 30262 of the Coastal Act allow the continued use of an area for oil production. Oil and gas operations are allowed if adverse environmental effects are mitigated to the maximum extent feasible and the development is performed safely. Section 30262 also requires that

Land Use Plan Findings

new or expanded facilities be consolidated to the maximum extent feasible unless consolidation would have adverse environmental consequences.

Though, oil operations are a permissible use at Bolsa Chica, Bolsa Chica is a tidally influenced wetland that must be protected from environmental damage. Thus oil production at Bolsa Chica is constrained by Sections 30230, 30231, and 30232 of the Coastal Act. Section 30232 of the Coastal Act mandates that proposed development protect the environment from the spillage of hydrocarbon products. Additionally, Coastal Act sections 30230 and 30231 mandate the marine resource be maintained and the biological productivity and quality of coastal waters be maintained. The lowland portions of Bolsa Chica are wetlands and oil production occurs in the wetlands. The spillage of hydrocarbons from these producing well into the wetlands would have an adverse effect on the biological resources. Therefore it is critical that the Bolsa Chica Local Coastal Program address this issue.

(4). Coastal Act Consistency

The Land Use Plan as submitted contains policies which do not fully implement the Coastal Act policies cited above. The Land Use Plan, as submitted, contains policies which allow the continued production of hydrocarbons. However, lacking are umbrella policies which clearly restrict oil production from adversely affecting the wetlands and for the consolidation of facilities if practical. Specific policies, such as Policy 54 exist. Policy 54 of the Oil Production Component calls for an oil spill prevention and control and countermeasure plan which would clean-up an oil spill after it occurs. However, Policy 54 does not actually promote the concept that oil production should be carried out in a manner compatible with the protection of biological resources. To guarantee that oil production will not have an adverse impact on the environment, the Oil Production Component of the Land Use Plan Amendment must be modified to address these concerns.

Further, Policy 54 of the Oil Production Component, as submitted, presents a procedural problem. Policy 54, as submitted, calls for incorporation of the Oil Spill Prevention Control and Countermeasure Plan, and the Oil Spill Contingency Plan when updated, directly into the Wetlands Restoration Program. The Commission recognizes that the intent of these plans is to provide for the cleanup of an oil spill should one occur. However, the possibility exists, that the procedures contained in these plans may not be consistent with the Wetlands Restoration Program. Oil cleanup procedures that are not consistent with the Wetlands Restoration Program should not be automatically incorporated in the Wetlands Restoration. Allowing this would have the effect of modifying the Wetlands Restoration Program without the Wetlands Restoration Program going through the normal LCP amendment procedures.

Land Use Plan Findings

Therefore, for the reasons enumerated in the paragraphs above, the Commission finds that, as submitted, the Oil Production policies of the Land Use Plan are not in conformance with nor adequate to implement Sections 30232, 3021, 30230, 30260 and 30262 of the Coastal Act regarding the protection against the spillage of petroleum products, the consolidation of facilities, minimizing adverse environmental impacts, and the maintenance of marine resources to promote biological productivity and the quality of coastal waters.

b. APPROVAL OF THE AMENDED LAND USE PLAN AS MODIFIED

To bring the Oil Production Component, as submitted, into conformance with the Coastal Act; Policy 54 has been modified and a new Policy 55 has been added. New development for purposes of oil production would be any new development not excluded by the Commission's Resolution of Exemption E-2-15-73-71. Exemption E-2-15-73-71 allows existing oil operations to continue and exempts most existing operations and maintenance from the requirement to obtain a coastal development permit.

Policy 54 has been modified to require that the Oil Spill Prevention, Control, and Countermeasure, and Oil Spill Contingency Plans which are incorporated into the Wetlands Restoration Program be consistent with the regulations contained in the Wetlands Restoration Program. To promote consolidation, a new Policy, Policy 55 has been added. The consolidation of new facilities would be an integral component of the Implementation Program since it would maximize opportunities to conduct wetland restoration while still allowing oil production to continue.

Therefore, as modified, for the reasons described in the paragraphs above, the Commission finds that the Land Use Plan Amendment is in conformance with and adequate to carry out Sections 30230, 30231, 30232, 30260, and 30262 of the Coastal Act regarding the protection against the spillage of petroleum products, maintenance of marine resources, and biological productivity and quality of coastal waters.

F. FINANCING AND PHASING COMPONENT

CHAPTER 8 OF THE LAND USE PLAN AMENDMENT

a. DENIAL OF THE LAND USE PLAN AMENDMENT AS SUBMITTED

(1). 1986 Land Use Plan

The previous 1986 LUP did not provide any detailed financing and phasing for the wetland restoration and community development components. A Phase I Public Facilities Management and Financing Plan (PFMF) was to be reviewed separately from the LUP and a Phase II PFMF was to be developed at the Implementation Plan stage of the LCP. Finally, a wetland restoration phasing plan was to be developed at the LUP Confirmation Phase.

(2). Land Use Plan Amendment

The Financing and Phasing Component of the amended Land Use Plan sets forth the phasing and financing policies. These policies relate to how wetlands restoration and community development will be phased and financed. Due to the complex interrelationship among oil production, wetlands restoration, and the capital required over time to construct the public and private improvements, the specific of phasing and financing are important factors. In particular the timing of phasing is closely tied to the phase out of oil production.

(3). Applicable Coastal Act Policies

The Coastal Act requires through policies contained in Chapter 3 that development be designed in such a manner to minimize adverse impacts to coastal resources, that coastal access be promoted, and to mitigated adverse impacts if the adverse impacts can not be avoided. Therefore, financing and phasing provides one of the mechanisms to address how coastal act concerns with a proposed development can be resolved to assure that the development complies with the Coastal Act. All the Coastal Act policies contained in Chapter 3 of the Coastal Act apply.

(4). Coastal Act Consistency

The current Land Use Plan amendment states that there is a complex interrelationship between oil production, wetland restoration, and the capital

Land Use Plan Findings

required to construct public and private improvements for the approved LCP development. The Land Use Plan amendment further states that the Wetlands Restoration Plan (WRP), a portion of the Implementation Plan, contains the more detailed wetlands restoration phasing policies. Therefore a more detailed analysis of the wetlands restoration phasing and financing is discussed in the Wetlands Restoration Phasing portion of this document. The amended Land Use Plan wetlands restoration phasing and financing policies are therefore very general and refer to the Wetlands Restoration Plan. As submitted, the phasing and financing policies are inconsistent with Chapter 3 of the Coastal Act.

Policy 56 (County Policy 8.2.2) states that public funding of public community facilities shall only occur where the development plans are fully consistent with the Bolsa Chica LCP. The Coastal Act requires all development, whether publicly or privately funded, to be fully consistent with a certified LCP. Therefore, as submitted, the above policy is inconsistent with the Coastal Act.

Policy 57 (County Policy 8.2.5) is internally inconsistent with the text of the amended Land Use Plan as well as other provisions of the Implementation Plan. Section 8.3.4 of Chapter 8 of the amended Land Use Plan states that: *"The specific financial details pertaining to wetlands restoration are or will be established in (1) this LUP; (2) the Wetlands Restoration Plan which is an Implementing Actions Program for the Bolsa Chica LCP; (3) a Development Agreement between the County of Orange and the Landowner/Master Developer; and (4) applicable permits and agreements issued by the Federal and State agencies responsible for reviewing and approving the wetlands restoration, including the ACOE, USFWS, and CDFG."*

The Wetlands Restoration Program and the Development Agreement contain provisions for the establishment of a "Mesa Conservation Fund". The stated purpose of the fund is that it is to be used: *"for construction, restoration operations and maintenance of Wetlands Restoration Area IC and/or other areas within the Recreation/Open Space or Wetlands Restoration Program"* as stated in General Regulation 2.3.5.8 of the Planned Community Program. The Development Agreement contains similar language.

However, County Policy 8.2.5, as submitted, states that the wetlands restoration financing shall be as provided for in Table 8.1 of the amended Land Use Plan. Table 8.1 does not include any contributions from the Mesa Conservation Fund. Instead, the financial assurance for wetlands restoration is based solely on development "milestones" of Lowland development or approvals for Lowland development. Therefore as submitted, the wetlands phasing and financing policy is internally inconsistent with other sections of the amended Land Use Plan and the Implementation Plan.

Land Use Plan Findings

b. APPROVAL AS MODIFIED

Policy 56 (County Policy 8.2.2) must be deleted in order to find the amended Land Use Plan consistent with Chapter 3 of the Coastal Act. Deletion of this policy makes it clear that all development must be fully consistent with the Bolsa Chica Local Coastal Program.

Policy 57 (County Policy 8.2.5) has been modified to recognize the financial contribution of the Mesa Conservation in the financing of the wetlands restoration proposed. The Mesa Conservation fund is an integral component of the wetland restoration program. The modification now renders the amended Land Use Plan internally consistent.

Only as modified is the Financing and Phasing Component of the amended land Use Plan consistent with the applicable Chapter 3 policies of the Coastal Act.

X. FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S IMPLEMENTATION PROGRAM, AND APPROVAL WITH MODIFICATIONS

At the January 11, 1996 Commission hearing, after denying the Bolsa Chica Land Use Plan Amendment 1-95 as submitted and approving it with suggested modifications, the Commission also denied the Implementation Plan portion of the Local Coastal Program and approved it with suggested modifications. The Implementation Plan or Implementing Actions Program consists of four principal documents: the Planned Community (PC) Program, the Wetlands Restoration Plan (WRP), Section 7-9 of the Orange County Zoning Code and the Bolsa Chica Development Agreement.

The suggested modifications to the Implementation Plan imposed by the Commission include those contained in January 2, 1996 Orange County document entitled, "County-Suggested Modifications to the Bolsa Chica LCP Land Use Plan Amendment No. 1-95 and Related Implementing Actions Program". Additionally, the suggested modifications include verbal changes made by the County of Orange at the January 11, 1996 hearing. Finally, additional policies and further changes to the Planned Community Program, Wetlands Restoration Plan, and the Bolsa Chica Development Agreement are included in the suggested modifications because they are necessary to bring the implementing actions into conformance with the certified amended Land Use Plan.

The following pages contain the specific findings to support the modifications imposed by the Commission that are contained in Chapter VII, Implementation Plan Suggested Modifications. The findings are organized by topic within the four implementation documents and not by chapters as with the original findings.

A. PLANNED COMMUNITY PROGRAM

The format of the Planned Community (PC) Program is a chapter on the purpose and objectives of the regulatory document followed by Chapter Two, General Regulations. The first chapter does not contain any standards or regulations but contains information such as the location of the LCP area, purpose, organization of the LCP and CEQA requirements. It also contains three maps including a planning process flow chart and a flow chart of the LCP components.

Chapter Two of the PC Program contains the general regulations which all development within the LCP area is subject to. In addition to the general

Implementation Program Findings

regulations, most Planning Areas are subject to specific regulations and standards. The General Regulations are comprehensive and contain 48 pages of standards regarding general provisions, special provisions, and conditions of approval. The section on general provisions contain standards such as procedural requirements, overlay district requirements, and statements that all development must be consistent with existing specific Zoning Code and General Plan requirements. The section on special provisions requires that the development allowed under the PC Program comply with the PC Development Map and Statistical Table, and other provisions such as residential density, Planning Area boundaries, flood control, public schools, local park requirements, water conservation, private street and driveway standards, public road design, traffic improvement program, archaeological and paleontological resources, utilities, fire protection, interim and temporary land uses, and air quality control regulations. Finally, the section on conditions of approval relate to requirements that the applicant indemnify the County against law suits, lights and glare, noise, annual monitoring report, grading and geology, hazardous substances, hydrology, water quality, coastal resources, marine and terrestrial biology, transportation/circulation, bikeways, air quality, noise, cultural resources, aesthetics, public services and utilities, and recreation.

1. General Regulations

As submitted the General Regulations are not in conformance with and do not adequately carry out the certified Bolsa Chica Land Use Plan as amended. One of the major changes to the General Plan regulations is to change the timing of submittal of required information or payment of a required fee such as ATIP or Mesa Conservation Fund fee to be tied to the issuance of the coastal development permit as opposed to the issuance of the building permit. Other General Regulations have been changed to incorporate the language of the applicable Land Use Plan policy.

2. Recreation

The General Regulations pertaining to recreation and the Recreation Planning Area standards as submitted are not in conformance with and are not adequate to carry out the recreation policies of the Land Use Plan as amended. General Regulation 2.2.6 pertains to the preparation of a future Local Park Improvement Plan (LPIP). The regulation is not specific enough in that it provides no minimum park requirements, responsibility for actual park improvements, signage or public parking provisions. General Regulation 2.3.21.71 ties the dedication of land for the Harriett Wieder Regional Park to the issuance of grading permits or the recordation of

Implementation Program Findings

subdivision maps which is inconsistent with the applicable Land Use Plan policy pertaining to the regional park land dedication. The Recreation Planning Area Standards are also problematic as submitted in that they do not require or carry out the public access provisions (adequate number of bicycle racks), signage, or park design standards of the Land Use Plan policies. Recreation area signage provisions are also dealt with in Chapter 8 regulations. As submitted they do not ensure that the public will be made aware of the recreational amenities of the LCP area and do not take into account the character of the surrounding area in their design.

Only as modified to incorporate the specific park design standards, signage and bicycle requirements of the applicable Land Use Plan recreation policies or to conform the timing of the dedication of park land to be consistent with the LUP provisions are the PC Program standards and regulations in conformity with and adequate to carry out the recreation and public access policies of the Land Use Plan as amended.

3. Traffic And Circulation

Several General Regulations (Section 2.3.13) deal with the preparation of a comprehensive area traffic improvement plan (ATIP). The Bolsa Chica Development Agreement contains the ATIP as referred to in regulation 2.3.13.43 and .44. The ATIP was also reviewed in Chapter 5 of the Land Use Plan. The Commission found the ATIP to be in conformance with the Coastal Act only if modified to require the establishment of ATIP fees, the posting of a security to guarantee fair-share improvements and the payment of ATIP fees by the developers be tied to the issuance of coastal development permits and not the recordation of final subdivision maps or the issuance of building permits. As submitted the regulations dealing with ATIP funding program, security for improvements, and payment of traffic mitigation fees are either tied to the recordation of the final subdivision map or the issuance of building permits and are therefore not in conformance with the amended LUP.

The PC Program has been modified to add new ATIP General Regulations 2.2.29.1 through .4 which are in conformity with the ATIP policies of the amended LUP. Only as modified did the Commission find the Implementation Plan in conformance with and adequate to carry out the traffic and circulation policies of the amended Land Use Plan.

Implementation Program Findings

4. Conservation Planning

The Conservation Planning Area regulations implemented the biological, marine, physical resource, cultural resource, and visual resource policies contained in the Resource Restoration and Conservation Component of the amended Land Use Plan. As submitted, the Conservation Planning Area Regulations are not in conformance with and do not adequately carry out the certified Bolsa Chica Land Use Plan amendment. The Commission has modified several of the policies of the Resource Restoration and Conservation Component. These modifications to the Land Use Plan affected the Conservation Planning Area Regulations concerning the kayak/canoe facility, the installation of public utilities, grading, and the placement of directional signage. The Conservation Planning Area Regulations, have been modified to incorporate the language of the applicable Land Use Plan policy, as modified.

5. Development

The Planned Community Program contains two chapters devoted to regulations and standards for residential and public facilities development as well as general regulations. As submitted some of the provisions of these chapters do not conform to or adequately carry out the amended Land Use Plan. In its action on the Land Use Plan amendment the Commission imposed a 50 foot development setback from the edge of the Bolsa Chica Mesa. The Planned Community Program does not include this provision in its residential setback standards. The amended LUP also includes provisions for the siting of residential infrastructure within the wetlands and recreational planning areas but only if undergrounded or if undergrounding is not possible, only if the useable recreation area is not reduced and if the biological and marine resources are protected. Likewise, these provisions are not reflected in the public facilities regulations and standards.

Only as modified to conform the applicable development general and specific planning area regulations and standards to the amended LUP is the Implementation Plan in conformity with and adequate to carry out the Land Use Plan as amended.

6. Orange County Zoning Code

As a result of a modification to Section 30603 of the Coastal Act, Section 7-9-118.6 of the Orange County Zoning is no longer in compliance with Section 30603 of the Coastal Act. Therefore, to adequately implement the land use plan

Implementation Program Findings

which itself must be consistent with the Coastal Act, Section 7-9-118.6 of the Orange County Zoning Code must be denied as submitted and must be modified to conform to Section 30603 of the Coastal Act as recently amended.

Section 30603 of the Coastal Act was modified in 1994 and became effective in 1995 by Assembly Bill 3427. Assembly Bill 3427 amends the Coastal Act by clarifying that a local government action on a coastal development permit pursuant to a certified local coastal program becomes a final local government action on the tenth working day from the date the Commission receives notice of the action. The amendment adds a requirement that local governments send notice of action on a coastal permit to the Commission by certified mail within seven calendar days from the date of action. Thus, challenges to a local government action on a coastal development permit must be filed within ten working days of the date the Commission receives the required notice from the local government.

Section 7-9-118.6, as submitted, with the Bolsa Chica Local Coastal Program does not contain concise language which defines that the Notice of Final Action is to be mailed to the Commission after all rights to appeal have been exhausted and that the ten working day appeal period begins on the day the Commission receives the Notice of Final Action. The Commission finds that Section 7-9-118.6, as submitted, must be modified to conform to Section 30603 of the Coastal Act so that it successfully implements the Land Use Plan.

To implement the Bolsa Chica Land Use Plan consistent with Section 30603 of the Coastal Act, as revised, Section 7-9-118.6 of the Orange County Zoning Code has been modified and incorporated as Regulation 2.2.27 in the Planned Community Program. Additionally Regulation 10.2.2 which defines the discretionary permit procedures has been modified to refer to Regulation 2.2.27 to assure that the noticing requirements are not overlooked.

Regulation 2.2.27(f) has been added to clarify that the Notice of Final Action must be made after all rights to an appeal have been exhausted. Regulation 2.2.27(h) has been added to define that the appeal period begins on the date of receipt by the Coastal Commission of the Notice of Final Action and that the County's final decision will not become effective until the Commission's appeal period has expired unless the notice is deficient or an appeal is filled. Additionally, a new subsection has been added to provide procedure to be followed if the County has failed to act on a coastal permit application within the time limit set forth in Government Code Sections 65950-65957.1. Therefore, as modified, the Commission finds that Regulation 2.2.27 of Planned Community Program is adequate to implement and carry out the Bolsa Chica Land Use Plan.

Implementation Program Findings

B. WETLANDS RESTORATION PROGRAM

The Wetlands Restoration Program, as submitted, is not adequate for implementing the land use plan. The Commission, in reviewing the amended Land Use Plan made suggested modifications to policies affecting wetlands, biological resources, environmentally sensitive habitat areas, and the tidal inlet. Unless these changes are incorporated into the Wetlands Restoration Program, the Wetlands Restoration Program will not be consistent nor adequate to implement the amended Land Use Plan. Only as modified, as stated herein and as specifically written in Chapter VII of this report is the Wetlands Restoration Program in conformance with and adequate to carry out the applicable policies of the amended Bolsa Chica Land Use Plan.

C. BOLSA CHICA DEVELOPMENT AGREEMENT

The Bolsa Chica Development Agreement is part of the Implementation Program for the Bolsa Chica Local Coastal Program. The Bolsa Chica Development Agreement is between the County of Orange and the Koll Real Estate Group. The Development Agreement specifies the duties and obligations of each party as the proposed residential development moves through the permitting and construction process. As submitted, the Development Agreement does not propose dedication of the Lowlands to be restored under the Wetlands Restoration program unless the master developer receives a Section 404 Permit from the U.S. Army Corps of Engineers.

The Master Developer/Landowner has only to dedicate 88.7 acres of Lowlands (Restoration Area 1C) and contribute \$2,000 for each residential unit built on the Bolsa Chica Mesa if the Section 404 and/or the Coastal Development Permits are "denied", if he fails to pursue the permits or if the permits are still pending 5 years after the effective date of the Development Agreement. As submitted, the Development Agreement would define "denial" of the permits to include the owner simply choosing not to build the Lowland housing and not carry out the wetland restoration (Section 1.3.1.a(ii) of Exhibit D). Likewise if after three years the permits have not been granted or denied and the owner has not withdrawn the application, then the owner is only required to dedicate 88.7 Lowland acres and contribute to the Mesa Conservation Fund.

The stated purpose of the Lowland residential development is to serve as the funding mechanism to undertake wetland restoration. In the Land Use Plan findings, the Commission found that the wetlands are severely degraded, that they are continuing to degrade and that they can not be restored without a major restoration effort. The Commission finds that the County's proposed suggested

Implementation Program Findings

modifications providing for the transfer of the Lowlands to public ownership if the landowner decides not to pursue Lowland development provides an opportunity for future restoration of the Bolsa Chica Lowlands. Therefore, dedication of the wetlands into public ownership (should the landowner voluntarily decide not to pursue a U.S. Army Corps of Engineers Section 404 permit) even without the guarantee of an identified funding mechanism would be consistent with the Coastal Act. The Commission finds, that as submitted without the County's proposed suggested modifications, the Bolsa Chica Development Agreement is inadequate to carry out the applicable policies of the amended Bolsa Chica Land Use Plan.

To make the Bolsa Chica Development Agreement adequate to implement the amended Land Use Plan, the Development Agreement has been modified. The Development Agreement has been modified to require that the Lowlands designated for restoration be dedicated if the Master Developer fails to pursue a Section 404 Permit from the U.S. Army Corps of Engineers. Only as modified does the Commission find that the Development Agreement, as part of the Implementation Plan, is adequate to carry out the applicable policies of the amended Bolsa Chica Land Use Plan.

XI. FINDINGS FOR APPROVAL OF THE ERRATA MODIFICATIONS

The County of Orange, on January 2, 1996 submitted to the Commission errata changes to the Bolsa Chica Local Coastal Program. These changes have been incorporated into the Land Use Plan amendment and Implementation program. The majority of the errata corrects wording in the Wetlands Restoration Program relating to oil facilities. Additional changes affect Table 4-2 of the Wetlands Restoration Program, Standard Condition 2-5 and Project Design Feature 12-6. The changes to Table 4-2 correct acreage figures. Standard Condition 2-5 has been revised to correctly refer to the Alquist-Priolo Exclusionary Zone. Project Design Feature 12-6 has been revised to delete the reference to ORA 1308 and 1309. In cases where the errata modifications conflict with the Land Use Plan amendment, the language of the Land Use Plan amendment shall prevail. Only as modified, does the Commission find that the errata changes are consistent with and adequate to implement the Bolsa Chica Land Use Plan amendment.

XII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. Additionally, the Commission's Local Coastal Program review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an environmental impact report for each local coastal program submitted for Commission review and approval. Nevertheless, the Commission is required when approving a local coastal program to find that the local coastal program does conform with the provisions of CEQA. The County of Orange's Bolsa Chica Land Use Plan Amendment No. 1-95/Implementing Actions Program consists of a Land Use Plan (LUP) amendment and an a new Implementation Plan (IP).

The Land Use Plan amendment as originally submitted raises a number of concerns regarding the Chapter 3 policies of the Coastal Act and thus cannot be found to be consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act. The Land Use Plan amendment, as submitted, is not adequate to carry out and is not in conformity with the policies of Chapter 3 of the Coastal Act with respect to: development setback on the Bolsa Chica Mesa, ESHA phasing, monitoring changes to shoreline processes, public recreation, public access, hazards, water quality, visual impacts, oil production, and cultural resources.

The Commission, therefore, has suggested a number of modifications to bring the Land Use Plan amendment into full conformance with the requirements of the Coastal Act. Specifically, the Commission certification action provides for: modification of the Lowlands dedication requirements to require dedication of the landowner does not pursue Lowland development, a fifty foot development setback from the blufftop edge of the Bolsa Chica Mesa, a shoreline monitoring and remediation program for the tidal inlet, a requirement that ESHA replacement values be established before the Eucalyptus grove is removed, that the public be informed of the public amenities located at Bolsa Chica, required that land form alteration be minimized, a requirement that water quality be preserved, and a requirement that cultural resource studies be completed and submitted as part of application process for a Master Coastal Development Permit. As modified, the Commission finds that approval of the Land Use Plan amendment will not result in significant adverse

CEQA Consistency

environmental impacts under the meaning of the California Environmental Quality Act.

Relative to the Implementation Program, the Commission finds that approval of the Implementation Program with the incorporation of the suggested modifications to implement the Land Use Plan would not result in significant adverse environmental impacts under the meaning of CEQA. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts, such a finding could not be made.

Specifically, the Implementation Plan, as modified, would maximize protection of environmentally sensitive habitat areas through design controls, minimize public safety risks and geological instability through standards for development on bluff tops, preserve and protect scenic visual resources through standards for landform alteration, minimize impacts to cultural resources and paleontological resources, promote visitor serving commercial opportunities through a signage program and design standards, and assure continued public access through the creation of a bluff top park and the provision of adequate parking.

Given the proposed mitigation measures, the Commission finds that the County of Orange's Bolsa Chica Local Coastal Program, as modified, will not result in significant unmitigated adverse environmental impacts under the meaning of the CEQA. Further, future individual projects would require coastal development permits, either issued by the County of Orange or, in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the coastal zone, specific impacts associated with individual development projects are assessed through the CEQA environmental review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for significant adverse environmental impacts which have not been explored.

**ATTACHMENT D
STATEMENT OF DECISION DATED JUNE 4, 1997
SUPERIOR COURT OF THE STATE OF
CALIFORNIA**

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F I L E D
KENNETH E. MARTONE
Clerk of the Superior Court

JUN - 4 1997

NOSSAMAN, CUTHNER
KNOX & ELLIOTT

By: J. PETERSON, Deputy

RECEIVED
SEP 9 1997

CALIFORNIA
COASTAL COMMISSION

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

BOLSA CHICA LAND TRUST,
HUNTINGTON BEACH TOMORROW,
SHOSHONE-GABRIELINO NATION,
SIERRA CLUB, and SURFRIDER
FOUNDATION,

Petitioners,

vs.

THE CALIFORNIA COASTAL
COMMISSION,

Respondent.

CASE NO. 703570
STATEMENT OF DECISION

CITY OF HUNTINGTON BEACH,
COUNTY OF ORANGE, FIELDSTONE
CORPORATION, D. E. GOODELL
KOLL REAL ESTATE GROUP, a
California corporation,
METROPOLITAN WATER DISTRICT
OCEAN VIEW SCHOOL DISTRICT,
ORANGE COUNTY FLOOD CONTROL
DISTRICT, STATE OF CALIFORNIA,
STATE LANDS COMMISSION, and
DOES 1 through 50, inclusive,

Real Parties in Interest.

This matter came on regularly for hearing on May 27, 1997 in
Department 51, the Honorable Judith McConnell, Judge presiding.

1 Appearing for petitioners were attorneys Paul Horgen, Philip
2 Seymour, and Deborah Cook; and appearing for respondent was Deputy
3 Attorney General Jamee Patterson. Appearing for real parties in
4 interest County of Orange and Orange County Flood Control District
5 ("County") was Deputy County Counsel Jack Golden; appearing for
6 real party in interest Koll Real Estate Group ("Koll") were
7 attorneys Alvin Kaufer and William Boyd; and appearing for real
8 party in interest The Fieldstone Company ("Fieldstone") was
9 attorney Allan Abshez.

10 THE BOLSA CHICA AREA

11 Bolsa Chica comprises approximately 1,588 acres of
12 unincorporated land within the coastal zone of northwestern Orange
13 County. The site is dominated by an extensive wetland area located
14 between two upland mesas and consists of three subareas: the Bolsa
15 Chica mesa, the Bolsa Chica lowlands, and the Huntington mesa. To
16 the west is the Pacific Coast Highway and the ocean, and the east
17 is characterized by urban development. (AR 111:23787.)¹

18 The area has been used for a variety of purposes, but since
19 the 1930s it has primarily been used for oil and gas production,
20 particularly in the lowlands, and there are currently 331 oil wells
21 and related facilities and roadways. Since the 1960s, it has been
22 recognized that the wetlands at Bolsa Chica, which were once part
23 of an extensive coastal lagoon/salt marsh system, were in need of
24 major restoration. (AR 111:23787.)

25 / / /

26 _____
27 ¹This citation and all similar citations are to the
28 administrative record, formatted as follows: (AR volume:page
number).

1 and submitted to the Commission a Local Coastal Program Amendment
2 (LCPA) consisting of a new land use plan (LUP) together with
3 implementing actions including a development agreement with Koll.
4 Under the amended plan, a minimum 1,100-acre wetlands ecosystem was
5 to be created in the lowlands, 49 acres on the Huntington mesa were
6 to be conveyed for a regional park, and 3,300 residential units
7 were to be constructed within the Bolsa Chica area. Specifically,
8 2,400 residential units were to be constructed on the mesa, and
9 900 residential units were to be constructed on the lowlands.
10 (AR 21:4394-4397.) Planning for the lowlands and the mesa has
11 always been part of an integrated process, apparently due, at least
12 in part, to biological considerations as well as considerable unity
13 of ownership. (See, e.g., AR 30:6529 and AR 96:20617.)

14 In addition, under the amended plan, all of Fieldstone's
15 lowlands property and a significant part of Koll's lowlands
16 property was designated for residential use. The development of
17 these lowlands areas was intended to help fund restoration of the
18 remaining lowlands, which would be dedicated to some form of
19 conservation trust or a public agency for restoration.

20 The development proposed for the mesa included the filling of
21 Warner Avenue Pond to allow for the widening of Warner Avenue and
22 the relocation of a raptor habitat (provided by a Eucalyptus grove
23 on the property) to the Huntington mesa. The plan also required
24 the establishment of buffer areas between the wetlands and the
25 proposed development, and made provisions for protection of
26 cultural resources located on the property.

27 On January 11, 1996, the Commission held a public hearing
28 regarding the amended plan. At the conclusion of the hearing, the

1 Commission certified the LCPA with some modifications.
2 (AR 108:23368.) On March 7, 1996, petitioners filed a petition for
3 a writ of mandate in San Francisco County Superior Court. On
4 June 12, 1996, the Commission adopted revised findings certifying
5 the LCPA, and an amended petition was filed with the court. Then,
6 pursuant to the stipulation of the parties, the case was
7 transferred to San Diego County Superior Court. The amended
8 petition as well as the Commission's separately filed Motion for an
9 Alternative Writ of Mandate are before the Court here. A related
10 action filed by the League for Coastal Protection has been resolved
11 by stipulated judgment. The Commission is not opposed to the
12 amended petition as it relates to the lowlands and, in fact, has
13 requested a remand as to the lowlands in its motion for an
14 alternative writ. Petitioners oppose the issuance of an
15 alternative writ, as does Fieldstone; however, Koll takes no
16 position since it no longer has an interest in the lowlands.

17 **STANDARD OF REVIEW**

18 All parties agree the review of the Commission's certification
19 is governed by Code of Civil Procedure section 1094.5, which
20 provides that an administrative agency's decision is presumed to be
21 supported by substantial evidence. Accordingly, the burden is on
22 the petitioners to show there is no substantial evidence to support
23 the findings of the Commission. This Court's role is not to
24 reweigh the evidence, but to determine whether there is substantial
25 evidence in light of the whole record to support the Commission's
26 findings.

27 / / /

28 / / /

1 FINDINGS

2 RESIDENTIAL DEVELOPMENT IS NOT A PERMITTED USE FOR DEGRADED
3 WETLANDS UNDER EITHER PUBLIC RESOURCE CODE SECTION 30233(a) OR
SECTION 30411(b) (3).

4 Public Resource Code section 30233(a)² states in part:

5 The . . . filling . . . of open coastal waters, wetlands,
6 estuaries, and lakes shall be permitted . . . where there
is no feasible less environmentally damaging alternative,
7 and where feasible mitigation measures have been provided
to minimize adverse environmental effects, and shall be
8 limited to the following:

9 * * *

10 (3) . . . in a degraded wetland . . . for boating
facilities if, in conjunction with such boating
11 facilities, a substantial portion of the degraded wetland
is restored and maintained as a biologically productive
12 wetland

13 * * *

14 (c) In addition to the other provisions of this section,
. . . filling . . . in . . . wetlands shall maintain or
15 enhance the functional capacity of the wetland or
estuary. Any alteration of coastal wetlands identified
16 . . . shall be limited to very minor incidental public
facilities, restorative measures, nature study . . . if
17 otherwise in accordance with this division. . . .

18 Section 30411(b) states in part:

19 (b) The Department of Fish and Game . . . may study
degraded wetlands and identify those which can most
20 feasibly be restored in conjunction with development of
a boating facility as provided in subdivision (a) of
21 Section 30233. Any such study shall include
consideration of all the following.

22 * * *

23 (3) Whether restoration of the wetland's natural values,
24 including its biological productivity and wildlife
habitat features, can most feasibly be achieved and
25 maintained in conjunction with a boating facility or
whether there are other feasible ways to achieve such
26 values.

27
28 ²Unless otherwise indicated, all future statutory citations
are to the Public Resources Code.

1 The Commission approved residential development in the
2 wetlands at issue here based on its finding that residential
3 development of the lowlands was necessary to fund the wetlands
4 restoration program. (AR 111:23873.) The Commission concluded
5 that sections 30233(a) and 30411(b), read conjunctively, allowed
6 such residential development. More particularly, the Commission
7 concluded that under section 30411, the Department of Fish and Game
8 could study degraded wetlands and consider whether restoration can
9 most feasibly be achieved and maintained in conjunction with a
10 boating facility or whether there are other feasible ways to
11 achieve such values. Since, according to the Commission, the
12 wetlands at issue here are severely degraded and a "no project"
13 alternative was not feasible because remedial action was necessary
14 to restore the wetlands, the proposed residential development was
15 necessary to fund restoration. (AR 111:23888.) However, the
16 Commission's conclusion is simply inconsistent with the clear
17 language of section 30233 which expressly limits the filling of
18 wetlands to eight enumerated uses, of which residential development
19 is not one.

20 Section 30411(b) also does not authorize residential
21 development. Rather, it authorizes the Department of Fish and Game
22 to study and identify which degraded wetlands can feasibly be
23 restored in conjunction with the development of a boating facility.
24 In conducting its study, the Department of Fish and Game must
25 consider whether the restoration of the wetlands' values can be
26 achieved and maintained in conjunction with a boating facility "or
27 whether there are other feasible ways to achieve such values." The
28 most logical interpretation of the quoted language, construed in

1 light of the Coastal Act as a whole, requires the Department of
2 Fish and Game to consider whether alternatives less intrusive than
3 developing a boating facility are feasible. The Commission's
4 interpretation would open the door to any type of development in a
5 wetland whenever a finding could be made that funds were otherwise
6 unavailable to restore degraded wetlands. It is for the
7 Legislature to establish such a policy, not the Commission.

8 Fieldstone argues that section 30007.5 gives the Commission
9 the discretion to construe and apply the various policies of the
10 Coastal Act in order to achieve practical solutions. Even if this
11 argument is correct, the Commission did not identify a policy
12 conflict or balance the competing interests as required by
13 sections 30007.5 and 30200. Therefore, at worst, the Commission
14 did not proceed in the manner required by law and, at best, the
15 Commission's decision is not supported by the findings.

16 **THE COMMISSION FAILED TO PROCEED IN A MANNER REQUIRED BY LAW WHEN**
17 **IT APPROVED THE FILLING OF WARNER AVENUE POND ON THE BOLSA CHICA**
MESA IN EXCHANGE FOR VARIOUS MITIGATION MEASURES.

18 The parties do not dispute that Warner Avenue Pond is both an
19 ESHA governed by section 30240 and a wetland governed by
20 section 30233. Petitioners contend the Commission's decision to
21 permit the filling of Warner Avenue Pond violates section 30240
22 because the filling of the pond will cause a significant disruption
23 of habitat values, and the proposed expansion of Warner Avenue
24 which necessitates the filling is not a use dependent on the pond's
25 resources. Respondents argue that since the pond is a wetland,
26 section 30233(a)(5) controls, and it permits the fill of wetlands
27 for incidental public services.

28 / / /

1 The Court concludes that the policies in these two sections
2 conflict as applied to Warner Avenue Pond. Therefore, the
3 Commission was required to identify and resolve the conflict in its
4 findings pursuant to sections 30007.5 and 30200. The Commission
5 failed to do this and, therefore, a remand is necessary. Moreover,
6 until the Commission conducts this balancing, it is impossible for
7 the Court to determine whether the Commission's findings are
8 supported by the evidence.

9
10 **THE COMMISSION'S FINDINGS WITH REGARD TO THE RELOCATION OF THE**
11 **RAPTOR HABITAT ARE SUPPORTED BY THE EVIDENCE.**

12 Petitioners contend that the Commission's decision to permit
13 the relocation of the raptor habitat from the Bolsa Chica mesa to
14 the Huntington Beach mesa violates section 30240 because the
15 relocation will cause a significant disruption in habitat values
16 and because residential development is not a dependent use for the
17 habitat. However, the Court finds the Commission's finding that
18 there will be no significant disruption in habitat values is
19 supported by substantial evidence in the record as a whole. (See,
20 e.g., AR 111:23870-23871.)

21 Petitioners' primary concern is that the existing Eucalyptus
22 grove will be removed before the replacement habitat is fully
23 established. But, the LCPA requires the replacement habitat to be
24 planted before any permit to remove the groves can be issued. In
25 addition, the LCPA requires the installation of roosting poles as
26 an interim measure to mitigate any short-term habitat loss until
27 the replacement habitat is fully mature. Moreover, at least some
28 of the replacement trees will be fully mature at the time they are

1 planted. (AR 103:22381.) Furthermore, even assuming there are
2 short-term impacts due to the relocation of the habitat, the
3 Commission has the authority to allow those impacts in exchange for
4 long-term preservation of the habitat values. See *Sierra Club vs.*
5 *California Coastal Commission* (1993) 19 Cal.App.4th 547, 561-562.

6 **THE COMMISSION'S FINDING THAT THERE IS AN ADEQUATE BUFFER BETWEEN**
7 **THE RESIDENTIAL DEVELOPMENT AND THE LOWLANDS IS SUPPORTED BY THE**
8 **EVIDENCE.**

9 Petitioners contend the decision to limit the buffer zone to
10 50 feet from the bluff's edge and to permit pedestrian trails
11 within that buffer zone is inconsistent with the Commission's
12 guidelines requiring at least a 100-foot buffer zone. However, the
13 Commission found that the 50-foot setback combined with the
14 vertical face of the bluff provided an adequate buffer.

15 (AR 111:23879.) There is substantial evidence in the record as a
16 whole to support the Commission's findings. The purpose of a
17 buffer is to minimize disturbance to wetlands caused by urban
18 development, to provide a transitional zone between natural habitat
19 areas and urban development, and to provide visual screening.

20 (AR 111:23869.) There is no evidence to contradict the findings
21 that the buffer required by the LCPA would accomplish those ends.

22 **THE COMMISSION'S FINDING THAT THERE IS ADEQUATE PROTECTION FOR**
23 **ARCHEOLOGICAL RESOURCES IN ORA-83 IS SUPPORTED BY THE EVIDENCE.**

24 The parties do not dispute that ORA-83 is an important
25 archeological site. Section 30244 requires that impacts on such
26 sites be reasonably mitigated. The Commission's interpretive
27 guidelines provide a number of options to accomplish mitigation:

28 (1) prohibiting development; (2) permitting open spaces;

1 (3) locating development on the least sensitive portion of the
2 site; (4) filling over the site; (5) partial excavation; and
3 (6) complete excavation. Here, the LCPA requires that the results
4 of an archeological research design be submitted as part of the
5 application for the master coastal development permit. This
6 provision ensures that research in the archeological site be
7 completed before development plans are approved, so a project can
8 be conditioned upon or redesigned to mitigate adverse impacts at
9 the design stage. The only alternative put forth by petitioners is
10 complete avoidance of the site. This is not required by law; the
11 law requires only reasonable mitigation. The Commission's decision
12 provides important protection for archaeological resources before
13 any development can proceed.

14 **REQUESTS FOR JUDICIAL NOTICE AND TO**
15 **AUGMENT THE ADMINISTRATIVE RECORD**

16 The Commission has requested the Court take judicial notice of
17 certain documents pertaining to the sales transaction by which Koll
18 conveyed its interest in the lowlands to the State Lands
19 Commission. Petitioners joined in this request and also requested
20 the Court take judicial notice of additional documents pertaining
21 to the transaction. Petitioners further requested the Court
22 augment the administrative record with this information. The
23 transaction occurred after the Commission certified the LCPA at
24 issue in this case.³

25

26

27 ³Koll did not request judicial notice of the transaction, but
28 has made clear in its papers that since it no longer has an
interest in the lowlands, it is not fully briefing the legal issues
raised in regard to them.

1 The Commission and the County oppose Petitioners' request to
2 augment the administrative record, arguing the California Supreme
3 Court's decision in the *Western States Petroleum* case precludes the
4 admission of extra-record evidence which did not exist before the
5 Commission made its decision. See *Western States Petroleum Assn.*
6 *vs. Superior Court* (1995) 9 Cal.4th 559, 578. The problem with
7 this argument is that the *Western States Petroleum* case dealt with
8 admission of extra-record evidence in a traditional mandamus action
9 and this is an administrative mandamus action. Unlike in
10 traditional mandamus actions, which are governed by Code of Civil
11 Procedure section 1088.5, extra-record evidence is admissible in
12 administrative mandamus actions if: (1) the evidence is relevant;
13 and (2) the evidence could not, through the exercise of reasonable
14 diligence, have been presented at the time the Commission made its
15 decision. See Code of Civil Procedure section 1094.5(e).

16 The evidence of Koll's sale of its lowlands holdings meets
17 both criteria. It is clearly relevant to the Commission's finding
18 that residential development was necessary to fund the restoration
19 of the wetlands. In addition, it could not have been presented to
20 the Commission at the time the Commission made its decision because
21 the sale did not take place until after the decision was made.
22 Accordingly, petitioners' request to augment the administrative
23 record is granted.

24 The Commission would prefer the Court take judicial notice of
25 the sale to show there are "changed circumstances" which warrant a
26 remand. The Court is unaware of and the Commission has not
27 provided any authority which holds that "changed circumstances" is
28 a ground for remand under Code of Civil Procedure section 1094.5.

1 Moreover, from the Court's reading of Code of Civil Procedure
2 section 1094.5(e), augmenting the record with or taking judicial
3 notice of extra-record evidence is a difference without
4 distinction. Both actions require the Court to remand the entire
5 matter back to the Commission for further consideration in light of
6 the new evidence. Accordingly, the Commission's and Petitioners'
7 requests for judicial notice are also granted.

8 **DISPOSITION**

9 **WHEREFORE, let a peremptory writ of mandate issue as follows:**

10 1. The California Coastal Commission's certification of the
11 County of Orange's Local Coastal Program Amendment, including the
12 Bolsa Chica Land Use Plan Amendment 1-95 and the Bolsa Chica
13 Implementing Actions Program, is set aside.

14 2. The matter is remanded back to respondent for
15 consideration in light of the Court's decisions.

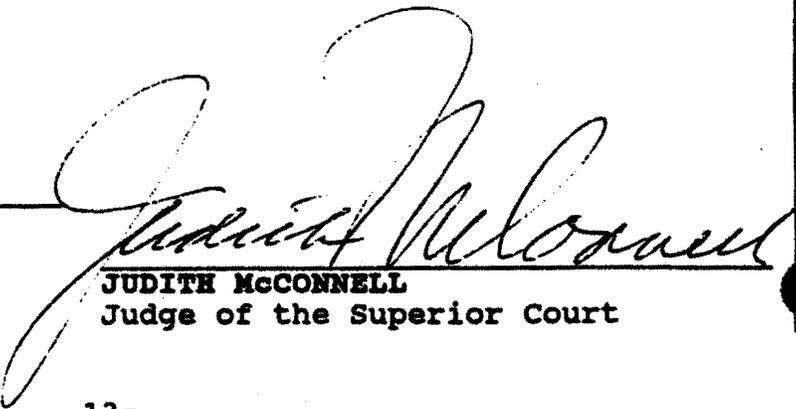
16 3. Petitioners must prepare and submit a proposed writ and
17 a proposed judgment for the Court's review by no later than
18 June 27, 1997.

19 4. Any award of fees and costs will be determined pursuant
20 to appropriate noticed motions.

21 5. In light of the Court's decision, respondent's Motion for
22 Alternative Writ of Mandate is moot.

23
24 **IT IS SO ORDERED.**

25
26 DATED: JUN - 4 1997

27 
28 **JUDITH McCONNELL**
Judge of the Superior Court

Superior Court of California
County of San Diego

COURT USE ONLY

F KENNETH E. MARTONE D
Clerk of the Superior Court

PETITIONERS BOLSA CHICA LAND TRUST, et al.

JUN - 4 1997

RESPONDENTS THE CALIFORNIA COASTAL COMMISSION

By: J. PETERSON, Deputy

CLERK'S CERTIFICATE OF SERVICE BY MAIL(CCP 1013a(4))

CASE NUMBER: 703570

I, KENNETH E. MARTONE, Clerk of the Superior Court of the State of California, for the County of San Diego, do hereby certify that: I am not a party to the cause referred to herein; that on the date shown below, I placed a true copy of the:

STATEMENT OF DECISION

in a separate envelope, addressed to each addressee shown below; each envelope was then sealed and, with postage thereon fully prepaid, was deposited in the United States Postal Service at:

San Diego Vista El Cajon Chula Vista, California.

NAME:

ADDRESS:

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KENNETH E. MARTONE
Clerk of the Superior Court

Date: JUN - 4 1997

By: J. Peterson, Deputy



**ATTACHMENT E
COUNTY OF ORANGE LETTER
OF SEPTEMBER 15, 1997
AND LETTER FROM
NOSSAMAN, GUNTHER, KNOX, & ELLIOTT
DATED AUGUST 14, 1997
CONCERNING PROPOSED SETTLEMENT**



County of Orange
Planning & Development Services Department

THOMAS B. MATHEWS
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September 15, 1997

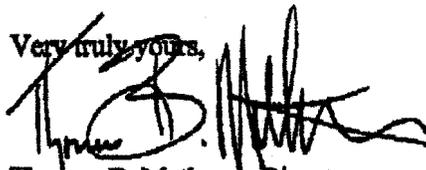
Mr. Chuck Damm
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, Ca 90802-4302

Subject: Bolsa Chica Local Coastal Program

Dear Mr. Damm:

I have reviewed the attached letter of Alvin Kaufer dated August 14, 1997 synthesizing our August 12, 1997 meeting and concur with all of the agreement points noted. I look forward to an early hearing in October on the subject LCP and trust that, with the Commission's staff concurrence on these same points, we may yet see a certified plan for Bolsa Chica.

If you have questions prior to the hearing, please do not hesitate to give me or Ron Tippets a call. Ron can be reached at 714-834-5394.

Very truly yours,


Thomas B. Mathews, Director
Planning & Development Services Department

RT:glb/70915

Attachment

cc: Alvin Kaufer
Jack Golden
Ed Mountford
Ron Tippets

RECEIVED

SEP 16 1997

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

C/U

LAW OFFICES
NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

WALTER L. NOSSAMAN
(1000-1000)

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August 14, 1997

SACRAMENTO
SUITE 1900
818 L STREET
SACRAMENTO, CA 95814-3701

ALVIN KAUFER
DIRECT DIAL NUMBER
(213) 612-7029

REFER TO FILE NUMBER

110201-004

Jamee J. Patterson, Esq.
Deputy Attorney General
Office of Attorney General
110 West A Street, Suite 1100
San Diego, California 92101

Re: Outline of Proposed Settlement

Dear Jamee:

The purpose of this letter is to confirm the discussion we had on Tuesday, August 12 between and among representatives of Koll, the County of Orange and the Coastal Commission.

Koll explained that it would like to conclude its litigation and obtain a final LCPA. After discussion, the following tentative process was the subject of agreement.

1. Koll agrees that it will accept an LCPA that limits development on the mesa to 1235 units and does not allow the filling of Warner Avenue Pond. Also, Koll agrees to the conservation (existing) zoning on Edward's Thumb.

2. The County reserves the right to apply for a permit to fill Warner Avenue Pond and to widen Warner Avenue at such time that increased traffic in the area and development in Orange County requires the widening of Warner Avenue. Such application will not be triggered by development on the mesa. The County also agrees to recommend to the Board of Supervisors that the suggestions identified in the next paragraph be accepted.

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

James J. Patterson, Esq.

August 14, 1997

Page 2

3. Coastal Commission staff agrees to recommend to the Commission that it remand the LCPA to the County with a suggestion for modification to the LCPA, and a statement that the LCPA will be approved if it is resubmitted with the following changes: (a) development of the mesa to be limited to no more than 1235 dwelling units reasonably allocated through the entire mesa, (b) the residential development setback adjacent to Warner Avenue Pond to be 50-feet and, (c) the filling of Warner Avenue Pond and the widening of Warner Avenue will not result from residential development on the mesa. Also, Fieldstone's issue will be separated from the mesa, so that the mesa LCPA can become final.

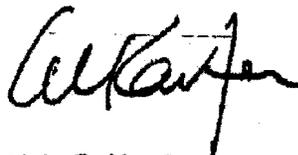
4. Koll will supply transportation studies to demonstrate that Warner Avenue does not have to be widened in order to accommodate the 1235 units on the mesa and PCH does not have to be widened as a result of not widening Warner Avenue.

5. If petitioners' do not appeal, Koll agrees that it will not appeal (unless the Coastal Commission does not make the recommendation specified in paragraph 3 prior to the last date for filing a notice of appeal).

While we agree with your observation that the only issues before the Commission are Warner Avenue Pond and residential housing in the lowlands, the above procedure will (hopefully) avoid any controversy with regard to Warner Avenue Pond and the Fieldstone issue can proceed independently.

Please let me know if this conforms to your understanding of the agreement in principle discussed by the parties.

Very truly yours,



Alvin B. Kaufer
of NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

ABK/jka

cc: Jack Golden, Esq.

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

James J. Patterson, Esq.

August 14, 1997

Page 3

bcc: Ms. Lucy Dunn
Bill Boyd, Esq.
Howard Coleman, Esq.
John Flynn, Esq.
John Erskine, Esq.
Rob Thornton, Esq.



ATTACHMENT F
RKJK LETTER OF SEPTEMBER 9, 1997
CONCERNING TRAFFIC AND WARNER AVENUE



September 9, 1997

Mr. Ron Tippets
Planning & Development Services Department
COUNTY OF ORANGE
P. O. Box 4048
Santa Ana, CA 92704-4048

Subject: Warner Avenue Improvements with Modified Bolsa Chica Mesa
Development Scenario

Dear Mr. Tippets:

The purpose of this letter is to address the traffic impacts associated with the combination of (1) limited roadway improvements along Warner Avenue between the Outer Bolsa Bay/Huntington Harbour Channel and Los Patos Avenue, and (2) limited residential development within the Bolsa Chica Mesa project without the planned on-site commercial land use. Mitigations to off-site traffic impacts have been identified in the Area Traffic Improvement Program (ATIP) contained within the approved Environmental Impact Report (EIR 551) and subsequent development agreement. The technical basis of the project ATIP is the Bolsa Chica Project Traffic Impact Analysis previously prepared by RKJK (August 16, 1994).

EXISTING CONDITIONS

Existing baseline daily traffic volumes utilized in the EIR traffic analysis are shown on Exhibit 2-B (page 2-19) of the 1994 traffic study report. Traffic volumes on Warner Avenue between Pacific Coast Highway and Bolsa Chica Street vary between 26,000 and 32,000 vehicles per day. Traffic volumes on Pacific Coast Highway reach their highest level in the study area on the segment northwest of Warner Avenue, with a peak season volume of 43,000 vehicles per day. Southeast of Warner Avenue, Pacific Coast Highway serves approximately 32,000 vehicles per day.

The overall lane configurations on Pacific Coast Highway and Warner Avenue are the same where these two roadways intersect west of the Bolsa Chica Mesa project, with each roadway providing two through-travel lanes in each direction (see Exhibit 2-A, page 2-11, of the 1994 technical report). It is important to note that the present Warner Avenue roadway cross-section does not constrain or otherwise inhibit traffic flows to Pacific Coast Highway at this location. The traffic capacity constraint in the study area is on Pacific Coast Highway northwest of the Warner Avenue intersection.

TRANSPORTATION PLANNING • GIS • TRAFFIC/ACOUSTICAL ENGINEERING

1601 Dove Street, Suite 290 • Newport Beach, CA 92660 • Phone: (714) 474-0809 • Fax: (714) 474-0902

Mr. Ron Tippets
Planning & Development Services Department
COUNTY OF ORANGE
September 9, 1997
Page 2

As indicated on page 2-18 of the 1994 traffic analysis, Pacific Coast Highway already serves daily traffic volumes in excess of its estimated capacity northwest of Warner Avenue. Existing daily volumes are within estimated capacities on Warner Avenue east of Pacific Coast Highway and on Pacific Coast Highway southeast of Warner Avenue.

FUTURE CONDITIONS

For Year 2020 conditions with development of the entire "Option A" development scenario for the Bolsa Chica Mesa, improvement of Warner Avenue from a 4-lane divided cross-section to a 6-lane divided cross-section is not estimated to be required based upon level of service or congestion issues. For example, the Algonquin Street/Warner Avenue intersection is projected to operate at an acceptable level of service with existing roadway geometrics at that intersection (see Table 6-5, page 6-51 of the 1994 technical report). In addition, the future daily traffic volume on Warner Avenue is projected to operate within its existing capacity adjacent to the project (see Exhibit 6-F, page 6-28, of the 1994 technical report).

PROJECT TRIP GENERATION

The Bolsa Chica Mesa project "Option A" assumes 2,500 residential dwelling units, a 600 student elementary school and 100,000 square feet of specialty commercial. The "Option A" land use scenario is projected to generate approximately 23,420 trip-ends per day with 1,935 vehicles per hour during the AM peak hour and 2,265 vehicles per hour during the PM peak hour as shown in Table 3-2, page 3-10, of the 1994 traffic study report. Deletion of the commercial site from the current project plan removes approximately 4,000 vehicle trip-ends per day.

Based upon negotiations with the County of Orange, the ATIP milestones currently require completion of half-section improvements to Warner Avenue with issuance of the 1,236th building permit for the project. The Warner Avenue improvements would provide a 6-lane divided cross-section pursuant to the County of Orange General Plan designation of this facility. However, as noted above, these improvements are not actually required at this milestone based upon the 1994 traffic impact analysis prepared in support of EIR 551.

If the project is reduced to 1,235 dwelling units with no commercial and no school based upon the Warner Pond wetland issues, then the trip generation for the project

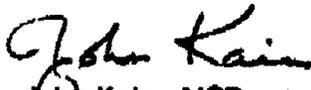
Mr. Ron Tippets
Planning & Development Services Department
COUNTY OF ORANGE
September 9, 1997
Page 3

would be reduced by approximately 9,600 trip-ends per day. The traffic generated by the reduced project with 200 multi-family dwelling units and 1,035 single-family detached units is approximately 13,800 vehicles per day, as compared to the original project trip generation level of approximately 23,400 vehicles per day. The exact trip reduction will depend upon the mix of single-family detached and multi-family attached residential units within the project.

RKJK staff is currently in the process of preparing a revised traffic study and phasing analysis of the modified Bolsa Chica Mesa development project with 1,235 residential units as required by the Conditions of Approval for the project. Based upon preliminary report submittals which have been reviewed by Orange County technical staff members, the Warner Avenue improvement scenario with a modified 4-lane divided cross-section is adequate for both near-term and long-range future conditions. If you have any questions or require additional information, please do not hesitate to contact me at (714) 474-0809.

Sincerely,

ROBERT KAHN, JOHN KAIN & ASSOCIATES, INC.


John Kain, AICP
Principal

JK:kgd/7206

JN:148-97-001

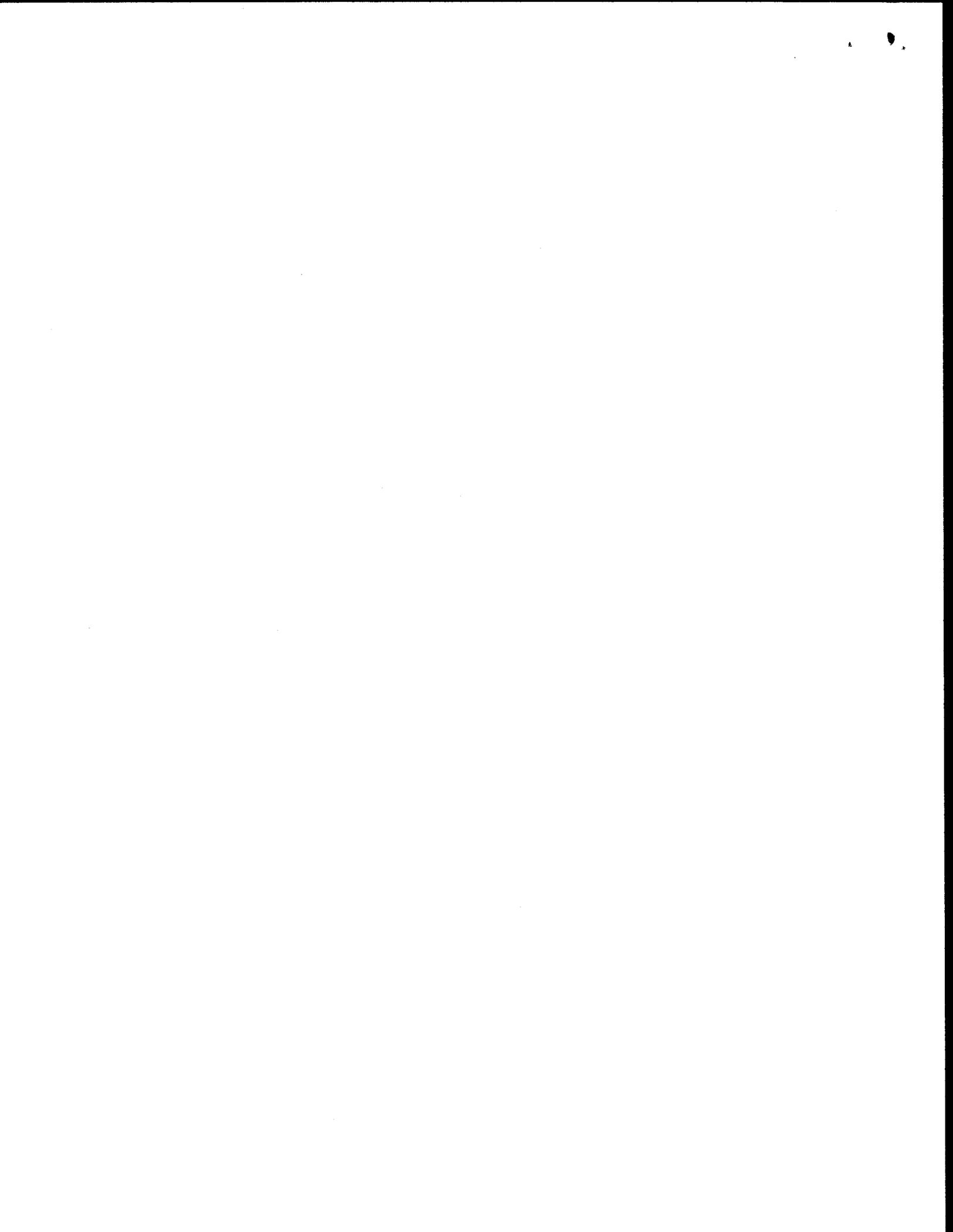
xc: Steve Rynas, COASTAL COMMISSION
Harry Persaud, COUNTY OF ORANGE
Ed Mountford, KOLL REAL ESTATE GROUP

**ATTACHMENT G
KOLL REAL ESTATE GROUP
BOLSA CHICA LCP BROCHURE
"1997 BOLSA CHICA LOCAL COASTAL PROGRAM"**

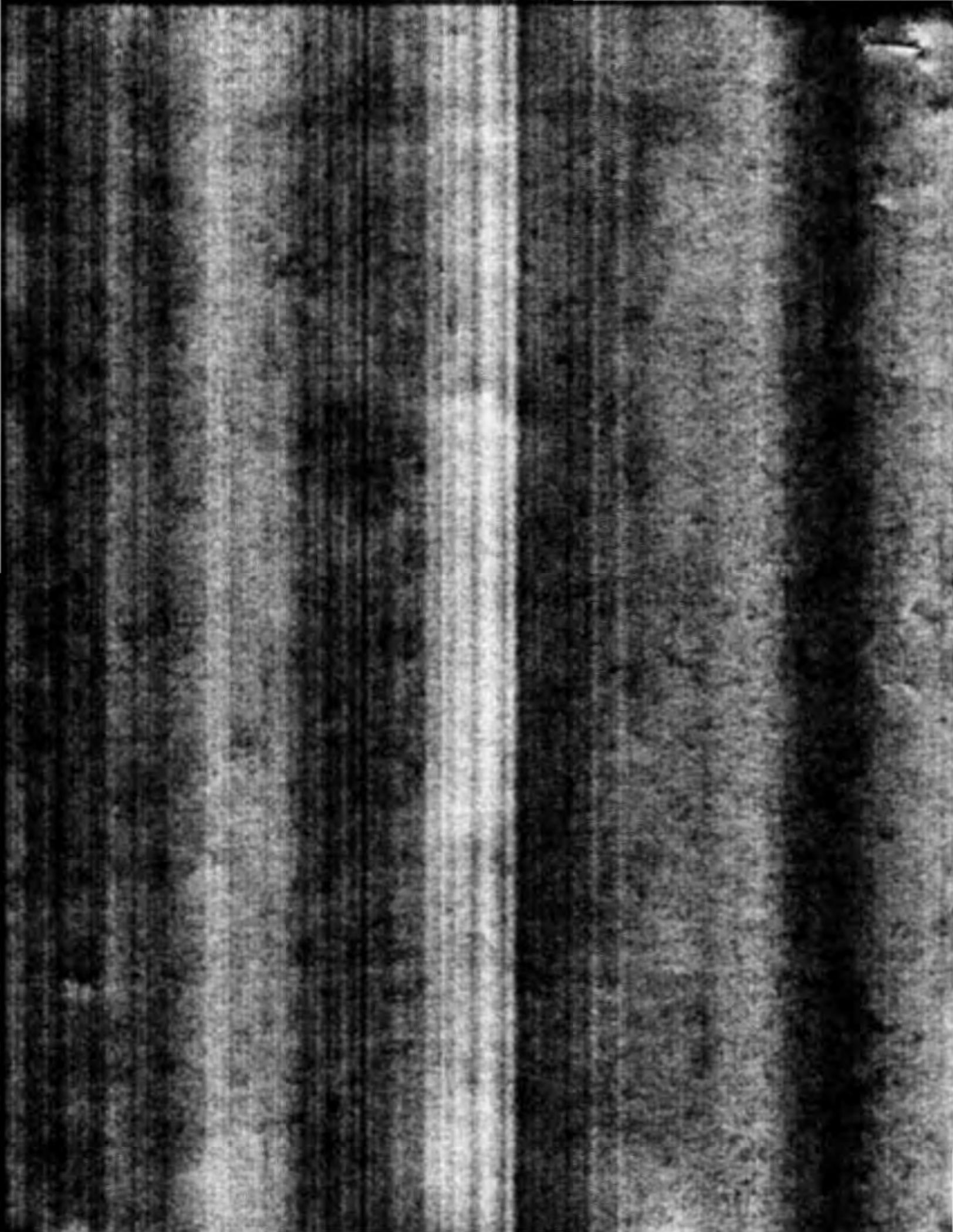
**1997
BOLSA CHICA
LOCAL COASTAL PROGRAM**

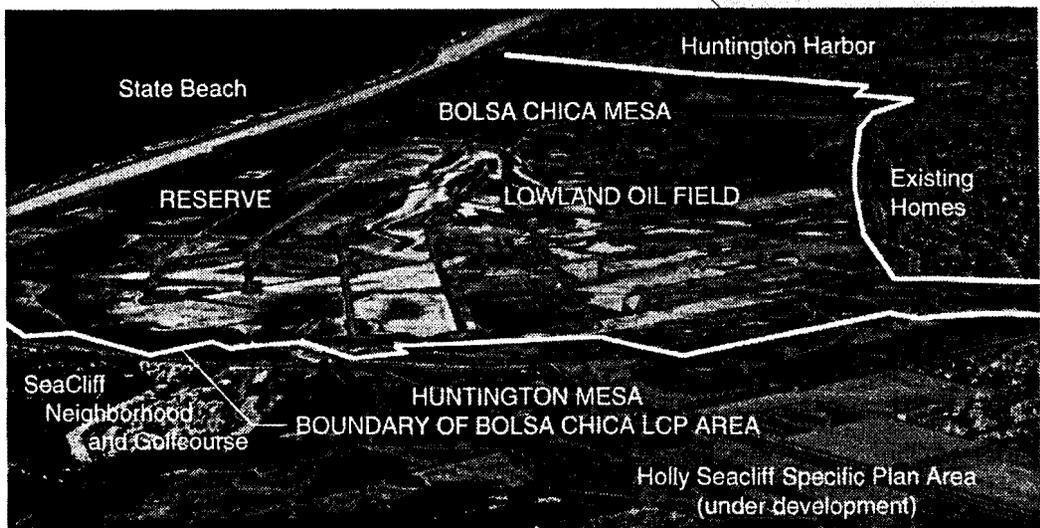
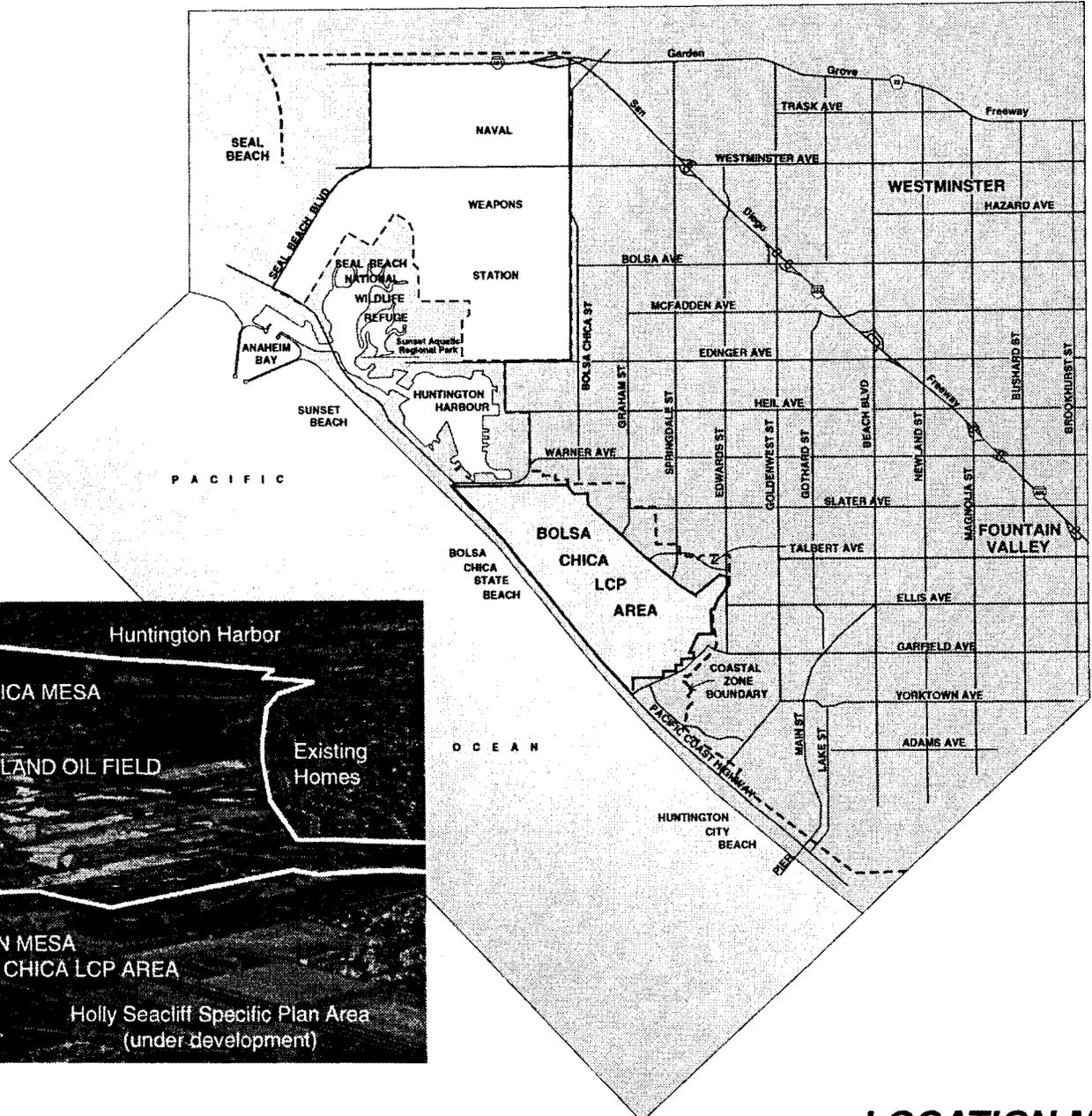
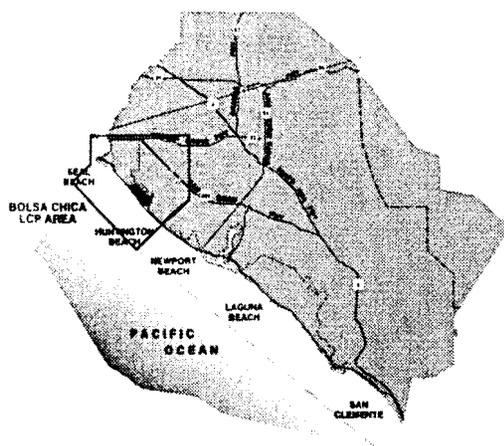
C O N T E N T S

Subject	Page
 TAB 1. INTRODUCTION	
• Location Map	1-1
• Aerial Photograph	1-2
• 1997 Ownership Map	1-3
• Key Map for Site Photographs	1-4
• Site Photos 1 and 2	1-5
• Site Photos 3 and 4	1-6
 TAB 2. COMPARISON OF 1986, 1996, AND 1997 LAND USE PLANS	
• 1986-certified Land Use Plan	2-1
• 1996-certified Land Use Plan (First Amendment)	2-2
• 1997-proposed Land Use Plan (Second Amendment)	2-3
• Side-by-Side Comparison of Plans and Statistics	2-4
 TAB 3. 1997 COURT DECISION REGARDING 1996 LAND USE PLAN	
• Five LCP Components Challenged by Litigation	3-1
• Three Plan Components Confirmed by the Court	3-2
• Two Issues Remanded Back to the Coastal Commission	3-3
 TAB 4. HOW 1997 PLAN RESOLVES COURT'S TWO OUTSTANDING ISSUES	
• Resolution of Issue 1 — Remove Lowland Development on Wetlands	4-1
• Resolution of Issue 2 — Avoid Filling of Warner Avenue Pond	4-2
 TAB 5. 1997-PROPOSED LCP DEVELOPMENT MAP AND TABLE	
• Planned Community Development Map (IAP Appendix Figure B-1)	5-1
• Planned Community Statistical Table (IAP Appendix Figure B-2)	5-2



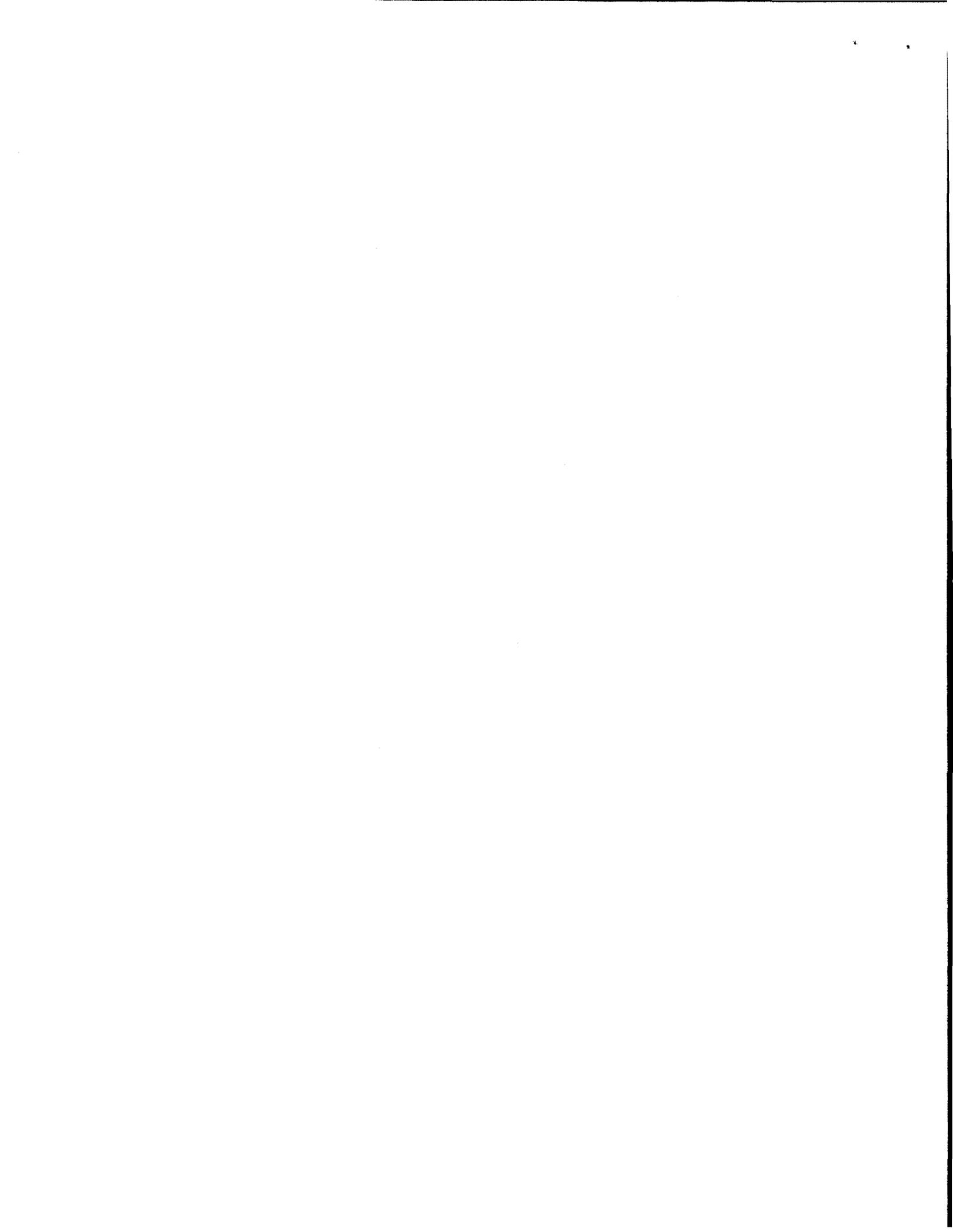
1. INTRODUCTION





BOLSA CHICA

LOCATION MAP



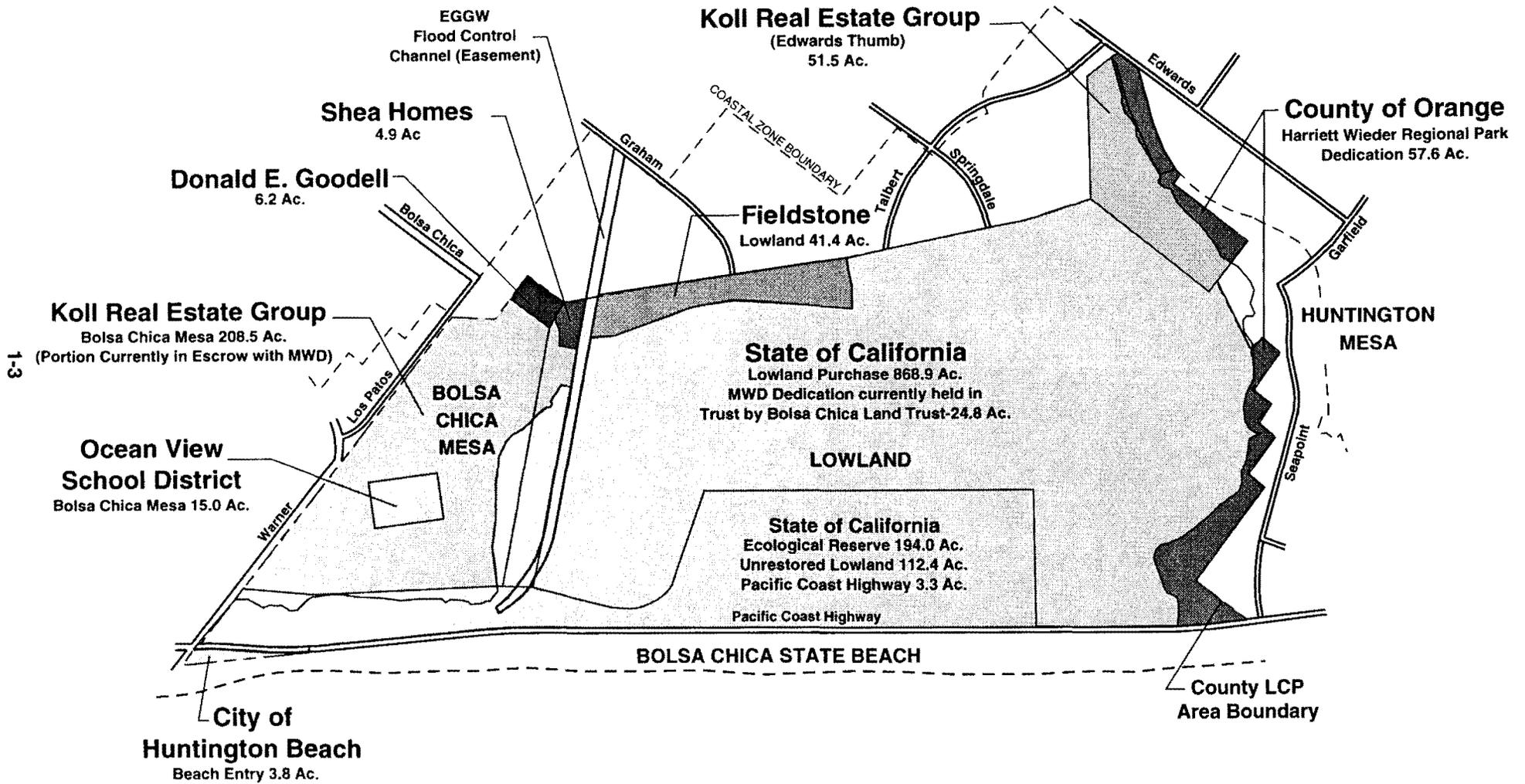


AERIAL PHOTO

FORMA

BOLSA CHICA





BOLSA CHICA

1997 OWNERSHIP MAP



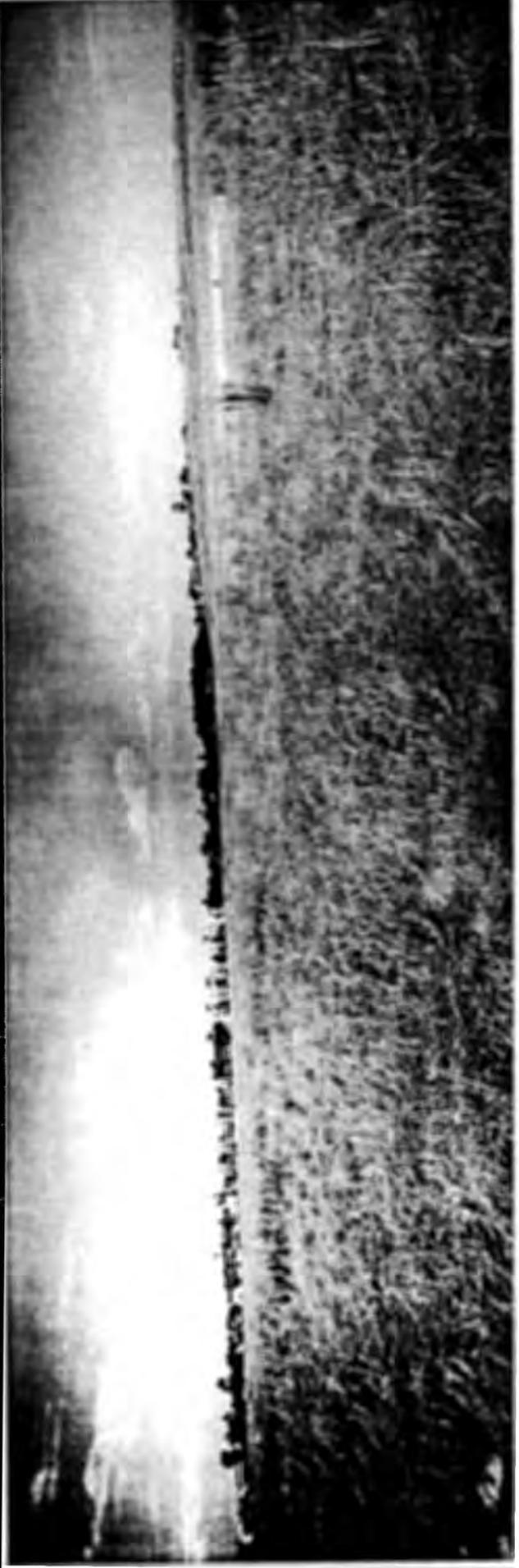


BOLSA CHICA

SITE PHOTO KEY MAP

FORMA



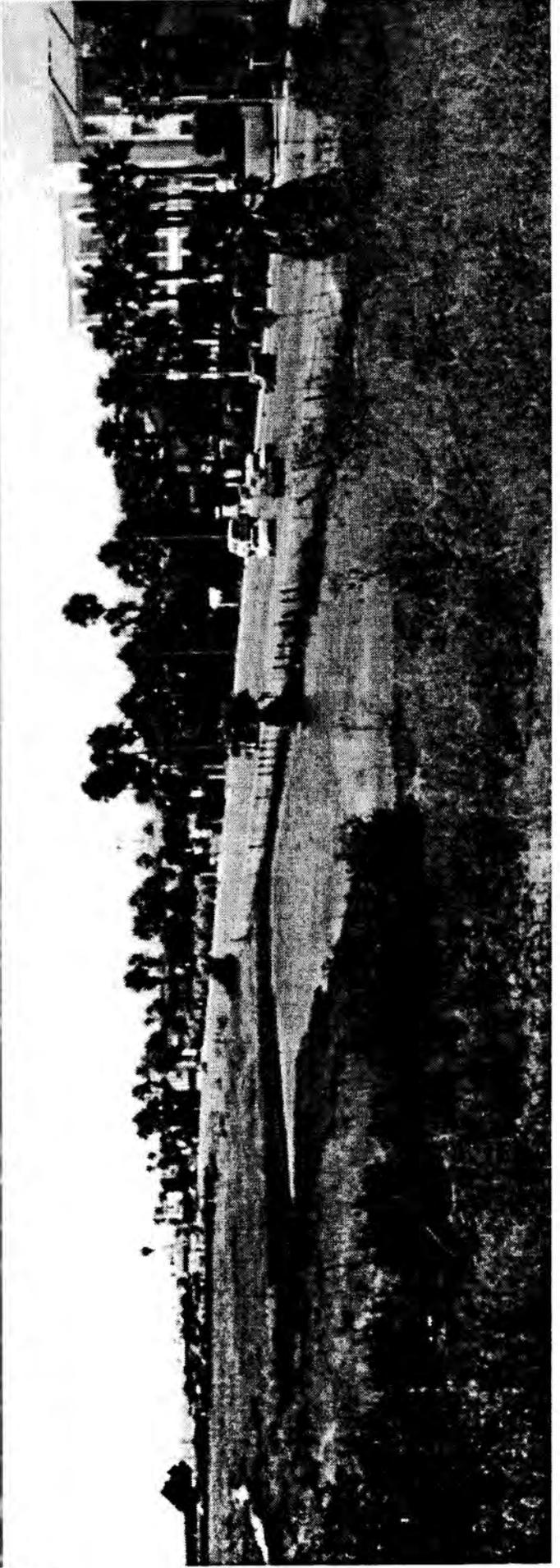


BOLSA CHICA

SITE PHOTOS 1 & 2

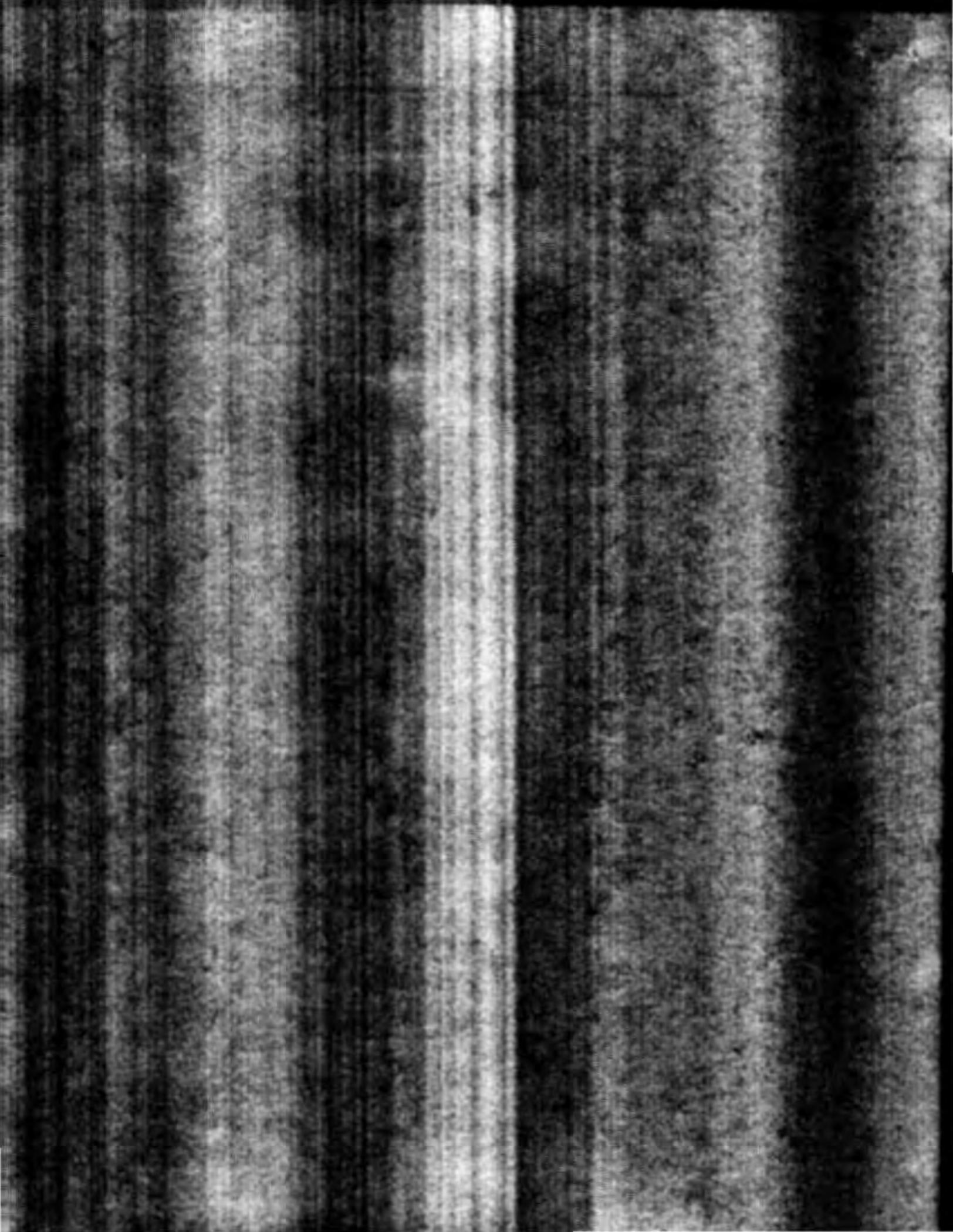
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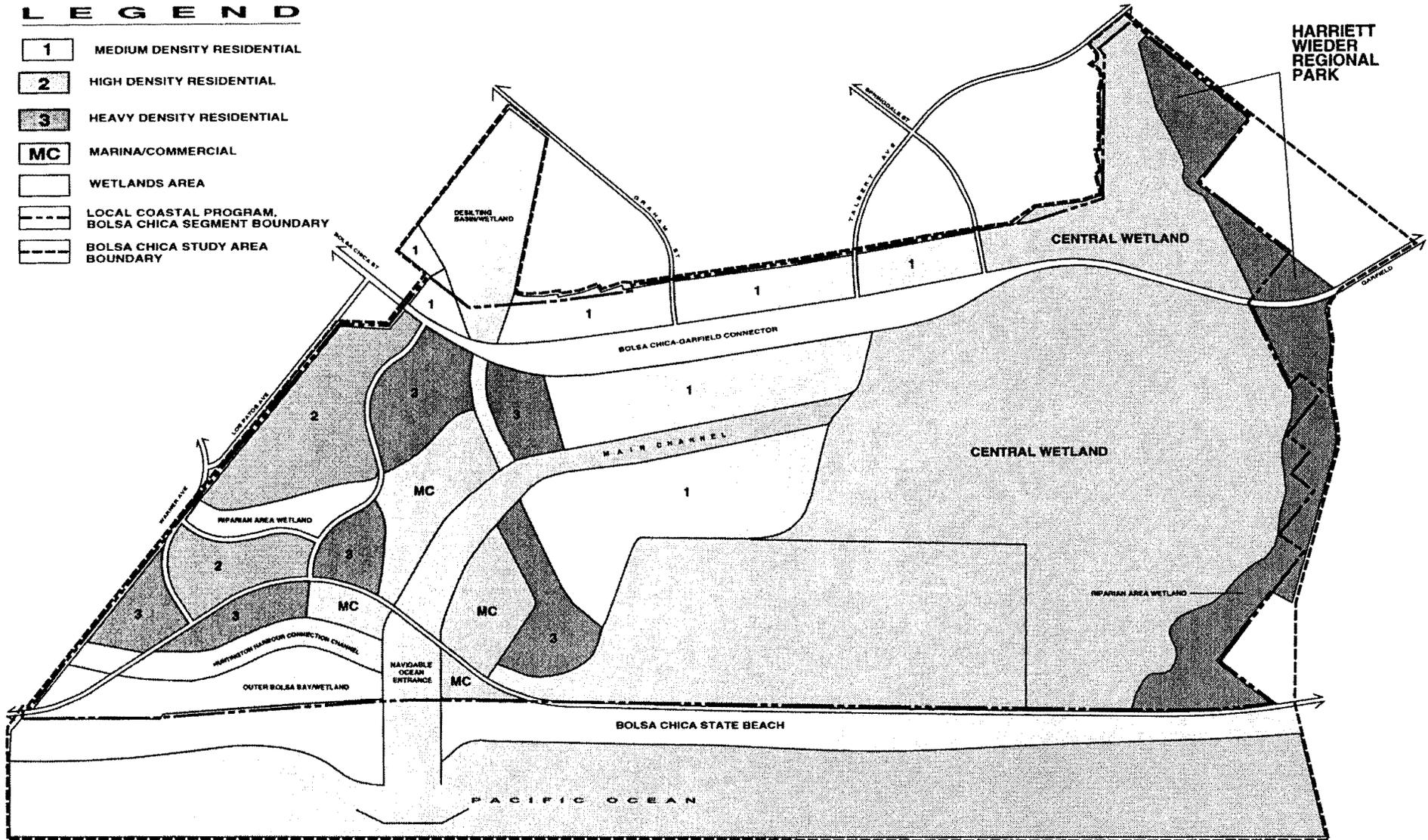


**2. COMPARISON OF 1986, 1996, and
1997 LAND USE PLANS**

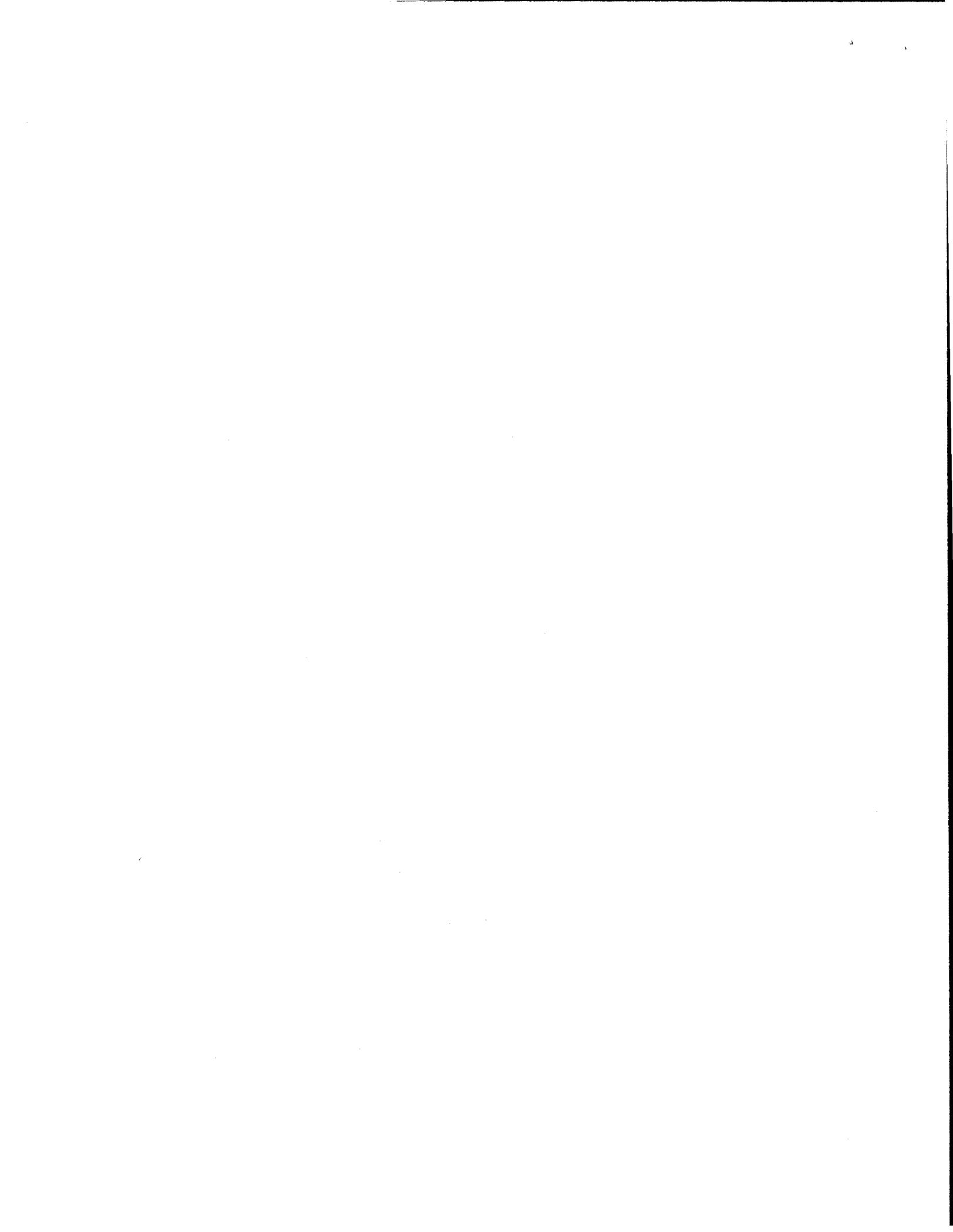


LEGEND

- 1 MEDIUM DENSITY RESIDENTIAL
- 2 HIGH DENSITY RESIDENTIAL
- 3 HEAVY DENSITY RESIDENTIAL
- MC MARINA/COMMERCIAL
- WETLANDS AREA
- LOCAL COASTAL PROGRAM, BOLSA CHICA SEGMENT BOUNDARY
- BOLSA CHICA STUDY AREA BOUNDARY

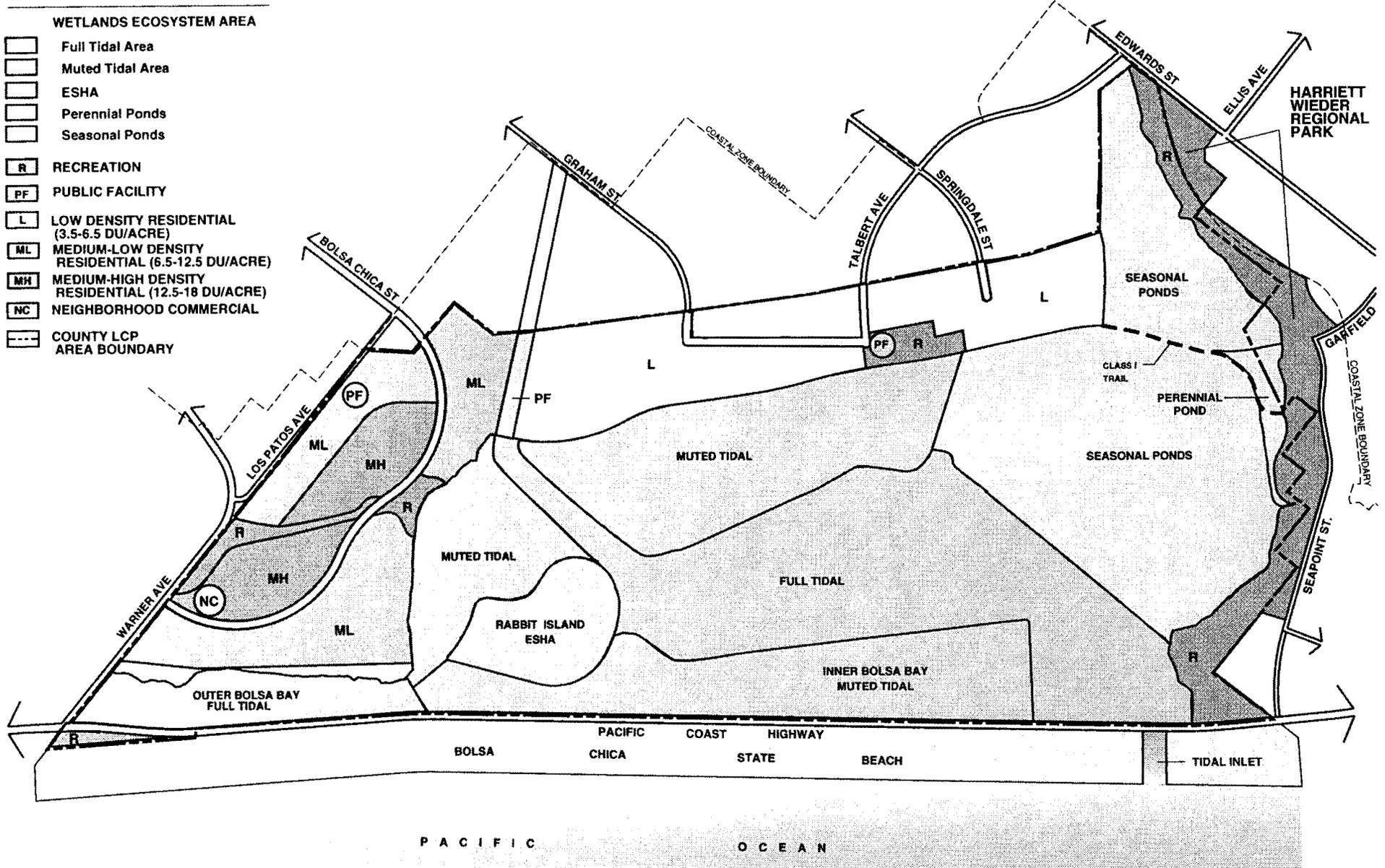


2-1



LEGEND

- WETLANDS ECOSYSTEM AREA**
- Full Tidal Area
- Muted Tidal Area
- ESHA
- Perennial Ponds
- Seasonal Ponds
- RECREATION
- PUBLIC FACILITY
- LOW DENSITY RESIDENTIAL (3.5-6.5 DU/ACRE)
- MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRE)
- MEDIUM-HIGH DENSITY RESIDENTIAL (12.5-18 DU/ACRE)
- NEIGHBORHOOD COMMERCIAL
- COUNTY LCP AREA BOUNDARY



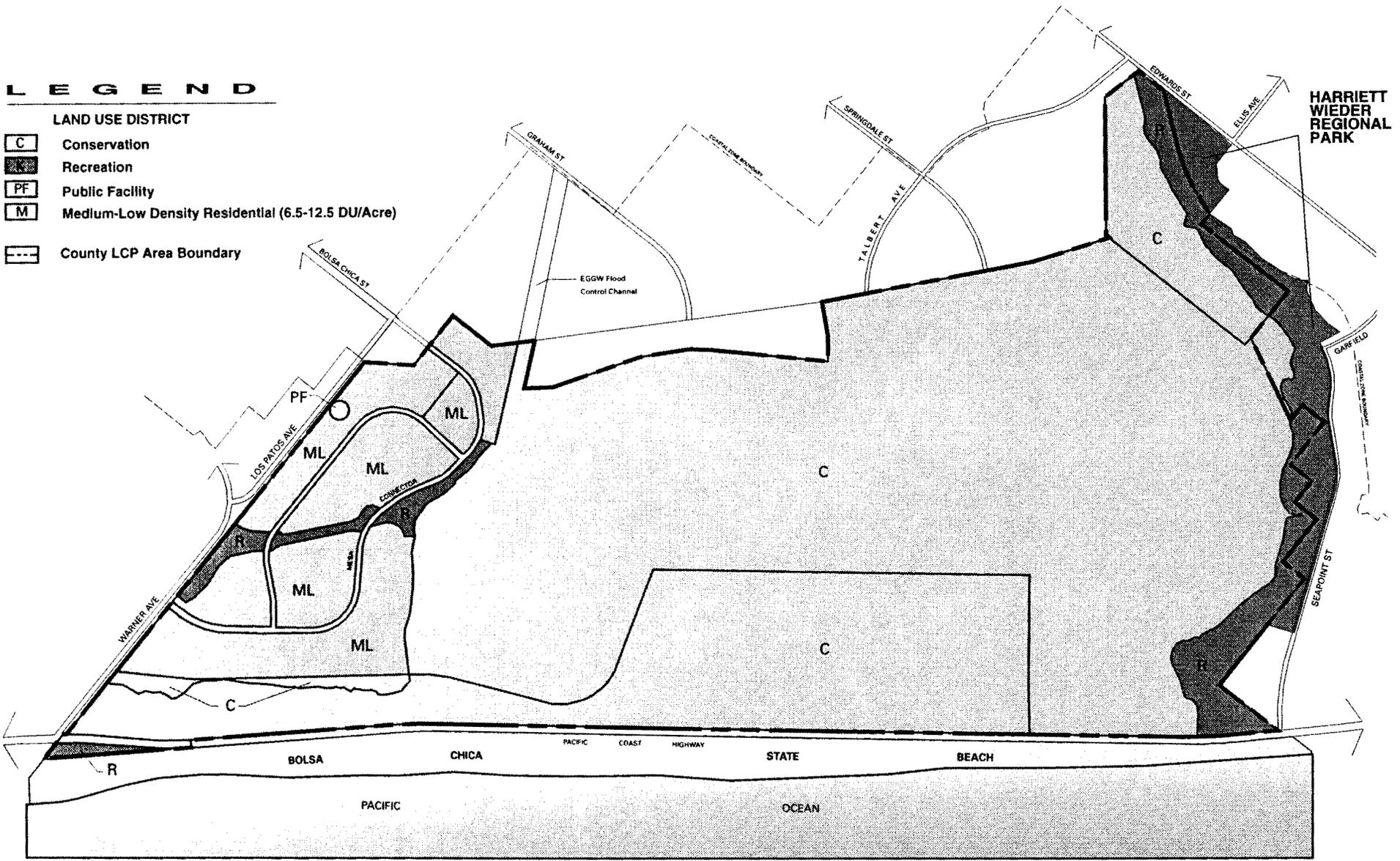
2-2



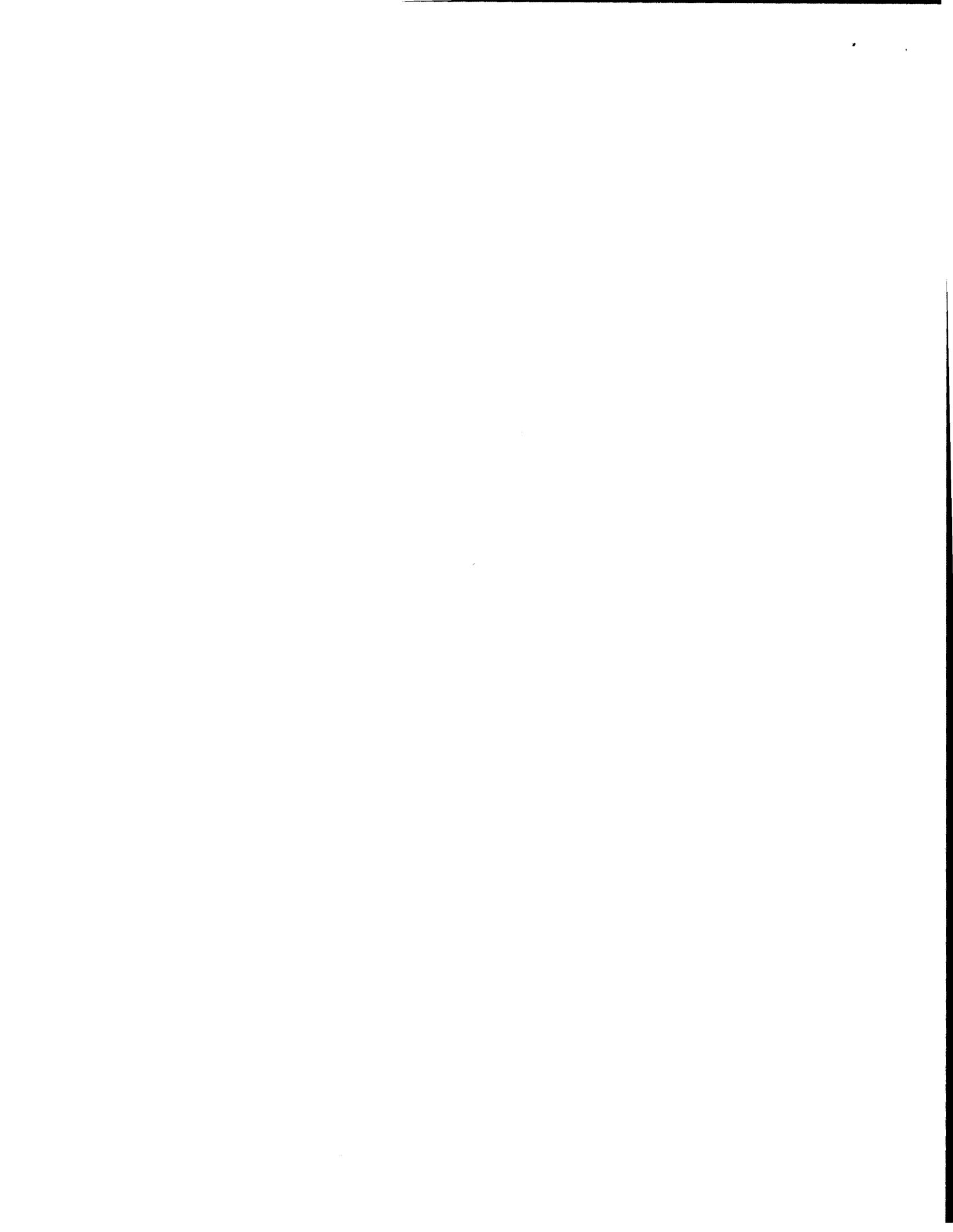
LEGEND

LAND USE DISTRICT

- C Conservation
- Recreation
- PF Public Facility
- M Medium-Low Density Residential (6.5-12.5 DU/Acre)
- County LCP Area Boundary

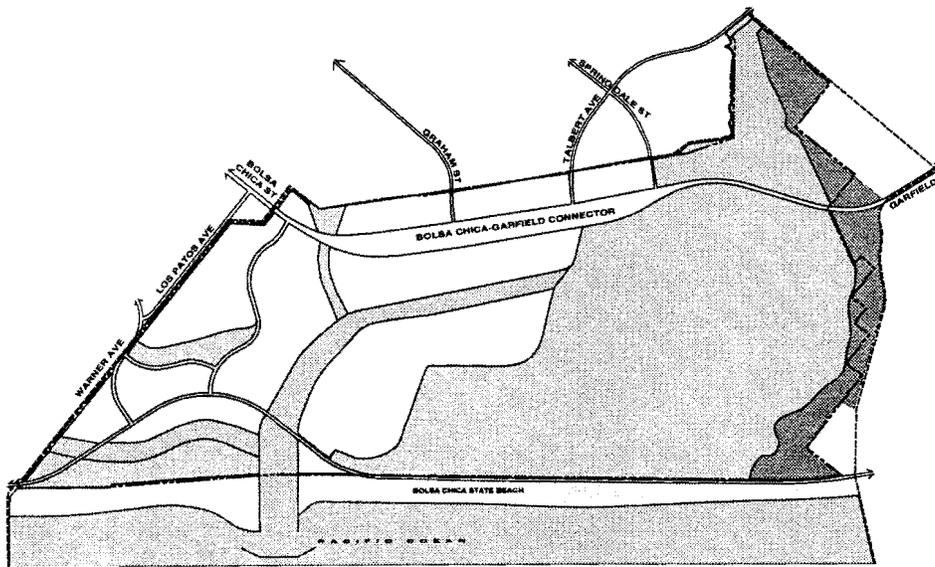


2-3



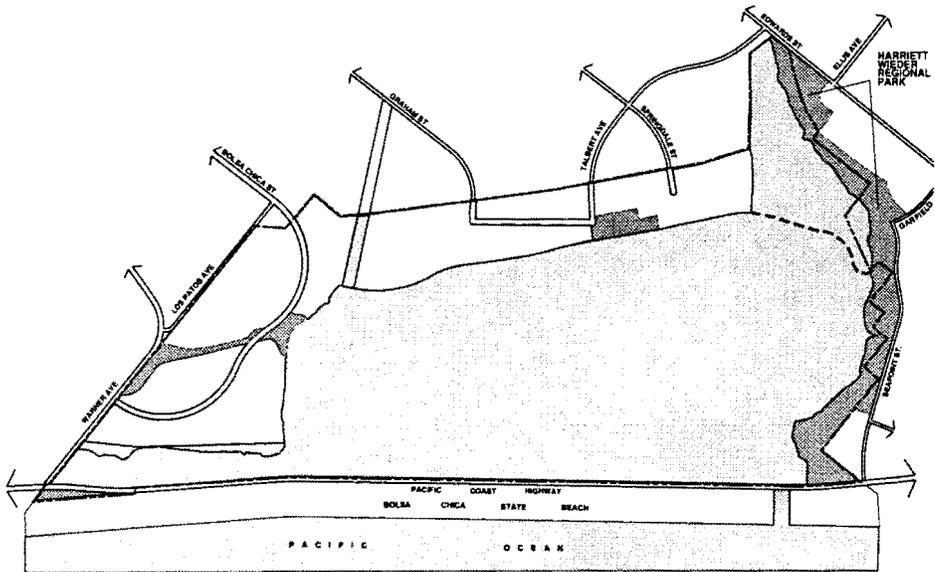
1986 - CERTIFIED LAND USE PLAN

- 5,700 Total Units
- 866-acre Wetlands Area



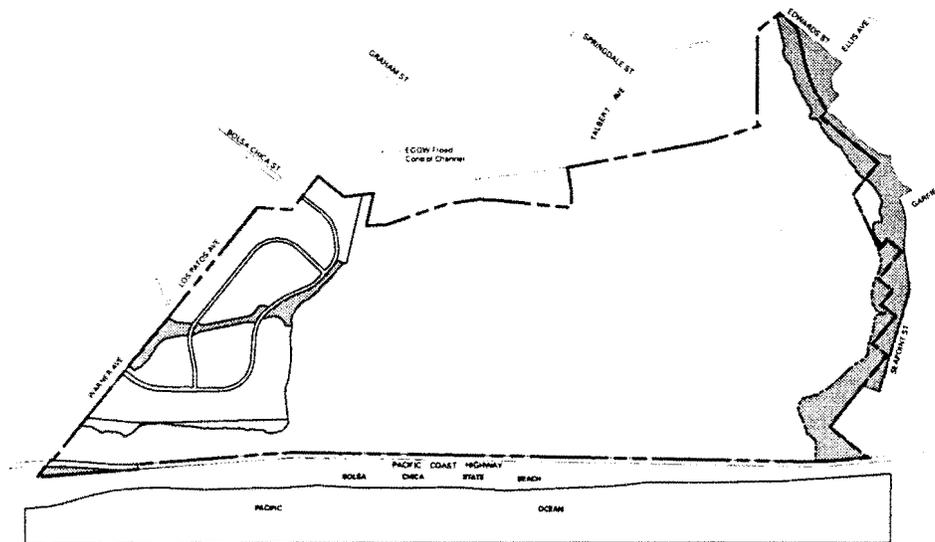
1996 - CERTIFIED LAND USE PLAN

- 3,300 Total Units
- 1,098-acre Wetlands Area



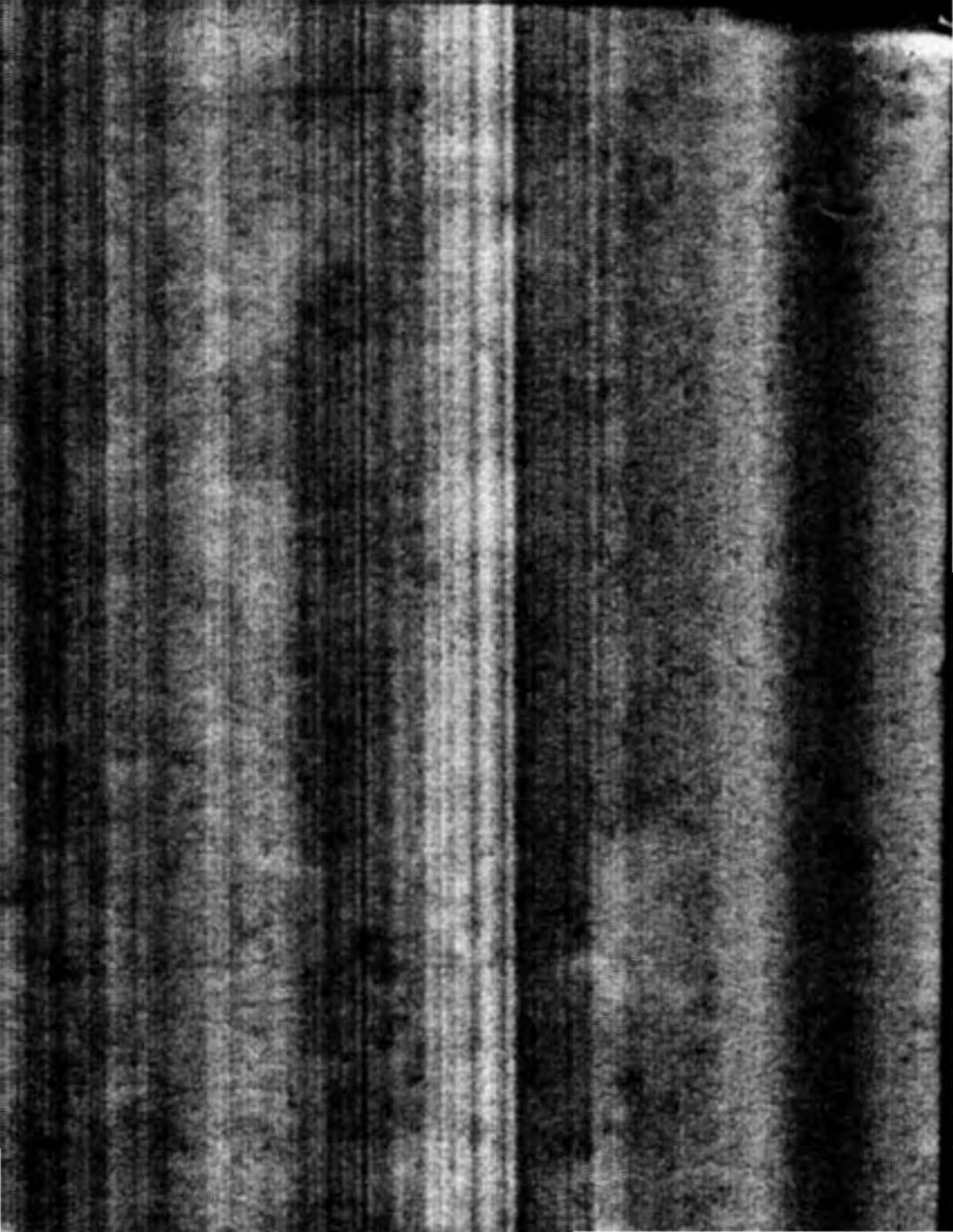
1997 - PROPOSED LAND USE PLAN

- 1,235 Total Units
- 1,249-acre Wetlands Area





**3. 1997 COURT DECISION REGARDING
1996 LAND USE PLAN**



1997 COURT DECISION REGARDING 1996 LAND USE PLAN

Five Components of 1996-certified Bolsa Chica LCP Challenged by Litigation

Two lawsuits were filed following the Coastal Commission's certification of the 1996 Bolsa Chica Local Coastal Program (LCP):

Lawsuit 1: *American Oceans Campaign and League for Coastal Protection vs. California Coastal Commission.*

- **Challenge to the 1996-certified LCP:** Contended that the Coastal Commission violated the Coastal Act by authorizing the fill of wetlands for residential development.
 - **Disposition:** Lawsuit was withdrawn by the plaintiffs following the State's acquisition of Koll's Lowland property.
-

Lawsuit 2: *Bolsa Chica Land Trust, Huntington Beach Tomorrow, Sierra Club, Surfrider Foundation, and Shoshone-Gabrielino Nation vs. CA Coastal Commission.*

- **Challenges to the 1996-certified LCP:**
 1. Contended that the 1996 LCP is not consistent with the Coastal Act because it permits the destruction (i.e., relocation) of a raptor ESHA.
 2. Contended that buffers required by the 1996 LCP between development and wetlands are not adequate.
 3. Contended that the 1996 LCP does not adequately protect the ORA-83 archeological site.
 4. Contended that the 1996 LCP violates the Coastal Act by authorizing the fill of wetland for residential development in the Lowland.
 5. Contended that the 1996 LCP is not consistent with the Coastal Act because it allows destruction of environmentally-sensitive Warner Avenue Pond.
- **Disposition:** As explained on the following pages, the San Diego Superior Court judge supported the Coastal Commission on Challenges 1-3, but ruled in favor of the plaintiffs on Challenges 4 and 5.



Three Components of 1996-certified Bolsa Chica LCP CONFIRMED by the Court

The San Diego Superior Court judge supported the Coastal Commission on three legal challenges to the 1996-certified Local Coastal Program:

- 1. The Coastal Commission's finding — that the LCP's relocation of the raptor (eucalyptus trees) habitat on the Bolsa Chica Mesa to the regional park on the Huntington Mesa will not result in a significant disruption of habitat values — is supported by the evidence.**
- 2. The Commission's finding — that there is an adequate buffer between wetlands and residential development — is supported by the evidence.**
- 3. The Commission's finding — that the LCP provides adequate protection for archaeological resources contained in the ORA-83 site — is supported by the evidence.**

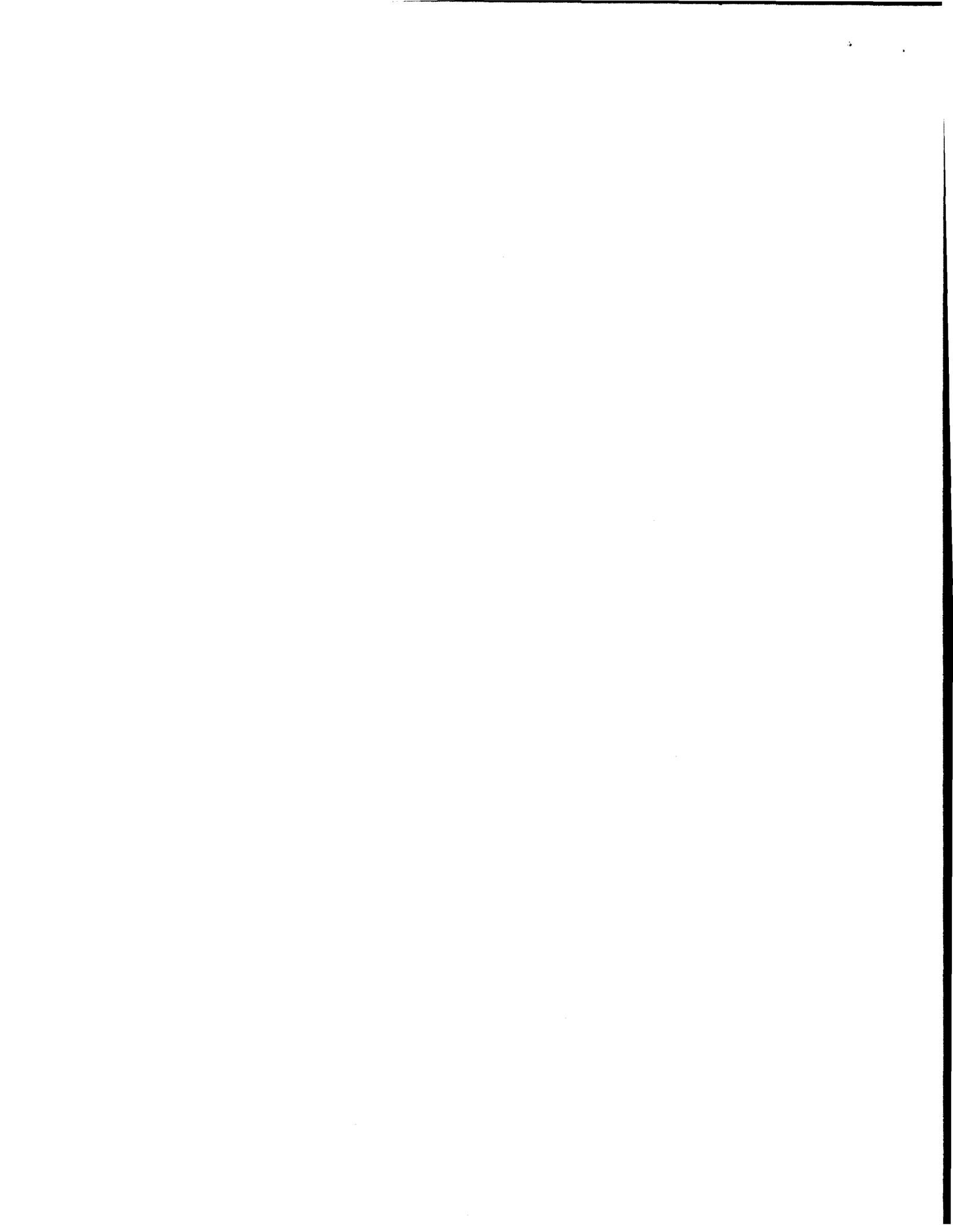


**Two Components
of 1996-certified Bolsa Chica LCP
NOT CONFIRMED by the Court**

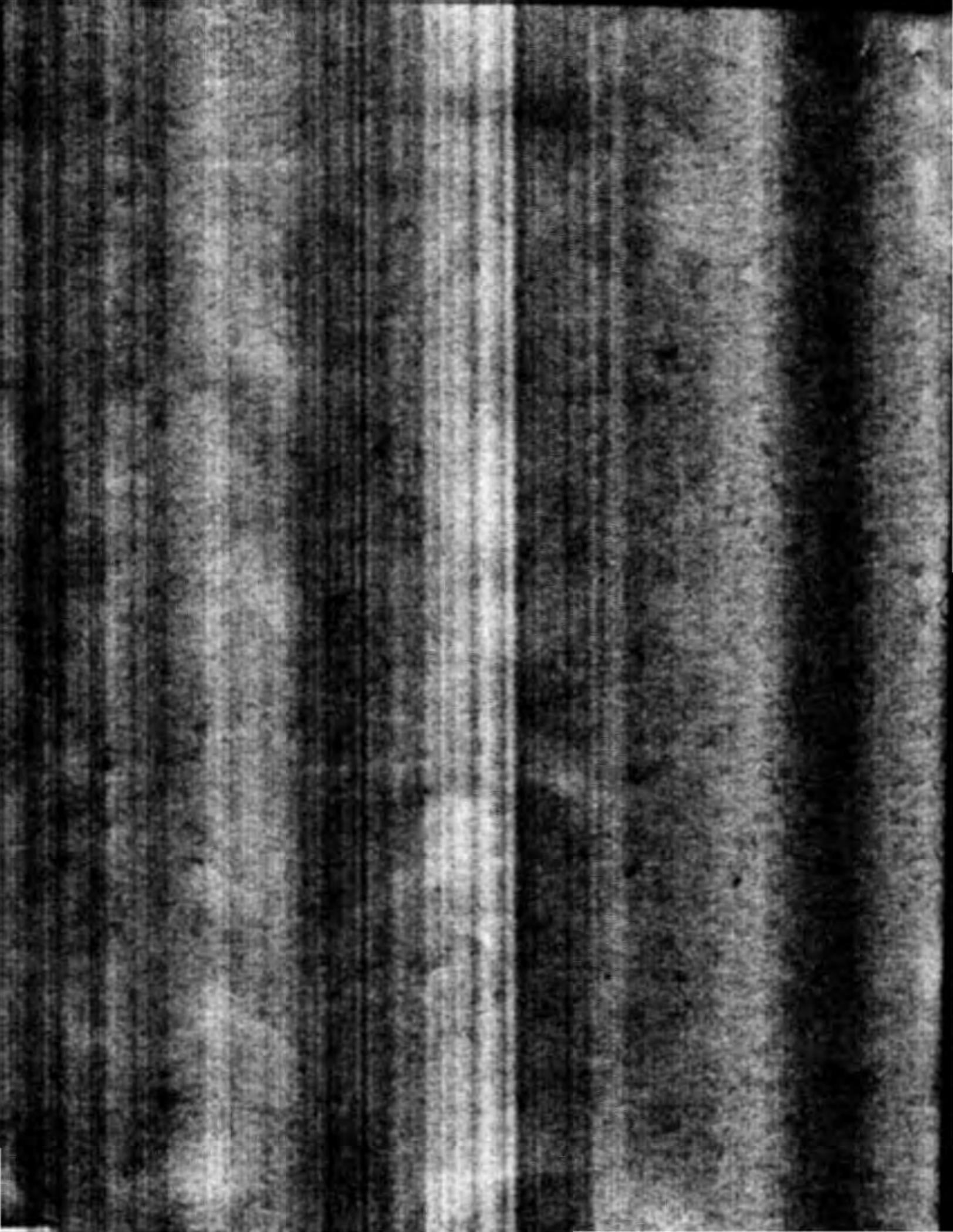
The San Diego Superior Court judge did not support the Coastal Commission on two legal challenges to the 1996-certified Local Coastal Program. The judge found that:

- 4. In certifying the 1996 LCP, the Coastal Commission violated the Coastal Act when it approved residential development in degraded wetlands; or, even if the fill of degraded wetlands is permissible under Section 30007.5 of the Act, the Coastal Commission did not make the appropriate findings.**
- 5. In certifying the 1996 LCP, the Coastal Commission did not make the appropriate findings in approving the fill of Warner Avenue Pond.**

These two issues were remanded back to the Coastal Commission for resolution.



**4. HOW 1997 PLAN RESOLVES COURT'S
TWO OUTSTANDING ISSUES**



HOW 1997 PLAN RESOLVES COURT'S TWO OUTSTANDING ISSUES

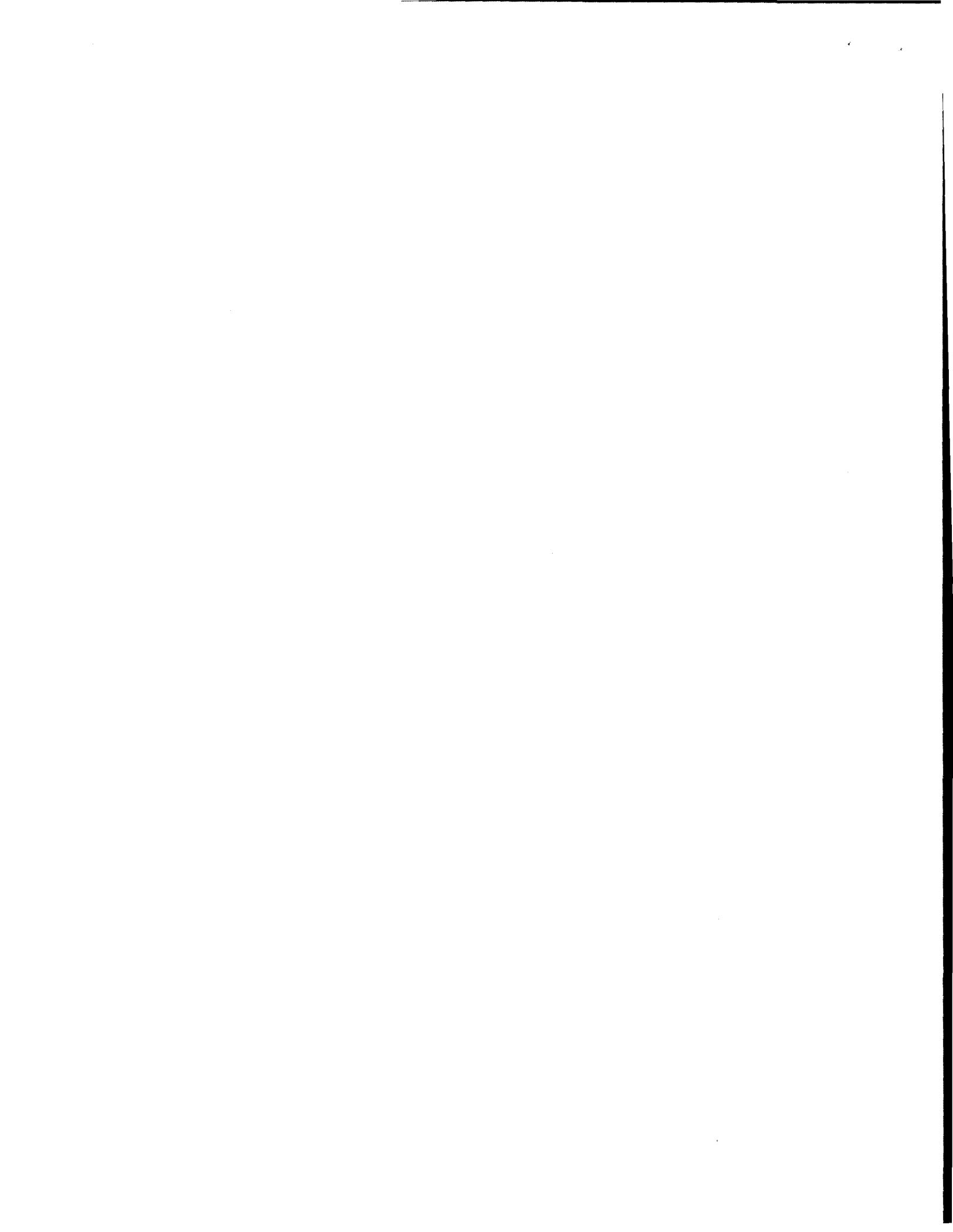
Resolution of Issue 1 Remove Development on Lowland Wetlands

To remove development on Lowland wetlands, it is proposed that the 1996 Land Use Plan, Zoning, and Planned Community Development Map and Statistical Table be modified as follows:

- **The approximately 41 acres owned by the Fieldstone Company that lies at the back of the Lowland adjacent to existing residential neighborhoods in the City of Huntington Beach – will no longer be included within the current County LCP boundary. Consideration of this parcel will be deferred until the landowner develops a revised plan for the property.**
- **The area of the Lowland known as Edwards Thumb (the State of California did not acquire this property from Koll when it acquired all of Koll's other land in the Lowland) will retain its LCP land use designation of "Conservation (Wetlands Ecosystem Area)."**

This approximately 51-acre Edwards Thumb area will become Planning Area 1D on the 1997 LCP Planned Community Development Map and Statistical Table (see pages 5-1 and 5-2 of this document).

The property will be dedicated to the County of Orange for wetlands restoration under the terms of the Bolsa Chica Development Agreement between Koll and the County.



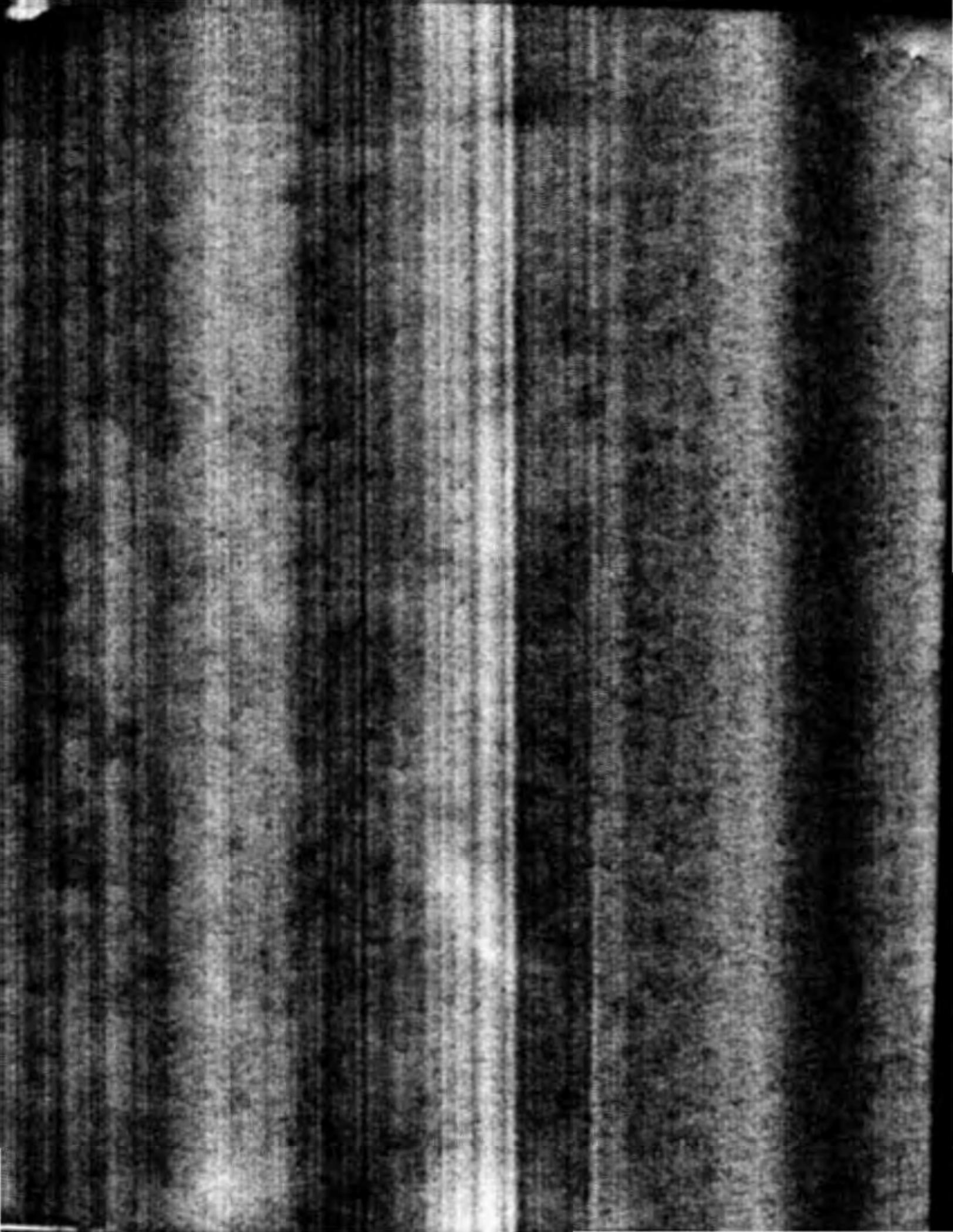
Resolution of Issue 2

Avoid Filling of Warner Avenue Pond

To avoid the filling of Warner Avenue Pond, it is proposed that the 1996 Bolsa Chica LCP Land Use Plan, Zoning, and Planned Community Development Map and Statistical Table be modified as follows:

- **Development Planning Areas 5, 6, 7, 8, and 9 on the Bolsa Chica Mesa will be limited to a maximum of 1,235 residential units -- compared to 2,500 units under the 1996-certified LCP.**
- **The over 50% reduction in residential development will significantly reduce traffic generated by the project. It will ensure that, when completed, the Bolsa Chica Mesa development will be below the threshold of 1,236 units contained in the County's Development Agreement for Bolsa Chica which, if it is exceeded, would trigger a requirement to widen Warner Avenue.**
- **Filling of Warner Avenue Pond would be an unavoidable consequence of widening of Warner Avenue. By reducing the scale of the Bolsa Chica development, the project will avoid the filling of Warner Avenue Pond.**
- **Public ownership of Warner Avenue Pond is proposed by including it within the boundary of the Mesa Community Park (Planning Area 3A).**
- **The County of Orange reserves the right to independently pursue the widening of Warner Avenue if regional traffic conditions warrant such widening at some time in the future.**

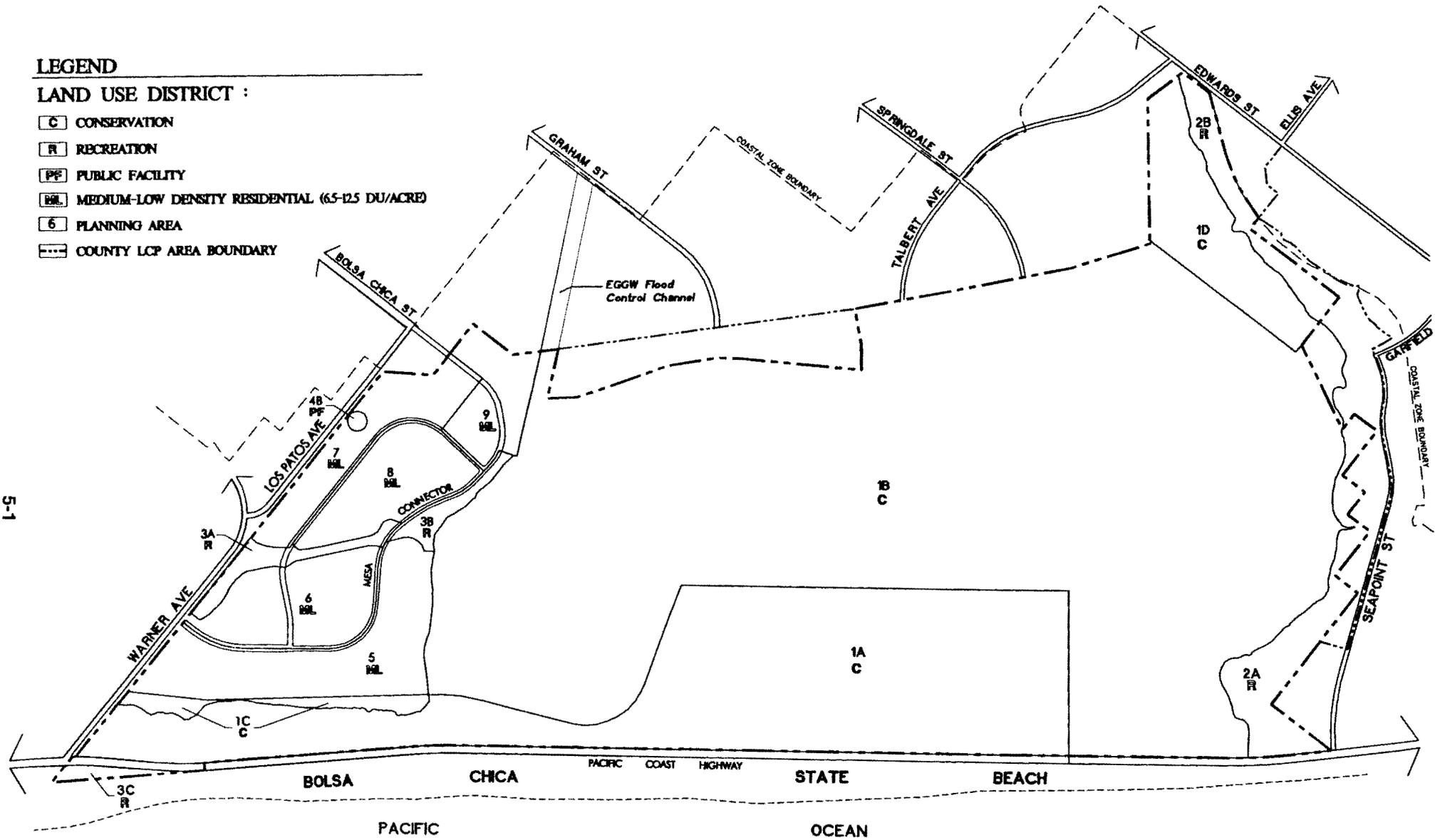
**5. 1997-PROPOSED LCP DEVELOPMENT
MAP AND TABLE**



LEGEND

LAND USE DISTRICT :

- C CONSERVATION
- R RECREATION
- PF PUBLIC FACILITY
- MLR MEDIUM-LOW DENSITY RESIDENTIAL (6.5-12.5 DU/ACRE)
- 6 PLANNING AREA
- COUNTY LCP AREA BOUNDARY

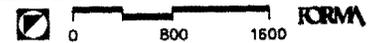


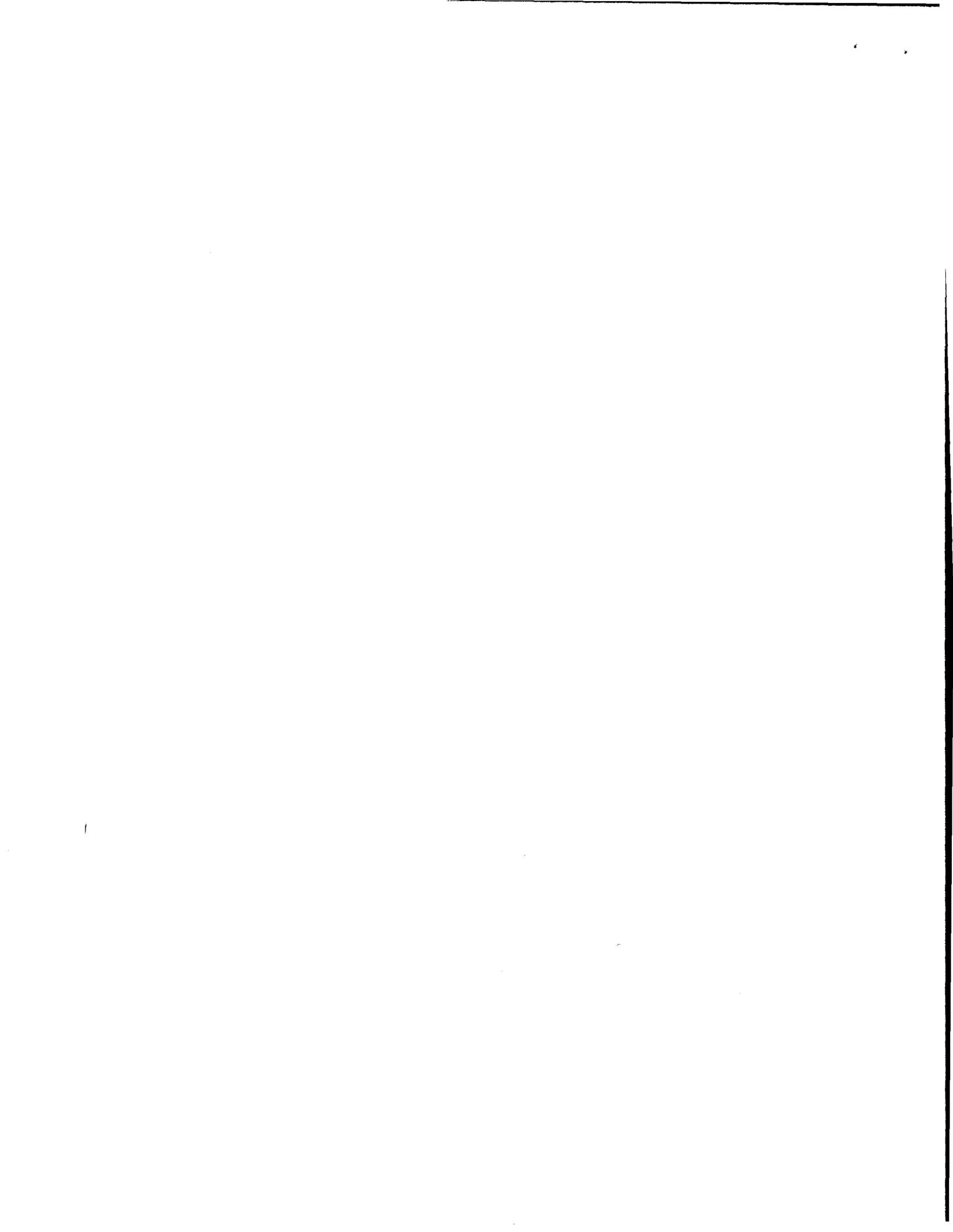
5-1

SUGGESTED MODIFICATIONS

Figure B-1
PLANNED COMMUNITY DEVELOPMENT MAP

BOLSA CHICA
PLANNED COMMUNITY PROGRAM





**BOLSA CHICA
PLANNED COMMUNITY PROGRAM**

APPENDIX B

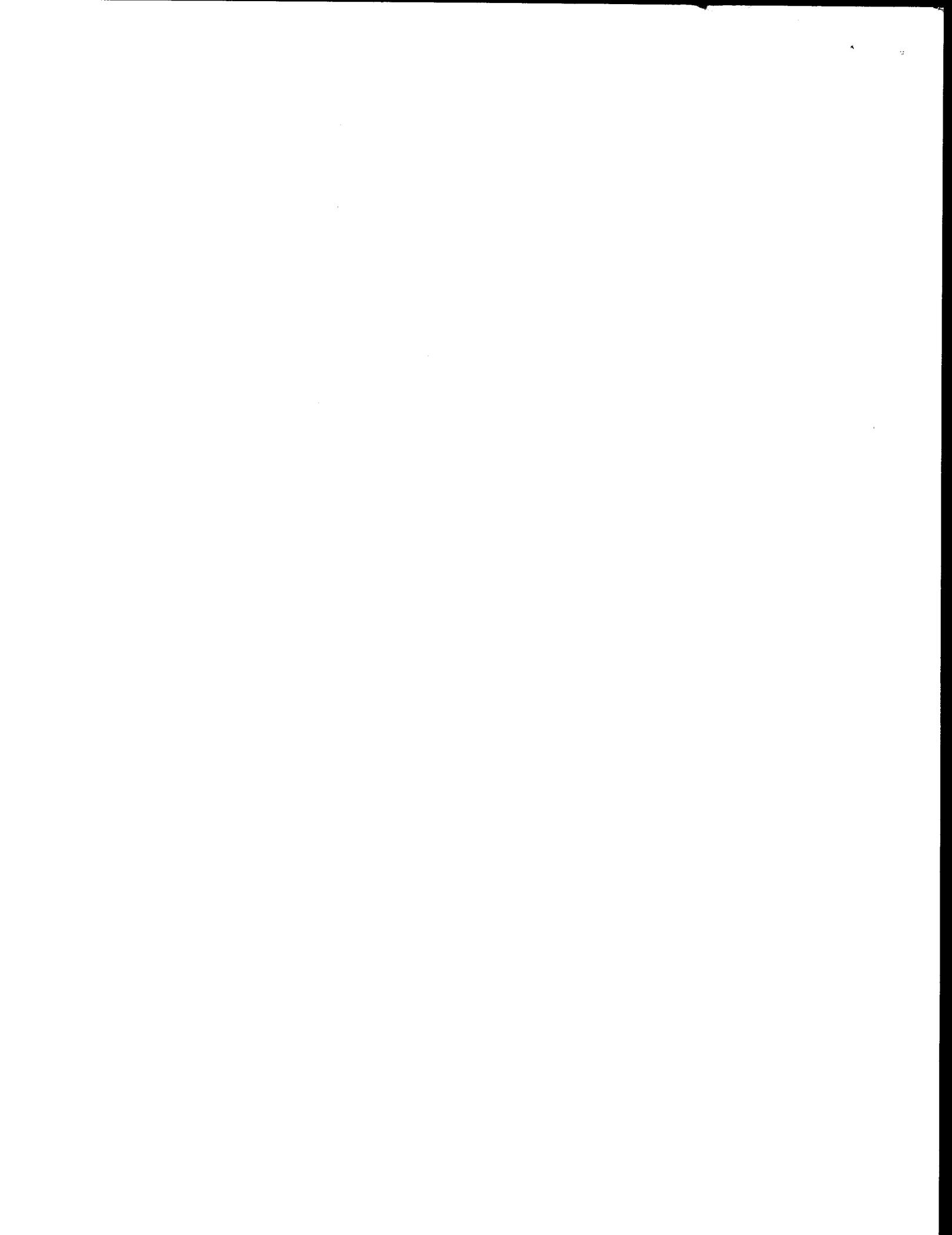
SUGGESTED MODIFICATIONS

Figure B-2

**PLANNED COMMUNITY STATISTICAL TABLE
Bolsa Chica Planned Community**

LAND USE CATEGORY		PLANNING AREA	GROSS ACRES	DWELLING UNITS	
				Est. ^(a)	Max. ^(b)
CONSERVATION					
C	Conservation (Wetlands Ecosystem Area) ^(c)	1A	296	--	--
C	Conservation (Wetlands Ecosystem Area) ^(d)	1B	891	--	--
C	Conservation (Wetlands Ecosystem Area) ^(e)	1C	11	--	--
C	Conservation (Wetlands Ecosystem Area) ^(f)	1D	51	--	--
TOTAL CONSERVATION			1,249		
RECREATION					
R	Recreation (Harriett Wieder Regional Park)	2A	38	--	--
R	Recreation (Harriett Wieder Regional Park)	2B	19	--	--
R	Recreation Mesa Community Park	3A ^(g)	11 ^(h)	--	--
R	Recreation Mesa Community Park	3B	8 ^(h)	--	--
R	Recreation (Beach Entry)	3C	4	--	--
TOTAL RECREATION			80	--	--
PUBLIC FACILITY					
PF	Public Facility (Water Storage Reservoir) ⁽ⁱ⁾	4B	1 ^(h)	--	--
TOTAL PUBLIC FACILITIES			1	--	--
RESIDENTIAL ^(j)					
ML	Medium Low (6.5 - 12.5 DU/Ac)	5	68	294	441
ML	Medium Low (6.5 - 12.5 DU/Ac)	6	45	342	513
ML	Medium Low (6.5 - 12.5 DU/Ac)	7	37	248	372
ML	Medium Low (6.5 - 12.5 DU/Ac)	8	38	198	297
ML	Medium Low (6.5 - 12.5 DU/Ac)	9	26	153	230
TOTAL RESIDENTIAL			214	1,235	--
PACIFIC COAST HIGHWAY		--	3	--	--
GRAND TOTAL		ALL	1,547	1,235	1,235 ^(k)

- (a) Estimated number of Dwelling Units per Planning Area.
- (b) Maximum number of Dwelling Units per Planning Area subject to footnote (l).
- (c) Lowland portion of Bolsa Chica State Ecological Reserve.
- (d) State-owned lands in the central Lowland.
- (e) Bolsa Chica Mesa portion of Bolsa Chica State Ecological Reserve.
- (f) Lands in the Edwards Thumb area of the Lowland.
- (g) Planning Area 3A includes Warner Avenue Pond as a public dedication area within the Mesa Community Park.
- (h) Local park and public facility acres shown on this Statistical Table are estimates based upon the best available information.
- (i) The circular symbol for the Water Storage Reservoir conceptually identifies and locates this public facility as an overlay within the base Medium-Low Density Residential Planning Area.
- (j) Residential density is a maximum range based upon gross acres, including roads, common recreation facilities, slopes, and landscape areas; and shall apply to each Planning Area, not any particular subarea or project.
- (k) The maximum total number of units for the Bolsa Chica Planned Community shall be 1,235.



**ATTACHMENT H
CORRESPONDENCE RECEIVED
FROM THE PUBLIC**

Dear Commissioners,

Sept. 11, 1997

We are among the millions of Californians who are very concerned that, even though over 91% of our wetlands have been developed and paved over, the Kohl Real Estate Group is actively trying to develop the Bolsa Chica mesa.

It doesn't make sense to spend \$90 million to acquire + restore the 880 acres of Bolsa Chica wetlands, just to allow them to be polluted by the urban runoff of fertilizers, herbicides, pesticides, oil from cars etc. - as well as predation of the wetlands animals, including endangered birds, by domestic animals (pets) brought there.

Please save the wetlands and the mesa. Sincerely,
Thank you. Mark H. Davidson

Dear Commissioners:

Several times in the past few years, I've been able to take my Ecology Club students to discover and appreciate the wonders of the Bolsa Chica. Please don't allow development anywhere on the Bolsa Chica lands.

Thanks, JHC

September 8, 1997

Dear Commissioners

We have lived to be 76 and 80 and we have watched in pain as prime farming land has turned into shopping centers and corporate headquarters. Now Kohl Real Estate Inc. wants to desecrate our Bolsa Chica Wetlands with homes, destroying the homes of our wildlife and further clutter our streets and freeways.

We do not need anymore development!!

Warmly,

Sileen and Allan Potepan

6424 Madera
Long Beach, California
September 8, 1997

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Dear Commissioners:

As a long-time resident of Long Beach, I and my family for forty years have returned again and again to the Bolsa Chica Wetlands for the arrival each year of the migratory birds: loons, grebes, megansers, phalaropes, ruddy ducks, teals, a constant source of wonder and education for my wife and me, our daughter, our grandsons, our great grandson.

Others can furnish you with statistics and projections of what harm the Kroll development would mean. I can only give you the sense of loss to our family. Each year we look forward to the return of the migratory birds as if their return were a reassurance that the world, itself, were renewable, that we were.

My five-year old great grandson has little hope of owning a house of the projected Kroll development. He does, however, have a chance with your help of seeing his friends, the birds, come back to visit him each year.

Sincerely,



John Hermann

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SEP 12 1997

CALIFORNIA
COASTAL COMMISSION

Michael A. Cohen, Pharm.D.
19741 Elmcrest Lane
Huntington Beach, CA. 92646
(714) 964-9173

September 8, 1997

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SEP 12 1997

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA. 94105-2219

Dear Commissioners,

I am writing to you to give you my input on a unique opportunity you have to save a wonderful part of the California Coast, the Bolsa Chica.

With your help, we can save all of the Bolsa, not just a part. By allowing a subdivision of 2,400 units to be built on the mesa, the wetlands will acquire the runoff from each and every homes fertilizer, herbicides, pesticides, oil and leaking coolant from cars etc. None of these are good for the fish breeding or the migratory birds.

The Bolsa Chica contains unique archeological, historic resources, and a rapture habitat in the eucalyptus grove. Surely, this is worth saving for our grandchildren.

Please do what is right and save Bolsa Chica from the developers bulldozer. We have ruined enough of the once beautiful coast, it has to stop somewhere and you have the power to make that happen.

Sincerely


Michael A. Cohen

76 Argonne Avenue
Long Beach, CA 90803
September 8, 1997

California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Dear Commissioners:

I am writing in hope that you will not permit further development at the Bolsa Chica wetlands area. I am neither a "Greenpeace Zombi" or an "Environmental Nut" but I do remember a time not so long ago when one could drive own Pacific Coast Highway, from Long Beach to Laguna Beach, and pass by horse stables, cows grazing on fields and something other than development.

Now, just about the only area that has been left undeveloped is Bolsa Chica. This is one of a few wetlands that remain in Southern California. Why does it have to be destroyed in order to build even more million dollar homes? Given the slump in the housing market I would think there are already any number of "homes with a view" available.

The Huntington Beach School district, along with the City of Huntington Beach is opposed to the project. The school district claims that they do not have the classroom space or budget available to accomodate more students.

In closing, I hope that the Coastal Commission will protect the Bolsa Chica wetlands

Yours Truly,

Betty C. Duckman
(562-434-1862)

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COASTAL COMMISSION



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SEP 15 1997



LEE D. SPECHT
1LT USA (RET)
4603 LOS PATOS DR
HUNTINGTON B, CA 92648-4319

CALIFORNIA
COASTAL COMMISSION

Lee & Shirl Specht

Dear Commissioners,

We are against any development of the Bolsa Chica mesa, bluff, or wetlands located on the edge of the city of Huntington Beach and the Pacific Ocean.

This is the largest wetlands eco-system left south of San Francisco and we believe it should be preserved. Over 90% of wetlands has been destroyed for development. When do we stop, lets stop NOW!!

Huntington Beach has not enough water to supply its own citizens without outside purchase let alone supply another 10 - 20 thousand more people that will be brought in by this development. No city in the area has taken Kolls offer to give or sell them water because we do not have it!

Also, the submitted Koll plan of what they want to build on the bluff is totally out of line with the existing houses located just across the street. The buffer they propose to separate us is a joke.

Any development will endanger the recently purchased wetlands by polution from run offs during rain, wondering pets and people through the sensitive wetlands.

Thankyou.

Cordially,

LEE +
SHIRL



Lee D. Specht
4603 Los Patos Dr.
Huntington Beach, CA 92649

September 10, 1997

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SEP 15 1997

California Coastal Commission
San Francisco, California

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners:

I am writing you to express my concern about the impending development of Bolsa Chica in Orange County. I think it will be a natural disaster if Koll Company is allowed to build thousands of houses on this plateau. It is one of the last open spaces on the Orange County coast. Thousands of people living there will further degrade the whole environment of the coast. I have been going there for years and I notice the slow but steady decline of the wildlife. There aren't as many migrating birds passing through, and this development will only make a poor situation worse.

I feel that preserving this last sizable piece of land is worth our government's taking extraordinary steps to stop the destruction of Bolsa Chica.

Yours truly



Edward F. Hughes
8886 Plumas Cir. 1122B
Huntington Beach, CA 92646

California Coastal Commission
45 Fremont Street, Suite 200
San Francisco, CA 94105-2219

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CALIFORNIA
COASTAL COMMISSION

Dear Commissioners,

I am very concerned about the Koll Real Estate Group's plans to build adjacent to Bolsa Chica. I have been coming to Bolsa Chica for many years for the sole purpose of watching and enjoying its birdlife. Bolsa Chica is one of the very few remaining safe places where migrating birds can find refuge and food and one of the few safe places for nesting birds to raise their young.

It has been a long time hope of mine that the area could be preserved from development. The impact of a large number of residents close to such an area is easily imaginable-- dogs and children are lovable, but hard to keep within bounds. I remember my own adventures in supposedly off limits areas as a kid. Each of you probably does too. It takes very few of these adventures to destroy the tranquillity of a nesting area. Without a much larger buffer zone, there will be almost no chance for nesting birds to be successful-- therefore it would be worthless as a preserve.

In addition to the direct physical incursions, the secondary effects of rain waters washing into Bolsa Chica such common things as the fertilizers used in gardens, oil dripped from vehicles, and the other chemicals used in cleaning must be considered. Though not intended to, they will have a long term effect of creating an unsafe environment for wildlife.

I hope you will consider very carefully before condemning Bolsa Chica to being threatened by development.

Thank you,



Elizabeth Neuwirth
1640 Pasadena Glen Road
Pasadena, CA 91107

September 12, 1997

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SEP 15 1997

California Coastal Commission
45 Fremont Street Ste. 2000
San Francisco CA 94105-2219

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners,

I have been a resident of Huntington Beach for 25 years and I am writing this letter in regards to the problems that the Koll Real Estate Co. is causing for the Bolsa Chica Mesa in Huntington Beach.

Apparantly there are several ordinances that have not been adhered to when decisions have been made in the past. My hope is that you will make decisions in the future that will do a better job of protecting the Mesa.

The problems that I am aware of are these:

The buffers around the wetlands set by your own guidelines are being abused. One project of 2,400 units was approved with only 50 foot buffers when the guidelines clearly state that 100 feet is minimum and when a subdivision is involved a much wider buffer area should be required.

Please place strict guidelines concerning urban run-off such as fertilizers, pesticides, oil from cars etc. Otherwise the money being spent to restore the 880 acres of wetlands recently aquired will be wasted.

The raptor habitat in the eucalyptus grove should be protected. The saplings Koll plans to plant to mitigate for the destruction of the grove will not be adequate. There is no provision in the Coastal Act which was enacted to protect ESHA's for mitigation at all. Hopefully Koll will not be allowed to destroy the grove.

Thank you for your time.



Susan Dodd
15082 Genoa Circle
Huntington Beach CA 92647

9/12/97

Dear Commissioners,

I'm writing to you concerning my interest in preserving all the Bolsa Chica wetlands located in Huntington Beach. Any development in the Bolsa Chica will only increase pollution in the recently acquired 880 acres for restoration. This project will cost upward of 90 million dollars. I for one cannot understand spending all that money and then permit a housing development that will drain into the Bolsa Chica Bay.

The archaeological site at Bolsa Chica on the mesa will not be adequately protected. Orange County site # 83 is exactly where the large housing project is to take place. The Coast Commission adopted statewide guidelines state: "mitigation measures shall be reviewed by the State Office of Historic Preservation and approved by the Executive Director of the Regional Commission. Has the review occurred? Has approval been granted?"

I was born in California over seventy four years ago and have spent the last forty three years in Orange County. I'm very interested that my children and grand child and all the other people of California will have some small corner of beauty left to enjoy such as the Bolsa Chica.

Sincerely
Albert Appel
3771 Seascapes Dr
Huntington Beach, Ca 92649 714-840-1562

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SEP 15 1997
CALIFORNIA
COASTAL COMMISSION

JACK O. VANCE
Management Research, Inc.
3592 VENTURE DR.
HUNTINGTON BEACH, CA 92649
714-846-7875

RECEIVED
SEP 15 1997

CALIFORNIA
COASTAL COMMISSION

September 9, 1997

California Coastal Commission
45 Fremont St.
Ste 2000
San Francisco, CA, 94105-2219

Dear Commissioners,

It is imperative that you take action to stop the development of the Bolsa Chica Mesa area by the Koll Real Estate Group. The Bolsa Chica Wetlands are a much needed preserve for the migratory and local sea birds and animals of the California Coast. There are precious few of these available to the animals that have to find ways to survive on the little habitat so far have been kept out of the hands of the relentless developers. The community and city council of Huntington Beach has spoken in opposition to the development of this area, but the Koll Company keeps working to undermine the needs of the area. There is not a housing shortage in Huntington Beach of any type, but there is a shortage of open space in the coastal region. The existence and protection of open space areas are a benefit to all members of the community, and the Bolsa Chica wetlands are an area where people can enjoy the unique environment. On most weekdays there are numerous busloads of school children observing and learning about wetland ecosystems, and many people walking and studying the wildlife.

As the current plan proposes there would be 2,400 units built with only a 50 foot buffer zone to the tidal areas. This is absurd. Wildlife has a low tolerance for the harshness of human habitations, and the noise alone from the construction will disturb the nesting animals. When the initial construction is complete there will be traffic noise, gardeners with their blowing machines, and rambunctious children. Consider the problems that will occur with

the families pets. Dogs and cats will naturally want to roam the open space areas, and will result in predictable devastation of the nesting birds. A 50 foot zone is laughable as protection against the numerous offensive activities that normally occur in a neighborhood.

The issue of urban waste and runoff is a serious concern to the water quality of the tidal areas. Even with increased education about the dangers of home pesticide and fertilizer use, it will be impossible to protect the wetlands from local pollution of this type. Also the problem of garbage in the water already is a serious one in the harbor area. No agency collects existing garbage and it eventually sinks or goes out to the sea. There is a small floating dam that prevents the passage to the wetlands from the harbor, but with homes only fifty feet from the preserves, there is sure to be an increased problem with garbage.

To further invalidate the actual usefulness of the buffer, there are plans to create a trail along the bluff face of the Wintersberg flood control channel. This is being planned to improve the views and the value of the new homes, not to improve the preserve. It simply puts people closer to the wetlands, and to disturbing the existing integrity of the area.

There is an official USDA designated Environmentally Sensitive Habitat Area (ESHA) consisting of 20 acre grove of mature eucalyptus that is home to local raptors. Bulldozing the grove to build houses, and planting some saplings in another area to mitigate the destruction of the grove is absurd and technically not an option for the Coastal Commission to negotiate. What would be the follow up position if the raptors are unable to relocate, and are unable to nest or successfully hunt? Would you mandate the removal of the homes and create a few shacks in Garden Grove for the displaced people? The way to avoid the problem is to prevent the creation of it in the first place.

There are archaeological and historical sites on the Bolsa Chica Mesa, which should be reviewed by the State Office of Historic Preservation and submitted for approval to the Executive director of the Regional Council. At this time, to leave the evaluation of these

sites to the discretion of the Koll Real Estate Group and the construction contractors, is like leaving candy in front of unsupervised children and then asking them to save it for other children that are not present. These sites will be destroyed by the bulldozers, and no one will admit to having seen anything of interest.

The promises of the Koll Company to follow through with any clean up or development of the preserve must be viewed with extreme skepticism. The recent plan for financial reorganization/bankruptcy to erase all of it's corporate debt is disgustingly close to white collar crime. The payment of over \$750,000 to it's executives in addition (and basically doubling) their already huge salaries, shows their true interest. This should be rewarded with a serious class Action suit on the part of the shareholders. Spending money to preserve an area they have already devastated for profit and where there is nothing more to be made, will be easily ignored. All they have to do at the end of the project is declare bankruptcy, dissolve the corporation, and fly off in their personal jets.

The Koll Company and all it's subsidiaries have been rampantly developing Orange county for years, with little regard to the disappearance of the natural resources that make the area so attractive. They should work in urban redevelopment to create new homes, rather than destroying the few areas that have survived with some wildlife until now. As it is, they see millions to be made by developing and also selling the property to other developers.

There are agencies willing to compensate them by purchasing their interest in the acreage, to finally resolve the issue of protection of California's wetlands. The Koll Co could then move onto other projects. Only if you act to prevent any development of the Mesa, will this become an attractive option for them.

Sincerely,

Jack O. Vance
Dori Slater Vance

Jack O. Vance
D. S. Vance

Carol Jacobs
16311 Sundancer Lane
Huntington Beach, CA 92649
(714) 840-4235

RECEIVED
SEP 15 1997

September 9, 1997

California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners:

What happens with the development of the Bolsa Chica is of great concern to me and all residents of our area and should also be of concern to anyone interested in preserving the natural habitat of California. Our community does not want any development of Bolsa Chica.

By the Commissions own state guidelines development of any wetland areas must follow restrictions. If the Koll Real Estate Group is allowed to continue in their financial scheme the mesa and wetlands will be ruined. Please be aware of these infractions that Koll is breaking. With the development of 2,400 units only a 50 foot buffer area has been allowed. State guidelines insist that there be a minimum of 100 feet for small projects on existing lots. What should the buffer area be for a substantially larger project? Koll says less footage. Is this logical? Part of the area scheduled for development by Koll has been declared an Environmentally Sensitive Habitat Area. This is the eucalyptus grove. Under the Coastal Act sensitive areas are entitled to special protection against any significant disruption of habitat values and should only be used for projects dependent on those resources. And, areas adjacent to environmentally sensitive habitat must be designed to prevent impacts which would significantly degrade the area. Bulldozing this grove and building houses on it is not "dependent on those resources." Koll's plan of planting saplings on the mesa to mitigate for the eucalyptus grove being bulldozed is not a replacement for the mature grove. Then there is the question of urban run-off, such as fertilizers, herbicides, pesticides, oil, etc. from development. All of these will drain into outer Bolsa Bay and increase pollution into the wetlands. Aside from the natural habitat disruption the Koll plan to develop the Bolsa Chica mesa is detrimental to the archeological and historical resources. This area has been declared eligible by the State Historical Resources Commission for listing on the National Register of Historic Places. There are 8,000 year old burial sites. There is the "cogged stone" site. More unique artifacts have been found at Bolsa Chica than the total found in the rest of the state. Please remember your own guideline "Mitigation measures shall be reviewed by the State Office of Historic Preservation and approved by the Executive director of the Regional commission." Has this review or approval occurred? Please consider the devastation the Koll plan would have on the wetlands and the total Bolsa Chica.

I hope that you will not allow the multi-million dollar Koll Real Estate Group to sway your rulings.

Sincerely,



Carol Jacobs
Concerned Citizen

Sept 9, 1997
Calif Coastal Commission

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CALIFORNIA
COASTAL COMMISSION

Dear Commissioners,

My wife and I are writing to let you know that we do not want the Koll development at Bolsa Chica. You are familiar with the problems of locating a development there but I will list them anyway.

① There is a need for special protection of the raptors in the Eucalyptus grove

② There are insufficient buffers for the undeveloped areas.

③ The runoff of fertilizers etc will drain into the Bay increasing the pollution of the wetlands

④ There are archeological resources on the Bolsa Chica mesa

⑤ The face of the bluff will be reengineered for "views" not for protection

We hope the Commission acts wisely on this matter

Your truly
Philip & Roberta Glaser

September 11, 1997

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SEP 15 1997

California Coastal Commission
45 Fremont Street Suite 2000
San Francisco CA 94105-2219

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners,

I am a Huntington Beach resident, a home owner and a tax payer. One of the highlights of my day is my morning commute past the Bolsa Chica mesa and wetlands. I urge you to prevent development on the mesa in the Bolsa Chica Wetlands! Apart from my personal enjoyment of this "last open space," there are many reasons to prevent this development.

The buffers around the wetlands are inadequate.

The previous Commission approved a 2,400 unit development with only 50 foot buffers. Clearly, this violates your own guidelines which state: "The buffer area should be a minimum of 100 feet for small projects on existing lots. If the project involves substantial improvements or increased human impacts, such as a subdivision, a much wider buffer area should be required." The guidelines are clear. The buffer is inadequate.

The Eucalyptus Grove on the mesa must be protected.

The California Department of Fish and Game has determined that this 20 acre grove is an Environmentally Sensitive Habitat Area (ESHA). Under the Coastal Act, these ESHA's are entitled to special protection. Section 30240 of the Act states: "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values." The Act is clear. Protect the eucalyptus grove.

Urban run-off including fertilizers, herbicides, pesticides, oil from cars from the development will drain into outer Bolsa Bay.

Recently, 880 acres of wetlands were acquired and will be restored at a projected cost of 90 million dollars. It does not make any sense to spend this amount of money only to turn around and allow urban wastes to drain into the wetlands.

Please do not allow building on the mesa in the Bolsa Chica Wetlands!

Mary Camarillo

Mary Camarillo
16192 Brent Circle
Huntington Beach CA 92647

Monique Stevens
1466 Broken Hitch Road
Oceanside, California 92056
(760) 630-6362

September 8, 1997

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

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SEP 12 1997

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SEP 11 1997

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners:

I am writing to urge you not to approve development plans currently slated for the Bolsa Chica mesa in Orange County.

The Bolsa Chica mesa is an important wildlife habitat for red-tailed hawks and six endangered species of birds. The mesa and wetlands is interconnected in a unique balance of habitat which is an essential part of preservation of the diversity of life that resides there.

Additionally, the Bolsa Chica mesa is a treasure of archaeological resources. The 'cogged stone site' contains over 300 of the unique "cog stone" artifacts and are a unique relic of the ancient inhabitants of the area. More of these artifacts have been found here than the total found in the rest of the state.

Finally, California's coastal natural resources are quickly dwindling, especially in southern California. Southern California residents as well as visitors to southern California already are faced with decreased opportunities for recreation, study, and appreciation of undeveloped natural areas. Instead, they are faced with overdevelopment, overcrowding, and roads and highways which already cannot support the current level of development. The values I hope the citizens of the State of California feel strongly enough about to protect are not limited only to development and profit. Quality of life and the appreciation of California's natural scenic beauty are also values worthy of preservation.

Please do whatever you can to preserve the mesa in its present state.

Sincerely,



Monique Stevens

California Coastal Commission
45 Fremont Street # 2000
San Francisco, CA 94105-2219

RECEIVED
SEP 11 1997

Long Beach

CALIFORNIA
COASTAL COMMISSION

September 9, 1997

Dear Commissioners:

I am writing you to tell you what a great opportunity you have to save the 214 acres of land known as the Bolsa Chica Mesa

The Ports and the Federal Government have saved the surrounding Bolsa Chica wetlands as open space but it will be impossible to save the wetlands if this mesa is developed. The urban runoff and the domestic animals will destroy the "saved" wetlands.

Please vote against this LCP which is recommending 2500 houses

The mesa has an earthquake fault running through the middle of it. There are Native Americans' remains which are buried on the mesa which are over 8000 years old. This mesa was a cemetery.

The urban sprawl which is crowding us into an existence where we have no open space left. This project should be sent back and a whole new EIR should be written.

Sincerely,

Eileen Murphy
201 21st Street
H.B. CA 92648

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SEP 09 1997
CALIFORNIA
COASTAL COMMISSION

**ATTACHMENT I
LETTER FROM
WETLANDS RESEARCH ASSOCIATES
ON WARNER POND BUFFER DESIGN
PLUS GRAPHIC DEPICTING
RESIDENTIAL DEVELOPMENT SETBACK**



Wetlands Research Associates, Inc.

August 5, 1997

Ed Mountford
Koll Real Estate Group
4400 MacArthur Boulevard Suite 300
Newport Beach, CA 92660

RECEIVED
SEP 18 1997

CALIFORNIA
COASTAL COMMISSION

RE: Warner Avenue Pond buffer design

Dear Ed:

Thank you for sending me the proposed buffer design for the Warner Avenue pond. I am familiar with this area having surveyed it during our initial planning for Bolsa Chica. Its habitat value is limited by its proximity to Warner Avenue, the open nature of the surrounding terrain, and generally degraded nature of the wetland area. However, it does support a limited diversity of aquatic life and has some wildlife use. Because it is currently unprotected and within a few feet of Warner Avenue, wildlife that utilize the pond are adapted to urban settings and are not considered sensitive species in terms of human disturbance effects. In addition, humans, feral animals, and other predators are unimpeded.

FORMA has provided a schematic of the proposed buffer design around Warner Avenue Pond. It calls for landscaping, a meandering trail, and barrier fencing within a 50 foot buffer. The pathway is approximately the same level as the wetland and therefore, human presence as viewed from a "wildlife eye's view" within the pond should be obscured by the vegetation. Human intrusion into the wetland will be further hindered by the fencing. I understand that under most storm conditions, street runoff will be collected by a storm drain system. These low flow events are most likely to carry the highest pollutant concentration. Under larger storm conditions, runoff will enter the pond; however, under these conditions potential pollutants are generally diluted. The frequency of these storm events is much less than the storm events to be captured by the storm drain.

I have the following suggestions for the protection of existing uses and promotion of better quality habitat within Warner Avenue Pond:

- Construct a low fence (3 to 4 ft) with a mesh screen around the entire pond. This will keep some predators from entering the pond area and will keep trash from Warner Avenue from entering the pond.
- Installing trash cans along the pathway and "dog waste" receptacles.
- Install signs educating the public about the value of this wetland area as it relates to other

2169-G East Francisco Blvd., San Rafael, CA 94901 (415) 454-8868 / FAX (415) 454-0129

wetlands in the lowlands, informing them to keep pets in control, and to not enter the wetland.

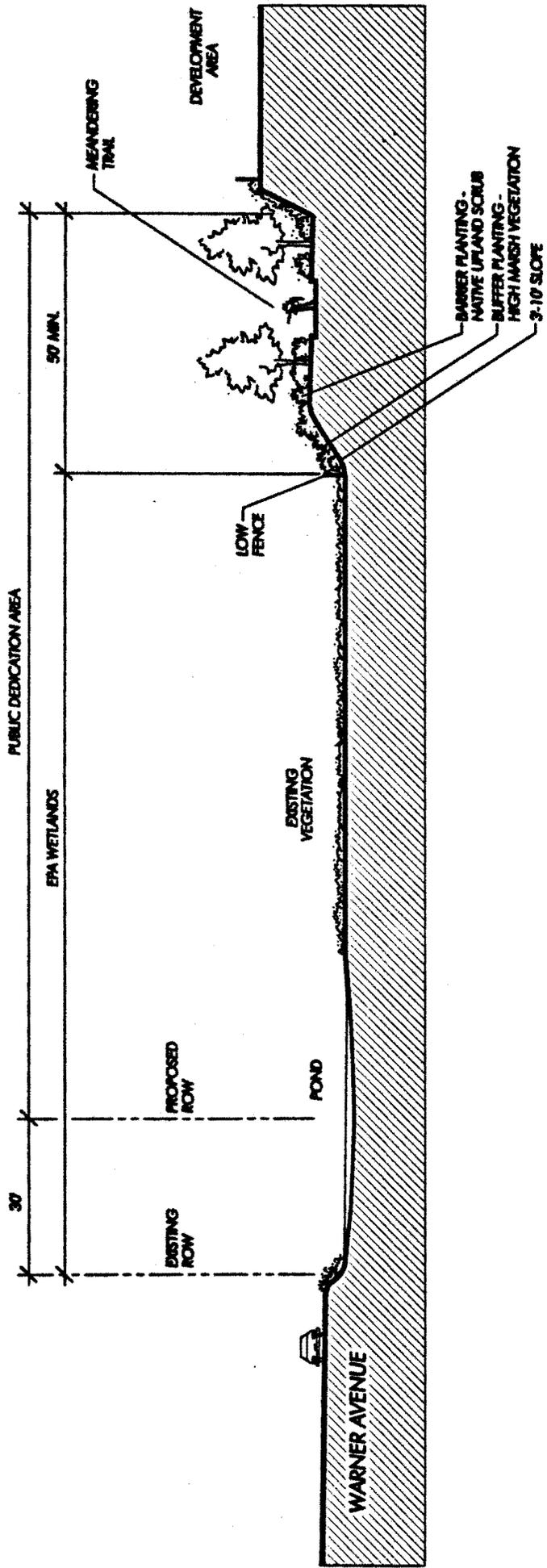
The design as proposed with a 50 ft buffer will minimize human disturbance and possibly will increase habitat value, especially with the landscaping measures and additional measures I have suggested.

Please call me with any questions or comments on this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael Josselyn". The signature is fluid and cursive, with a large loop at the end.

Michael Josselyn, Ph.D.
Professional Wetland Scientist
Certification 0121



BOLSA CHICA

WARNER POND - SECTION



FORM

WARNER AVENUE

COMMUNITY PARK

- WARNER POND
- EXISTING VEGETATION
- LIMIT OF JURISDICTIONAL WETLANDS
- LOW FENCE
- BARRIER PLANTING OF NATIVE UPLAND SCRUB VEGETATION
- PUBLIC TRAIL

DEVELOPMENT AREA

18

20

22

24

26

22

24

BOLSA CHICA

WARNER POND



