

CALIFORNIA COASTAL COMMISSION

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December 23, 1997

TO: Commissioners and Interested Persons

FROM: Charles Damm, South Coast Deputy Director
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SUBJECT: Revised Findings for the 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 January 12-16, 1998)

EXECUTIVE SUMMARY**SUMMARY**

The planning effort for Bolsa Chica has had a long controversial history. The most recent events followed the Commission's action certifying the Bolsa Chica LCP on January 11, 1996. At this public hearing the Commission approved residential development in the Bolsa Chica lowlands which would have resulted in the loss of over 100 acres of degraded wetlands. Additionally, the number of homes and commercial development approved for the Mesa would have resulted in traffic increases that would have mandated that Warner Avenue be widened. This would have resulted in the fill of Warner Avenue Pond which is both a wetland and an environmentally sensitive habitat area. This action was challenged in court and on June 4, 1997 the Superior Court of the State of California issued a statement of decision which remanded the Commission's action. A more detailed review of the judges decision is found on page 2.

To comply with the judges determination, the Commission reexamined its decision of January 11, 1996, through a public hearing held on October 9, 1997. This revised findings document combines those findings made by the Commission in its initial action on the Bolsa Chica LCP on January 11, 1996, and which were adopted by reference at the October 9, 1997 hearing with the new findings made by the Commission in response to the Courts decision at the Commission's October 9, 1997 hearing. Additionally, the Commission authorized the Executive Director to

review the Bolsa Chica LCP and make revisions to the land use plan and implementation program to bring them into compliance with the Commission's action of October 9, 1997. The findings from the January 11, 1996 Commission action have been changed where necessary to reflect the Court's decision.

Though the Commission took action on January 11, 1996, the Commission's action certifying the Bolsa Chica LCP was subject to a revised findings hearing. This hearing was held on June 12, 1996. Following the Commission's hearing, a modified report was prepared which is dated June 17, 1996 which reflected the Commission's January 11, 1996 action. The report of June 17, 1996, therefore, summarizes the Commission's action of January, 11, 1996.

The suggested modifications adopted by the Commission on October 9, 1997 to comply with the Court ordered remand as well as the previous suggested modifications begin on page 32. The findings supporting the Commission's actions of October 9, 1997 and January 11, 1996 begin on page 143. The background and history of the Bolsa Chica is described in detail on starting on page 15.

NOTE REGARDING LUP POLICIES

To insure that there is no confusion in the future, these findings include a complete set of Bolsa Chica Land Use Plan Policies. This includes the policies approved by the Commission as submitted by the County of Orange and those policies which the Commission approved with suggested modification.

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 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 A.

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 were acquired and are now in State ownership (State Lands). The State acquired the Lowlands on February 14, 1997. With the exception of the Fieldstone property, all of the Lowlands has been designated for conservation; the residential designation allowing for up to 900 units in the Lowlands has been eliminated. Funding for restoration is being provided by the Ports of Los Angeles and Long Beach.

To preserve Warner Avenue Pond, the Commission has imposed a residential cap of 1,235 residential units. Warner Pond will not be filled, and a buffer around Warner Pond will be provided. Figure 2 (page 6) shows the Land Use Map as approved by the Commission on October 9, 1997. Figure 3 (page 7) shows the Planned Community Statistical Table.

DEFERRAL OF THE LCP CERTIFICATION FOR FIELDSTONE PROPERTY

The Bolsa Chica LCP raises critical issues with regards to preserving wetland resources, and the Court found that a residential designation on wetlands was not consistent with Coastal Act Sections 30233 and 30411, the Commission through the suggested modifications contained in this report has proposed 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. 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 has substantially reduced the 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

5

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, the Commission has determined 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.

Following completion of the staff report for the October 9, 1997 Commission hearing (which is dated September 23, 1997), the Koll Real Estate Group purchased the Fieldstone property on September 30, 1997. Both the County of Orange and Koll Real Estate Group agreed with the deferral of the Fieldstone property from the LCP. As a result of the Commission's Action on October 9, 1997 the Fieldstone property was deferred and the Bolsa Chica LCP does not currently include the 42 acre Fieldstone property. Therefore, any development proposal occurring on the Fieldstone property will be subject to the policies of the Coastal Act.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission adopt the following revised findings in support of the Commission's action on October 9, 1997 **DENYING** the proposed Land Use Plan Amendment and Implementing Actions Program 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: **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 Tippets** is the contact person for the Orange County Planning and Development Services Department, and he may be reached by calling **714-834-5394**.

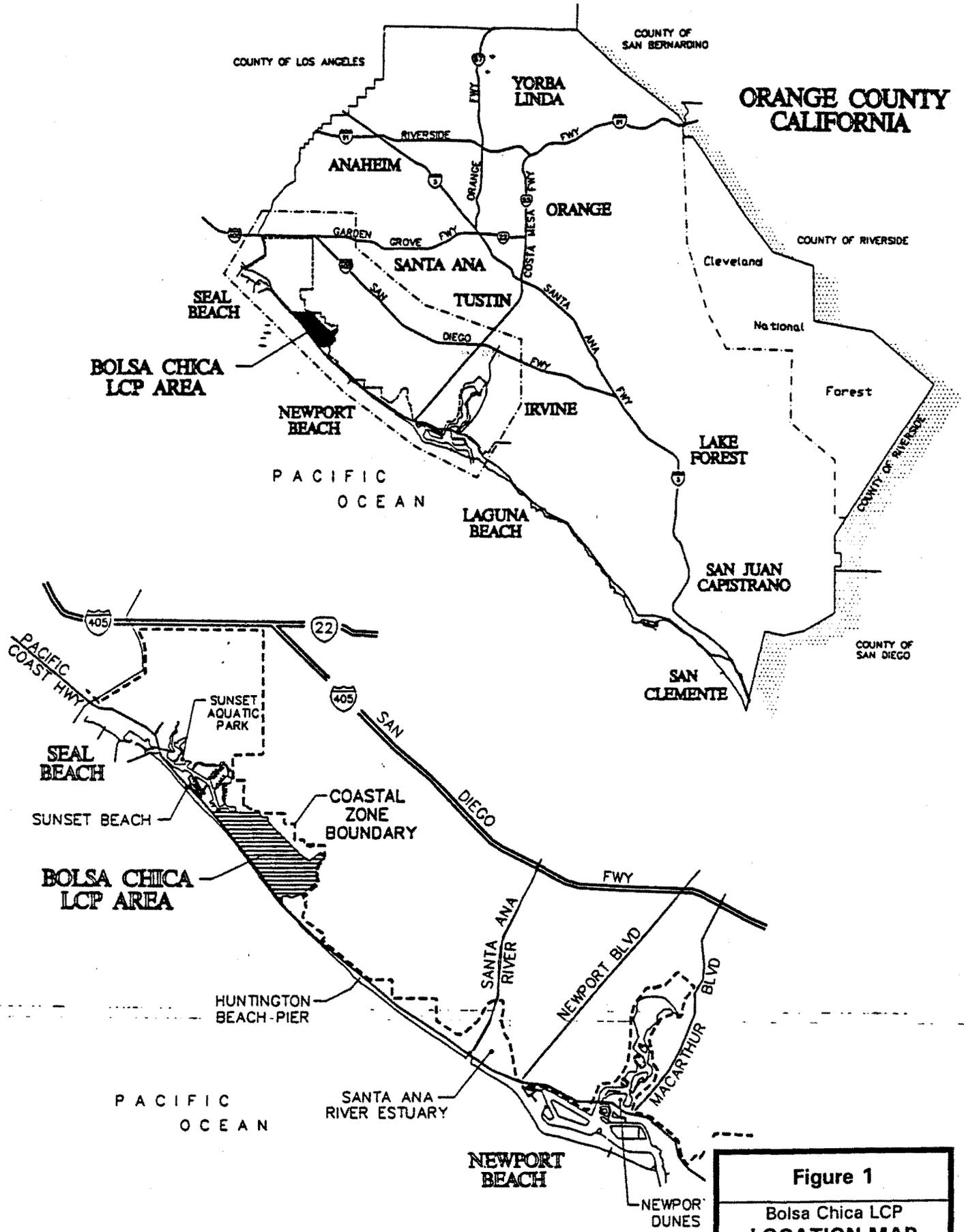


Figure 1
Bolsa Chica LCP
LOCATION MAP
 California Coastal Commission

BOLSA CHICA
LAND USE PLAN

LEGEND

LAND USE DISTRICT :

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

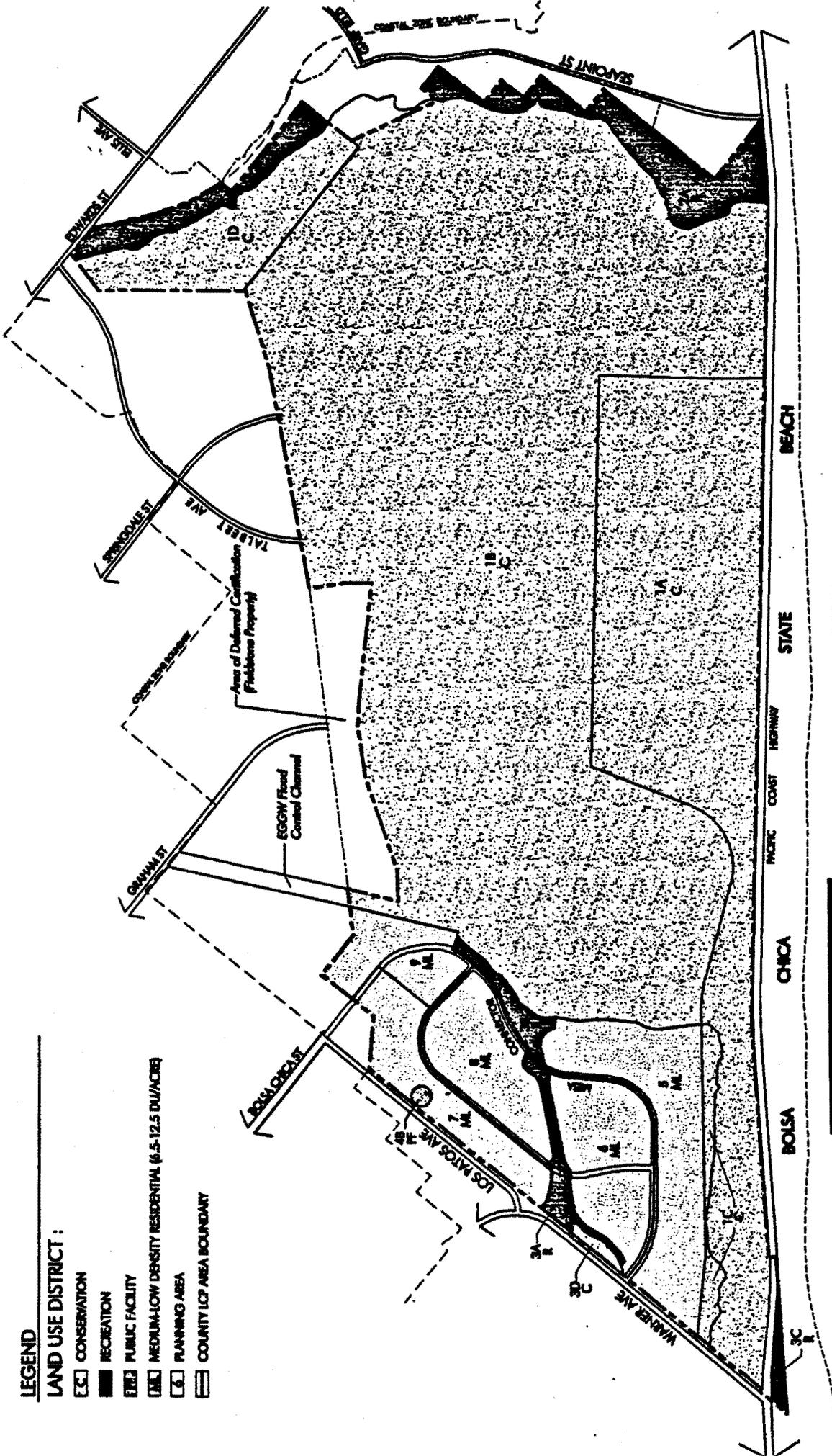


Figure 2

Bolsa Chica LCP

**APPROVED 1997
LAND USE PLAN**

California Coastal
Commission

BOLSA CHICA

LAND USE PLAN

LAND USE PLAN (Revised First Amendment)



FORM

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	9 ^(h)	--	--
R	Recreation (Mesa Community Park)	3B	8 ^(h)	--	--
R	Recreation (Beach Entry)	3C	4	--	--
TOTAL RECREATION			78		
PUBLIC FACILITY					
PF	Public Facility (Water Storage Reservoir) ⁽ⁱ⁾	4B	1 ⁽ⁱ⁾	--	--
TOTAL PUBLIC FACILITIES			1		
RESIDENTIAL^(j)					
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 ^(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) Warner Avenue Pond.

^(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.

Figure 3

Bolsa Chica LCP
**Planned Community
Statistical Table**

California Coastal
Commission



TABLE OF CONTENTS

I. INTRODUCTION	11
II. COMMISSION RESOLUTION FOR ADOPTING REVISED FINDINGS FOR DENIAL AS SUBMITTED AND APPROVAL OF THE BOLSA CHICA LOCAL COASTAL PROGRAM WITH SUGGESTED MODIFICATIONS	11
III. PROCEDURAL PROCESS	13
IV. BACKGROUND	15
A. AREA DESCRIPTION	15
B. LOCAL HISTORY	20
C. HISTORY OF LAND USE PLANNING	21
D. DESCRIPTION OF THE LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT AS SUBMITTED IN JUNE 1995	26
V. SUMMARY OF PUBLIC PARTICIPATION	30
VI. LAND USE PLAN SUGGESTED MODIFICATIONS	32
A. LAND USE PLAN SUMMARY	32
B. RESOURCE RESTORATION AND CONSERVATION COMPONENTS	34
C. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT	50
D. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT	57
E. DEVELOPMENT COMPONENT	61
F. OIL PRODUCTION COMPONENT	65
G. FINANCING AND PHASING COMPONENT	67
VII. IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS	69
A. PLANNED COMMUNITY PROGRAM	69
B. WETLANDS RESTORATION PROGRAM	142
C. ORANGE COUNTY ZONING CODE	142

D. DEVELOPMENT AGREEMENT	142
VIII. FINDINGS FOR DEFERRAL OF LCP CERTIFICATION OF THE FIELDSTONE PROPERTY	143
A. Procedural Context	143
B. History	143
C. Analysis of Deferral Certification	144
IX. FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S LAND USE PLAN AMENDMENT 1-95, AND APPROVAL WITH MODIFICATIONS	148
A. RESOURCE RESTORATION AND CONSERVATION COMPONENTS	148
1. WETLANDS/BIOLOGICAL RESOURCE POLICIES	148
2. COASTAL/MARINE RESOURCES POLICIES	168
3. PHYSICAL RESOURCES POLICIES	173
4. CULTURAL RESOURCES POLICIES	176
5. VISUAL AND SCENIC RESOURCES POLICIES	179
B. PUBLIC ACCESS/VISITOR SERVING RECREATION COMPONENT	182
C. REGIONAL CIRCULATION AND TRANSPORTATION COMPONENT	191
D. DEVELOPMENT COMPONENT	195
E. OIL PRODUCTION COMPONENT	197
F. FINANCING AND PHASING COMPONENT	200
X. FINDINGS FOR DENIAL OF THE COUNTY OF ORANGE'S IMPLEMENTATION PROGRAM, AND APPROVAL WITH MODIFICATIONS	203
A. PLANNED COMMUNITY PROGRAM	203
1. General Regulations	204
2. Recreation	204
3. Traffic And Circulation	205
4. Conservation Planning	205
5. Development	206
6. Orange County Zoning Code	206
B. WETLANDS RESTORATION PROGRAM	207
C. BOLSA CHICA DEVELOPMENT AGREEMENT	208
XI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT	209

LIST OF FIGURES

FIGURE 1	LOCATION MAP	5
FIGURE 2	APPROVED 1997 LAND USE PLAN	6
FIGURE 3	PLANNED COMMUNITY STATISTICAL TABLE	7
FIGURE 4	OWNERSHIP MAP	19
FIGURE 5	1986 LAND USE PLAN	25
FIGURE 6	SUBMITTED LAND USE PLAN	29
FIGURE 7	APPROVED LAND USE PLAN	33
FIGURE 8	ACCESS PLAN	56
FIGURE 9	DEVELOPMENT SETBACK (SOUTH SLOPE)	82
FIGURE 10	DEVELOPMENT SETBACK (WEST SLOPE)	83
FIGURE 11	ZONING MAP	141
FIGURE 12	FIELDSTONE DEFERRAL	147
FIGURE 13	SECTION 30233 OF THE COASTAL ACT	155
FIGURE 14	SECTION 30411 OF THE COASTAL ACT	156
FIGURE 15	VEGETATIVE RESOURCE MAP (REGIONAL PARK)	189

LIST OF ATTACHMENTS

Attachment A	Statement of Decision From the Superior Court
Attachment B	RKJK Letter of September 9, 1997
Attachment C	Letter From Wetlands Research Associates of August 5, 1997

I. INTRODUCTION

A. *Changes to the LCP*

As noted in the Executive Summary, the Commission made significant changes to the Bolsa Chica LCP 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, elimination of the developer sponsored wetland restoration program, and deferral of the Fieldstone property from the certified LCP.

The changes to the Bolsa Chica Local Coastal Program have been made by the Commission through suggested modifications. Since the Court ordered remand was limited to two major concerns, the findings for denial, in many cases, remain unaltered from the Commission's January 11, 1996 action.

Additionally, since the Bolsa Chica Local Coastal Program was submitted to the Commission, the County of Orange undertook a major organizational change on July 1, 1997. As a consequence of this reorganization many department names and titles were changed. This report incorporates the administrative changes made as a result of the County's reorganization.

B. *Numbering of Land Use Policies and Implementing Regulations*

With respect to the land use plan portion of this report, in prior reports the Commission utilized a sequential numbering system to identify the various suggested modifications to the land use plan policies. With this report, the numbering of the land use policies will be based on the County's Land Use Plan (First Amendment) dated January 11, 1996. The reason for the change is that this report contains all the land use plan policies (even those not changed through suggested modifications). When the County republishes the Bolsa Chica LCP some of land use plan policy numbers will change to reflect the suggested modifications.

With respect to the implementation program of this report, the numbering system for the regulations are again based on the January 11, 1996 version of the County's Planned Community Program. The prior revised findings (June 17, 1996) utilized this numbering system for the regulations. As with the land use plan amendment, when the County republishes the Planned Community Program some of the regulation numbers will change as a consequence of the Commission's insertion and/or deletion of regulations through suggested modifications.

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 which reflects the action taken on October 9, 1997. Comments from the public concerning the findings will be limited to discussing the adequacy of the findings to support the Commission's action of October 9, 1997.

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 October 9, 1997 Commission meeting.

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

YES: None

NO: Commissioner Allen, Commissioner Calcagno, Commissioner Flemming, Commissioner Kehoe, Commissioner Nava, Commissioner Pavley, Commissioner Potter, Commissioner Reilly, Commissioner Staffel, Commissioner Tuttle, Commissioner Wan, and Chairman Areias

Resolution of Adoption

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

YES: Commissioner Allen, Commissioner Calcagno, Commissioner Flemming, Commissioner Kehoe, Commissioner Nava, Commissioner Potter, Commissioner Reilly, Commissioner Staffel, Commissioner Tuttle, Commissioner Wan, and Chairman Areias

NO: None

ABSTAIN: Commissioner Pavley

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

YES: None

NO: Commissioner Allen, Commissioner Calcagno, Commissioner Flemming, Commissioner Kehoe, Commissioner Nava, Commissioner Pavley, Commissioner Potter, Commissioner Reilly, Commissioner Staffel, Commissioner Tuttle, Commissioner Wan, and Chairman Areias

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

YES: Commissioner Allen, Commissioner Calcagno, Commissioner Flemming, Commissioner Kehoe, Commissioner Nava, Commissioner Potter, Commissioner Reilly, Commissioner Staffel, Commissioner Tuttle, Commissioner Wan, and Chairman Areias

NO: None

ABSTAIN: 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 of October 9, 1997.

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 on page 5). 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 values. Bolsa Chica is one of the largest remaining coastal wetlands in southern California.

Background

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.

Though human use of the site has substantially altered the natural character of Bolsa Chica, significant wetland habitat values remain. In 1981 the California

Background

Department of Fish and Game (DFG) investigated the status of the Bolsa Chica Wetlands. The Department of Fish and Games 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."* Of the remaining 440 acres examined, the DFG concluded *"Were it not for the involvement of dikes, roads, and relatively shallow fills, these 440 acres would be viably functioning wetlands. The roads and fill areas presently function as resting substrate for wetland-associated wildlife, and form narrow ecotones which add to and enhance the diversity of habitat available to wildlife."* (Emphasis added). The Department of Fish and Game concluded that: *"The entire 1,324 acre study area, including 1,292 acres of historic wetland (in which 852 acres still function viably as wetlands), constitutes a fundamentally inseparable wetland system of exceptional value to wildlife."*

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.*

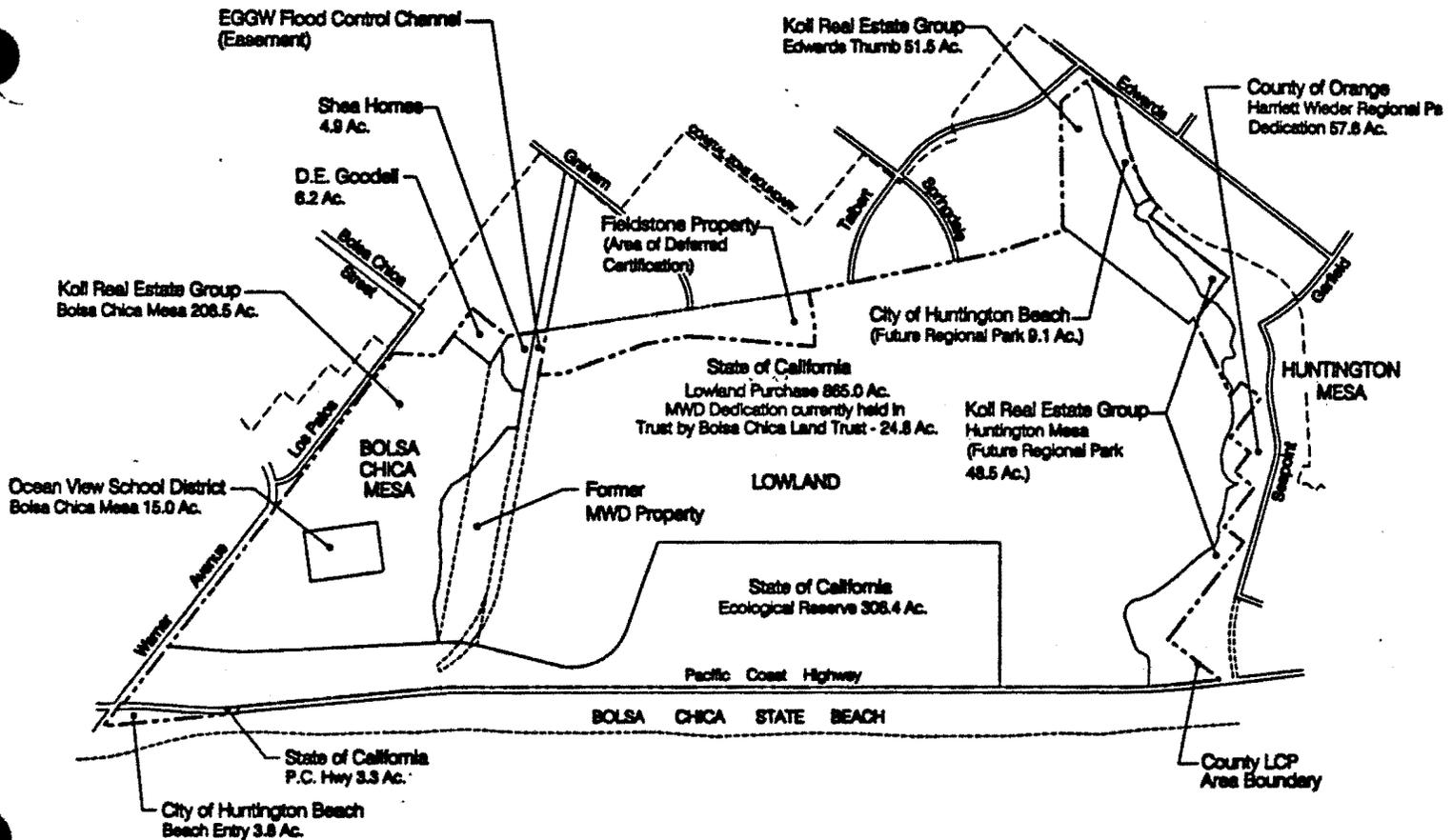
Bolsa Chica Mesa consists primarily of non-native grasslands which have been subject to agricultural activities in the past. Additionally Bolsa Chica Mesa contains an environmentally sensitive habitat area (ESHAs) consisting of a Eucalyptus grove

Background

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.

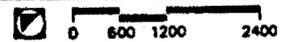
Huntington Mesa has been used and is currently being used for oil production. John Thomas (previously the Huntington Beach Company) maintains oil wells and support facilities in the Edward's Thumb area. AERA Energy, LLC (previously Shell Onshore Ventures Incorporated (SOVI)) operates oil processing and support facilities 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. The existing property ownership at Bolsa Chica is shown on Figure 4 on page 19.



ACREAGE BY OWNERSHIP		County LCP Area
Koll Real Estate Group:		
- Bolsa Chica Mesa	208.5	
- Edwards Thumb	51.5	
- Huntington Mesa	48.5	
	Subtotal:	308.5
State of California:		
- Ecological Reserve	306.4	
- Lowland Purchase from Koll	865.0	
- MWD Dedication (held by BCLT)	24.8	
- Pacific Coast Highway	3.3	
	Subtotal:	1203.4*
City of Huntington Beach:		
- Pacific Coast Highway and Warner Avenue	3.8	
- Huntington Mesa	9.1	
	Subtotal:	12.9
Ocean View School District		
D.E. Goodell	6.2	
Shea Homes	4.9	
	TOTAL:	1547.0

* Orange County Flood Control District holds 22.7-acre easement over Lowland.

Figure 4
 Bolsa Chica LCP
OWNERSHIP MAP
 California Coastal Commission



Background

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.

Background

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 5 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.

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 THE LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT AS SUBMITTED IN JUNE 1995

The County of Orange submitted to the Commission on June 2, 1995 a proposed Local Coastal program for Bolsa Chica. This section of the report describes the Bolsa Chica LCP as originally submitted by the County. The submittal consisted 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 amendment to the Land Use Plan as approved, with suggested

Background

modifications, by the Commission totally replaces the 1986 Land Use Plan. The Land Use Plan, as submitted, is shown as Figure 6 on page 29. 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 Local Coastal Program, as submitted, was in support of planned residential development and wetlands restoration at Bolsa Chica. The developer proposed 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 included a non-navigable ocean entrance. The proposed residential development would have result in the construction of 2,400 homes on the mesa. The remaining 900 homes would have been constructed on the Lowlands and would have required filling of approximately 104 to 120 acres of degraded wetland depending on the wetland delineation methodology used.

A mix of residential densities was proposed with a variety of product types, including single family detached homes and multiple family attached homes. The residential mix was 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 was proposed for possible development on the Bolsa Chica Mesa depending on the feasibility of such a development. It was anticipated that the site would accommodate up to 100,000 square feet of neighborhood commercial development, if constructed.

Infrastructure improvements associated with the project, as submitted, included 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, a fire station, and non-navigable ocean entrance that would have been 250 feet wide with 480 foot long jetties.

Recreation and open space improvements associated with the development, as submitted, included 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 project, as submitted, would have left 1,098 acres (consisting of wetlands, ESHA, and buffers) designated for Conservation and subject to a Wetlands Restoration Program. Additionally, new wetlands were to be created within the buffer areas but are not counted as part of the restored

Background

wetlands system. Twenty acres of ESHA would have been created within Harriet Wieder Regional Park to mitigate for loss of the Eucalyptus grove ESHA. The wetland ecosystem area was to comprise four different hydrologic regimes; ranging from full and muted tidal areas, to perennial and seasonal ponds. The resulting wetland ecosystem was anticipated to total a minimum of 1,100 acres. The developer proposed 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 was to 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 have been funded through Lowland residential development.

However, the majority of the Lowland (except for the Fieldstone property and Edward's Thumb) has since been acquired by the State of California. Consequently Lowland residential development is no longer proposed and a task force has undertaken the development of a new wetland restoration program to be funded by the Ports of Long Beach and Los Angeles. The developer sponsored wetland restoration program (which was to be funded by Lowland residential development) as submitted, has therefore been deleted from the Bolsa Chica Local Coastal Program. A brief summary of the changes to the LCP from the original submittal are provided on page 11.

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

004423

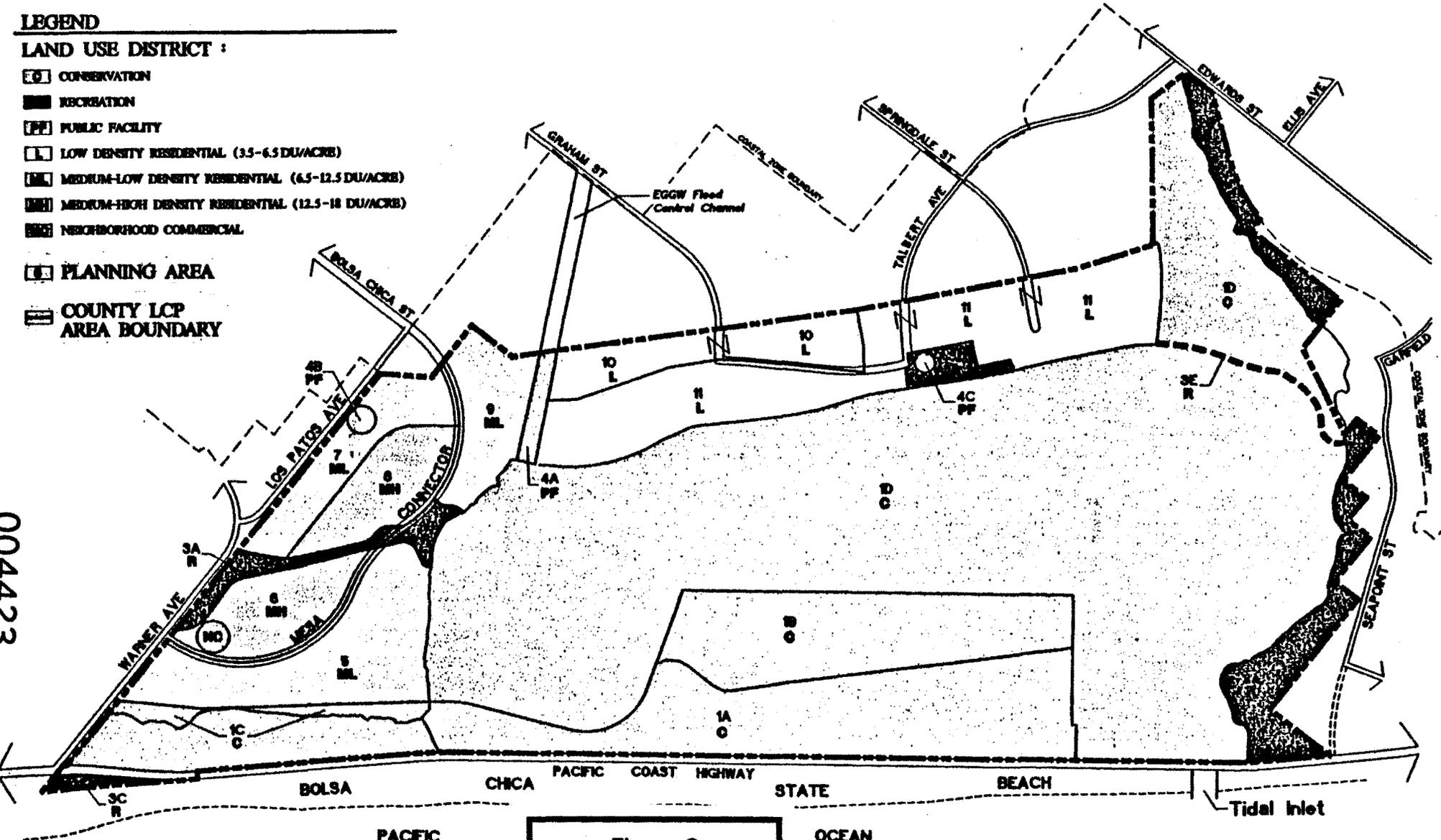
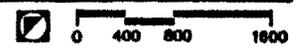


Figure 6
 Bolsa Chica LCP
 Submitted
 Land Use Plan
 California Coastal
 Commission

BOLSA CHICA
LAND USE PLAN

BOLSA CHICA LAND USE 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 as submitted 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 **underlined boldface italics**.

All the Land Use Plan policies are shown even if the Commission has not proposed suggested Modifications. Normally policies not revised through suggested modifications are not shown. The policy numbers shown below conform to the Bolsa Chica Local Coastal Program as published by the County of Orange on January 11, 1996. Additionally the Land Use Plan policies incorporate changes made to department names and titles as a consequence of a reorganization by the County of Orange. The addition of new policies or the deletion of policies (as submitted) will affect the numbering of subsequent Land Use Plan policies when the County of Orange publishes the final Bolsa Chica LCP incorporating the Commission's suggested modifications. As part of the Executive Director's review for effective certification of the Bolsa Chica Local Coastal Program document, Commission staff will also review the LCP findings made by the County of Orange (in the Introduction and Technical Plans and Information sections of each chapter) to assure that they are consistent with the policies modified by the Commission. Below are the suggested modifications.

A. *LAND USE PLAN SUMMARY*

CHAPTER 2 OF THE LAND USE PLAN AMENDMENT

Graphic Suggested Modification: 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. This suggested modification is shown as Figure 7 (page 33). 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.

LEGEND

LAND USE DISTRICT :

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

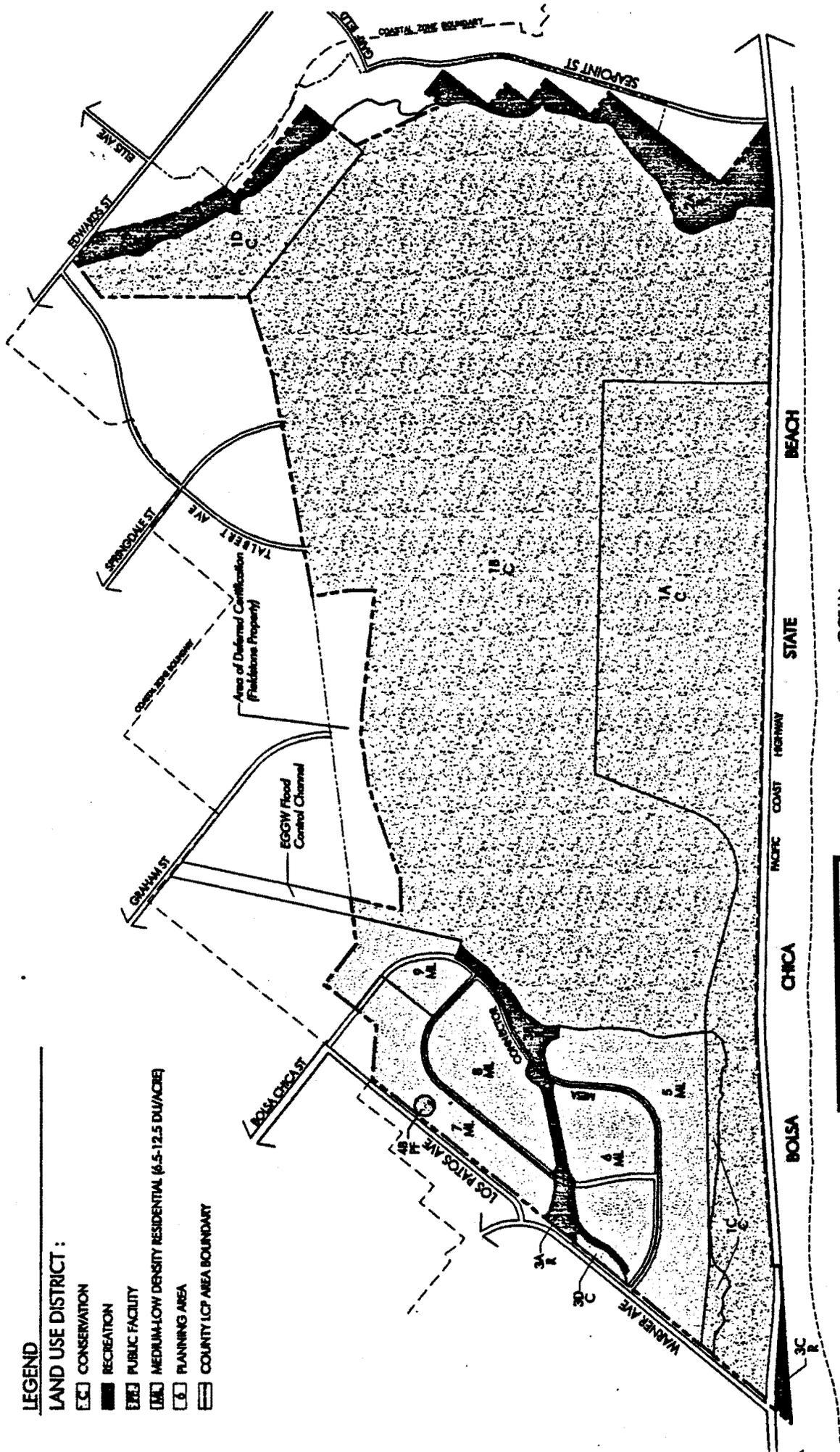


Figure 7
 Bolsa Chica LCP
 Land Use Plan
 California Coastal
 Commission

**BOLSA CHICA
 LAND USE PLAN**

LAND USE PLAN (Revised First Amendment)



FORM

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

3.0 General Resource Protection Policies

The following general policies shall provide the framework for interpreting this Land Use Plan (LUP):

1. Where policies within the LUP overlap, the policy which is the most protective of coastal resources shall take precedence.
2. Where there are conflicts between the policies set forth in this LUP and those set forth in any element of the Orange County General Plan, other County plans, or existing ordinances, the policies of this LUP shall take precedence.
3. In the event of any ambiguities or silence of this LUP not resolved by (1) or (2) above, or by other provisions of the Bolsa Chica LCP, the policies of the California Coastal Act shall guide interpretation of this LUP.

3.1.2 Wetlands/Biological Resource Policies

ZONING POLICY

1. ~~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 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.~~

Land Use Plan Modifications

The Wetlands Ecosystem Area is comprised of all of Planning Areas 1A, 1B, and 1D (which includes the Edwards Thumb area) as shown in County Figure 2.1-1. 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.

(County Policy 3.1.2.1)

OVERALL DESIGN STANDARDS AND ACREAGE REQUIREMENT POLICY

- ~~2. The Wetlands Restoration Program shall meet the following overall design objectives:~~
- ~~A. Creation of new tidal inlet, providing a direct ocean water source and tidal influence.~~
 - ~~B. Establishment of a minimum of 1,000 acres of high quality, fully functioning wetlands, providing enhanced biological productivity and habitat diversity on site;~~
 - ~~C. Protective buffering between habitat areas and adjacent proposed development;~~
 - ~~D. The creation of new least tern nesting habitat;~~
 - ~~E. Design concepts that are consistent with low capital and operation costs;~~
 - ~~F. Mutual compatibility of public and private improvements, including oil production facilities;~~
 - ~~G. Establishment of criteria for evaluating success of wetlands and ESHA restoration;~~
 - ~~H. Protection and/or restoration of endangered species habitat;~~
 - ~~I. Assurance of water of sufficient quality and quantity to provide for improved productivity in the wetlands; and~~

Land Use Plan Modifications

- ~~J. Compensation of fish and wildlife habitats in the form of replacement habitat that duplicates or surpasses any wildlife values lost.
(County Policy 3.1.2.2)~~

HYDROLOGIC REGIMES POLICY

- ~~3. The Wetlands Restoration Program shall provide requirements for the design of hydrologic regimes which provide habitat diversity and include:~~
- ~~A. Full Tidal Areas;~~
 - ~~B. Muted Tidal Areas;~~
 - ~~C. Seasonal Ponds Areas; and~~
 - ~~D. Perennial Pond Area.
(County Policy 3.1.2.3)~~

ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHAs) POLICIES

- ~~4. The Wetlands Restoration Program shall provide for the preservation and/or restoration of a minimum of 65 acres of Environmentally Sensitive Habitat Area within the Wetlands Ecosystem Area.
(County Policy 3.1.2.4)~~
5. The Wetlands Restoration Program shall provide for the planting of a minimum 20-acre native tree and shrub ESHA along the Huntington Mesa ***shall be undertaken*** 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) acre 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.

Land Use Plan Modifications

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 that the native trees and native shrubs cover at least 16 acres of the planned 20 acres. (County Policy 3.1.2.5)

BUFFER AND TRANSITION POLICIES

- ~~6. Consistent with the CDFG findings that buffers reduce disturbance from adjacent urban development (CDFG, April 8, 1985), the Wetlands Restoration Program shall set design requirements to establish buffers between hydrologic regimes (habitat areas) and adjacent new urban development. The buffers may consist of native vegetation and landscape areas, open water and mudflats, rip rap and/or other shoreline protection, open unvegetated areas, and public interpretive trails. (County Policy 3.1.2.6)~~
- ~~7. The Wetlands Restoration Program shall set design requirements for transitions between the hydrologic regimes of the restoration plan. (County Policy 3.1.2.7)~~

PUBLIC ACCESS AND INTERPRETATION POLICIES

- ~~8. The Wetlands Restoration Program shall include coastal access to provide public viewing, wildlife interpretation, and educational opportunities within and on the perimeter of the Wetlands Ecosystem Area. Such access shall be consistent with resource protection needs, and designed in coordination with the California Department of Fish and Game. (County Policy 3.1.2.8)~~
- ~~9. The Wetlands Restoration Program shall provide for scientific research and educational opportunities within the Wetlands Ecosystem Area, where it is consistent with both wetlands monitoring and maintenance activities, and other public coastal access programs. (County Policy 3.1.2.9)~~

Land Use Plan Modifications

IMPLEMENTATION AND PHASING POLICIES

- ~~10. The Wetlands Restoration Program shall provide implementation requirements for the restoration of wetlands, ESHAs, and Buffers. It shall establish:~~
- ~~A. Types and extent of various wetlands ecosystem habitats;~~
 - ~~B. A Master Phasing Plan which coordinates wetlands restoration with the diminishing of oil production;~~
 - ~~C. Additional sources of ocean water needed to restore the habitats;~~
 - ~~D. Regulatory requirements for implementation;~~
 - ~~E. Responsibilities for the ownership and management of restored areas; and~~
 - ~~F. Responsibilities for the conservation, monitoring, and maintenance of created and restored areas.
(County Policy 3.1.2.10)~~
- ~~11. The Wetlands Restoration Program shall include a detailed phasing program. It shall include a precise description of the kinds, locations and intensities of uses of each phase of restoration. The Phasing Program shall be consistent with the following LUP phasing concepts:~~
- ~~A. There shall be no net loss of wetlands or ESHA within the Wetlands Ecosystem Area. Specifically, the area of functioning wetlands and ESHAs shall at no time be less than 852 acres and 65 acres, respectively;~~
 - ~~B. Grading and construction activities shall avoid impacts to Endangered and Threatened Species during the nesting/breeding season;~~
 - ~~C. Consistent with the wetlands design criteria established by the California Department of Fish and Game (CDFG Report, April 8, 1985), the area of pickleweed saltmarsh shall not be less than 200 acres at any time during permitted wetlands restoration/urban development to ensure that the carrying~~

Land Use Plan Modifications

~~capacity for the Belding's savannah sparrow is not reduced as a result of permitted activities; and~~

- ~~D. The Wetlands Ecosystem Area shall be restored in phases which are consistent with and dependent upon the depletion of existing oil recovery operations in the Lowland.~~
- ~~E. All development impacts to the Bolsa Chica Wetlands shall be mitigated within the Wetlands Ecosystem Area.
(County Policy 3.1.2.11)~~

MONITORING AND MAINTENANCE POLICY

- ~~12. The Wetlands Restoration Program shall outline procedures and provide regulations that require three (3) specific monitoring and maintenance programs:
 - ~~A. Construction Period Monitoring and Maintenance Program;~~
 - ~~B. Post Construction Monitoring and Maintenance Program; and~~
 - ~~C. Long Term Monitoring and Maintenance Program.
(County Policy 3.1.2.12)~~~~

3.2.2 Coastal/Marine Resources Policies

TIDAL INLET AND HYDROLOGY POLICIES

- 1. ~~The Tidal Inlet~~ *Any tidal inlet* and the hydraulic regimes for the Wetlands Ecosystem Areas shall be designed to:
 - A. promote tidal circulation;
 - B. minimize, to the extent possible, effects on existing recreational facilities and opportunities at Bolsa Chica State Beach;
 - C. promote new recreation and interpretive opportunities; and
 - 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

2. 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 ~~in 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;
 - B. ~~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. Deleted. (This was a suggested modification of the Commission's January 11, 1996 action which has been deleted following the October 9, 1997 Commission action.)
 - E. monitor shoreline change to identify areas of sand loss caused by a tidal inlet, separate from that presently occurring along the Huntington Cliffs, to determine the best locations for deposition of material removed from the wetlands.

A minimum of six monitoring locations shall be established and used to determine effects to the shoreline from a tidal inlet. Monitoring locations shall be established at locations 500 yards and 1,500 yards north of any tidal inlet, 500 yards south of a tidal inlet, and at the 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 a tidal inlet, all six survey locations shall be monitored, with profiles extending from a stable back beach location for a U.S. Army

Land Use Plan Modifications

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 a tidal inlet.

Annual surveys can be undertaken as profiles to -30 feet MLLW. Every other year, wading surveys to approximately -6 feet 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 the 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 a tidal inlet. (County Policy 3.2.2.2)

Land Use Plan Modifications

WATER QUALITY MANAGEMENT POLICIES

3. A Water Quality Management Plan (WQMP) shall be prepared for the Bolsa Chica Planned Community in accordance with Orange County's Drainage Area Management Plan, and Chapter 2 of the Bolsa Chica Planned Community Program. (County Policy 3.2.2.3)
4. All drainage facilities and erosion control measures at Bolsa Chica shall be designed and constructed to protect coastal/marine resources in accordance with the Orange County Flood Control District Design Manual and the Orange County Grading Code. (County Policy 3.2.2.4)
5. Urban runoff from the Bolsa Chica LCP Area shall comply with all existing and applicable Federal, State, and local water quality laws and regulations. (County Policy 3.2.2.5)
6. 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 *their intended lifetimes* the development/construction process to remove sediment from surface runoff. (County Policy 3.2.2.6)
7. Final designs for dredging and excavation projects shall: a) include measures to protect water quality in adjacent areas during construction and maintenance activities; b) shall be consistent with Section 404 of the Federal Clean Water Act and Section 10 of the Federal Rivers and Harbors Act of 1899; and c) shall not adversely affect water quality or marine habitats. (County Policy 3.2.2.7)
8. Turbidity barriers shall be used during construction of Full Tidal Areas to limit the impacts of turbidity on ocean waters. A barrier *shall* may be used, if feasible, *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)
9. *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 substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural*

Land Use Plan Modifications

vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams. (County Policy 3.2.2.9)

10. 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. (County Policy 3.2.2.10)

FLOOD CONTROL POLICIES

- ~~11. The EGGW Flood Control Channel shall be upgraded between Graham Street and the Full Tidal portion of Wetlands Ecosystem Area to provide combined extreme tide/100-year storm event protection to existing and future homes in the area. (County Policy 3.2.2.11)~~
- ~~12. The EGGW Flood Control Channel west of Planning Area 11 shall be removed in order to dilute contaminants and provide stormwaters for the Wetlands Ecosystem Area. (County Policy 3.2.2.12)~~

GENERAL MARINE POLICIES

13. 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. (County Policy 3.2.2.13)
14. 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. (County Policy 3.2.2.14)

3.3.2 Physical Resources Policies

1. Structures for human occupancy, which are located in areas of liquefiable soils, shall conform with all design mitigations required by

Land Use Plan Modifications

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)

2. 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)
3. The risk to life and property from surface subsidence at Bolsa Chica shall be minimized by full compliance with oil extraction and monitoring techniques as regulated by the California Department of Mines and Geology. (County Policy 3.3.2.3)
4. Surficial subsidence shall be monitored and groundwater re-pressurization or other methods shall be used to limit potential subsidence impacts. (County Policy 3.3.2.4)
5. Where development areas adjoin bluffs, all buildings and habitable structures shall be set back a sufficient distance from the bluff edge to be structurally safe from the threat of bluff erosion for a minimum of 50 years. Geotechnical engineering reports shall be required by the County of Orange to determine this setback. (County Policy 3.3.2.5)
6. Development above the coastal bluff facing Outer Bolsa Bay shall be engineered to ensure that surface/subsurface drainage will not contribute to the erosion or affect the stability of the bluff. Any drainage pipes and outlets shall be installed by auguring (i.e., "drilled" from behind the slope face to exit at or near the base of the bluff) not open excavations or trenching, to ensure bluff stability and minimize visual impacts. Any minor residual affects related to drainage improvements shall be mitigated by recontouring and revegetating to obtain a natural landform appearance. (County Policy 3.3.2.6)
7. The 25- to 60-foot-high northeast-facing bluff below the Huntington Mesa shall be preserved and restored as set forth in this Land Use Plan's Public Access and Visitor Serving Recreation Component the County-adopted General Development Plan/Resource Management Plan for Harriet Wierder Regional Park. This shall include the ESHA restoration area set forth in the Wetlands Restoration Program. Any areas requiring remedial grading or slope stabilization shall be

Land Use Plan Modifications

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

8. 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)
9. 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 *Wetland Ecosystem Area* 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 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)
10. The historically degraded slope between Bolsa Chica Mesa and the Lowland Pocket Area, that extends from the southern corner of the Mesa to the EGGW Flood Control Channel, shall be remedially graded for stabilization of the Mesa development. The base of the slope shall be protected from Muted Tidal flows related to wetlands restoration. Public Class I bicycle and pedestrian trails shall be included in the design of the stabilized slope. (County Policy 3.3.2.10)
11. *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 for public trails required by the LCP within the development setback. 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.*
(County Policy 3.3.2.11)

Land Use Plan Modifications

3.4.2 Cultural Resources Policies

1. The Bolsa Chica Planned Community Program shall require compliance with all County-adopted archaeological/paleontological policies and Board of Supervisors Resolution No. 77-866 related to cultural and scientific resources, to ensure that all reasonable and proper steps are taken to either preserve archaeological remains in place, or alternatively, that measures are taken to assure the recovery, identification, and analysis of such resources so that their scientific and historical values are preserved. (County Policy 3.4.2.1)
2. The recommendations of the Most Likely Descendants, as designated by the California Native American Heritage Commission, shall be obtained prior to the reburial of any prehistoric Native American human remains that may be encountered during any archaeological investigation. (County Policy 3.4.2.2)
3. 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:
 - A. contain a discussion of important research topics that can be addressed employing data from the Bolsa Chica sites; and
 - B. be reviewed by at least three (3) County-certified archaeologists, as required by the guidelines of the California Coastal Commission. (County Policy 3.4.2.3)
4. A systematic cultural resources survey of the Lowland shall be initiated to determine if there are any cultural deposits, and if so, to evaluate their significance. If found to be significant, the site(s) shall be tested and preserved in open space, if feasible; or, if preservation cannot be accomplished consistent with the LUP, a data recovery plan shall be implemented in coordination with the phasing of wetlands restoration and/or development activities. (County Policy 3.4.2.4)
5. 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

Land Use Plan Modifications

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)

3.5.2 Visual and Scenic Resources Policies

1. 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 landforms, 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)
2. ~~The Wetlands Restoration Program shall be implemented to improve the visual and scenic character of Bolsa Chica. In particular, the contouring of tidal areas, the creation of dunes, and the planting of approved wetlands and ESHA vegetation shall be done to minimize the artificial "engineered" geometry associated with oil roads and drilling operations, as well as flood control channels, dams, and dikes. Final design and planting shall emphasize the restoration of the meandering and curvilinear patterns historically associated with natural processes and the Bolsa Chica wetlands prior to urbanization.~~
(County Policy 3.5.2.2)
3. ~~As determined compatible with the Wetlands Restoration Program, public access to the Wetlands Ecosystem Area shall be improved and managed so as to provide a "close-up" visual experience for the public.~~
(County Policy 3.5.2.3)
4. ~~To the extent feasible, continuous public~~ Public viewing opportunities shall be provided from all trails within Bolsa Chica, including:
 - A. ~~The~~ a Class I Trail within the Buffer residential development setback area which separates the ~~Muted Tidal~~ wetlands from the ~~Bolsa Chica Mesa~~ development;

Land Use Plan Modifications

- ~~B. The Class I Trail along the EGGW Flood Control Channel; and~~
- ~~C. The Class I Trail along the flood control berm that separates the most inland Muted Tidal wetlands from the Lowland development, and along the boardwalk that connects Harriett Wieder Regional Park with the Lowland. (County Policy 3.5.2.4)~~
5. Viewing opportunities shall be provided from trails within Harriett Wieder Regional Park, including interpretive trails and the equestrian trail that connects (off-site) with Huntington Central Park. (County Policy 3.5.2.5)
6. New public viewpoints shall be established within the following new public parks:
- A. Three (3) viewpoints within Harriett Wieder Regional Park; and
- B. At least one (1) viewpoint within Mesa Community Park on the Bolsa Chica Mesa; and
- ~~C. At least one (1) viewpoint within Lowland Community Park. (County Policy 3.5.2.6)~~
7. 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)
8. 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)
9. To create a visually cohesive backdrop for the Wetlands Ecosystem Area, landscaping within development areas of Bolsa Chica shall predominantly utilize trees used in the regional and local parks, and in the Buffers. Landscaping in the residential development setback areas shall consist exclusively of native drought tolerant plants. (County Policy 3.5.2.9)

Land Use Plan Modifications

10. Plant material within the residential development setback area and/or adjacent to the ~~100-foot wide Buffer between development and the~~ Wetlands Ecosystem Area shall provide significant visual softening of architectural facades and building mass when viewed from public areas. (County Policy 3.5.2.10)
11. ~~Buffer~~ Residential development setback areas between wetlands/ESHA habitats and development/recreation areas shall provide for a gradual transition in landscape materials to avoid visually abrupt edges and an artificial appearance. (County Policy 3.5.2.11)
12. The planting of trees within development areas and Harriett Wieder Regional Park shall utilize informal patterns and drifts which provide a visually soft and natural backdrop for the Wetlands Ecosystem Area C creating a sense of visual enclosure to the wetlands and shielding the Wetlands Ecosystem Area from oil operations and urban development. (County Policy 3.5.2.12)
13. ~~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.~~ (Prior County Policy 3.5.2.13)
13. 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. (Current County Policy 3.5.2.13)
14. Utilities for all new development shall be placed underground, unless impractical or undesirable from a comprehensive environmental perspective. (County Policy 3.5.2.14)
15. Existing above-ground utilities and oil equipment shall be removed from Bolsa Chica wherever and whenever possible, without interfering with the oil operations. (County Policy 3.5.2.15)

Land Use Plan Modifications

16. Residential building heights shall be limited to two (2) stories (35 feet maximum) along the bluff facing Outer Bolsa Bay to reduce the visual appearance of development from Pacific Coast Highway. (County Policy 3.5.2.16)
17. Building heights shall be limited to two (2) stories (35 feet maximum) along Los Patos Avenue to reduce the visual appearance of new development from existing development on the north side of Los Patos. (County Policy 3.5.2.17)
- ~~18. Building heights and setbacks within the Northeast Lowland shall be regulated along the edge between new development and existing development so as to reduce the visual impact of new units on existing units. (County Policy 3.5.2.18)~~
19. All fences shall be designed to be functional and to have a minimum impact on coastal and scenic views from public locations. This includes privacy fencing for residential areas, as well as environmental-control fencing used within the Wetlands Ecosystem Area for species protection. (County Policy 3.5.2.19)

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

4.2 PUBLIC ACCESS AND VISITOR-SERVING RECREATION POLICIES

COMPREHENSIVE POLICIES

1. 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 FSHA resources.*** (County Policy 4.2.1)
2. All visitor-serving interpretive facilities shall be designed to be compatible with wildlife habitats. Public trails and interpretive programs shall be designed to ensure they do not adversely affect the Wetlands Ecosystem Area. (County Policy 4.2.2)

Land Use Plan Modifications

3. Adequate public parking shall be distributed throughout the Bolsa Chica LCP area in a manner which encourages public use of the various recreational facilities. (County Policy 4.2.3)
4. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. (County Policy 4.2.4)
5. 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. (County Policy 4.2.5)

TRAILS POLICIES

6. 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, and Bolsa Chica State Beach, 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.~~ The public trail system shall be consistent with Figure 4.3-2 of the Land Use Plan which depicts the public trail system. (County Policy 4.2.6)
7. 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 the such trails shall be controlled to protect wildlife habitat values trails shall not be limited. (County Policy 4.2.7)
8. All bikeways shall be consistent with the Orange County Master Plan of Regional Bikeways, and the Huntington Beach Master Plan of Local Bikeways. (County Policy 4.2.8)
9. The Landowner/Master Developer shall dedicate to the County of Orange or other public agency, the land and/or easements within the

Land Use Plan Modifications

Bolsa Chica LCP Area that are required for public trails indicated on the Coastal Access and Recreation Plan. (County Policy 4.2.9)

PUBLIC PARKING AND STAGING AREA POLICIES

10. 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. (County Policy 4.2.10)
11. Approximately 100 public parking spaces shall be provided within the Mesa Community Park, and in parking pockets along the Bolsa Chica Mesa Connector adjacent to the park to accommodate the parking needs of residents and visitors to Bolsa Chica's recreational and interpretive facilities. (County Policy 4.2.11)
- ~~12. Approximately 60 public parking spaces shall be provided within and adjacent to the Lowland Community Park to accommodate visitors to park facilities and Lowland trails. (County Policy 4.2.12)~~

HARRIETT WIEDER REGIONAL PARK POLICIES

13. 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.*** (County Policy 4.2.13)
14. 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. (County Policy 4.2.14)
15. Visitor-serving concessions permitted within the Harriett Wieder Regional Park shall be located, designed and operated so as not to create unmitigable traffic congestion or vehicular/pedestrian hazards. (County Policy 4.2.15)
16. ~~The Harriett Wieder (formerly Bolsa Chica) Regional Park General Development Plan and Resource Management Plan is incorporated by~~

Land Use Plan Modifications

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 landforms, 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 resource 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.* (County Policy 4.2.16)

INTERPRETIVE KAYAK/CANOE FACILITY POLICIES

- ~~17. 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. Interpretive kayaks/canoes shall be restricted to the Full Tidal Area under the jurisdiction of Orange County or other managing agency. (County Policy 4.2.17)~~
- ~~18. The Bolsa Chica Planned Community Program, Recreation and Conservation Planning Areas shall permit 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. 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. (County Policy 4.2.18)~~
- ~~19. The interpretive kayak/canoe facility shall be designed and operated so as to be compatible with wildlife habitats and water quality objectives established in this LUP. Public programs shall be designed to ensure that wetlands interpretation does not adversely affect the Wetlands Ecosystem Area. (County Policy 4.2.19)~~

Land Use Plan Modifications

BOLSA CHICA STATE BEACH POLICIES

20. All recreation and circulation planning for ~~the Tidal Inlet~~ a proposed 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.
(County Policy 4.2.20)
21. 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, ~~and this State Plan may be certified by the Coastal Commission without amending this LCP.~~
(County Policy 4.2.21)
22. Any displacement of coastal dune habitat areas due to the construction of a proposed tidal inlet or associated structures shall be fully mitigated. (County Policy 4.2.22)

LOCAL PUBLIC PARKS POLICIES

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

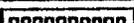
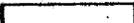
At a minimum, the LPIP shall require that: (1) the north end of Bolsa Chica Mesa Community Park area at Warner Avenue be no less than eleven (11) acres in size and be developed as an active park; and (2) the portion of the Bolsa Chica Mesa Community Park area at the southwesterly edge of the Mesa shall 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. 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)

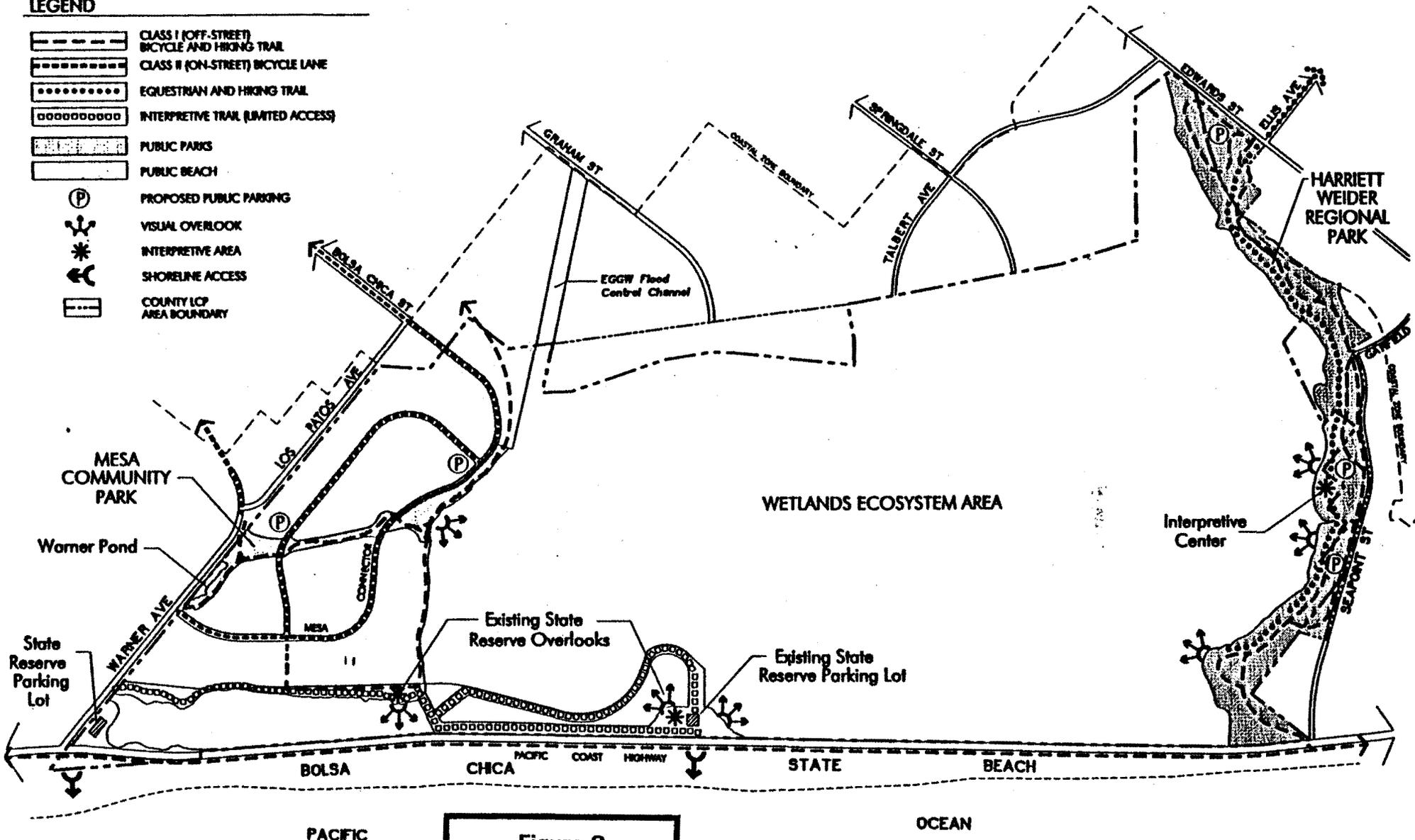
Land Use Plan Modifications

24. 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.** (County Policy 4.2.24)

Graphic Suggested Modification: Figure 4.3-2 of the Bolsa Chica LCP as submitted which depicts the Coastal Access and Recreation Plan shall be revised to conform to policy 4.2.7 and Figure 8 (page 56) of this report. Any other figure depicting the Coastal Access and Recreation Plan shall also be modified. Since this policy refers to a graphic revision, once the graphic revision is made, this policy does not need to be included in the amended Land Use Plan.

LEGEND

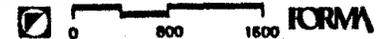
-  CLASS I (OFF-STREET) BICYCLE AND HIKING TRAIL
-  CLASS II (ON-STREET) BICYCLE LANE
-  EQUESTRIAN AND HIKING TRAIL
-  INTERPRETIVE TRAIL (LIMITED ACCESS)
-  PUBLIC PARKS
-  PUBLIC BEACH
-  PROPOSED PUBLIC PARKING
-  VISUAL OVERLOOK
-  INTERPRETIVE AREA
-  SHORELINE ACCESS
-  COUNTY LCP AREA BOUNDARY



BOLSA CHICA
LAND USE PLAN

Figure 8
Bolsa Chica LCP
Access Plan
California Coastal
Commission

COASTAL ACCESS AND RECREATION PLAN



Land Use Plan Modifications

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

5.2 REGIONAL CIRCULATION/TRANSPORTATION POLICIES

REGIONAL CIRCULATION POLICIES

1. An Area Traffic Improvement Program (ATIP) shall be created and include the following elements:
 - A. regional road improvements that enhance coastal access;
 - B. improvements to Bolsa Chica Street, Warner Avenue, and Pacific Coast Highway which are the primary travel corridors serving the LCP Area;
 - C. provision of funding for traffic improvements; and
 - 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)

ARTERIAL HIGHWAY POLICIES

- ~~2. The ATIP shall provide improvements at the interchange of the 405 Freeway and Warner Avenue. (County Policy 5.2.2)~~
3. The ATIP shall provide improvements at the interchange of the 405 and 22 Freeways with Bolsa Chica Street. (County Policy 5.2.3)
4. An offer of dedication shall be made by the private landowner to achieve the ultimate Major Arterial width of Pacific Coast Highway within the Bolsa Chica LCP Area (i.e., to a 120-foot right-of-way). This shall entail a 15-foot-wide offer of dedication within the "Whipstock" (oil facilities) Area adjacent to Pacific Coast Highway. All other lands required for the potential Pacific Coast Highway widening are owned by either the State of California or the City of Huntington Beach, including parts of Bolsa Chica State Beach and the Bolsa Chica State Ecological Reserve. (County Policy 5.2.4)

Land Use Plan Modifications

5. An offer of dedication shall be made by the private landowner to achieve the ultimate Major Arterial width for Warner Avenue **should Warner Avenue need to be widened.** This dedication shall include a 30-foot-wide offer of dedication on the Bolsa Chica Mesa adjacent to Warner Avenue. (County Policy 5.2.5)
6. The Warner Avenue/Pacific Coast Highway intersection shall be improved to facilitate circulation to and from Bolsa Chica State Beach. (County Policy 5.2.6)

ATIP FINANCING POLICIES

7. An ATIP funding program for these ~~ATIP~~ **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~~ **Director, PDSD.** (County Policy 5.2.7)
8. 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)
9. ~~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)
10. An advisory committee will be established to monitor the implementation of ATIP. The County of Orange will be the lead

Land Use Plan Modifications

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

11. ~~ATIP shall be phased as described in Table 5.1. A detailed phasing plan shall be submitted to the Director of EMA~~ ***Director, PDS*** ~~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

12. Impacts to surrounding neighborhoods shall be minimized by providing access routes to the Bolsa Chica Mesa development area on arterial roads including Warner Avenue and Bolsa Chica Street.
(County Policy 5.2.12)
13. ~~Lowland residential access shall be provided on three arterials to minimize traffic impacts on any one arterial access. Graham Street~~

Land Use Plan Modifications

~~and Talbert Avenue will be connected by a Secondary (four lanes undivided) road to provide appropriate accessibility to both streets. (County Policy 5.2.13)~~

14. 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 locations within the community and regional parks, and along the trails on the Bolsa Chica Mesa.** (County Policy 5.2.14)

TRANSIT POLICIES

15. The arterial highway facilities implemented as part of the Planned Community shall include provisions for bus turnouts at appropriate locations. (County Policy 5.2.15)
16. Pedestrian linkages from adjacent residential uses shall be furnished to accommodate access to the bus transit systems. (County Policy 5.2.16)

AIR QUALITY POLICIES

17. Project-level Coastal Development Permits shall, where feasible, incorporate vehicular trip reduction strategies including the following:
 - A. Education and Information: A centrally-located commuter information area that offers information on available transportation alternatives, route schedules and maps, available employee incentives, and rideshare promotional material shall be provided in a community clubhouse and/or Neighborhood Commercial areas.
 - B. Telecommunications: A telecommunications center shall be established within the Planned Community. This center could be located within a community clubhouse or Neighborhood Commercial area, and include Automatic Teller Machines, Modem/Fax stations, Teleservice facilities, government

Land Use Plan Modifications

information and/or transaction machines, and other related communication facilities which reduce the necessity of travel outside the Planned Community.

- 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 Neighborhood Commercial,~~ 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

6.2 DEVELOPMENT POLICIES

RESIDENTIAL POLICIES

1. A maximum of ~~3,300~~ 1,235 dwelling units shall be permitted within the Bolsa Chica Planned Community. ~~The number of dwelling units for the Bolsa Chica Mesa shall not exceed 2,500. The number of dwelling units permitted for the Northeast Lowland (Planning Areas 10 and 11) shall not exceed 900.~~ (County Policy 6.2.1)
2. A wide range of residential densities and housing types shall be permitted on the Bolsa Chica Mesa. ~~A comparatively narrow range of Low Density housing types shall be permitted in the Northeast Lowland.~~ Although individual projects may vary, overall Planning Area densities shall not exceed the County General Plan's "Suburban" Residential Neighborhoods category (i.e., 0.5 to 18.0 DU/Ac.). *In no case will the residential density conflict with the "Planned Community Statistical Table" contained in the Planned Community Program.* (County Policy 6.2.2)
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 exceed a total of 1,235 residential units. The Master Coastal Development Permit for the Bolsa Chica Mesa shall

Land Use Plan Modifications

conform with the allocation of maximum dwelling units contained in the LCPs Planned Community Statistical Table both by Planning Area and in terms of the 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)

4. Street lights and other lamps over twelve (12) feet high in development areas shall be shielded to reduce the amount of light straying into the Wetlands Ecosystem Area. (County Policy 6.2.4)
- ~~5. Neighborhood Commercial facilities shall be permitted within specified Medium High Density Residential Planning Areas, up to a maximum of 10 acres, consistent with the Orange County General Plan. Any such facilities shall be regulated by the Planned Community Program, and shall be evaluated using the "Guidelines; Neighborhood Commercial," set forth in the County General Plan. Neighborhood Commercial facilities shall not be permitted within the Low Density Residential Planning Areas in the Lowland. (County Policy 6.2.5)~~
6. New residential development shall be compatible in terms of neighborhood character and scale with existing adjacent residential development in the City of Huntington Beach. (County Policy 6.2.6)

LOCAL PARK AND COMMUNITY FACILITY POLICIES

7. The Community parks and trails 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)
8. Public schools shall be permitted within residential planning areas. (County Policy 6.2.8)

Land Use Plan Modifications

LOCAL ROAD AND INFRASTRUCTURE POLICIES

9. The local road system for the Bolsa Chica Mesa shall include a ~~Secondary Arterial Highway~~ ***Collector Roadway*** that connects Bolsa Chica Street with Warner Avenue. This road shall be the primary spine for the community, and include notched parking and a landscaped median. (County Policy 6.2.9)
- ~~10. The existing three Arterial Highways that dead-end along the edge of Bolsa Chica's Northeast Lowland, shall all be extended into the LCP Area as Secondary Arterials. The ends of Graham Street and Talbert Avenue shall be connected by a Lowland Connector, which shall also be a Secondary Arterial with a median. (County Policy 6.2.10)~~
- ~~11. An emergency access route for police, fire, and paramedic vehicles, shall be provided across the EGGW Flood Control Channel, that links the Northeast Lowland with the Bolsa Chica Mesa. This emergency access shall accommodate a Class I Bicycle/Pedestrian Trail. However, it shall be designed so that the general public cannot use the emergency access or trail as a vehicular "cut through" route between the Bolsa Chica Mesa and the Lowland. (County Policy 6.2.11)~~
12. Water supply for development and fire protection shall be established in cooperation with an existing water agency or through the creation of a new agency. (County Policy 6.2.12)
13. Domestic and landscape water conservation devices shall be required in all new development, pursuant to State and County laws and guidelines. (County Policy 6.2.13)
14. Reclaimed water shall be used for public parkways and common area landscape irrigation within Bolsa Chica if the Orange County Water District and the Landowner/Master Developer reach agreement that it is economically feasible to provide reclaimed water through OCWD's Green Acres Project. (County Policy 6.2.14)
15. 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 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

Land Use Plan Modifications

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)

16. 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)
- ~~17. A local roadway system in the Northeast Lowland shall link Graham Street, Talbert Avenue, and Springdale Street. (County Policy 6.2.17)~~

COMMUNITY DESIGN POLICIES

18. The architecture of the Bolsa Chica community shall draw upon thematic characteristics found in traditional New England coastal towns, and adapt those characteristics to local conditions of climate, market, materials availability, density, and technology. (County Policy 6.2.18)
19. Community Transition/Urban Edge Treatment Plans shall be included as part of Coastal Development Permits required by the Planned Community Program, to illustrate the landscape edges, transitions, and interfaces between Bolsa Chica and existing residential neighborhoods in the City of Huntington Beach, ~~as well as the 100-foot wide Buffer between development and the various hydrologic regimes within the Wetlands Ecosystem Area.~~ (County Policy 6.2.19)
- ~~20. The landscape transition between the habitat landscape of the restored wetlands/ ESHAs and the development shall be provided primarily by using native and low maintenance plantings within the Buffer that adjoins each residential development area. (County Policy 6.2.20)~~

Land Use Plan Modifications

21. Landscape screening (including low walls, shrubs, and/or drifts and groves of trees) shall be designed and installed along streets, trails, and the perimeters of residential and recreational developments to soften development edges visible from PCH and other public areas of Bolsa Chica. (County Policy 6.2.21)
22. *A 50-foot-wide residential development setback shall be established within the development Planning Areas along the edge of the Bolsa Chica Mesa in addition to the bluff face and 100-feet around Warner Pond (except where adjacent to Warner Avenue and the Mesa Connector). The development setback and bluff face shall be landscaped exclusively with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between the Wetlands 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 and shall be increased to 100 feet.* (County Policy 6.2.22)

Graphic Suggested Modification: The exhibits to the letter from Wetlands Research Associated dated August 5, 1997 shall be modified to depict the 100 foot residential development setback from Warner Avenue Pond and shall be included as exhibits in the Bolsa Chica LCP. Since this policy refers to a graphic revision, once the graphic revision is made, this policy does not need to be included in the amended Land Use Plan.

F. OIL PRODUCTION COMPONENT CHAPTER 7 OF THE LAND USE PLAN AMENDMENT

7.2 OIL PRODUCTION POLICIES

1. Oil production shall continue at Bolsa Chica until abandoned due to natural depletion of the recoverable oil or by early abandonment. This LUP does not preclude early public acquisition and abandonment of oil leases to facilitate accelerated implementation of the Wetlands Restoration Program wetlands restoration. Otherwise, the productivity and legal status of oil operations at Bolsa Chica shall not be

Land Use Plan Modifications

- significantly diminished by the implementation of new land uses permitted by this LUP unless agreed to by the affected oil operator/lessee. (County Policy 7.2.1)
2. Existing oil production shall be allowed to continue during and following implementation of wetlands restoration and development. (County Policy 7.2.2)
 3. Oil production shall be managed to protect biological resources to the maximum extent feasible. Wherever possible, future oil facilities shall be sited so as not to conflict with the ~~Wetlands Restoration Program~~ wetlands restoration plan. (County Policy 7.2.3)
 4. In accordance with Federal, State, and local laws, and applicable agreements, oil operators shall be responsible for the clean up of areas to permit development and wetlands restoration. (County Policy 7.2.4)
 5. As oil production within the Wetlands Ecosystem Area is phased out, the area shall be restored in conformance with the ~~Wetlands Restoration Program~~ wetlands restoration plan and shall function as part of the wetlands system. (County Policy 7.2.5)
 6. Adequate screening, setbacks, and aesthetic treatments shall be provided within development areas to minimize hazards and nuisances posed by the proximity of oil operations. These measures shall be implemented in conjunction with Coastal Development Permits, and by specific Oil Production Regulations that shall be set forth in the Bolsa Chica Planned Community Program. (County Policy 7.2.6)
 7. All new development shall be designed in accordance with the provisions of California Public Resources Code Section 3208.1 and California Department of Conservation, Division of Oil and Gas Guidelines regarding specifications and standards for oil-related activities, and well abandonments and reabandonments. (County Policy 7.2.7)
 8. Where oil production will continue within a development Planning Area or a ~~Wetlands Restoration Phasing Area~~ wetlands restoration area, a plan shall be prepared indicating the continuing facilities and their relationship to development area, and submitted to the County of Orange in conjunction with the proposed Coastal Development Permits as set forth in the Bolsa Chica Planned Community Program. This plan shall be consistent with the ~~Wetlands Restoration Program~~ wetlands restoration plan. (County Policy 7.2.8)

Land Use Plan Modifications

9. 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 plan shall incorporate the requirements of the OSPCCP and OSCP that are not inconsistent with the protection of biological resources. As the ~~Wetlands Restoration Program~~ a wetlands restoration plan 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)

10. 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 oil production facilities that would be developed outside of the graded edge of existing oil roads and the footprint of existing oil production pads.
(County Policy 7.2.10)

G. *FINANCING AND PHASING COMPONENT*

CHAPTER 8 OF THE LAND USE PLAN AMENDMENT

8.2 FINANCING AND PHASING POLICIES

1. No County General Funds shall be used for the construction of infrastructure improvements within Bolsa Chica, other than funds for Harriett Wieder Regional Park, or for regional road and flood control improvements approved by the County. The Landowner/Master Developer shall be responsible for construction of local roads and other infrastructure not otherwise financed by Federal, State, or special assessment districts formed for the Bolsa Chica LCP Area.
(County Policy 8.2.1)

2. ~~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 the~~

Land Use Plan Modifications

original County Policy 8.2.2 when the LCP was submitted. Existing County Policy 8.2.2 remains unchanged and is shown below.)

2. Residential development shall be phased in conjunction with the capacity of public facilities and services. (County Policy 8.2.2)

WETLANDS RESTORATION PHASING AND FINANCING POLICIES

- ~~3. The Wetlands Restoration Program shall be phased in consideration of the natural depletion of oil. The location, size, and sequence of Wetlands Restoration Phasing Areas shall reflect the anticipated phase out of oil production facilities within Bolsa Chica. Access roads, drill sites, and other areas required for ongoing oil production shall be held out of larger areas otherwise suitable for wetlands restoration until they are no longer needed for oil production. (County Policy 8.2.3)~~
- ~~4. A financial implementation framework for wetlands restoration shall be prepared as part of the Wetlands Restoration Program. This framework shall include:
 - ~~A. Estimated capital improvement cost for each phase of wetlands restoration;~~
 - ~~B. Comprehensive implementation plans, which include property acquisition and capital improvements, as well as requirements for:
 - ~~i. construction period monitoring and maintenance;~~
 - ~~ii. post construction period monitoring and maintenance; and~~
 - ~~iii. long term monitoring/maintenance.~~~~
 - ~~C. Definition of the financial responsibilities and institutional arrangements that will assure the funding of items (a) and (b) above. (County Policy 8.2.4)~~~~
5. 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 as specified in the Bolsa Chica Development Agreement.** (County Policy 8.2.5)

Land Use Plan Modifications

Graphic Suggested Modification: Table 8-1 which depicts the wetlands restoration phasing and security program shall be deleted from the Bolsa Chica LCP. Since this policy refers to a graphic revision, once the graphic revision is made, this policy does not need to be included in the amended Land Use Plan.

VII. IMPLEMENTATION PLAN SUGGESTED MODIFICATIONS

Suggested Modifications: The Commission certifies the following, with modifications as shown. Language as submitted 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 *underlined boldface italic*.

The regulation numbers shown below conform to the Bolsa Chica Local Coastal Program as published by the County of Orange on January 11, 1996. Additionally the Implementation Program regulations incorporate changes made to department names and titles as a consequence of a reorganization by the County of Orange. The addition of new regulations or the deletion of regulations (as submitted) will affect the numbering of subsequent regulations when the County of Orange publishes the final Bolsa Chica LCP after Commission certification. Regulations which must be simply renumbered and do not otherwise require any modifications will not be shown. Below are the suggested modifications.

A. *PLANNED COMMUNITY PROGRAM*

Note: The zoning map for the Bolsa Chica LCP has been approved as submitted. For reference it is shown as Figure 11 on page 141 which at the end of the Planned Community Program Regulations.

2.1 GENERAL PROVISIONS

2.1.2 Zoning Code Consistency

This PC Program regulates all development within Bolsa Chica Planned Community. In cases where sufficient direction for interpretation of these regulations is not explicit in this text or the approved LCP Land Use Plan, the Orange County Zoning Code shall provide direction, as determined by the Director, EMA *PDSO*. In

Implementation Program Modifications

case of difference between this PC Program and the Orange County Zoning Code, this PC Program takes precedence.

2.1.4 Zoning Code Combining and Overlay Districts

~~6. NC "Neighborhood Commercial" (Overlay) District: Development within the NC "Neighborhood Commercial" (Overlay) District is limited to Planning Area 6 and shall comply with Sections 5.4.1.2.b and 5.5.4 of this PC Program.~~

2.1.11 Annual Monitoring Report

An Annual Monitoring Report (AMR) shall be prepared and submitted by the Landowner/Master Developer each calendar year to the County Administrative Office and the Orange County Environmental Management Agency *Planning and Development Services Department*. Submittal of an AMR is required for conformance with the Growth Management Program of the Land Use Element of the Orange County General Plan and the County's Annual Development Monitoring Program.

The Board of Supervisors, in the annual adoption of the Development Monitoring Program, may identify a significant imbalance between development projections and planned infrastructure ~~or in the proportionate development of residential, commercial, and employment land uses~~. The Board of Supervisors may then defer subdivision approval within the Planned Community until measures capable of resolving the imbalances are proposed to, and approved by, the Board of Supervisors. The AMR will be the project proponent's opportunity to demonstrate mitigation measures and implementation strategies which will ensure adequate infrastructure for the community.

2.2.12 Application of Regulations

If an issue, condition, or situation arises that is not sufficiently covered or provided for in this PC Program so as to be clearly understandable, the Director, EMA *PDS*, shall determine which regulations are applicable, as authorized by Orange County Zoning Code Section 7-9-20 (c), "Indeterminate applicability."

Those regulations of the Zoning Code that are applicable for the most similar use, issue, condition, or situation shall be used by the

Implementation Program Modifications

Director, EMA PDS, as guidelines to resolve the unclear issue, condition, or situation.

2.1.15 Planning Commission Review

Pursuant to Orange County Zoning Code Section 7-9-150.3, the Director, EMA PDS shall determine which items are to be heard by the Planning Commission.

2.2 SPECIAL PROVISIONS

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 LCPs Planned Community Statistical Table both by the 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 Modifications

2.2.3 Planning Area Boundaries

4. The circular symbols symbol which are is used on the Planned Community Development Map to conceptually identify Public Facility Planning Areas Area 4B and 4G (i.e., the water storage reservoir and fire station) are is not intended as precise Planning Area boundaries boundary or locations location (e.g., the Orange County Fire Department shall determine the ultimate location of the fire station). The final and precise boundaries boundary and locations location shall be established by the Coastal Development Permit and/or Tentative/Final Tract Map approval(s).
- ~~5. The circular symbol "NC" used on the Planned Community Development Map to conceptually identify the potential for neighborhood commercial facilities at the intersection of Warner Avenue and the Mesa Connector is not a Planning Area boundary. The precise location and size of any neighborhood commercial facilities, not to exceed 10 acres, shall be established by the Coastal Development Permit and/or Tentative/Final Tract Map approval(s) for Planning Area 6, and shall not affect the number of units or adjustments to Planning Area boundaries permitted by Chapter 11.~~

2.2.4 Flood Control Facilities

The Landowner/Master Developer shall fund (either directly or through an assessment district) and construct all required on-site flood control facilities in a manner meeting the approval of the Director, EMA PDSO.

2.2.6 Local Park Implementation Plan

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

Implementation Program Modifications

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.

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 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

1. Grading Plans shall be accompanied by geological and soils engineering reports approved by the Manager, ~~Orange County EMA Development Services~~ **Subdivision Grading Services**, and shall incorporate all pertinent recommendations prior to issuance of Grading Permits. The soils engineer/engineering geologist must certify the suitability of a graded site before Building Permits may be issued.

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~~ **Manager, HBP Program Management and Coordination**.

2.2.14 Development - Conservation Planning Area Boundaries

Any Coastal Development Permit and/or Tentative Subdivision Map for development abutting a Conservation Planning Area shall contain a Community Transition/Urban Edge Treatment Plan addressing the design of the interface between development and conservation uses in a manner consistent with the ~~Wetlands Restoration Program and the Master Landscape Concept Plan~~ **and shall be consistent with Land Use Plan Policy 6.2.22** contained in Bolsa Chica LUP. Documentation shall be provided either on the permit/map, or on an appropriate supplemental graphic/text, and may be submitted in conjunction with an Area-wide Coastal Development Permit, as set forth in Section 10.3.2.

Implementation Program Modifications

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.**
- 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**

Implementation Program Modifications

production, wetlands restoration and maintenance, and water quality and flood control.

2.2.16 Fire Station Facility Agreement

Prior to recordation of any Final Tract Map (except a map for financing or conveyance purposes), the Landowner/Master Developer shall enter into a secured Fire Station Facility Agreement in a form acceptable to the Orange County Fire Department Authority and the County Administrative Office.

2.2.18 Water Quality Management Plan

If determined applicable by the Manager, Environmental Resources ~~Division~~, prior to the recordation of any Final Tract Map (except a map for financing or conveyance purposes) or before the issuance of any Building Permit(s) for new construction, the Landowner/Master Developer shall submit a Water Quality Management Plan (WQMP) to the Manager, Subdivision ~~Division~~ and Grading Services, for review and approval. The WQMP shall identify specific source control measures (i.e., Best Management Practices or "BMPs") to be implemented to reduce the discharge of pollutants to storm water facilities during all phases of project development. These source reduction measures are articulated in the National Pollution Discharge Elimination System (NPDES) Permit No. CA 8000180. The WQMP shall also establish responsibilities for maintenance.

2.2.19 Hazardous Materials Assessment

Prior to the recordation of any subdivision map that involves offers of dedication or grants of easement rights on one or more parcels to a public agency, the subdivider shall prepare a Hazardous Materials Assessment over such parcel(s) in a manner acceptable to the Manager, Environmental Resources ~~Division~~.

2.2.21 Temporary Uses Permitted

Special community events, such as environmental fairs, community picnics, trash clean-ups, grand openings, and other similar temporary uses and activities, may be permitted in any Planning Area of the Bolsa Chica Planned Community, subject to approval by the Director, EMA PDSO.

2.2.23 Reduction of Traffic Congestion/Vehicle Trips

Where feasible, Project Coastal Development Permits shall incorporate the following specific measures.

1. **Education and Information:** A centrally-located commuter information area that offers information on available transportation alternatives, route schedules and maps, available employee incentives, and rideshare promotional material shall be provided in a community clubhouse ~~and for Neighborhood Commercial areas.~~
2. **Telecommunications:** A telecommunications center shall be developed within the Planned Community. This center could be located within a community clubhouse ~~or Neighborhood Commercial area,~~ and include Automatic Teller Machines (ATM), Modem/Fax stations, Teleservice facilities, government information and/or transaction machines, and other related communication facilities which eliminate the necessity of physical travel outside the Planned Community.
3. **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 ~~Neighborhood Commercial and~~ community park areas of Bolsa Chica.

2.2.25 Pocket Wetlands and Warner Avenue Pond Mitigation

The fill of the isolated pocked 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 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

Implementation Program Modifications

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). The Community Park shall not contain less than 17 acres exclusive of Warner Avenue Pond.

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 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 within the residential development setback on 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

Implementation Program Modifications

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))

(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

Implementation Program Modifications

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).

(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, Planning and Development Services Department 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, Planning and Development Services Department 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

Implementation Program Modifications

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. The development setback shall be landscaped exclusively with native and drought-tolerant plant material that provides habitat value and a naturally appearing visual transition between the Wetlands 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., Figure 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.

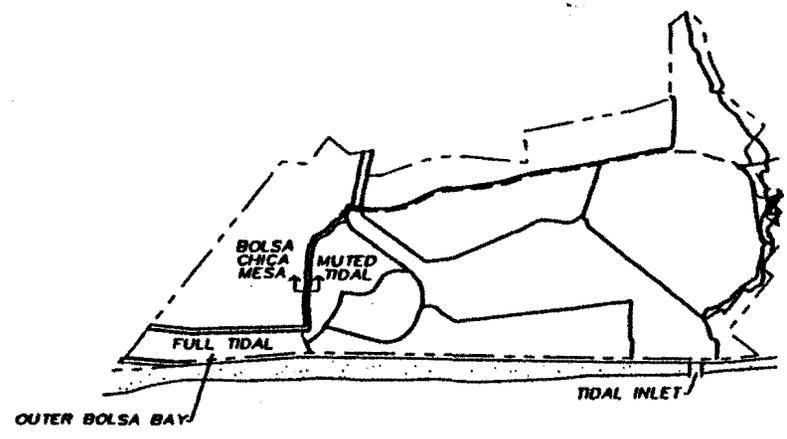
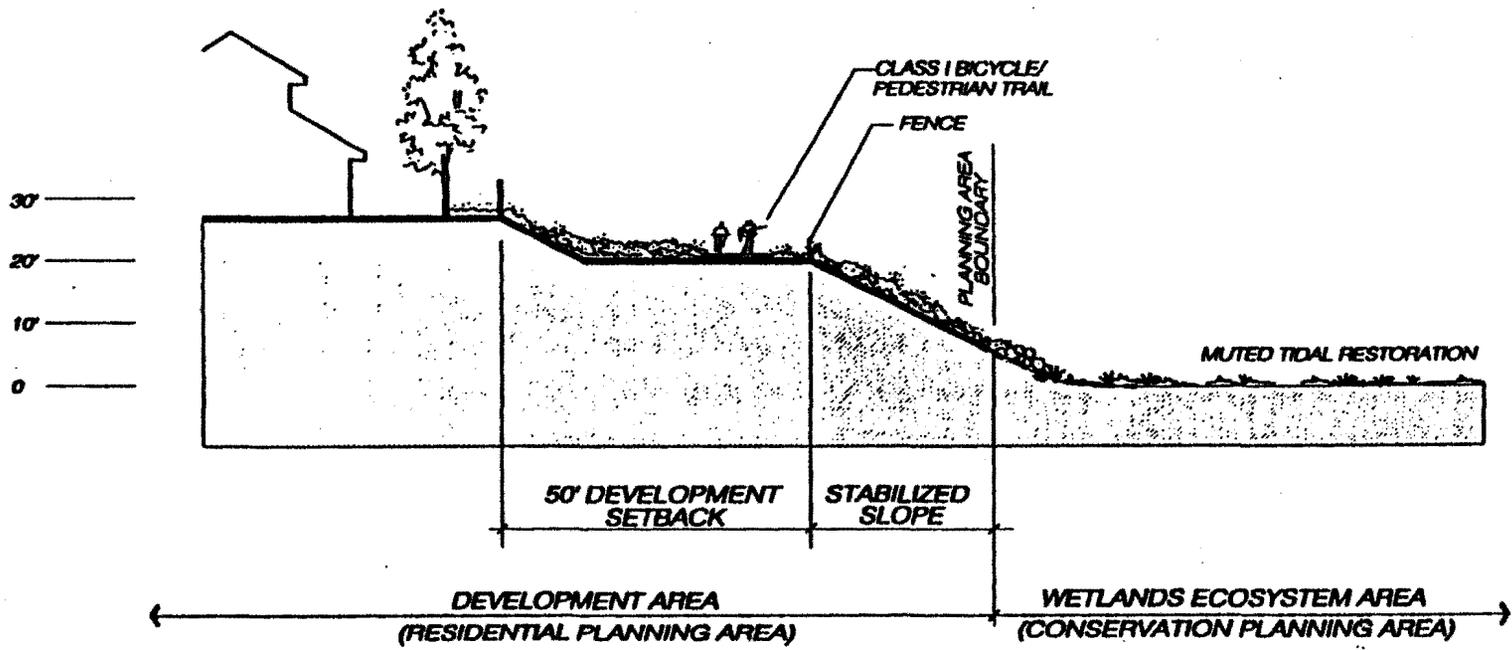


Figure 9
 Bolsa Chica LCP
 Development Setback
 South Facing Slope
 California Coastal
 Commission

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

BOLSA CHICA

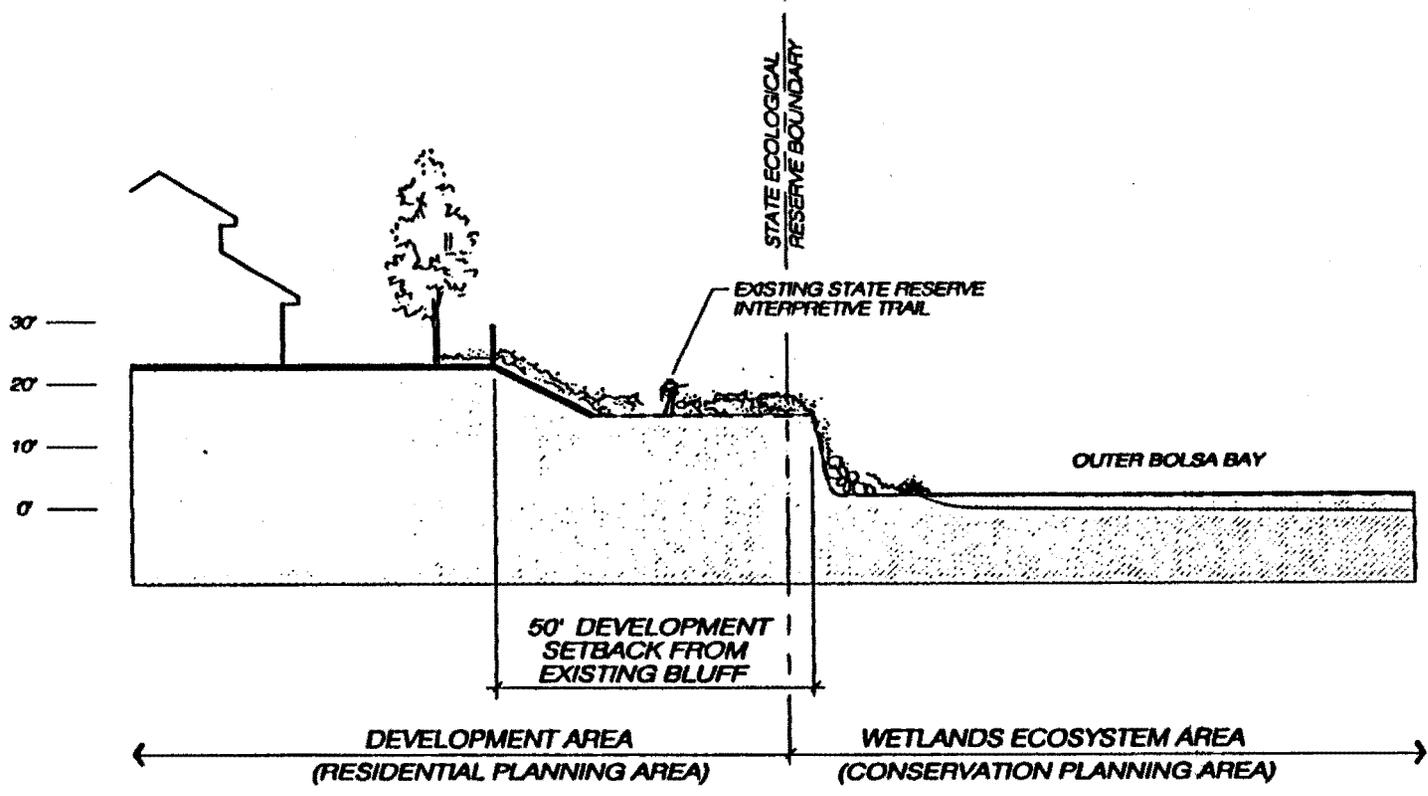
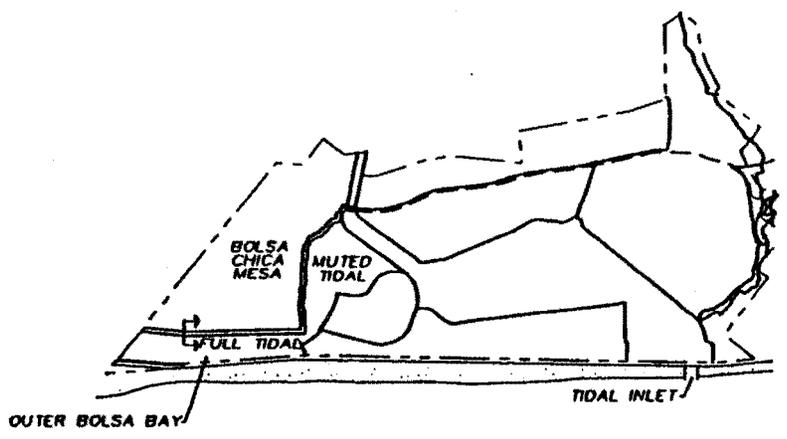


Figure 10
 Bolsa Chica LCP
Development Setback
West Facing Slope
 California Coastal
 Commission



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/PDSD.**
- 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

Implementation Program Modifications

Coastal Zone resulting from buildout of the Bolsa Chica development.

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 to incorporate the Suggested Modifications to the LCP approved by the California Coastal Commission on January 11, 1996. Additional revisions were made to incorporate additional Suggested Modifications to the LCP approved by the Coastal Commission on October 9, 1997. 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.

2.3.3 Light and Glare

3. Prior to issuance of any building permits within tracts abutting wetlands, environmental sensitive habitats or ~~open space~~ buffer areas the residential development setback area, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Building Permits Services.

2.3.4 Noise

4. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits Services that:

2.3.5 Annual Monitoring Report

5. An Annual Monitoring Report (AMR) shall be prepared and submitted each year by the landowner to the County Administrative Office, Policy Research and Planning, and the Environmental ~~Management Agency~~ and Project Planning/Advance Planning Division. The submittal of an AMR for the planned community is required for conformance with the Growth Management Program of the Land Use

Implementation Program Modifications

Element of the Orange County General Plan and the County's annual Development Monitoring Program (DMP).

The Board of Supervisors, in the annual adoption of the Development Monitoring Program, may identify a significant imbalance between proposed development and planned infrastructure ~~or in the proportionate development of residential, commercial, and employment land uses~~. The Board of Supervisors may then defer subdivision approval within the Planned Community until approaches capable of resolving imbalances are proposed and approved by the Board of Supervisors. The AMR will be the landowner's opportunity to demonstrate mitigation measures and implementation strategies which shall ensure adequate infrastructure for the Planned Community.

6. Prior to submission of a petition or a resolution of application for annexation of the subject property to a city, or prior to consent by the landowner to annexation by a city, the landowner shall obtain the approval from Director, ~~EMA~~ **PDS** of a revised Fiscal Impact Report to assess the cost-revenue impact of such annexation on the County and the special districts serving the property to be annexed with adequate provision made to mitigate any negative impact to the General Fund that has occurred during buildout of the project.
7. Prior to the recordation of any final tract map (except for financing purposes), CCRs or other methods, including the establishment of a property owners association or other entity which will guarantee the provision at no cost to the County of any extended services and any private services required, shall be submitted to and approved by the Director, ~~EMA~~ **PDS** and County Counsel, and shall then be recorded prior to the issuance of any certificates of use and occupancy.
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

Implementation Program Modifications

Wetland Restoration Ecosystem Area 1C and/or other areas within the Recreation/Open Space or Wetlands Restoration Program 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 a ~~proposed~~ the 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.

- ~~9. Prior to the issuance of any grading permit (except for seismic testing) or building permit in the Bolsa Chica lowland the applicant will establish a financing mechanism, with the exception of a public financing district, for the purpose of funding the construction, restoration, operation and maintenance of all wetlands, ESHAs, buffers, a non-navigable tidal inlet and a kayak/canoe facility or other wetland restoration facilities identified in the Bolsa Chica Local Coastal Program. Evidence shall be provided to the Director, EMA, that such a mechanism has been established.~~

2.3.6 Grading/Geology/Soils

10. Prior to the issuance of any grading permit, the developer shall submit a soils engineering and geologic study to the ~~Manager, EMA Development Services Division~~ Manager, Subdivision and Grading Services, for approval. The report shall include the information and be in a form as required by the Orange County Grading Manual. At the discretion of the ~~Manager, EMA Development Services Division~~ Manager, Subdivision and Grading Services the report may require review by the Grading Technical Advisory Board (appointed by the Board of Supervisors). This report shall include assessment of potential soil-related constraints and hazards such as slope instability, settlement, seismic shaking, liquefaction, landslides, compressible materials, rippability related secondary seismic impacts or any other areas of inquiry determined to be appropriate by the ~~Manager, EMA Development Services Division~~ Manager, Subdivision and Grading Services. The report also shall include evaluation of potentially expansive soil, recommended construction

Implementation Program Modifications

procedures, and shall evaluate design criteria for a 9-million gallon reservoir, sewage and utility lines proximate to or crossing over identified fault lines. ~~For Lowland residential grading permits only, the report shall also include design criteria for deep dynamic compaction and groundwater drainage cutoff wall associated with such lowland development.~~ The report shall demonstrate compliance with the applicable provisions of the Alquist-Priolo Act and shall denote precise boundaries for Alquist-Priolo Special Studies Zone for the exclusion of habitable structures.

2.3.7 Hazardous Substances

11. Prior to the issuance of any grading permit or introduction of tidal influence, an applicable Remedial Action Plan (RAP) shall be provided by the applicant subject to the approval of the ~~Manager, EMA Environmental Resources Division~~ **Manager, Environmental Resources** for cleanup of contamination that is found to exist on the site. The need for redemption of any existing conditions shall be determined based on a Health Risk Assessment (for the areas proposed for wetlands restoration).
12. Prior to the recordation of any final parcel/tract map or issuance of any grading or building permit, whichever occurs first, the applicant shall provide, in accordance with criteria supplied by ~~EMA PERD~~, a Hazardous Materials Assessment and Disclosure Statement covering the property (both fee and easement) which will offered for dedication or dedicated to the County of Orange. This document shall be offered to the County of Orange for review and approval by the ~~Manager, Development Services~~ **Manager, Subdivision and Grading Services** in consultation with the Manager, Environmental Resources.
13. Prior to the issuance of any grading permit, the applicant shall provide to the Manager, 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 oilfield **oil field** and proposed residential, wetlands and other developments, **and, as**

Implementation Program Modifications

required to be consistent with LCP Land Use Plan Policy 7.2.9. incorporation of Oil Spill Plan Requirements.

- ~~14. Prior to the issuance of any grading permit in the lowland, the applicant shall provide a plan for the installation of berms and dikes around the tidally or flood-influenced areas subject to the approval of Manager, EMA Flood program Planning Division to prevent potential Oil Spill to wetlands and lowland development.~~
16. Prior to the issuance of any Coastal Development permit or recordation of any tract/parcel map for residential units, whichever occurs first, the applicant shall provide evidence to the Manager, ~~EMA Development Services~~ Manager, Subdivision and Grading Services in consultation with the Manager, ~~EMA Environmental Resources Division~~ Manager, Environmental Resources that all proposed residential units are set back at least fifty (50) feet from operating wells, ten (10) feet from abandoned oil wells and twenty (20) feet from any underground pressurized gas line.
17. Prior to the issuance of any grading permit, a Grading Mitigation Plan shall be provided by the applicant to the Manager, ~~EMA Development Services Division~~ Manager, Subdivision and Grading Services. The Grading Mitigation Plan shall include the locations of all active, inactive, and abandoned oil wells and pipelines within the area of proposed grading, along with measures to be taken to protect these facilities from disturbance during grading and site development activities. Active oil facilities shall be protected by fences and/or appropriate berm during grading and site development activities; inactive or abandoned pipelines shall be removed prior to grading and site development activities; and abandoned oil wells shall be relocated and tested for release of gases or re-abandoned in accordance with current California Department of Oil and Gas (CDOG) regulations. The grading mitigation plan shall include the location of any known soil contamination within the area. If contaminated soil is to be or likely to be disturbed during the grading or site development activities, the Grading Mitigation Plan shall include a plan for remediation of the contaminated soil. The Grading Mitigation Plan shall also provide details of the steps to be taken if unexpected conditions are encountered during

Implementation Program Modifications

grading or site development, such as additional pipelines, abandoned wells, or soil contamination.

18. Prior to the issuance of any grading permit or recordation of any tract/parcel map whichever occurs first, the applicant shall provide evidence subject to the approval of ~~Manager, EMA Development Services Division~~ **Manager, Subdivision and Grading Services** that the pressurized gas line shall be relocated so that: (1) it does not cross the Newport-Inglewood Fault zone in a residential planning area; and (2) automatic shut-off valves shall be installed which activate in the event of severe seismic movement.

2.3.8 Surface and Groundwater Hydrology

- ~~19. Prior to the issuance of any grading permit in the lowlands, the applicant shall consult with Manager, EMA Flood Program Division or his designee to ensure that no grading activities in the lowlands will take place before the completion of the appropriate Santa Ana River Mainstem project phases to remove the project area from the Santa Ana River floodplain without providing appropriate mitigation subject to the approval of the Manager, EMA Development Services in consultation with the Manager, EMA Flood Program. (PDF 1)~~
20. ~~Prior to the issuance of any grading permit in the lowlands, if the Santa Ana River floodplain within the project limits is not removed as a consequence of the County/Federal Government funded Santa Ana River Project (SARP) at the time of grading for proposed buildings, structures, and residential developments within the existing Santa Ana River floodplain, appropriate mitigation measures, including the filing of FEMA Elevation Certificate, shall be provided by the applicant for each building site, residence, or structure demonstrating that as-built lowest floor elevations are at least 1 foot above the 100-year flood elevation in a manner meeting the approval of Manager, EMA Development Services. (Mitigation 4.4-8)~~

~~To the extent required by CEQA, these mitigation measures shall be developed through a supplemental and focused environmental review under CEQA. As appropriate, proposed buildings, structures, and residential development shall also be mitigated from flooding from any known residual floodplain (i.e., other than the Santa Ana River) in a manner meeting the~~

Implementation Program Modifications

~~approval of Manager, EMA Development Services or the appropriate official from the applicable local jurisdiction, before any grading permits are issued for proposed buildings, structures, and residences within areas delineated as residual floodplains.~~

~~If residual floodplains continue to remain on FEMA's Flood Insurance Rate Maps (FIRM) after the Santa Ana River Floodplain is removed, an Elevation Certificate demonstrating that as-built lowest floors are at least 1 foot above the 100-year elevation of the residual floodplain shall be submitted, or, a Conditional Letter of Map Revision (CLOMR) from FEMA revising the FIRM shall be obtained, as appropriate, prior to the issuance of any building permit, in a manner meeting the approval of Manager, EMA Development Services.~~

A Letter of Map Revision (LOMR) shall be received by the applicant/developer from FEMA, in a manner meeting the approval of ~~Manager, EMA Development Services~~ ***Manager, Subdivision and Grading Services*** or of the appropriate official from the applicable local jurisdiction, prior to receiving Use and Occupancy Certifications for any buildings, structures, and residences within floodplains.

To the extent required by CEQA, these mitigation measures will be developed through a supplemental focused environmental review. (Mitigation 4.4-8)

- ~~21. Prior to the issuance of any grading permits for residential units for lowland parcels in Bolsa Chica LCP/LUP Planning Areas 10 and 11, the applicant shall design and construct the EGGW Channel within the Project Area to Graham Avenue Bridge including the removal and reconstruction of tidegates in accordance with OCFCD's criteria and standards to be capable of conveying EMA approved 100-year discharges in a manner meeting the approval of Manager, EMA Development Services.~~
22. Prior to the issuance of any grading permits for residential units for lowland areas in Bolsa Chica LCP/LUP Planning Area 9, the developer/applicant shall obtain an Elevation Certificate demonstrating that building site pads are at least one foot above any residual floodplain from the EGGW Channel all in a

Implementation Program Modifications

manner meeting the approval of the Manager, ~~EMA Development Services~~ *Manager, Subdivision and Grading Services.*

- ~~23. Prior to issuance of any grading permit within any tidally or flood influenced area, the applicant shall provide an evaluation to the Manager, EMA Flood Program on the potential occurrence of natural near surface groundwater and artificially induced groundwater to determine the potential of shallow groundwater recharge to adjacent residential area caused by the wetlands restoration. Studies shall include, but shall not be limited to, subdrains, impermeable soil caps on finish grade, subsurface barriers such as cutoff walls or interceptor drains, or French Drains with dewatering wells. (Mitigation 4.4-1)~~
- ~~24. Prior to issuance of any grading permit in full or muted Wetland Restoration Planning areas adjacent to Bolsa Chica Mesa or EGGW Flood Control Channel, the applicant shall provide to the approval of Manager, EMA Development Services a detailed geotechnical study that evaluates the impact of saltwater intrusion into the upper Pleistocene Alpha and Beta Aquifers, and provides recommendations to prevent the degradation of groundwater due to tidal inundation if either a full tidal or muted tidal area is constructed in the Bolsa Pocket. The report shall include, but not be limited to, impermeable soil caps and subsurface barriers. (Mitigation 4.4-2)~~
- ~~25. Prior to the issuance of any grading permit in the lowland adjacent to existing residences, the applicant shall provide a detailed geotechnical study to evaluate transmissivity and other hydrogeologic characteristics in the Edwards Thumb area and the Lowland near the existing residential neighborhood in order to evaluate the impacts of irrigation and impounded water on groundwater levels in the existing residential neighborhood and provide appropriate mitigation measures to assure that no significant adverse impacts will result from changes in groundwater level in a manner meeting the approval of Manager, EMA Development Services Division. Such an investigation shall include but not be limited to the installation of monitoring wells and the performance of pump test for data collection with the~~

Implementation Program Modifications

~~following potential mitigation measures: subsurface cutoff wall, subsurface drains, and French Drains. (Mitigation 4.4 3)~~

- ~~26. Prior to issuance of grading permits for any lowland residential development that impact the Bolsa Chica pump station, the applicant shall provide a design and construction schedule by a licensed civil engineer to reroute the Bolsa Chica pump station discharge water without disruption in a manner meeting the approval of Manager, EMA Development Services. (Mitigation 4.4 4)~~

2.3.9 Water Quality

- ~~27. Prior to the issuance of any grading permit in lowlands, the applicant shall provide a program of maintenance dredging near the mouth of the EGGW Channel to remove sediment, resulting from urban runoff, that may contain unacceptable concentrations of pollutants in a manner meeting the approval of Manager, EMA Flood Program. (PDF 4)~~
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~~ ***Manager, Subdivision and Grading Services***. 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 contracts, including those measures recommended by EMA ***PERD*** document "Evidence Specifying Management Measures for Services of ~~Non-point~~ ***Non-point*** Pollution in Coastal Waters" (1993) (SC-1)
30. Prior to the recordation of any final parcel/tract map or issuance of any grading or building permit (including permits for tract improvements), ~~Whichever~~ ***whichever*** occurs first, the project applicant shall submit a Water Quality Management Plan (WQMP) to the ~~Manager, EMA Development Services Division~~ ***Manager, Subdivision and Grading Services*** for approval in consultation with the

Implementation Program Modifications

Manager, EMA Environmental Resources. The WQMP may include the use of trash racks and grease and oil separators or measures equivalent in pollutant removal effectiveness to improve the quality of urban runoff, and other BMPs to improve the quality of runoff from the development. Since pollutant removal effectiveness is the basis for BMP incorporation, no storm drain from the project shall discharge into any portion of Bolsa Bay, the East Garden Grove Wintersburg Channel, or the restored wetlands without full BMP incorporation on that drain. Subsequent, site specific WQMPs may be required as further land use and/or development details become known.

32. Prior to the recordation of a final tract/parcel map or prior to the issuance of any grading permits, whichever comes first, the following drainage studies shall be submitted to and approved by the ~~Manager, Development Services~~ **Manager, Subdivision and Grading Services**:
33. Prior to the issuance of any grading permit, the applicant shall submit for approval by ~~Manager, EMA Development Services~~ **Manager, Subdivision and Grading Services** an erosion control plan which shall include, but not be limited to:

~~2.3.10 Coastal Resources~~

- ~~34. Prior to the recordation of any tract map for lowland residential units or this issuance of any building permits in Planning Areas 10 and 11 of the Bolsa Chica LCP Land Use Plan, the applicant shall implement construction of or bond, consistent with financing mechanisms required under Condition No. 9, for full improvements of the Bolsa Chica LCP Wetland Restoration Program including construction, restoration, operation and maintenance of all wetlands, ESHAs, buffers, non-navigable tidal inlet and kayak/canoe facility identified in the Bolsa Chica LCP in a manner meeting the approval of the Director, EMA in consultation with the Directors EMA Planning, EMA Harbors, Beaches and Parks, EMA Regulations and EMA Public Works.~~
- ~~35. Prior to the issuance of any grading permit in the lowland, the applicant shall satisfy the following conditions regarding a non-navigable ocean inlet facility subject to the approval of~~

Implementation Program Modifications

~~Manager, EMA Development Services Division in consultation with Manager, EMA Flood Program Planning Division:~~

- ~~a. Demonstrate that the tidal inlet will in addition to serving as a source of ocean water for the Wetland Restoration Program, be capable of conveying the EMA approved 100-year discharge from EGGW Channel to the ocean.~~
- ~~b. Prepare Monitoring and Maintenance Plan for sand management within the Wetland Restoration Plan area, at the inlet and adjacent beach area with appropriate cost analyses.~~
- ~~c. Provide a secured annuity or other financial assurance that guarantees that increased costs will not accrue to Orange County Flood Control District or the County of Orange as a consequence of the ocean outlet.~~
- ~~d. Revetments shall be provided by the applicant for an appropriate distance north and south of the tidal inlet to protect Pacific Coast Highway and existing Bolsa Chica State Beach parking areas.~~
- ~~e. Provide any other study, design documentation, engineering analysis or calculation, hydrologic evaluation or project assurance deemed appropriate by the Manager, EMA Development Services regarding a tidal inlet or supporting or affected facilities.~~

2.3.11 Marine/Aquatic Biology

- ~~36. Prior to the issuance of any grading permit in lowland, the applicant shall submit a Wetlands Restoration Plan (WRP) for the approval of Manager, EMA Environmental Planning Division in consultation with Manager, EMA Project Planning Division and Manager, EMA Coastal Facilities. The WRP shall contain a Conservation Monitoring and Maintenance Plan consisting of three separate plans; Construction Monitoring and Maintenance, Post Five Year Monitoring and Maintenance; and a Long Term Monitoring Plan. The Conservation Monitoring and Maintenance Plans shall contain Water Quality Performance Standards and Safeguards, ensure protection of the habitats during construction, monitor each phase for 5 years post construction and correct any deficiencies in the~~

Implementation Program Modifications

~~habitat, and finally, monitor the restored habitats for the long term. The Conservation Monitoring and Maintenance Plan shall also incorporate a program of systematic debris removal maintenance for the restored wetlands. (PDF-6)~~

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

- ~~38. Prior the issuance of any grading permit in the lowland, the applicant shall prepare and implement as appropriate a program for approval of Manager, EMA Environmental Planning Division in consultation the Manager, EMA Project Planning and Manager, EMA Coastal Facilities as well as the California Department of Fish and Game and U. S. Fish and Wildlife Service to determine the effectiveness of the coyote as a control agent for the red fox at Bolsa Chica. (Mitigation Measure 4.8-1)~~

Implementation Program Modifications

39. *Prior to issuance of the first Coastal Development Permit in Planning Area 5* ~~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 Manager, Environmental Resources* in consultation with ~~Manager of Project Planning and Manager, Program Planning Division~~ *Manager, HBP Program Management and Coordination*. *This program shall also be implemented prior to issuance of the Coastal Development Permit in Planning Area 5.* (Mitigation Measure 4.8-2)
40. Prior to the issuance of any building permit, the applicant shall provide a management plan consistent with the LCP to specify how public visitation of the natural areas will be controlled or managed to the approval of ~~Manager, HBP Program Planning~~ *Manager, HBP Program Management and Coordination*. The plan shall include, at minimum:
- a. methods for public education on sensitive habitats and plants, *and*
 - b. ~~identification of the group or agency which will enforce access restrictions and the restrictions to be employed in the various habitats, and~~ *any existing access restriction on the existing Ecological Reserve trails may remain in effect. New trails shall not limit access opportunities.*
 - e. ~~restriction of access from community trail users during the nesting season of Federal and State listed Endangered and Threatened bird species (i.e., March 15 to August 15).~~ (Mitigation Measure 4.8-3)
41. Prior to the issuance of any building permit, the applicant shall provide to ~~Manager, Environmental Planning~~ *Manager, Environmental Resources* in consultation with ~~Manager, Coastal Resources Wildlife~~ *Manager, Zoning Administration and Resource Planning* a management plan to specify how wildlife habitats shall be maintained and managed over the long term. This plan shall include, at a minimum: methods for ongoing weed eradication, methods for public education,

Implementation Program Modifications

including information regarding invasive and exotic plants that homeowners could avoid planting in their yards and provisions for rice straw or equivalent weed-free straw bales used during erosion control to prevent additional introduction of exotic species into native habitats. (Mitigation Measure 4.8-4)

2.3.13 Transportation and Circulation

42. Prior to filing of the first tentative map for this development except for financing and conveyance purposes, the applicant shall prepare an Area Traffic Improvement Plan (ATIP) Action Plan for the entire development for approval by the ~~Director, EMA Transportation~~ **Manager, Environmental and Project Planning Division**. Said plan shall be approved by the ~~Director, EMA Transportation~~ **Manager, Environmental and Project Planning Division** prior to the recordation of first tentative map. Said Action Plan shall include the following:
- e) Define circulation phasing and implementation associated with Mesa and Lowland development.
 - f) Other data deemed necessary by the ~~Director, EMA Transportation~~ **Manager, Environmental and Project Planning Division**.
44. Prior to issuance of the first building permit for each phase of project development as identified in the RKJK traffic study of August 12, 1994, unless otherwise specified in a Board of Supervisors adopted Development Agreement, the following shall be performed in a manner meeting the approval of the ~~Director, EMA Transportation~~ **Manager, Environmental and Project Planning Division**:
- b) Applicant shall prepare cost estimate and award construction contracts for said improvements identified above, unless the County agrees to undertake the design and/or construction of said improvements. Should the County take the lead in the design and construction of these improvements, the applicant shall deposit cash with the County for the cost it will incur to implement said improvement within 60 days of written notification by the County EMA **PDS**.

Implementation Program Modifications

- d) The applicant's obligation to full construction improvement are located at: Bolsa Chica/Warner; ~~Bolsa Chica/Edinger; Golden West/Slater;~~ Bolsa Chica (Valley View)/I-405 and SR-22 Interchange; ~~Bolsa Chica/Westminster; Warner/I-405 Interchange; Warner/Huntington Harbour Connection to Los Patos; Warner/Graham; Edward/Talbert; Golden West/Edinger; PCH/Warner;~~ and right of way dedication with financial security for half section improvements of PCH adjacent to project half-section improvement; Bolsa Chica/ Garden Grove Boulevard through I-405 and SR-22 Interchanges, including roadway widening to 200 feet south of eastbound I-405 off-ramp and are fully as described in the RKJK traffic study of August 12, 1994.

45. Prior to issuance of any building permit for any development for this project, the applicant shall enter into an agreement with the County of Orange to fund the improvements at the following intersection on a fair share basis in accordance with the findings, phasing and assumptions of the RKJK traffic study of August 12, 1994 unless otherwise specified by a Board of Supervisors adopted Development Agreement:

<u>Intersections</u>	<u>Jurisdiction</u>
PCH - Warner to L.A. County line	Seal Beach, <u>County of Orange</u>
Beach/Warner	Huntington Beach
Magnolia/Warner	Huntington Beach/Fountain Valley
PCH - Golden West to Warner	Huntington Beach, <u>County of Orange</u>
Beach Blvd./Slater	Huntington Beach
Hoover/Bolsa Ave.	Westminster
Gothard/McFadden	Huntington Beach/Westminster
Newland/Warner	Huntington Beach/Fountain Valley
Magnolia/Slater	Fountain Valley
Springdale/Westminster	Westminster
Golden West/Slater	Huntington Beach
Golden West/Garfield	Huntington Beach
Golden West/Yorktown	Huntington Beach
Gothard/Warner	Huntington Beach
PCH/Beach Blvd.	Huntington Beach
Bushard/Slater	Fountain Valley

Implementation Program Modifications

2.3.14 Master Plan of County Bikeways

46. Prior to the recordation of the applicable final map, the applicant shall implement all bike routes on the site consistent with the Master Plan of Countywide Bikeways (MPCB). ~~These include:~~ ***This includes*** Route No. 25 (a Class I trail along Pacific Coast Highway) and ~~Route No. 30 (a Class I bike trail along EGGW Channel) and Route 105 (a Class I trail across Bolsa gap) linking Route Nos. 30 and 34 to the County or its designee, in a form approved by the Director, EMA Harbors, Beaches and Parks~~ ***Manager, Harbors, Beaches and Parks Division*** and County Counsel. Improvements shall include design, grading, trail construction, fencing, signing, striping, erosion control, etc., in a manner meeting the approval of the ~~Director, EMA Harbors, Beaches and Parks~~ ***Manager, Harbors, Beaches and Parks Division.***

2.3.16 Noise

49. Prior to the issuance of any building permit, the applicant shall provide an acoustical analysis subject to the approval of Manager, Building Permits ***Services*** to ensure that all new residential lots and dwelling units shall be sound attenuated against present and projected noise so as not to exceed an exterior standard of 60 dBA Ldn in outdoor living areas and an interior standard of 45 dBA Ldn in all habitable rooms. The analysis shall be prepared by a County-certified acoustical consultant and shall describe the acoustical design features of the structures proposed by the applicant. (PDF-3)
- ~~50. Prior to the issuance of any building permit for any commercial activity, the applicant shall provide an acoustical analysis subject to the approval of Manager, Building Permit to ensure that any commercial activity noise is not intrusive because of the time of day, noise character or overall exterior level into the adjacent or nearby residential community. The acoustical analysis shall describe the acoustical design features of the structures proposed by the applicant of the commercial uses. (PDF-4)~~
- ~~52. Prior to the issuance of any building permits for residential development in the Lowland, the applicant shall provide an acoustical analysis, subject to the approval of Manager, Building Permit, to confirm noise impacts and determine the~~

Implementation Program Modifications

~~extent of specific noise reduction measures necessary to achieve the 45 dBA interior noise level in residences adjacent to Graham Street up to Slater, Springdale Street to Talbert and Talbert Avenue to Springdale. (Mitigation Measure 4.11.2)~~

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~~ ***Manager, Coastal and Historical Parks*** 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)
54. Prior to issuance of any grading permit data recovery program shall be completed by the applicant meeting the approval of the ~~Manager, HBP Coastal Facilities Division~~ ***Manager, Coastal and Historical Parks*** for important or unique archaeological resources in areas proposed for urban development on Bolsa Chica Mesa and for proposed urban development and wetlands restoration.
55. Prior to the issuance of any building permit, the applicant shall, in a manner meeting the approval of the ~~Manager HBP Coastal Facilities Division~~ ***Manager, Coastal and Historical Parks*** extend the existing reburial agreement executed between the project applicant and the Juaneno Band of Mission Indians regarding the treatment and disposition of prehistoric Native American human remains discovered at ORA-83 if any additional remains are discovered on the Bolsa Chica Mesa. (PDF-8)
56. Prior to the issuance of any grading permit, the project applicant shall provide written evidence to the ~~Chief, EMA/Regulation/Grading Section~~ ***Chief, Geotech/Grading Plan Check***, that a County-certified archaeologist has been

Implementation Program Modifications

retained, shall be present the pre-grading conference, shall establish procedures for archaeological resource surveillance, and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts as appropriate. If additional or unexpected archaeological features are discovered, the archaeologist shall report such findings to the project developer and to the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**. If the archaeological resources are found to be significant, the archaeological observer shall determine appropriate actions, in cooperation with the project developer, for exploration and/or salvage. Prior to the issuance of a precise grading permit, the archaeologist shall submit a follow-up report to the ~~Manager, Harbors, Beaches and Parks/Program Planning Division~~ **Manager, HBP Program Management and Coordination**, which shall include the period of inspection, an analysis of any artifacts found and the present repository of the artifacts. Excavated finds shall be offered to the County of Orange, or designee, on a first refusal basis. If Native American remains are discovered within the Bolsa Chica, the project applicant shall comply with the procedures set forth in Section 5097.98 of the California Public Resources Code and shall consult with the most likely descendants designated by the Native American Heritage Commission to obtain recommendations on the treatment and disposition with appropriate dignity of the human remains and associated grave good. The applicant may retain said finds if written assurance is provided that they will be properly preserved in Orange County, unless said finds are of special significance, or a museum in Orange County indicates a desire to study and/or display them at the time, in which case items shall be donated to the County, or designee. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval of the ~~Manager, Harbors, Beaches and Parks/Program Planning Division~~ **Manager, HBP Program Management and Coordination**. (SC-1) (SC-2)

57. Prior to the issuance of any grading permit a County-certified archaeologist shall be retained by the applicant to complete literature and records searches for recorded sites and previous surveys. In addition, a field survey shall be conducted by a County-certified archaeologist unless the entire proposed

Implementation Program Modifications

project site has been documented as previously surveyed in a manner which meets the approval of the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**. A report of the literature and records search and the field survey shall be submitted to and approved by the ~~Manager, Harbors, Beaches and Parks/Program Planning Division~~ **Manager, HBP Program Management and Coordination**. Mitigation Measures may be required, depending on the recommendations of this report. (SC-3)

58. Prior to the issuance of any grading permit a County-certified archaeologist shall be retained by the applicant to perform a subsurface test level investigation and surface collection as appropriate. The test level report evaluating the site shall include discussion of significance (depth, nature, condition and extent of the resources), final mitigation recommendations and cost estimates. Excavated finds shall be offered to the County of Orange, or designee, on a first refusal basis. Applicant may retain said finds if written assurance is provided that they will be properly preserved in Orange County, unless said finds area of special significance, or a museum in Orange County indicates a desire to study and/or display them at the time, in which case items shall be donated to the County, or designee. Final mitigation shall be carried out based upon the report recommendations and a determination as to the site's disposition by the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**. Possible determinations include, but are not limited to, preservation, salvage, partial salvage or no mitigation necessary. (SC-4)
59. Prior to issuance of any grading permit, the project applicant shall provide written evidence to the ~~Chief, EMA/Regulation/Grading Section~~ **Chief, Geotech/Grading Plan Check**, that a County-certified archaeologist has been retained to conduct salvage excavation of the archaeological resources in the permit area. Excavated finds shall be offered to the County of Orange, or designee, on a first refusal basis. The applicant may retain said finds if written assurance is provided that they will be properly preserved in Orange County, unless said finds are of special significance, or a museum in Orange County indicates a desire to study and/or display them at the time, in which case items shall be donated to the County, or designee. A final report of the salvage operation shall be

Implementation Program Modifications

submitted to and approved by the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**, prior to any grading in the archaeological site areas. (SC-5)

60. Prior to the issuance of any grading permit for the Harriett Wieder Regional Park, ~~Manager, HBP Design~~ **Manager, Landscape Architect** shall retain a County-certified archaeologist to produce a comprehensive archaeological resource management program acceptable to the ~~Director, Harbors, Beaches and Parks~~ **Manager, Harbors, Beaches and Parks Division**. The resource management program shall include such requirements as further analysis of archaeological sites, resource recovery, or in situ preservation. Measures to protect resources in areas proposed as open space will also be included. The program shall be implemented according to a schedule which conforms to the proposed phasing of park development. Additional recommendations may be made upon completion of test-level investigation or at the professional discretion of the consulting archaeologist conducting the test-level work.

2.3.18 Paleontological Resources

61. Prior to the issuance of any grading permit, the project applicant shall provide written evidence to the ~~Chief, EMA/Regulation/Grading Section~~ **Chief, Geotech/Grading Plan Check**, that a County-certified paleontologist has been retained by the applicant to complete literature and records searches for recorded sites and previous surveys. In addition, a field survey shall be conducted by a County-certified paleontologist unless the entire proposed project site has been documented as previously surveyed in a manner which meets the approval of the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**. A report of the literature and records searches and field survey shall be submitted to and approved by the ~~Manager, Harbors, Beaches and Parks/Program Planning Division~~ **Manager, HBP Program Management and Coordination**. Future mitigation shall depend upon the recommendations in the report. (SC-1)
62. Prior to the issuance of any grading permit, the project applicant shall provide written evidence to the ~~Chief, EMA/Regulation/Grading Section~~ **Chief, Geotech/Grading Plan Check**, that a County-certified paleontologist has been

Implementation Program Modifications

retained by the applicant to conduct pre-grading salvage and prepare a catalogue of the exposed resources. Excavated finds shall be offered to the County of Orange, or designee, on a first refusal basis. The applicant may retain said finds if written assurance is provided that they will be properly preserved in Orange County, unless said finds are of special significance, or a museum in Orange County indicates a desire to study and/or display them at the time, in which case items shall be donated to the County, or designee. The paleontologist shall submit a follow-up report for approval by the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**, for review and approval, which shall include methodology, an analysis of artifacts found, a catalogue of artifacts, and their present repository. (SC-2)

63. Prior to the issuance of any grading permit, the project applicant shall provide written evidence to the ~~Chief, EMA/Regulation/Grading Section~~ **Chief, Geotech/Grading Plan Check**, that a County-certified paleontologist has been retained to observe grading activities and salvage and catalogue fossils as necessary. The paleontologist shall be present at the pre-grading conference, shall establish procedures for paleontological resource surveillance, and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of the fossils. If major paleontological resources are discovered, which require long-term halting or redirecting of grading, the paleontologist shall report such findings to the project developer and to the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**. The paleontologist shall determine appropriate actions, in cooperation with the project developer, which ensure proper exploration and/or salvage. Excavated finds shall be offered to the County of Orange, or its designee, on a first-refusal basis. The applicant may retain said finds if written assurance is provided that they will be properly preserved in Orange County, unless said finds are of special significance, or a museum on Orange County indicates a desire to study and/or display them at a time, in which case items shall be donated to the County, or designee. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval by the ~~Manager, HBP Coastal Facilities Division~~ **Manager, Coastal and Historical Parks**. Prior to the issuance of a

Implementation Program Modifications

precise grading permit, the paleontologist shall submit a follow-up report for approval by the ~~Manager, HBP Coastal Facilities Division~~ Manager, Coastal and Historical Parks, which shall include the period of inspection, a catalogue and analysis of the fossils found, and present repository of the fossils. Monthly grading observation reports shall be submitted to the grading inspector on all projects which exceed 100,000 cubic yards, unless no earthwork has been done during the month. These reports shall include the period of inspection, the list of fossils collected, and their present repository. (SC-3)

2.3.19 Aesthetics

64. Prior to the issuance of each grading permit or recordation of any applicable tract or parcel map, whichever happens first, the applicant shall provide the following plans subject to the approval of ~~Manager, HBP Coastal Facilities Division~~ Manager, Coastal and Historical Parks in consultation with the Manager, Project Planning Division which indicates that graded areas will be compatible with the adjacent existing and proposed land uses:

2.3.20 Public Services and Utilities

68. Prior to recordation of any final tract map (except for financing purposes), the project proponent shall enter into a secured (such security should be acceptable to the County of Orange) fire protection agreement with the County of Orange or its successor fire protection agency, including but not limited to a Fire Protection District, in a form approved by the Orange County Fire Department or successor agency and the County Administrative Office. This agreement shall contain:
 - 4) Provision for the timing of fire station construction and commencement of station operation as determined appropriate by the Orange County Fire Department, or successor agency; and
 - 5) Provision for a mitigation program to eliminate or minimize any negative fiscal impact the project may have on the Fire Fund if a project induced Fire Fund shortfall is projected to exist at the time a permanent fire station is operational;

Implementation Program Modifications

- ~~6) Provision for an adequate all-weather fire vehicle access road over the East Garden Grove Wintersburg Flood Control Channel, meeting the approval of the Fire Department or successor agency, to ensure adequate fire protection access for both mesa and lowlands portions of the project.~~
70. Prior to recordation of any final tract map (except for financing purposes), the project applicant shall pay the statutory school fee required for the amount of development within the area of the final tract map, or enter into an agreement with the affected school district to provide those measures deemed necessary to address the impact of the project which may include the construction of new schools, the payment of additional fee for the use of temporary facilities in a manner meeting the approval of the ~~Manager, EMA Development services~~ ***Manager, Subdivision and Grading Services***. (Mitigation Measure 4.16-3)

2.3.21 Recreation

71. Prior to the issuance of ~~any grading permit or recordation of a 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~~ ***Manager, HBP Program Management and Coordination***, 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)
72. Prior to the issuance of building permits within a recorded final tract map area, the Local Park Code requirements for the Bolsa Chica Local Coastal Program Land Use Plan shall be satisfied, for that portion of the project site, through park dedication to the satisfaction of the ~~Manager HBP Program Planning Division~~ ***Manager, HBP Program Management and Coordination***.
- ~~74. As an alternative method of satisfying conditions expressly related to Lowland development, including but not limited to, Conditions 9, 21 and 34, an application (by a landowner other~~

Implementation Program Modifications

~~than the Landowner/ Master Developer) for a Coastal Development Permit for residential units in the Lowland portion of the Planning Area 9 or in Planning Area 10 may be considered for approval if the Landowner/Master Developer has had denied, fails to pursue, fails to timely receive or fails to implement a Section 404 Permit and/or GDP for Lowland development under the circumstances described in Subparagraph's a, b, c, or d below. As a condition of approval, such a Coastal Development Permit must provide a program to mitigate (on its own property or other available property) its wetlands, conservation, flood control, and other environmental impacts, to the extent feasible, in compliance with CEQA. This will require, at a minimum, a new Initial Study. The mitigation program shall be subject to review and recommendation by Manager, Flood Program for Condition 21 and by Manager, Environmental Planning Division for Condition 34 and all other mitigation. The GDP application and all mitigation shall be considered for approval by the Planning Commission.~~

~~The circumstances which may give rise to such a GDP application are:~~

- ~~a) Denial of Permit. "Denial" of permit shall be deemed to occur upon the denial of Landowner/Master Developer's application for either (i) a Section 404 Permit for Lowland residential development and restoration or (ii) a Coastal Development Permit to implement that Section 404 Permit.~~
- ~~b) Failure to Pursue Section 404 Permit and/or GDP. Landowner/Master Developer shall be deemed to have "failed to pursue" a Section 404 Permit and/or GDP if, two years after the COUNTY's initial approval of the LCP, Landowner/Master Developer (i) has not had a Section 404 Permit application either granted or denied and (ii) Landowner/Master Developer no longer has either a Section 404 Permit or GDP application pending for Lowland residential development (or has withdrawn its consent to a pending application for which COUNTY is a co-applicant).~~
- ~~c) Failure to Receive Permits. Landowner/Master Developer shall be deemed to have "failed to receive" a Section 404~~

Implementation Program Modifications

~~Permit and/or GDP if, two years after COUNTY's initial approval of the LCP, Landowner/Master Developer has applications pending for either or both the Section 404 Permit and the GDP, but one or more of these applications has not been granted or denied.~~

- ~~d) Failure to Implement. Landowner/Master Developer shall be deemed to "fail to implement" in the event that an issued Section 404 Permit and/or GDP has expired, or if a revised application, application for modification, or application for extension for such 404 Permit and/or a GDP is filed by Landowner/Master Developer.~~

3.1 PURPOSE AND INTENT

The Conservation Planning Areas of the Bolsa Chica Planned Community provide for natural resource preservation, creation and restoration, controlled public coastal access and limited public use, and ongoing restoration monitoring and maintenance.

Different Conservation Planning Areas have different landowners:

Planning Areas 1A, 1B, and 1C comprise approximately 1,198 acres of the Wetlands Ecosystem Area. This land is owned by the State of California, which is responsible for the preparation and implementation of a Wetlands Restoration Plan on these lands as set forth in Chapter 2, Wetlands/Biological Resources Component, of the 1997-certified Bolsa Chica Land Use Plan.

Planning Area 1D (known as Edward's Thumb) contains approximately 51 acres and is also part of the Wetlands Ecosystem Area. This land is currently (1997) owned by the Koll Real Estate Group (KREG) and will be transferred to the County of Orange (or a County-approved entity) for wetlands restoration purposes.

Planning Area 3D (known as Warner Avenue Pond) contains approximately 2 acres adjacent to Warner Avenue on the Bolsa Chica Mesa. This land is currently (1997) owned by KREG, and will be dedicated to the County of Orange (or a County-approved entity) for conservation in conjunction with the dedication of the Mesa Community Park.

~~With the exception of the State's Ecological Reserve (Conservation Planning Areas 1A, 1B, and 1C), the lands in this category are currently~~

Implementation Program Modifications

~~under private ownership and are planned to be dedicated or transferred to the County of Orange or a County approved entity over a period of time. Prior to dedication/transfer, the private landowners will be responsible for the management of these lands.~~

These Conservation Planning Area regulations and standards *apply to Planning Areas 1D and 3D*, and are intended to facilitate implementation of the Wetlands/Biological Resources Component of the Bolsa Chica LUP, and to complement the implementing provisions of the Bolsa Chica Wetlands Restoration Program, which will restore and create various hydrologic regimes within the Bolsa Chica Planned Community boundary, including Full Tidal and Muted Tidal wetlands, Seasonal Ponds, and a Perennial Pond. Environmentally Sensitive Habitat Areas (ESHAs) will be protected adjacent to Pacific Coast Highway, enhanced on Rabbit Island, and recreated along the Huntington Mesa, above and adjacent to the Seasonal Ponds. *A comprehensive Wetlands Restoration Plan will be prepared by the State of California which establishes regulations and standards for Conservation Planning Areas 1A, 1B, and 1C which are public trust lands of the State.*

Once the wetlands *Conservation Planning Areas 1D and 3D* are restored, these regulations permit the maintenance, monitoring, management, and protection of the Wetlands Ecosystem Area *and Warner Avenue Pond*, while allowing limited public access, wildlife interpretation, and passive recreational activities such as a ranger-managed kayak/canoe program, restricted access interpretive trails, and scenic overlooks.

~~All improvements within Conservation Planning Areas shall be in conformance both with this Chapter of the Bolsa Chica PC Program and with the Bolsa Chica Wetlands Restoration Program.~~

3.2 PRINCIPAL PERMITTED USES

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

1. All development and construction activities *for Planning Area 3D (Warner Avenue Pond) and Planning Area 1D (Edwards Thumb)*, necessary to implement each phase of the Wetlands Restoration Program *are to be approved pursuant to a coastal development permit consistent with the Resource Restoration and Conservation Component of the Land Use Plan.*

Implementation Program Modifications

- ~~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. 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.**
- 8. Other conservation-related uses which are consistent with the Resource Restoration and Conservation Component of the Land Use Plan.**

3.3 ACCESSORY PERMITTED USES

Accessory uses and structures are permitted when customarily associated with and subordinate to a Principal Permitted Use on the same building site, per Orange County Zoning Code Section 7-9-137, including:

- 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 PC Program.**

3.4 PROHIBITED USES

- 3.4.4 Uses not provided for by Section 3.2 and 3.3 of this Chapter shall be prohibited; however, certain permitted uses are defined generally, and may require interpretation by the Director, **EMA PSD**, per County Zoning Code Section 7-9-20.

3.5 INTERIM CONSERVATION MANAGEMENT REGULATIONS

The following interim conservation management regulations shall apply to all private landowners within Conservation Planning Area 1D and 3D prior to the dedication/ transfer of land to the County of Orange, State, or other County-approved entity.

3.5.1 The landowners may continue existing uses, and for Planning Area 1D, through a coastal development permit may construct and maintain any fencing and access roads necessary for the continued use and protection of the property, and for facilities approved by the Director, EMA PDSD, for the public health, safety, and welfare. Interim conservation management uses within Planning Area 3D shall be consistent with the Resource Restoration and Conservation Components of the LUP.

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.

3.6 CONSERVATION MANAGEMENT REGULATIONS WITHIN LANDS UNDER COUNTY JURISDICTION

The following regulations shall apply to Conservation Planning Areas 1D and 3D owned by following their dedication/transfer to the County or County-approved entity:

3.6.1 The County or County-approved entity shall have authority for oversight for, and phasing of, wetlands restoration as set forth in the ~~Wetlands Restoration Program~~ a wetlands restoration program. Such restoration program(s) may be physically separate and/or in conjunction with the State's Wetlands Restoration Plan or the County's plans for Harriett Wieder Regional Park.

3.6.2 All improvements, including the creation and restoration of the ~~various~~ hydrologic regimes (i.e., wetlands habitats), Environmentally Sensitive Habitat Areas, and Buffers buffers within the Wetlands Ecosystem Area shall be governed by the ~~Wetlands Restoration Program~~ a wetlands restoration program.

Implementation Program Modifications

- 3.6.3 Conservation, monitoring, and maintenance of lands within the Wetlands Ecosystem Area shall be as set forth in ~~the Wetlands Restoration Program~~ a wetlands restoration program.
- 3.6.4 Portions of Any Environmentally Sensitive Habitat Areas shall be protected from human intrusion on a geographic and/or seasonal basis as necessary to achieve the goals of ~~the Wetlands Restoration Program~~ a wetlands restoration program, including the protection of sensitive species.
- 3.6.5 Improvements related to scientific study, public access, and wetlands interpretation (e.g., ranger-controlled trails) shall be consistent with ~~Wetlands Restoration Program~~ wetlands restoration program standards.
- ~~3.6.7 All Buffers required for the protection of wetlands habitat and Environmentally Sensitive Habitat Areas are included within Conservation Planning Areas. Within such Buffers:~~
- ~~1. Class I Trails shall be permitted only above 5 feet Mean Sea Level (MSL). Trails may meander to provide visual interest and public overlooks of the wetlands.~~
 - ~~2. Planting adjacent to Muted Tidal, Seasonal Pond, and Perennial Pond areas shall provide a transition from native plants required by the Wetlands Restoration Program for the wetlands to the palette of native and drought tolerant plants approved for the Buffer pursuant to Chapter 6 of the Bolsa Chica LUP.~~
 - ~~3. If elevated as a boardwalk, public access and visual overlooks may extend through a Buffer to edge of a hydrologic regime (i.e., Full Tidal, Muted Tidal, Seasonal Pond, or Perennial Pond boundary).~~

3.7 CONSERVATION MANAGEMENT REGULATIONS WITHIN STATE-OWNED LANDS

Conservation management regulations for State-owned lands (Planning Areas 1A, 1B, and 1C) will be set forth in the Wetlands Restoration Plan to be prepared by the State of California.

4.1 PURPOSE AND INTENT

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

4.2 PRINCIPAL PERMITTED USES

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

Implementation Program Modifications

improvements. Grading shall be consistent with Section 2.2.12. Grading Plans.

19. Residential development setback for Warner Avenue Pond pursuant to Bolsa Chica LUP Policy 6.2.22.

4.2.2 Principal Permitted Uses requiring a Coastal Development Permit approved by the Planning Commission per Chapter 10 (Discretionary Permits and Procedures):

2. Stand-alone Regional Park Concessions and commercial facilities per Orange County Zoning Code Section 7-9-89, limited to:

~~B. Interpretive kayak/canoe operations and related facilities under the specific control of the Orange County EMA Harbors, Beaches, and Parks Department or County-designated managing entity for the Wetlands Ecosystem Area.~~

4.3 ACCESSORY PERMITTED USES

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.

4.4 PROHIBITED USES

- 4.4.4 Uses not provided for by Sections 4.2 and 4.3 of this Chapter shall be prohibited, however, certain permitted uses are defined generally, and may require interpretation by the Director, EMA, PDSO, per EMA County Zoning Code Section 7-9-20.

4.5 SITE DEVELOPMENT STANDARDS

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 one hundred (100) foot residential development setback shall be

Implementation Program Modifications

maintained around Warner Pond (except where adjacent to Warner Avenue, and the Mesa Connector).

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.*

4.5.7 Screening of parking areas: Public parking areas adjacent to, but outside of, public street rights-of-way shall be screened from view by earthen berms, fences, walls, and/or landscape plantings that, within five years, are at least seventy-five (75) percent opaque, provided such screening is consistent with public health and safety, and is approved by the Manager, ~~Orange County EMA Harbors, Beaches and Parks, Design Division~~ *Manager, Landscape Architecture.*

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 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 of the Community Park shall consist of native, drought-tolerant plants.

3. Residential Development Setback: The Residential Development Setback surrounding Warner Avenue Pond shall be landscaped exclusively with native and drought-tolerant plant material that provides habitat value and a naturally-

Implementation Program Modifications

appearing visual transition between wetlands ecosystem area and residential/community park area of the Planned Community.

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 of the Regional Park shall consist of native, drought-tolerant plants.

5.1 PURPOSE AND INTENT

Residential Planning Areas of the Bolsa Chica Planned Community are established to provide for a wide variety of housing types including, but not limited to, single-family detached, single-family attached, planned unit developments, and multi-family developments (e.g., duplexes, condominiums, and apartments). These regulations also provide for recreation uses, community facilities, ancillary and accessory uses designed to be compatible with and enhance the residential uses. ~~Although market demand will need to be determined in conjunction with future Coastal Development Permits, Neighborhood Commercial uses are permitted in Medium High Density Residential Planning Area 6 to serve the needs of both residents and visitors to Bolsa Chica, as set forth in the Land Use Plan.~~

Residential densities within the Planned Community are within the Medium-Low (ML) Density Residential category (6.5 - 12.5 DU/Ac), divided into the following categories:

<u>Residential Density Category</u>	<u>Density Range</u>
Low Density (L) Residential.....	3.5 - 6. DU/Ae
Medium Low (ML) Density Residential.....	6.5 - 12. DU/Ae
Medium High (MH) Density Residential.....	12.5 - 1 DU/Ae

~~5.2 — LOW DENSITY RESIDENTIAL PLANNING AREAS~~

~~Low Density Residential Planning Areas 10 and 11 provide for predominantly single family detached housing but permit other low density housing types. Recreation uses, community facilities, and other uses accessory to a principal use are also allowed.~~

~~5.2.1 Principal Permitted Uses requiring a Coastal Development Permit per Chapter 10 (Discretionary Permits and Procedures):~~

- ~~1. Detached and attached single family dwellings (one dwelling per building site).~~
- ~~2. Community care facilities per Orange County Zoning Code Section 7-9-141.~~
- ~~3. Community facilities per Section 6.2.1.~~
- ~~4. Local Parks per Chapter 6 and Orange County Local Park Code, Section 7-9-500.~~
- ~~5. Accessory Permitted Uses referenced in Section 5.2.3 when located on a separate building site.~~

~~5.2.2 Principal Permitted Uses requiring a Coastal Development Permit approved by the Planning Commission per Chapter 10 (Discretionary Permits and Procedures):~~

- ~~1. Residential Planned Developments, including patio home developments, per Orange County Zoning Code Section 7-9-110 to be approved by the Planning Commission.~~
- ~~2. New oil production facilities, per Chapter 9, Oil Production Regulations (existing oil production facilities do not require a Coastal Development Permit).~~
- ~~3. Community facilities per Section 6.2.2.~~
- ~~4. Any other use which the Planning Commission finds consistent with the purpose and intent of these regulations.~~

Implementation Program Modifications

~~5.2.3 Accessory Uses Permitted~~

~~Accessory uses and structures are permitted when customarily associated with and subordinate to a Principal Permitted Use on the same building site, per Orange County Zoning Code Section 7-9-137, including:~~

- ~~1. Garages and carports.~~
- ~~2. Detached accessory structures such as greenhouses, gazebos, cabanas, and storage sheds.~~
- ~~3. Swimming pools, spas, therapy baths, water fountains, and related equipment.~~
- ~~4. Covered patios and decks.~~
- ~~5. Fences and walls.~~
- ~~6. Tennis courts, parks, trails, greenbelts, and similar common landscape areas.~~
- ~~7. Signs per Chapter 8, Sign Regulations.~~
- ~~8. Any other accessory use which the Director, EMA, finds to be consistent with the purpose and intent of these regulations.~~

~~5.2.4 Temporary Uses Permitted~~

~~Temporary uses are permitted subject to the requirements of Orange County Zoning Code Section 7-9-136, "Temporary Uses and Structures."~~

~~5.2.5 Prohibited Uses~~

- ~~1. Commercial uses and structures.~~
- ~~2. Industrial and manufacturing uses and structures, except those related to oil production per Section 5.2.2 and Chapter 9, Oil Production Regulations.~~

Implementation Program Modifications

- ~~3. The storage of vehicles, equipment, or products related to a commercial activity not permitted in this area.~~
- ~~4. The keeping of pets or animals for any commercial purpose.~~
- ~~5. Apiaries.~~
- ~~6. Uses not provided for by Section 5.2.1 through 5.2.3 shall be prohibited; however, certain permitted uses are generally defined and may require interpretation by the Director, EMA per Orange County Zoning Code, Section 7-9-20.~~

~~5.2.6 Site Development Standards~~

- ~~1. Building site area: Four thousand (4,000) square feet minimum, except within three hundred (300) feet of existing single family detached units adjacent to the Bolsa Chica Planned Community, in which case the minimum building site area shall be five thousand (5,000) square feet.~~
- ~~2. Building site width: Forty (40) feet minimum.~~
- ~~3. Building height: Thirty five (35) feet maximum.~~
- ~~4. Building site coverage: Fifty percent (50%) maximum.~~
- ~~5. Building setbacks:~~
 - ~~A. Front For single family detached units located on through travel streets, a minimum fifteen (15) feet from the property line, except garages and carports. The point of vehicular entry to a garage or carport shall be eighteen (18) feet minimum.~~
 - ~~B. Side Minimum ten (10) feet aggregate for both sides. In those instances where a side yard is adjacent to a street, a five (5) foot minimum setback is required.~~
 - ~~C. Rear Twenty (20) feet minimum.~~
- ~~6. Parking: Off street parking shall be provided per Chapter 7, Off Street Parking Regulations.~~

Implementation Program Modifications

- ~~7. Patios: No attached or detached covered patio will be closer than three (3) feet to a property line, except the street side property line of a corner lot where a minimum of ten (10) feet will be maintained.~~
- ~~8. Projections into required setbacks: Eaves, cornices, chimneys, outside staircases, balconies, and similar architectural features may project a maximum of four (4) feet into any required lot setback or three (3) feet from the property line.~~
- ~~9. Fence/wall heights: Maximum height for fences and walls will be in accordance with Orange County Zoning Code Section 7-9-137.5, except as otherwise permitted below, provided that sight distances for vehicular safety are not obstructed:
 - ~~A. Where main buildings may be located — the same as the main building height.~~
 - ~~B. Within required front setback area — forty two (42) inches.~~
 - ~~C. Within other setback areas — six (6) feet. Higher walls for the purpose of noise mitigation or other health and safety measures may be approved by the Director, EMA, subject to approval of an acoustical analysis report.~~~~

5.3 MEDIUM-LOW DENSITY RESIDENTIAL PLANNING AREAS

Medium-Low Density Residential Planning Areas 5, ~~6~~, 7, ~~8~~, and 9 provide for predominantly single-family detached, single-family attached, and duplex housing. Residential planned unit developments, other multi-family developments, recreation uses, community facilities, and other uses accessory to a principal use are also allowed.

5.3.3 Accessory Uses Permitted

Accessory uses and structures are permitted when customarily associated with and subordinate to a Principal Permitted Use on the same building site, per Orange County Zoning Code Section 7-9-137, including:

Implementation Program Modifications

8. Any other accessory use which the Director, EMA *PDS*, finds to be consistent with the purpose and intent of these regulations.

5.3.5 Prohibited Uses

6. Uses not provided for by Section 5.3.1 through 5.3.3 shall be prohibited; however, certain permitted uses are generally defined and may require interpretation by the Director, EMA *PDS* per Orange County Zoning Code, Section 7-9-20.

~~5.4 MEDIUM-HIGH DENSITY RESIDENTIAL PLANNING AREAS~~

~~Medium-High Density Residential Planning Areas 6 and 8 provide for predominantly planned unit developments and multi-family developments, while also permitting single-family detached and single-family attached housing. Recreation uses, community facilities, and other uses accessory to a principal use are also allowed.~~

~~5.2.1 Principal Uses Permitted~~

- ~~1. Principal Permitted Uses requiring a Coastal Development Permit per Chapter 10 (Discretionary Permits and Procedures):~~
 - ~~A. Detached and attached single-family dwellings (one dwelling per building site).~~
 - ~~B. Multi-family developments per Orange County Zoning Code Section 7-9-146.7.~~
 - ~~C. Community facilities per Section 6.2.1.~~
 - ~~D. Community care facilities/homes per Orange County Zoning Code Section 7-9-141.~~
 - ~~E. Local parks per Chapter 6 and Orange County Local Park, Code Section 7-9-500.~~
 - ~~F. Accessory Permitted Uses referenced in Section 5.4.2, when located on a separate building site.~~

Implementation Program Modifications

~~2. Principal Permitted Uses requiring a Coastal Development Permit approved by the Planning Commission per Chapter 10 (Discretionary Permits and Procedures):~~

~~A. Residential Planned Developments, including patio-home developments, per Orange County Zoning Code Section 7-9-110.~~

~~B. Neighborhood Commercial facilities within Planning Area 6 (i.e., at the southwest corner of Warner Avenue and the Mesa Connector) per Orange County Zoning Code Section 7-9-89, limited to the following principal permitted uses:~~

~~I. Commercial recreation facilities including athletic clubs, tennis clubs, and their ancillary retail sales and/or dining areas.~~

~~II. Retail and service businesses.~~

~~III. Restaurants/cafes.~~

~~IV. Visitor serving food concession facilities (mobile or permanent).~~

~~C. Community facilities per Section 6.2.2.~~

~~D. Any other use which the Planning Commission finds consistent with the purpose and intent of this land use category.~~

~~5.4.2 Accessory Uses Permitted~~

~~Accessory uses and structures are permitted when customarily associated with and subordinate to a Principal Permitted Use on the same building site, per Orange County Zoning Code Section 7-9-137, including:~~

~~1. Garages and carports, including access driveways and private streets.~~

~~2. Detached accessory structures such as greenhouses, gazebos, cabanas, and storage sheds.~~

Implementation Program Modifications

- ~~3. Swimming pools, spas, therapy baths, water fountains, and related equipment.~~
- ~~4. Covered patios and decks.~~
- ~~5. Fences and walls.~~
- ~~6. Tennis courts, parks, trails, greenbelts, and similar common landscape areas.~~
- ~~7. Signs per Chapter 8, Sign Regulations.~~
- ~~8. Any other accessory use which the Director, EMA, finds to be consistent with the purpose and intent of these regulations.~~

~~5.4.3 Temporary Uses Permitted~~

~~Temporary uses are permitted, subject to the requirements of Orange County Zoning Code Section 7-9-136, "Temporary Uses and Structures."~~

~~5.4.4 Prohibited Uses~~

- ~~1. Industrial and manufacturing uses and structures, except those related to oil production per Section 5.4.2 and Chapter 9, Oil Production Regulations.~~
- ~~2. The storage of vehicles, equipment, or products related to a commercial activity.~~
- ~~3. The keeping of pets or animals for any commercial purpose.~~
- ~~4. Apiaries.~~
- ~~5. Industrial and manufacturing facilities.~~
- ~~6. Uses not provided for by Section 5.4.1 through Section 5.4.3 shall be prohibited; however, it is recognized that certain permitted uses are only generally defined and may require interpretation by the Director, EMA per Orange County Zoning Code, Section 7-9-20.~~

Implementation Program Modifications

~~5.4.5 Site Development Standards~~

~~The Site Development Standards contained in Section 5.5 shall apply to all development within this residential category.~~

5.5 SITE DEVELOPMENT STANDARDS ~~(ML AND MH PLANNING AREAS)~~

5.5.1 Single-Family Detached Developments:

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

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 one hundred (100) foot residential development setback shall be maintained around Warner Pond (except where adjacent to Warner Avenue or the Mesa Connector.)

9. Fence/wall heights: Maximum height for fences and walls will be in accordance with Orange County Zoning Code Section 7-9-137.5, except as otherwise permitted below, provided that sight distances for vehicular safety are not obstructed:

C. Within other setback areas -- six (6) feet. Higher walls for the purpose of noise mitigation or other health and safety measures may be approved by the Director, EMA PDSO, subject to approval of an acoustical analysis report.

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. Additionally, a one hundred (100) foot residential development setback shall be maintained around Warner Pond (except where adjacent to Warner Avenue and the Mesa Connector).

Implementation Program Modifications

7. **Fence/wall heights:** Maximum height for fences and walls per Orange County Zoning Code Section 7-9-137.5, except as otherwise permitted below, provided that sight distances for vehicular safety purposes are not obstructed:
 - C. Within other setback areas -- six (6) feet. Higher walls for the purpose of noise mitigation or other health and safety measures may be approved by the Director, EMA ***PDS*** subject to approval of an acoustical analysis report.

5.5.3 Multi-Family Developments:

8. **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 one hundred (100) foot residential development setback shall be maintained around Warner Pond (except where adjacent to Warner Avenue and the Mesa Connector).

11. **Maximum height for fences:** Six (6) feet, provided that sight distances for vehicular safety purposes are not obstructed. Higher walls for the purpose of noise mitigation or other health and safety measures shall be approved by the Director, EMA ***PDS*** subject to approval of an acoustical analysis report.

~~5.5.4 Neighborhood Commercial Developments~~

~~Permitted neighborhood commercial uses shall be developed in accordance with the site development standards set forth in Orange County Zoning Code, Section 7-9-89.7.~~

6.1 PURPOSE AND INTENT

Planning Areas designated exclusively for Public Facilities on the Planned Community Development Map and Statistical Table includes the ~~EGGW Flood Control Channel (PA 4A), a water reservoir site (PA 4B), and a fire station site (PA 4C).~~ Other public and community facilities may be located

Implementation Program Modifications

within Residential and Recreation Planning Areas as identified in Chapters 4 and 5.

6.2 PRINCIPAL PERMITTED USES

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

1. Public Facilities designated on the Planned Community Development Map and Statistical Table, including:
 - A. Public Mesa and Lowland Community Parks.
 - B. Public water storage reservoir.
 - C. ~~Public EGGW Flood Control Channel.~~

7.3 STANDARDS FOR INDIVIDUAL PRINCIPAL USES

The following standards delineate the minimum number of parking spaces required for individual principal uses:

1. *Local parks/ recreation areas* On-street and/or off-street parking for local parks and recreation uses shall be provided pursuant to the requirements of the Orange County EMA ~~C Harbors, Beaches and Parks~~ *Harbors, Beaches and Parks Division*, and Orange County Zoning Code Section 7-9-145, or approval of the ~~Director, Orange County HRPD~~ *Manager, Harbors, Beaches and Parks Division*.

7.4 JOINT-USE OR SHARED PARKING

A reduction in the aggregate total of otherwise required parking spaces for principal uses within a mixed-use development may be permitted for either joint-use or shared parking upon the approval of a Detailed Parking Plan by the Zoning Administrator or Planning Commission in conjunction with a Coastal Development Permit or Use Permit. The approval of a parking reduction due to joint-use or shared parking shall be based on the following findings:

1. Such modification shall not have a negative impact on parking for residential, ~~neighborhood commercial~~, or public recreational uses; and

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 of the public recreational amenities.

9.2 PURPOSE AND INTENT

The purpose of these regulations is to provide for continued oil production within the Bolsa Chica Planned Community under existing leases and until abandoned due to natural depletion of the recoverable oil or by early abandonment. Early abandonment may be pursued to facilitate implementation of the Wetlands Restoration Program *Plan*.

Closure of the oil wells, removal of pipelines and facilities, and cleanup of the surface soil and contaminants shall be regulated by the California Department of Conservation, Division of Oil and Gas (CDOG) and the Director of the Orange County Environmental Management Agency (OCEMA) Director, Planning and Development Services Department (PDSD) as set forth in this Chapter.

9.3 ABANDONMENT OF OIL WELLS PRODUCTION REGULATIONS WITHIN RESIDENTIAL AND PUBLIC FACILITY PLANNING AREAS

~~Except as otherwise specified in this Section 9.3, continuing oil production and the *The* abandonment of wells and facilities within Residential and Public Facility Planning Areas of the Bolsa Chica Planned Community shall be in accordance with the following laws and regulations:~~

~~In addition to these regulations, oil production activities are subject to the provisions of leases and agreements between the oil operator and the surface landowner, which are not enforceable by the County of Orange.~~

Implementation Program Modifications

~~The following additional regulations shall apply to Residential and Public Facility Planning Areas upon recordation of a Final Tract Map for all or a portion of that Planning Area. Responsibility for implementation of these regulations shall belong to the Tract Map applicant unless specified as the responsibility of the oil operator.~~

~~9.3.1 Requirements for New Drilling and Major Redrilling~~

~~New drilling of oil wells is regulated by the State of California and the County of Orange pursuant to the codes and statutes identified above. With respect to the SOVI operations only, however, the number of new wells and the location of these wells are also subject to the provisions of any leases and/or agreements entered into between the surface landowner and the oil operator. No new drilling or major redrilling shall be allowed within any residential tract map subdivision area or public facility lot after the County issues the first Certificate of Occupancy for a residential unit within that subdivision.~~

~~9.3.2 Required Setbacks~~

~~All residential structures shall be located a minimum of fifty (50) feet from any producing well (pursuant to Orange County Fire Department requirements) and at least ten (10) feet from and/or ten (10) feet above any abandoned oil well casing. The surface landowner shall provide a minimum 20 feet by 50 feet well site for existing wells with an access of 50 feet by 150 feet upon request by the Oil Operator. The setback of the oil well from the street shall be the width of the street plus the depth needed to provide a total of 150 feet access.~~

~~9.3.3 Production Equipment Operations~~

~~All production equipment shall be constructed and operated by the oil operator so that noise, vibration, lights, dust, odor or other harmful or annoying substances or effects are reduced to the maximum extent feasible. Technological improvements in production methods shall be incorporated and utilized by the oil operator as they become available in order to reduce the adverse effects identified previously. All production equipment shall be maintained in a safe and clean operating condition.~~

Implementation Program Modifications

~~9.3.4 Production Regulations for Oil Operators~~

- ~~1. No water or oil storage tanks or other shipping facilities shall be permitted on the well sites.~~
- ~~2. No sign shall be constructed, erected, maintained, or placed on the premises or any part thereof, except those required by law or ordinance to be displayed in connection with oil field operations.~~
- ~~3. All liquids and gases produced shall be removed from the site by underground pipelines.~~
- ~~4. All production units, injection wells, electrical pumps, and filters shall be contained in a 20 by 50 foot enclosed area.~~
- ~~5. No heater treaters or other burning of natural gas or venting of natural gas to the atmosphere shall be conducted on the well site.~~
- ~~6. Shrubs shall be planted and maintained along the exterior of fences and/or walls enclosing well sites (Figure 9.1). This regulation shall not limit additional landscaping requirements which may be imposed as a condition of a Coastal Development Permit, and/or Tentative Tract Map.~~

~~9.3.5 Fences~~

~~All oil operation sites shall be completely enclosed by a chain link fence with the following specifications:~~

- ~~1. All chain link fence enclosures shall have a minimum height of six (6) feet, topped with three (3) strands of barbed wire, spaced four (4) inches apart.~~
- ~~2. The chain link fabric shall be a minimum of eleven (11) gauge galvanized steel and may be coated with vinyl or plastic material.~~
- ~~3. There shall be no opening below the fence greater than four (4) inches.~~
- ~~4. Support posts shall be set in concrete and shall be imbedded in the ground to a depth sufficient to maintain the stability of~~

Implementation Program Modifications

~~the fence as approved by the County Building Inspector, but in no event less than twelve (12) inches.~~

- ~~5. Fencing constructed of individual chain link panels shall be securely latched, pinned, or hinged to prevent unauthorized persons from gaining access to such operation site.~~

9.3.6 ~~Masonry Walls~~

~~In conjunction with approval of a Coastal Development Permit, and/or Tentative Tract Map for development within a Residential or Public Facility Planning Area, masonry walls may be required to enclose in whole or in part any oil well site and/or oil operation site that lies within the area covered by the permit and/or map. If required through a permit or Tract Map approval, and unless otherwise specified as a condition of approval, the masonry walls shall be sited and constructed in accordance with standard engineering practices and the following specifications:~~

- ~~1. The design and color of the wall shall be compatible with the facilities, buildings and structures adjacent to the wall.~~
- ~~2. The wall shall be at least ten (10) feet in height.~~
- ~~3. The wall shall be constructed in accordance with the provisions of the Orange County Building Code.~~

9.3.7 ~~Required Gates~~

~~All fences and masonry walls shall be equipped with at least one gate section. Unless otherwise specified as a condition of approval, the gate section shall meet the following specifications:~~

- ~~1. Each gate section shall be twelve (12) feet wide and be composed of two (2) gates, each of which is six (6) feet wide, or one sliding gate twelve (12) feet wide. The gates shall latch and lock in the center of the twelve (12) foot span, and each gate shall be topped with three (3) strands of barbed wire, spaced four (4) inches apart.~~
- ~~2. The gates shall be of chain link construction which meets the applicable specifications or of other approved materials which, for safety reasons, shall be at least as secure as chain link fence.~~

Implementation Program Modifications

- ~~3. The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site.~~
- ~~4. Hinges shall be heavy duty malleable iron or steel industrial service type with a 180 degree swing. Sliding gates must be made of heavy duty malleable iron or steel industrial service type.~~
- ~~5. There shall be at least one gate opening for access, placed in a non-hazardous position, and such gate(s) shall be locked at all times while left unattended by a watchman or serviceman.~~

~~9.3.8 Oil Field Waste Removal~~

~~Rotary mud, drill cuttings, oil and liquid hydrocarbons, and all other oil field wastes derived or resulting from, or connected with the redrilling or reworking of any well, shall be discharged and removed from the operation site by the oil operator according to all applicable Federal, State, and County Regulations.~~

~~9.3.9 Off Street Parking~~

~~Parking for oil facility employees shall be provided on site per Chapter 7, Off Street Parking Regulations.~~

9.4.1 Requirements for New Drilling and Major Redrilling

~~New drilling of oil wells is regulated as discussed under Section 9.3.1. New drilling of oil wells is regulated by the State of California and the County of Orange pursuant to the codes and statutes identified above. With respect to the SOVI operations only, however, the number of new wells and the location of these wells are also subject to the provisions of any leases and/or agreements entered into between the surface landowner and the oil operator.~~

Graphic Suggested Modification:

Figure 9.1 of the Planned Community Program which depicts the standards for screening oil wells adjacent to lowland residential development shall be deleted. 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.

10.2 GENERAL REQUIREMENTS

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

Implementation Program Modifications

FIGURE 10.1

COASTAL DEVELOPMENT PERMIT PROCESS
Bolsa Chica Planned Community

PLANNING AREA/ Project Type	TYPE OF COASTAL DEVELOPMENT PERMIT			CONSTRUCTION PERMITS (e.g., Grading/ Building)
	Master CDP	Area-wide CDP	Project CDP	
CONSERVATION PLANNING AREAS 1A, 1B, and 1CD-Area ¹	<i>State-prepared</i> Wetlands Restoration Program <i>Plan</i> (HAP) <i>CDP Issued by CCC</i>	Not Applicable	Required per Section 10.2.3(2) <i>Not</i> <i>Applicable</i>	Required
CONSERVATION PLANNING AREA 1D ²	<i>County-approved</i> Wetlands Restoration <i>Plan</i>	<i>Not</i> <i>Applicable</i>	<i>Required per</i> <i>Section 10.2.3(2)</i>	<i>Required</i>
CONSERVATION PLANNING AREA 3D ³	<i>Master Coastal</i> <i>Development Permit</i> <i>per Section 10.2.5(1)</i>	<i>Required per</i> <i>Section</i> <i>10.2.5(2)</i>	<i>Required per</i> <i>Section 10.2.5(3)⁴</i>	<i>Required</i>
RECREATION PLANNING AREAS 2A and 2B (Bolsa Chica Harriett Wieder Regional Park)	County-approved General Development Plan/Resource Management Plan	Not Applicable	Required per Section 10.2.4	Required
RECREATION PLANNING AREAS 3A, 3B, and 3E3C	Master Coastal Development Permit per Section 10.2.5(1)	Required per Section 10.2.5(2)	May be Applicable per Section 10.2.5(3) ⁴	Required
PUBLIC FACILITY PLANNING AREAS 4A-4C AREA 4B	Master Coastal Development <i>Permit</i> per Section 10.2.5(1)	Required per Section 10.2.5(2)	May be Applicable per Section 10.2.5(3) ⁴	Required
RESIDENTIAL PLANNING AREAS (Single-Family Detached Projects)	Master Coastal Development <i>Permit</i> per Section 10.2.5(1)	Required per Section 10.2.5(2)	May be Applicable per Section 10.2.5(3) ⁴	Required
RESIDENTIAL PLANNING AREAS (Attached Single- Family/Planned Unit Developments/Multi- Family Projects)	Master Coastal Development <i>Permit</i> per Section 10.2.5(1)	Required per Section 10.2.5(2)	Required per Section 10.2.5(3)	Required

¹ State-owned lands.

² Edwards Thumb

³ Warner Avenue Pond

⁴ An Area-wide CDP may be processed at a level of detail that would not require subsequent Project CDPs for recreation facilities, public facilities, and single-family detached developments, provided that a Project CDP-level of detail is included for that particular recreation facility, public facility, and/or single-family detached development

Implementation Program Modifications

10.2.3 Coastal Development Permits within Conservation Planning Areas

~~1. Master Coastal Development Permit~~

~~The Bolsa Chica Wetlands Restoration Program is the Master Coastal Development Permit for all Conservation Planning Areas within the Bolsa Chica Planned Community.~~

~~The Wetlands Restoration Program is a separate Implementing Actions Program for the Bolsa Chica LCP Land Use Plan, which is summarized in Subsection 1.3.3 of this Planned Community Program.~~

~~Any amendments proposed to the Wetlands Restoration Program shall be processed in the same manner as other Coastal Development Permits as set forth in Section 10.4, Procedures, of this Chapter. Any "minor refinements" to the Wetlands Restoration Program, as defined in the Wetlands Restoration Program, shall be processed by the Director of EMA, as set forth in the Wetlands Restoration Program.~~

~~2. Project Coastal Development Permits~~

~~Project Coastal Development Permits shall be prepared and processed for each Restoration Phasing Area (RPA) identified in the Wetlands Restoration Program.~~

~~5. Conservation Planning Area 3D (Warner Avenue Pond)~~

~~The content of Project GDP applications for each RPA shall be as set forth in the Wetlands Restoration Program. Project GDP applications for RPA's may be combined, and shall be processed in the same manner as other Project GDP's, as set forth in Section 10.4, Procedures, of this Chapter.~~

10.2.5 Coastal Development Permits within Recreation, Residential, and Public Facility Planning Areas 3A through 12 9

~~1. Master Coastal Development Permits~~

~~A Master Coastal Development Permit, including all or portions of Recreation, Public Facility, and Residential~~

Implementation Program Modifications

Planning Areas 3A through ~~12~~ 9, shall be processed in order to:

As defined in the Bolsa Chica Land Use Plan, separate Master Coastal Development Permits may be prepared for major phases of development implementation, ~~including Phases 1A, 1B, and 1C on the Bolsa Chica Mesa, and/or Phases 2A and 2B in the Northeast Lowland.~~

10.3 CONTENT OF APPLICATIONS

This Section applies to this Bolsa Chica Planned Community Program and references Section 7-9-118 of the County Zoning Code with exceptions as noted herein. All applications for Coastal Development Permits and Use Permits shall be filed with the Director, ~~EMA~~ PDS pursuant to Orange County Zoning Code Section 7-9-150.2, "Applications".

10.3.1 Master Coastal Development Permits

1. Planning Area Development

B. Wetlands-Development Interface Plan, if applicable, including:

~~III. any proposed refinements to the Wetlands Restoration Program;~~

C. If applicable, any revisions to the Planned Community Development Map and Statistical Summary Table pursuant to Section 11.4, Procedures for Revisions to the PC Development Map and Statistical Summary Table. In the case of proposed refinements to Planning Areas that adjoin the Wetlands Ecosystem Area, include maps, calculations, and related documentation demonstrating no net loss of wetlands acres (Note: A copy of the Vesting "A" TTM may be included with the Master CDP for reference, but approval of the Master CDP shall not be construed as approval of the TTM, which is separately subject to the California Subdivision Map Act and County Subdivision Ordinance.)

Implementation Program Modifications

~~5. Master Oil Facilities Plan~~

~~A Master Oil Facilities Plan, including the following and consistent with the approved Bolsa Chica Wetlands Restoration Program:~~

- ~~A. Map and text describing that overall relationship of ongoing oil wells and production facilities to Master GDP improvements, including any relocation or consolidation of wells, access/service roads, or other facilities that will be accomplished in conjunction with Master GDP improvements;~~
- ~~B. Control measures and standards related to oil well operator access and oil field operation affects on Master GDP improvements (e.g., how runoff water quality will be protected, when service vehicles will be permitted on-site, and any light/noise controls and standards applicable to field operations);~~
- ~~C. On shore oil spill prevention measures (e.g., road berming, catch basins, and well cellar pump outs);~~
- ~~D. Oil field maintenance and monitoring program, including periodic inspection of oil facilities for potential leaks, timely removal of facilities and service roads no longer required, removal or remediation of any oil impregnated soil, and procedures to ensure that oil and related fluids to not enter development areas or the Wetlands Ecosystem Area.~~
- ~~E. Subsidence mitigation measures if required by the California Department of Oil and Gas.~~

10.3.2 Area-Wide Coastal Development Permits

~~5. Neighborhood Commercial Development (if applicable)~~

~~The Area-wide GDP that includes Planning Area 6 shall comply with the "Guidelines: Neighborhood Commercial" of the Orange County General Plan if commercial development is proposed. If no commercial development is proposed, a marketing study shall be included which demonstrates the infeasibility of commercial development in Planning Area 6.~~

Implementation Program Modifications

~~6. Trail Between Northeast Lowland and Regional Park (if applicable)~~

~~The Area-wide GDP that includes Planning Area 11 shall contain requirements for the implementation of the Class I Trail connecting the Lowland residential development and Balsa Chica Regional Park.~~

~~9. Update of Master Oil Facilities Plan (if applicable)~~

~~If a Planning Area included in an Area-wide GDP contains continuing oil facilities, the Master Oil Facilities Plan, prepared for the Master GDP, shall be confirmed or updated, as appropriate.~~

10.3.3 Project Coastal Development Permits

1. Site Plan - drawn to scale, fully dimensioned, and easily readable, containing the following:
 - aa. Any additional background and supporting information the Director, EMA PDS, deems necessary.

10.4 PROCEDURES

- 10.4.4 Coastal Development Permits shall be approved as precise plans for the location of the uses and structures. If minor amendments or changes are proposed regarding the location or alteration of any use or structure, a Changed Plan shall be submitted for approval to the Director, EMA PDS pursuant to Orange County Zoning Code, Section 7-9-150.3.
- 10.4.5 Applications for Master CDPs, Area-wide CDP's, Project CDP's may be processed concurrently with a Tentative Tract Map(s), with one environmental review. At the discretion of the Director, EMA PDS, minor projects which are accessory to, or an expansion of, an existing approved use may be exempted from the requirement for a Coastal Development Permit.

Implementation Program Modifications

11.4 PROCEDURES FOR REVISIONS TO THE PLANNED COMMUNITY DEVELOPMENT MAP AND STATISTICAL TABLE

11.4.4 Any proposed revision to reallocate the estimated number of dwelling units and/or the estimated gross acres assigned from one Planning Area to another Planning Area by more than ten (10) percent shall require a public hearing per Orange County Zoning Code Section 7-9-150.3. Revisions of ten (10) percent or less shall be deemed administrative refinements, and may be approved by the Director, EMA *PDS*. Any change to the maximum dwelling units allowed in any Planning Area shall require a public hearing.

11.4.6 Any proposal to reallocate the estimated number of dwelling units, and/or the estimated gross acreage assigned to land uses from one Planning Area to another Planning Area shall require submittal of the following information:

6. Any additional background and/or supporting information which the Director, EMA *PDS*, deems necessary.

12.0 DEFINITIONS

2. **Bolsa Chica Local Coastal Program (LCP)** - The planning document prepared by the County of Orange to comprehensively satisfy the requirements of the California Coastal Act for the Bolsa Chica segment of the County's North Coast Planning Unit, and consisting of the Land Use Plan (LCP Part I), *and* Planned Community Program (LCP Part II), ~~and Wetlands Restoration Program (LCP Part III).~~
21. **Edwards Thumb** - ~~A geographical area consisting of about 32~~ *Planning Area 1D containing approximately 51* acres in the northeast corner of the Lowland, bordered by residential development in the City of Huntington Beach, the Huntington Mesa bluffs, and Edwards Street.
36. **Landowner/Master Developer** - Koll Real Estate Group, the major property owner in *on* the Bolsa Chica Lowland *Mesa*. Other significant property owners include the State Lands Commission, the Metropolitan Water District, and the Fieldstone Corporation *the Ocean View School District, and D.E. Goodell.*
40. ~~Master Oil Facilities Plan~~ - A component of the Master Coastal Development Permit as required by the Bolsa Chica Planned Community Program.

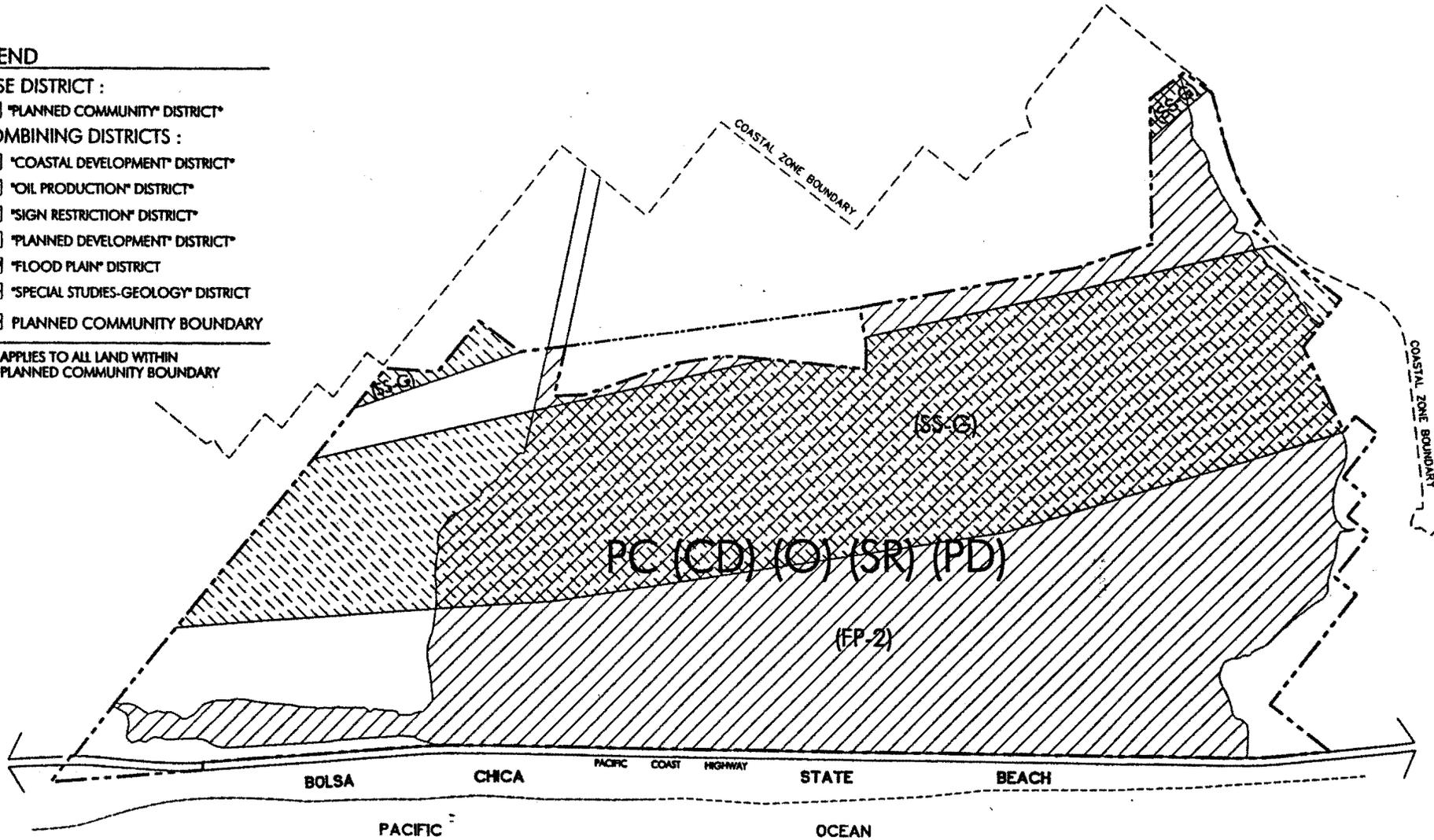
Implementation Program Modifications

- ~~42. Northeast Lowland - These lands in the Lowland located within Planning Areas 3D, 4C, 10, and 11, approximately 1,000 feet seaward of the existing homes in the City of Huntington Beach.~~
45. ~~Orange County Environmental Management Agency (EMA and OCEMA) -~~ ***Planning and Development Services Division (PDSD)*** The Orange County agency that encompasses planning; building; flood control; harbors, beaches, and parks; and other departmental functions. The ~~Environmental Management Agency~~ ***Planning and Development Services Division*** is responsible for preparation of the Bolsa Chica Local Coastal Program.
57. **Wetlands Ecosystem Area** - The collective area of wetlands, ESHAs, and Buffer areas which are the subject of the Wetlands Restoration ~~Program~~ ***Plans***, totaling, within the Bolsa Chica Planned Community, approximately ~~1,098~~ ***1,251*** acres.
58. **Wetlands Restoration Program Plan** - An ***A potential*** Implementing Actions Program of the Bolsa Chica LCP Land Use Plan ***prepared by the State of California***, to consolidate, preserve, create, and restore wetlands, ESHAs, Buffers and non-tidal open space areas.

LEGEND

- **BASE DISTRICT :**
 - **COMBINING DISTRICTS :**
- | | |
|--|------------------------------------|
| | "PLANNED COMMUNITY" DISTRICT |
| | "COASTAL DEVELOPMENT" DISTRICT |
| | "OIL PRODUCTION" DISTRICT |
| | "SIGN RESTRICTION" DISTRICT |
| | "PLANNED DEVELOPMENT" DISTRICT |
| | "FLOOD PLAIN" DISTRICT |
| | "SPECIAL STUDIES-GEOLOGY" DISTRICT |
- **PLANNED COMMUNITY BOUNDARY**

* APPLIES TO ALL LAND WITHIN PLANNED COMMUNITY BOUNDARY



Implementation Program Modifications

B. WETLANDS RESTORATION PROGRAM

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

C. ORANGE COUNTY 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 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

At the January 11, 1996, the Commission proposed suggested modifications to the Bolsa Chica Development Agreement between the County of Orange and Koll Real Estate Group. The suggested modification related to obligations that Koll Real Estate Group would incur if the company failed to pursue a Section 404 permit from the U.S. Army Corps of Engineers for lowland residential development. Since the Commission's initial certification, the lowland area was sold by Koll Real Estate Group to the State of California. Consequently, the proposed suggested modifications are no longer applicable and have not been included in this document. Accordingly the suggested modifications to the development agreement are deleted from the Bolsa Chica Local Coastal Program. This has the effect of adopting the Bolsa Chica Development Agreement as submitted.

VIII. 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 (Figure 12 (page 147) shows the Fieldstone property). 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 June 1995, 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. (Note: the Fieldstone property was acquired by Koll Real Estate Group on September 30, 1997 neither the County nor Koll objected to the deferral proceeding at the October 9, 1997 Commission meeting. References to Fieldstone as the property owner have been left unaltered.) 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

Deferral Findings

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.

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

Deferral Findings

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 :

-  CONSERVATION
-  RECREATION
-  PUBLIC FACILITY
-  MEDIUM-LOW DENSITY RESIDENTIAL (4.5-12.5 DU/ACRE)
-  PLANNING AREA
-  COUNTY LCP AREA BOUNDARY

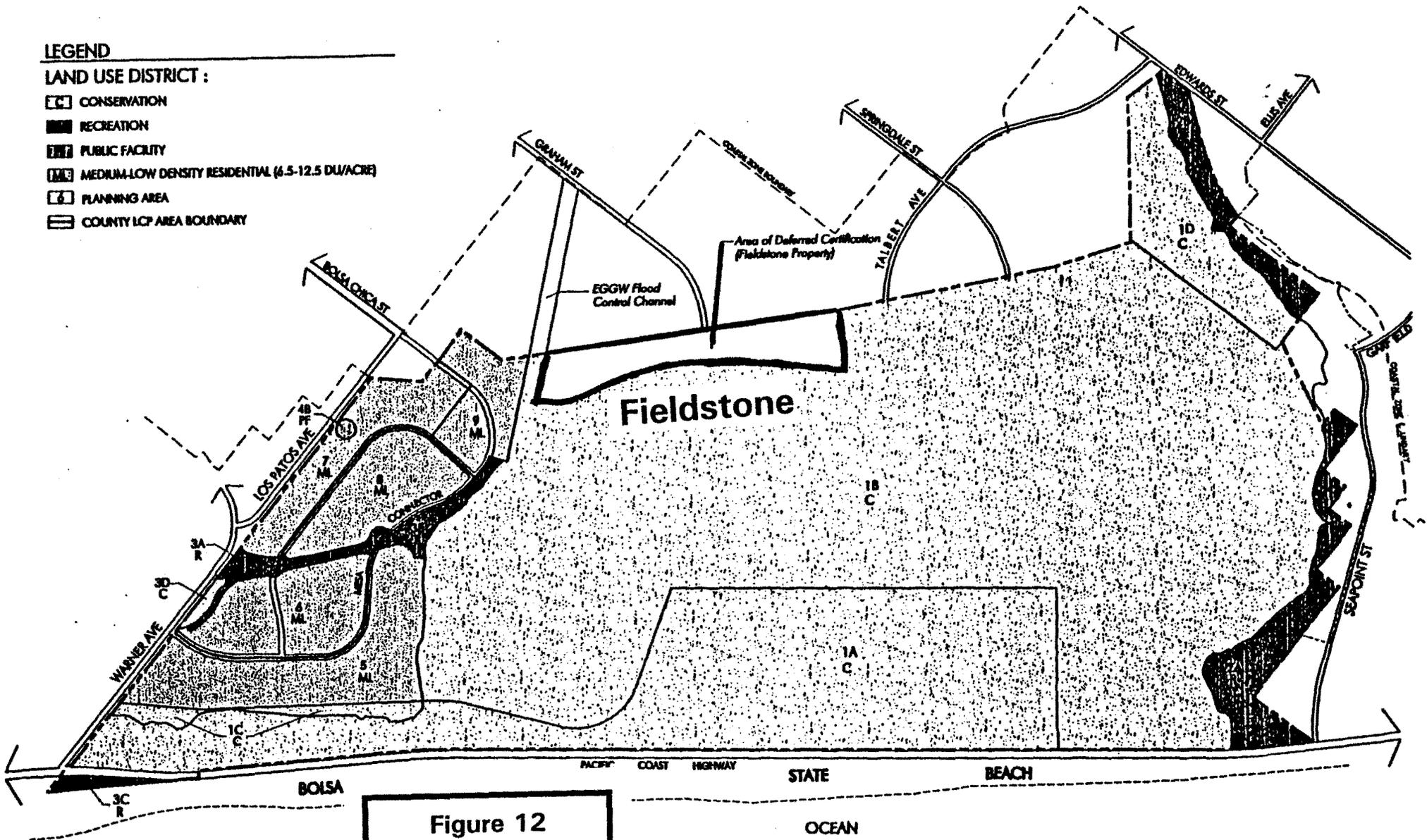
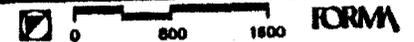


Figure 12
 Bolsa Chica LCP
 Deferral of LCP
 Certification for
 Fieldstone Property
 California Coastal
 Commission

BOLSA CHICA
LAND USE PLAN

LAND USE PLAN (Revised First Amendment)



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 1995 amended Land Use Plan as originally submitted provided for the establishment of an approximately 1,100 acre wetland ecosystem that would have included approximately 998 acres of fully functioning wetlands, 65 acres of environmentally sensitive habitat area, and 37 acres of buffer. Tidal influence was to be provided by construction of a non-navigable ocean entrance near the south end of the Bolsa Chica Lowland.

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

As submitted, the developer proposed 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 decided not to proceed with Lowland development (i.e. the landowner failed 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 still be allowed. Financing the wetland restoration of the Lowlands was proposed to be funded through Lowland residential development.

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

Land Use Plan Findings

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 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

Land Use Plan Findings

Eucalyptus grove as an ESHA based on its value for nesting and roosting for a variety of raptors.

County Policy 3.1.2.5 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, County Policy 3.1.2.5 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, County Policy 3.1.2.5 of the amended Land Use Plan is inadequate to implement Section 30240 of the Coastal Act regarding the preservation of habitat value.

(c). Proposed Residential Development in the Lowlands is Not an Allowable Use

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 13 on the page 155. 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 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.

Land Use Plan Findings

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 13 on page 155.

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 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 14. 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.

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

Land Use Plan Findings

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.

ALLOWABLE USES UNDER SECTION 30233 OF THE COASTAL ACT

Figure 13

- (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.*

SECTION 30411(b) OF THE COASTAL ACT

Figure 14

(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.*

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 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.

Land Use Plan Findings

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."* (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

Land Use Plan Findings

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 Local Coastal Program as submitted 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 states 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 14 on page 156). The County of Orange, as discussed previously, asserts that the proposed Lowland residential development is consistent with Section 30411(b) of the Coastal Act.

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.)

Land Use Plan Findings

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

(d). Proposed Filling of Warner Avenue Pond and Inadequate Mitigation for the Fill of the Small Isolated Mesa Wetlands

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

Land Use Plan Findings

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 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

Land Use Plan Findings

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 (through a review of the previous traffic study in a letter dated September 9, 1997 by RKJK Associates (see attachment B)) that a reduction in the residential density on the Mesa and the elimination of the commercial development on the Mesa would not create traffic impacts that necessitate the need to widen Warner Avenue which was the basis for allowing the filling Warner Avenue Pond. Thus, there is a feasible, less environmentally damaging alternative to the proposed Land Use Plan policies of allowing the fill of Warner Pond in order to widen Warner Avenue. The alternative, reducing Mesa density to 1,235 residential units avoids the widening 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.

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,

Land Use Plan Findings

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 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

(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 .
- **Noise Buffer:** No adjacent roads, elevation and bluff setback, Mesa Park active use and parking areas located away from the bluff edge.

Land Use Plan Findings

- **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 residential development setback from the blufftop edge and a 100 foot residential development setback from Warner Avenue Pond the existing wetland ecosystem will be protected consistent with Sections 30231, 30233, and 30240 of the Coastal Act.

To incorporate the bluff and wetland protection concepts discussed above, a new County Policy 6.2.22 has been inserted. This policy will require that urban development on the Mesa will be setback fifty feet as measured horizontally inland from the bluff edge and will be setback one hundred feet from Warner Avenue Pond. This policy will also protect the bluff face by restricting urban development on the bluff face itself. Further, landscaping vegetation within the development setback will be limited exclusively to drought tolerant native vegetation that will provide habitat value and will be visual compatibility with the adjacent wetlands. Public trails and low-intensity interpretive signage will be allowed within the residential development setback area. These two uses are consistent with maintenance of the bluff 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. County Policy 3.1.2.5 of the amended Land Use Plan has been modified to guarantee that the process of recreating the ESHA habit 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. County Policy 3.1.2.5 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

Land Use Plan Findings

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, County Policy 3.1.2.5 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 Wieders 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, County Policy 3.1.2.5 of the amended Land Use Plan is adequate to implement Section 30240 of the Coastal Act regarding the preservation of ESHA habitat values.

(3). Lowland Residential Development Not an Allowable Use

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

Land Use Plan Findings

30233 and 30411 of the Coastal Act. The previous findings for denial starting on page 152 explain why 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, was bought on February 14, 1997 and is now owned by the State of California. The Commission's action on October 9, 1997 as specified in the suggested modifications, now make it clear that all of the Bolsa Chica LCP Lowlands (with the exception of the Fieldstone property where certification has been deferred) are redesignated with the Conservation land use. The Conservation land use designation limits 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 also allows 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 is allowed.

Regarding the Edward's Thumb parcel, the Commission has imposed the Conservation land use designation. The suggested modifications accomplish this and make it clear that any development rights 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.

Additionally, elimination of the Lowland residential development and acquisition of the most of the Lowland by the State of California has created a changed circumstance resulting in the elimination of the developer sponsored wetland restoration program as originally submitted. As a consequence, land use policies referencing the developer sponsored wetland restoration plan have been eliminated.

(4). Warner Avenue Pond Preserved and Mesa Pocket Wetland Fill Adequately Mitigated

Since the Commission initially acted on the Bolsa Chica submittal in January of 1996 and based on concerns raised by the Court, the Commission concluded 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

Land Use Plan Findings

approach (i.e., the approach more consistent with Chapter 3 policies.) would be to avoid filling of Warner Pond.

Through suggested modifications, 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 (see land use policies 6.2.1 and 6.2.3, and regulation 2.2.1 of the Planned Community Program). This reduced residential density includes any development rights accruing from the Edwards Thumb which has been designated Conservation. 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 B), they have concluded that neither Warner Avenue nor Pacific Coast Highway, where located adjacent to Bolsa Chica, will need to be widened with a build out of 1,235 residential units on the Mesa. 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 necessity to fill Warner Avenue pond can also be avoided. Therefore, by limiting residential development on the Mesa to 1,235 homes is a less environmentally damaging alternative to the proposed density because this will not trigger the requirement to widen 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 one hundred (100) foot development setback around the Warner Pond wetlands. This setback is shown in Attachment C; however, the exhibits of Attachment C show only a 50 foot residential development setback and must be modified to conform to the 100 foot residential development setback. Because of its location next to a heavily travelled street, the animal species which use Warner Pond have adapted to light, noise, and human intrusion. However, for the easterly side the Commission has imposed a 100 foot residential development setback in accordance with the Commission's buffer policies (see land use policy 6.2.22).

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 reduced residential density includes any development rights accruing from the Edwards Thumb which has been designated Conservation. This is the

Land Use Plan Findings

maximum residential density that can occur without triggering the requirement to widen Warner Avenue pursuant to the Bolsa Chica Development Agreement and thereby fill Warner Avenue Pond. To insure Warner Avenue will not require widening as specified in the Development Agreement, 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 (see land use policies 6.2.1 and 6.2.3, and regulation 2.2.1 of the Planned Community Program).

To assure that the adverse impacts of wetlands are mitigated as required by the marine protection policies of the Coastal Act, the Commission has added several new Land Use Plan policies. One policy has been added as County Policy 3.2.2.9. Additionally, a new regulation 2.2.25 has been added to the Planned Community Program to implement Land Use Policy 3.2.2.9 in such a manner that it clearly specifies that the adverse impacts of wetland fill on the Mesa will be mitigated at a ratio of 4:1 and that mitigation 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. Other marine protection policies have been added as County Policies 3.2.2.10, 3.2.2.13, and 3.2.2.14.

Only as modified to protect Warner Avenue Pond and to insure that the fill of 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.

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

Land Use Plan Findings

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 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.

Land Use Plan Findings

(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.

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, as submitted, did contain regulations which address this issue. However, the umbrella Land Use Plan policy which justifies the presence of these regulations in the Wetlands Restoration program were lacking. Even though the Wetland Restoration Program, as submitted, has been deleted from the Bolsa Chica LCP, the lack of land use policies mandating that the coastal resources be protected from oil spills is still a major deficiency.

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 (EGGW) Channel 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

Land Use Plan Findings

addressed in the future wetlands restoration program which is currently in the early 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.

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, County Policy 3.2.2.2 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 County Policy 3.2.2.13. Section 30231 has been incorporated as County Policy 3.2.2.9.

Similarly, Section 30235 of the Coastal Act has been incorporated into the Coastal/Marine Policies Section as County Policy 3.2.2.14 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 County Policy 3.2.2.10 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. County Policy 3.2.2.1, as originally submitted, has been modified to require that any adverse impacts to coastal resources created by a tidal inlet be mitigated to a level of insignificance. County Policy 3.2.2.2 has been modified to require that shoreline changes caused by a tidal inlet be monitored and that adverse impacts to the sand supply shall be mitigated. County Policy 3.2.2.8, as originally submitted, has been modified to require that turbidity barriers shall be used.

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 finds that the policies providing guidance as to the design, monitoring, and mitigation of any new ocean inlet are necessary. These policies are necessary to assure that a proposed ocean inlet be designed to improve tidal flushing of the wetlands while still mitigating any adverse impacts. These policies are included in the Bolsa Chica LCP as the site of the proposed ocean inlet

Land Use Plan Findings

is part of Bolsa Chica State Beach and was not purchased as part of the State wetland restoration effort.

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.

Additionally, as submitted (except for County Policy 3.2.2.2), a tidal inlet is consistent with a variety of policies of the Coastal Act. First, a tidal inlet, as modified by policy 3.2.2.2, will provide the ocean water necessary to revive the wetlands to biological productivity. Thus a 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. A tidal inlet will accomplish these goals by providing the ocean water necessary to restore tidal influence into the wetlands. Conceptually the tidal inlet was found consistent, as modified for a monitoring program by County Policy 3.2.2.2, with Section 30235 of the Coastal Act 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 may be necessary for the restoration and long term maintenance of these wetlands. Therefore, the jetties, which are 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 potential tidal inlet is consistent with the Coastal Act provided its adverse impacts are fully mitigated using the guidance provided in this LCP. Further, the tidal inlet land use plan policies must be used as guidance when designing the tidal inlet.

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

Land Use Plan Findings

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.

(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

Land Use Plan Findings

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.

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. County Policy 3.3.2.11 has been added to incorporate the provisions of Section 30253 while still allowing the initial mass grading. Further, County Policy 6.2.22 has been

Land Use Plan Findings

added to specify that residential development would be setback fifty feet from the bluff edge.

County Policy 3.3.2.11 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 Bolsa Chica Mesa top, County Policy 3.3.2.11 would only permit grading as a one time event to accommodate the development. Following the initial mass grading County Policy 3.3.2.11 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. Bluff stabilization, however, would still be allowed if an unstable bluff possess a public safety risk. The Bolsa Chica Mesa residential development, however, would still be subject to earthquake hazard. Increased private residential setbacks would also permit the blufftop buffer to be used for public access purposes. 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.

Suggested modifications affecting specifically the Huntington Mesa include County Policies 3.3.2.7 and 3.3.2.9 for Harriett Wieder Regional Park. County Policy 3.3.2.7 calls for the preservation and restoration of the northeast facing bluff below the Huntington Mesa and has been modified to assure consistency with LCP's Public Access and Visitor Serving Component. County Policy 3.3.2.9 adds additional criteria for implementing the buffer policies.

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

Land Use Plan Findings

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, as submitted, 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. County Policy 3.4.2.3, 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

Land Use Plan Findings

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. County Policy 3.4.2.5 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.

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, County Policy 3.4.2.3 and County Policy 3.4.2.5 have been modified. County Policy 3.4.2.3 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. County Policy 3.4.2.5 has been modified to require that a determination of significance for a paleontological artifact be made prior to allowing it to be disturbed, 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.

(2). Land Use Plan Amendment

The Land Use Plan amendment, as submitted, 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

Land Use Plan Findings

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 development setbacks.

Additionally, as discussed in findings for the "Development Component" starting on page 195 the Commission found that limiting development to a maximum of 1,235 residential units would avoid the widening of Warner Avenue which would preserve Warner Avenue Pond. This reduction in residential density would have a beneficial impact on visual and scenic resources. Further, Warner Avenue Pond would be preserved as open space.

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 should be subordinate to the character of its setting.

Land Use Plan Findings

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 County Policies 3.5.2.1, 3.5.2.4, 3.5.2.7, 3.5.2.8, 3.5.2.9, and 3.5.2.13 have been modified.

County Policy 3.5.2.1 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.

County Policy 3.5.2.4 has been modified to assure that public viewing opportunities will be provided from all trails and to delete Class 1 bike trails in the Lowlands. County Policies 3.5.2.7 and 3.5.2.8 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.

County Policy 3.5.2.9 has been modified to include native drought tolerant vegetation. County Policy 3.5.2.13 (as submitted) has been deleted pending the development of a new park master plan for Harriet Wiedner Regional Park. Finally, replacement Policy 3.5.2.13 (was 3.5.2.14 on the original submittal) has been modified to incorporate a requirement to provide visually compatible signage to direct the public to public recreational facilities.

County Policies 3.5.2.2 and 3.5.2.3 have been deleted. The developer sponsored wetland restoration program, as submitted, has been deleted from the LCP since the majority of the Lowland has been acquired by the State of California and a new wetland restoration program is under development. Therefore, these policies are no longer applicable.

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 Land Use Plan amendment, as submitted, 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 LUP amendment as submitted include an active and passive park on the Bolsa Chica Mesa; an active and passive park in the proposed Lowland residential area; the development 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.

Land Use Plan Findings

(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.

(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 LUP amendment as submitted proposes 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.

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 a tidal inlet may result in the potential 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.

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 existing boardwalk trail in the lowland portion of the ecological reserve does not appear to be modified in the amended LUP as submitted. While the amended LUP, as submitted, proposes to retain the upper trail, it will be reconstructed following Mesa grading 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 within the western residential development setback area 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 within the residential development setback area, 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 (as submitted), 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

Land Use Plan Findings

the regional park are within the Bolsa Chica LCP area. The Landowner/Master 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 Regional Park General Development Plan and Resource Management Plan (GDP).

Land Use Plan Findings

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 page 189 as Figure 15, 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 County Policy 4.2.13 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.

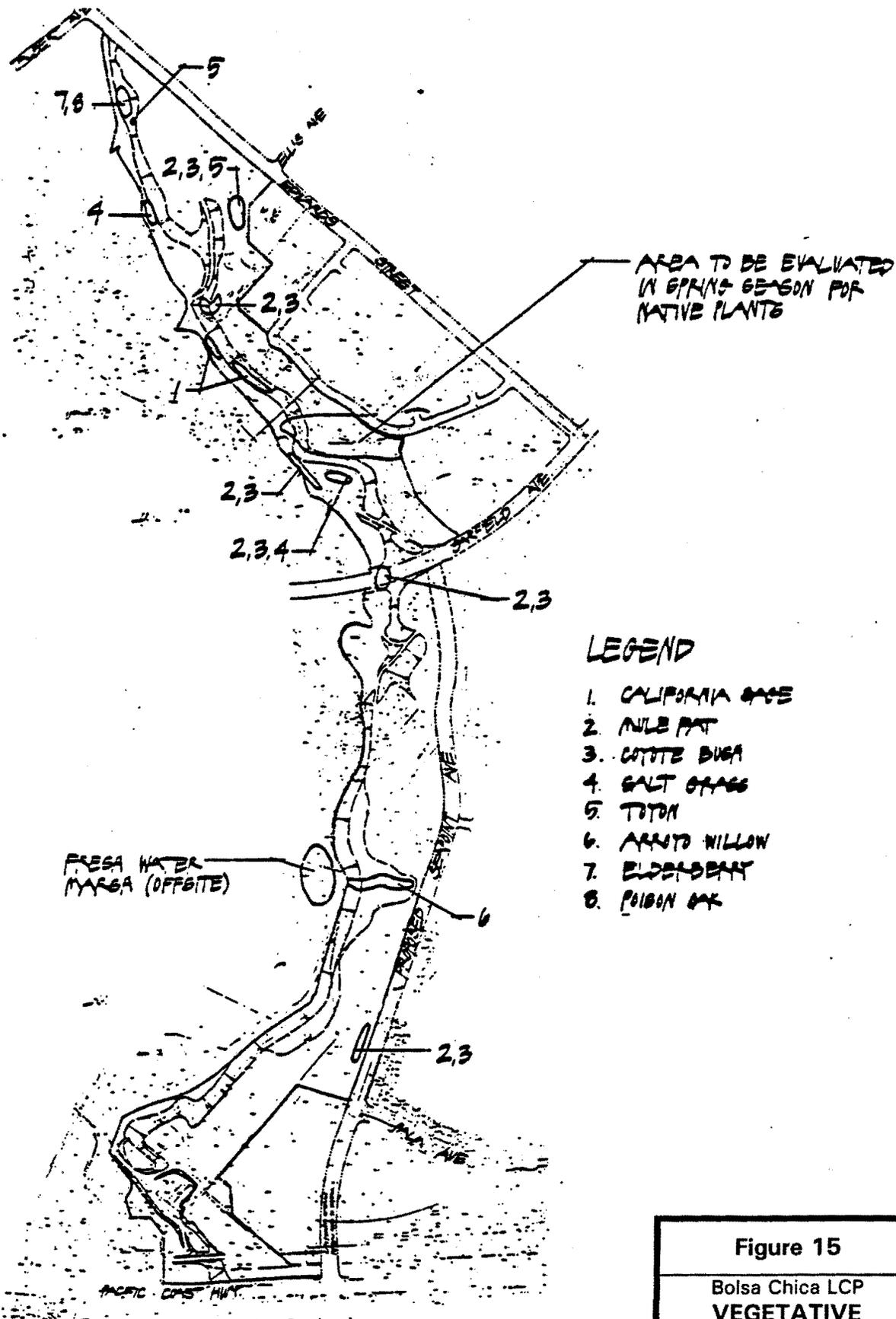
Although the regional park plan contains a three part park phasing plan that was to allow for 47 acres of the park to be developed by 1994, that phasing plan was apparently modified in 1993 when the County further segmented Phase 1A and

Land Use Plan Findings

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 County Policy 4.2.16. 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. County Policy 4.2.14 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.



- LEGEND**
- 1. CALIFORNIA SAGE
 - 2. NILE PAT
 - 3. COTTE BUGH
 - 4. SALT GRASS
 - 5. TOTON
 - 6. ARROYO WILLOW
 - 7. ELDERBERRY
 - 8. POISON OAK

Figure 15
 Bolsa Chica LCP
**VEGETATIVE
 RESOURCES MAP**
 California Coastal
 Commission

**VEGETATIVE RESOURCES
 BOLSA CHICA
 REGIONAL PARK**

Land Use Plan Findings

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 may result in the potential loss of 3 acres of sandy beach and would create other adverse recreation impacts to the Bolsa Chica State Beach and does not provide for mitigation of the impacts. County Policy 3.2.2.2 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 any 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. 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

Land Use Plan Findings

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 since the wetland restoration program has been deleted from the Bolsa Chica Local Coastal Program. A Bolsa Chica task force is currently developing a new restoration program for the Lowland which would include a public access plan. Since this plan has not yet been developed it would be premature to incorporate a Kayak/canoe facility into the LCP at this time. Therefore County Policies 4.2.17, 4.2.18, and 4.2.19 have been deleted. County Policy 4.2.20 has been modified to require that the planning for any proposed tidal inlet include the California Department of Transportation and the City of Huntington Beach. Only as modified to delete or revise the applicable County policies does the Commission find that recreational planning related to a proposed tidal inlet is consistent with the recreational policies of the Coastal Act.

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. 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).

Land Use Plan Findings

- 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

(2). Current LUP Amendment

The LUP amendment, as submitted, 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 Land Use Plan amendment, as submitted, 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 would have been eliminated when the road is widened in the proposed LCP as submitted.

Land Use Plan Findings

(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.

(4). Coastal Act Consistency

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 goal of the County's various traffic management 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 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 County 5.2.8. 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. Additionally, the EIR traffic projections indicate that with the level of development proposed in the Land Use Plan amendment as submitted would result in significant adverse traffic and circulation impacts. Thus the amended Land Use Plan, as submitted, is inconsistent with the applicable Chapter 3 policies of the Coastal Act.

However, as a consequence of changes to the Bolsa Chica Local Coastal Program since its initial submittal resulting from the sale of the Lowlands to the State of California, the reduction in the number of residential units, and the elimination of optional commercial development; the traffic analysis submitted with the LCP is no

Land Use Plan Findings

longer appropriate for evaluating the traffic impacts created by the proposed development.

Additionally, 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.

Therefore the Commission must deny the Land Use Plan amendment as submitted since it is not consistent with Sections 30250 and 30252 of the Coastal Act.

b. APPROVAL AS MODIFIED

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 B), 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.

Consequently, County Policies 5.2.2, and 5.2.13 have been deleted since Mesa residential development has been reduced and Lowland residential development has been eliminated. County Policies 5.2.7, 5.2.8, 5.2.9, 5.2.10, 5.2.11, 5.2.14, and 5.2.17 have been modified. 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.

Further, the modifications make it clear that changes to the ATIP within the coastal zone requires an LCP amendment. Changes to the ATIP outside of the coastal

Land Use Plan Findings

zone that do not affect access in the coastal zone or changes allowed by the Development Agreement that were only required if Lowland residential development or more than 1,235 units on the Mesa occurs may be made without an LCP amendment. Finally, the modifications encourage the use of bicycles to visit the LCP area thereby reducing arrivals by automobile.

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 Land Use Plan amendment, as submitted, would result in a less intensive development than the 1986 proposal with a total of 3,300 residential units spread among the Bolsa Chica Mesa and the Lowlands. Of the 3,300 residential units proposed, up to 900 were to have been in the Lowland. The Lowland development proposal also included a Wetlands Restoration Program, an 8 acre passive and active local park, a fire station and a public bicycle/pedestrian trail which would ring the wetlands ecosystem area.

The Landowner/Master Developer will be dedicating 49 acres of land for the development of the Harriett Wieder Regional Park (formerly Bolsa Chica Regional

Land Use Plan Findings

Park). The County's 1992 development plan for the ultimate 106 acre regional park is also incorporated into the LUP amendment as submitted.

(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 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

The Bolsa Chica LCP, as submitted proposed up to 900 residential units in the Lowlands. Lowland residential development would have resulted in the fill of approximately 18% of the wetlands. The residential development in the Lowlands, however, was not found to be an allowable use pursuant to Section 30233 of the Coastal Act in Section IX(A) of this report.

The development policies of the Land Use Plan amendment as submitted are not consistent with the protection of marine resources and the public access/public recreation policies of the Coastal Act. 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. County Policy 6.2.1 has been modified to limit residential density on the Mesa to 1,235 units. This modification is necessary to minimize the impacts of proposed residential development on environmentally sensitive habitat areas, specifically Warner Avenue Pond. By limiting development, the proposed project would not trigger the requirement that Warner Avenue be widened. Under the LUP amendment, as submitted, the increased traffic created by the project would have generated the Development Agreement requirement to

Land Use Plan Findings

widen Warner Avenue which would have resulted in the loss of Warner Avenue Pond which is both a wetland and an environmentally sensitive habitat area. Additionally, 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. County Policy 6.2.22 has been modified to require a 100 residential development setback around Warner Avenue. Additionally the figures in Attachment C which depict the residential setback will need to be modified to show the 100 residential setback. 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.

Modifications to County Policy 6.2.1 have limited the proposed residential development to 1,235 residential units and eliminated the optional commercial development. Consequently, County Policies 6.2.5, 6.2.10, 6.2.11, and 6.2.17, are to be deleted. County Policy 6.2.20 has been deleted since the developer sponsored wetland restoration program has been deleted and a new wetland restoration plan is under preparation. County Policy 6.2.7 is modified to ensure that all of the community facilities of the LCP area provide public coastal access. Finally, County Policy 6.2.15 must 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)

Land Use Plan Findings

would be dependent on the depletion of the oil reserves. The amended Land Use Plan, as submitted, acknowledged the possibility of early public acquisition and abandonment of oil leases to facilitate accelerated implementation of the developer sponsored 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 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 proposed 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 County Policy 7.2.9 exist. County Policy 7.2.9 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, County Policy 7.2.9 does not actually promote the concept that oil production

Land Use Plan Findings

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, County Policy 7.2.9 of the Oil Production Component, as submitted, presents a procedural problem. County Policy 7.2.9, 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 that is currently being developed. Oil cleanup procedures that are not consistent with the future wetlands restoration program should not be automatically incorporated into the wetlands restoration program. Allowing this would have the effect of modifying the wetlands restoration program without the wetlands restoration program going through the normal LCP amendment procedures.

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; County Policy 7.2.9 has been modified and a new County Policy 7.2.10 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.

Though the Wetlands Restoration Program, as submitted, has been deleted from the Bolsa Chica LCP, a new wetlands restoration program has been undertaken. County Policy 7.2.9 has been modified to require that the Oil Spill Prevention, Control, and Countermeasure, and Oil Spill Contingency Plans which are incorporated into a future wetlands restoration program be consistent with any Commission approved wetland restoration plan. To promote consolidation, a new

Land Use Plan Findings

County Policy 7.2.10 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, as submitted, 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 specifics 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,

Land Use Plan Findings

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 proposed Land Use Plan amendment, as submitted, stated that there is a complex interrelationship between oil production, wetland restoration, and the capital required to construct public and private improvements for the approved LCP development. The Land Use Plan amendment, as submitted, further stated that the Wetlands Restoration Plan (WRP), a portion of the Implementation Plan, contains the more detailed wetlands restoration phasing policies. However, proposed Lowland residential development has been deleted from the Bolsa Chica LCP based on the finding that the fill of wetlands for residential development was not an allowable use. Since the wetland restoration program was to be funded by Lowland residential development, denial of residential development also resulted in the elimination of the wetland restoration program from the LCP. Additionally, a majority of the lowland area has been acquired by the State of California and a new wetland restoration plan is currently under design. Therefore, the Financing and Phasing Component (Chapter 8) of the LCP, as submitted, is inconsistent with Chapter 3 of the Coastal Act and must be denied as submitted.

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.

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*

Land Use Plan Findings

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.

b. APPROVAL AS MODIFIED

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.

Since the wetland restoration program as submitted has been deleted, policies 8.2.3, 8.2.4 and Table 8.1 are no longer applicable and must be deleted. 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. This 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

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.

A. *PLANNED COMMUNITY PROGRAM*

The Planned Community (PC) Program is divided into ten chapters plus additional sections covering definitions, legal description for Bolsa Chica, and an appendix. The first chapter contains 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 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.

Implementation Program Findings

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. Major changes to the General Plan regulations include: restricting residential development to the mesa and limiting the number of units to 1,235, deletion of the optional commercial development, protection of Warner Avenue Pond, compensatory mitigation for ESHA and wetland impacts, and 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. Regulation 2.2.6 has been modified to delete the Lowland Park, to state that the Mesa community park be no less than eleven acres and that Warner Avenue Pond may be included in the park. However, the community park will not contain less than 17 acres exclusive of Warner Avenue Pond. Additionally Regulation 2.2.6 has been modified to require that parking and signage be provided to assure adequate public access.

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 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

Implementation Program Findings

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 regulations 2.3.13.43 and 2.3.13.44. The ATIP was also reviewed in Chapter 5 of the Land Use Plan amendment as submitted. The Commission found the ATIP to be in conformance with the Coastal Act only if modified not to impact Warner Avenue Pond, that the Lowland residential development be eliminated, 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 delete ATIP elements dependent on Lowland residential development, to modify ATIP elements resulting from limiting Mesa residential development to 1,235 units, to add new ATIP General Regulations 2.2.29.1 through 2.2.29.4 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.

4. Conservation Planning

The Conservation Planning Area regulations implement 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 installation of public utilities, grading, and the placement of directional signage. Reference to the Kayak/canoe facility and the lowland residential park have been deleted. The Conservation Planning Area Regulations, have been modified to incorporate the language of the applicable Land Use Plan policy, as modified.

Implementation Program Findings

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 do not adequately carry out the amended Land Use Plan as modified by the Commission. 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. Additionally a 100 foot residential development setback was imposed for Warner Avenue Pond. The Planned Community Program, as submitted, does not include this provision in its residential setback standards. The amended LUP, as submitted, also included provisions for the siting of residential infrastructure within the wetlands and recreational planning areas if there were no other feasible, less environmentally damaging alternative, and that mitigation be provided to minimize adverse environmental effects. However, 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 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.

Implementation Program Findings

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.

B. WETLANDS RESTORATION PROGRAM

The Wetlands Restoration Program, as submitted, is not adequate for implementing the Land Use Plan amendment as submitted. The Commission, in reviewing the amended Land Use Plan found that fill of wetlands for residential development was not an allowable use and made suggested modifications to policies affecting wetlands, biological resources, environmentally sensitive habitat areas, and the tidal inlet. Normally these suggested modifications would be incorporated into the Wetlands Restoration Program. However, in this case the entire Wetlands Restoration Program was to be funded by the developer through proposed Lowland residential development which has been denied. Further, the State of California has now acquired the property and the Ports of Long Beach and Los Angeles propose to fund the restoration program. Consequently the Wetland Restoration Program is deleted from the Bolsa Chica Local Coastal Program for the following reasons.

Implementation Program Findings

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 provisions. Therefore, the Commission concludes that the Wetlands Restoration Program (including any references to the East Garden Grove Wintersburg Channel in other portions of the LCP) should be deleted.

C. *BOLSA CHICA DEVELOPMENT AGREEMENT*

As with the Wetlands Restoration Program, the Commission found that, as submitted, the Development Agreement was not adequate to implement the Bolsa Chica Land Use Plan as amended. At the January 11, 1996 Commission meeting, the Commission proposed suggested modifications to the Bolsa Chica Development agreement between the County of Orange and Koll Real Estate Group. The suggested modifications related primarily to the obligations that Koll Real Estate Group would incur if the company failed to pursue a Section 404 permit from the U.S. Army Corps of Engineers for lowland residential development. Since the Commission's initial certification, the lowland area was sold by Koll Real Estate Group to the State of California and residential development in the Lowland is no longer permitted in the LCP. The State of California is now proposing that the Lowland area, including the area that was to contain residential development under the LCP as submitted, be restored. Consequently, the proposed suggested modifications to the development agreement are no longer applicable and have not been included in this document. Accordingly, the suggested modifications to the development agreement are deleted from the Bolsa Chica Local Coastal Program which has the effect of approving the Bolsa Chica Development Agreement as submitted.

XI. 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: residential development in a wetland, 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 modifications to bring the Land Use Plan amendment into full conformance with the requirements of the Coastal Act. Specifically, the Commission's certification provides for: the elimination of residential use in the lowlands, a fifty foot residential development setback from the edge of the Bolsa Chica Mesa, a one hundred foot residential development setback from Warner Avenue Pond, 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 landform alteration be minimized, 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.

CEQA Consistency

Further, 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 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 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, 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 further reduce the potential for significant adverse environmental impacts.

ATTACHMENT A
STATEMENT OF DECISION DATED JUNE 4, 1997
SUPERIOR COURT OF THE STATE OF
CALIFORNIA

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F KENNETH E. MARTONE D
Clerk of the Superior Court

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NOSSAMAN, GIBNER
KNOX & ELLIOTT

By: J. PETERSON, Deputy

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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,

CASE NO. 703570

STATEMENT OF DECISION

Petitioners,

vs.

THE CALIFORNIA COASTAL
COMMISSION,

Respondent.

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 The Bolsa Chica mesa consists primarily of non-native
2 grasslands which have been subject to agriculture in the past.
3 Located on this mesa are environmentally sensitive habitat areas
4 ("ESHAs") consisting of a Eucalyptus grove and a wetland area known
5 as Warner Avenue Pond. The grove is considered an ESHA since it
6 provides habitat and nest sites for a variety of raptors. Warner
7 Avenue Pond provides important wildlife habitat; it contains fish
8 and is used by both the endangered California least tern and the
9 California brown pelican.

10 The Bolsa Chica lowlands consist primarily of wetland habitat,
11 most of which does not receive regular tidal flushing since the
12 damming of the historic tidal entrance in 1899. The wetlands have
13 been characterized by the Department of Fish and Game as a severely
14 degraded wetlands system in need of major restoration.
15 (AR 111:23789.)

16 Ownership of the portion of the lowlands which is the subject
17 of this action was, throughout most of the recent planning process,
18 in the hands of Fieldstone and Koll, although, as will be discussed
19 later, Koll has recently conveyed its interest in the lowlands to
20 the California State Lands Commission. The mesa area under review
21 is also owned by Koll.

22 THE PLANNING PROCESS

23 The planning process for this area has been long and always
24 controversial. For purposes of this lawsuit, the relevant planning
25 began in 1986 when the Coastal Commission ("Commission") approved
26 a land use plan for the Bolsa Chica area. The land use plan called
27 for alternative uses, which were later determined by the County to
28 be infeasible. Consequently, in December 1994, the County approved

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
7 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:

8 * * *

9 (3) . . . in a degraded wetland . . . for boating
10 facilities if, in conjunction with such boating
11 facilities, a substantial portion of the degraded wetland
is restored and maintained as a biologically productive
wetland

12 * * *

13 (c) In addition to the other provisions of this section,
14 . . . filling . . . in . . . wetlands shall maintain or
15 enhance the functional capacity of the wetland or
16 estuary. Any alteration of coastal wetlands identified
17 . . . shall be limited to very minor incidental public
facilities, restorative measures, nature study . . . if
otherwise in accordance with this division. . . .

18 Section 30411(b) states in part:

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

23 * * *

24 (3) Whether restoration of the wetland's natural values,
25 including its biological productivity and wildlife
26 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.

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**
18 | **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.**

8 | Petitioners contend the decision to limit the buffer zone to
9 | 50 feet from the bluff's edge and to permit pedestrian trails
10 | within that buffer zone is inconsistent with the Commission's
11 | guidelines requiring at least a 100-foot buffer zone. However, the
12 | Commission found that the 50-foot setback combined with the
13 | vertical face of the bluff provided an adequate buffer.
14 | (AR 111:23879.) There is substantial evidence in the record as a
15 | whole to support the Commission's findings. The purpose of a
16 | buffer is to minimize disturbance to wetlands caused by urban
17 | development, to provide a transitional zone between natural habitat
18 | areas and urban development, and to provide visual screening.
19 | (AR 111:23869.) There is no evidence to contradict the findings
20 | that the buffer required by the LCPA would accomplish those ends.

21 |

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
15 **REQUESTS FOR JUDICIAL NOTICE AND TO
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.

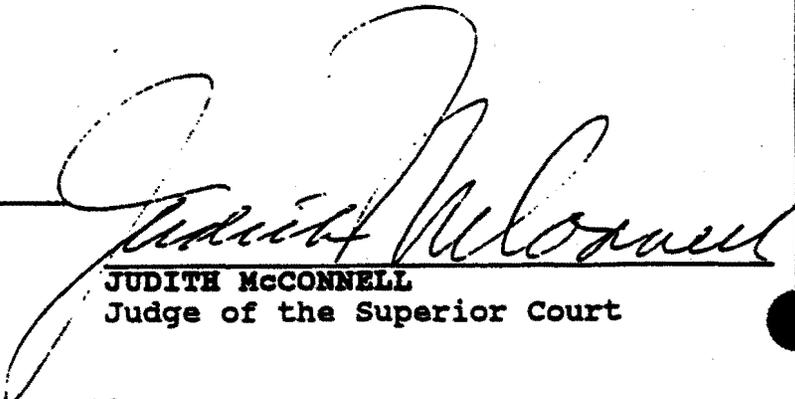
16 3. Petitioners must prepare and submit a proposed writ and
17 a proposed judgment for the Court's review by no later than
18 June 27, 1997.

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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800 WILSHIRE BLVD STE 1510
LOS ANGELES CA 90017

PHILIP A SEYMOUR ESQ

902 GARDEN ST
SANTA BARBARA CA 93101

DEBORAH COOK ESQ

6692 SHETLAND CIRCLE
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HALL OF ADMINISTRATION
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NOSSAMAN GUTHNER KNOX & ELLIOTT LLP

445 S FIGUEROA ST 31ST FLR
LOS ANGELES CA 90071-1602

WILLIAM M BOYD ESQ
OFFICES OF WILLIAM M BOYD

41 TUNNEL RD
(THE CLAREMONT)
BERKELEY CA 94705

KENNETH E. MARTONE
Clerk of the Superior Court

Date: JUN - 4 1997

By: J. Peterson, Deputy



ATTACHMENT B
RKJK LETTER OF SEPTEMBER 9, 1997
CONCERNING TRAFFIC AND WARNER AVENUE



September 9, 1997

Mr. Ron Tippetts
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. Tippetts:

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 800 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

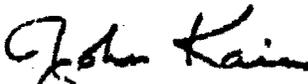
Mr. Ron Tippets
Planning & Development Services Department
COUNTY OF ORANGE
September 9, 1997
Page 3

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

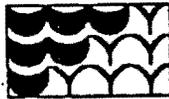
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JN:148-97-001

xc: Steve Rynas, COASTAL COMMISSION
Harry Persaud, COUNTY OF ORANGE
Ed Mountford, KOLL REAL ESTATE GROUP

**ATTACHMENT C
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

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wetlands in the lowlands, informing them to keep pets in control, and to not enter the wetland.

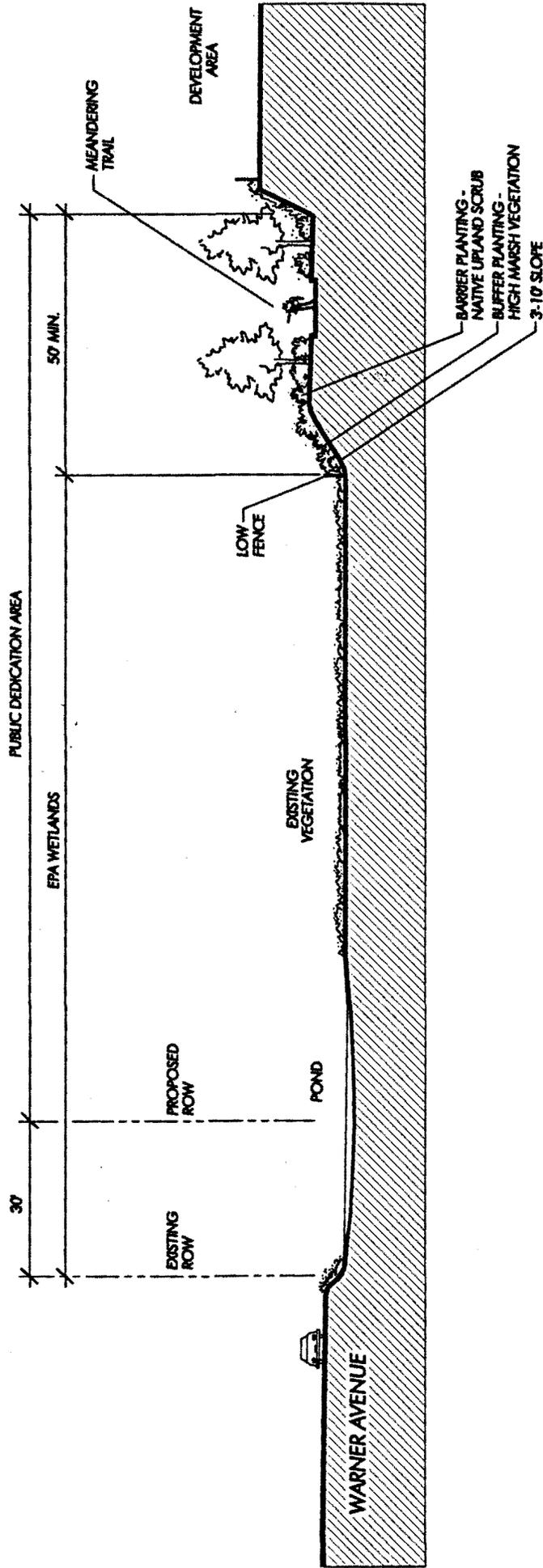
The design as proposed with a 50 ft buffer will minimize human disturbance and possibly will increase habitat value, especially with the landscaping measures and additional measures I have suggested.

Please call me with any questions or comments on this letter.

Sincerely yours,



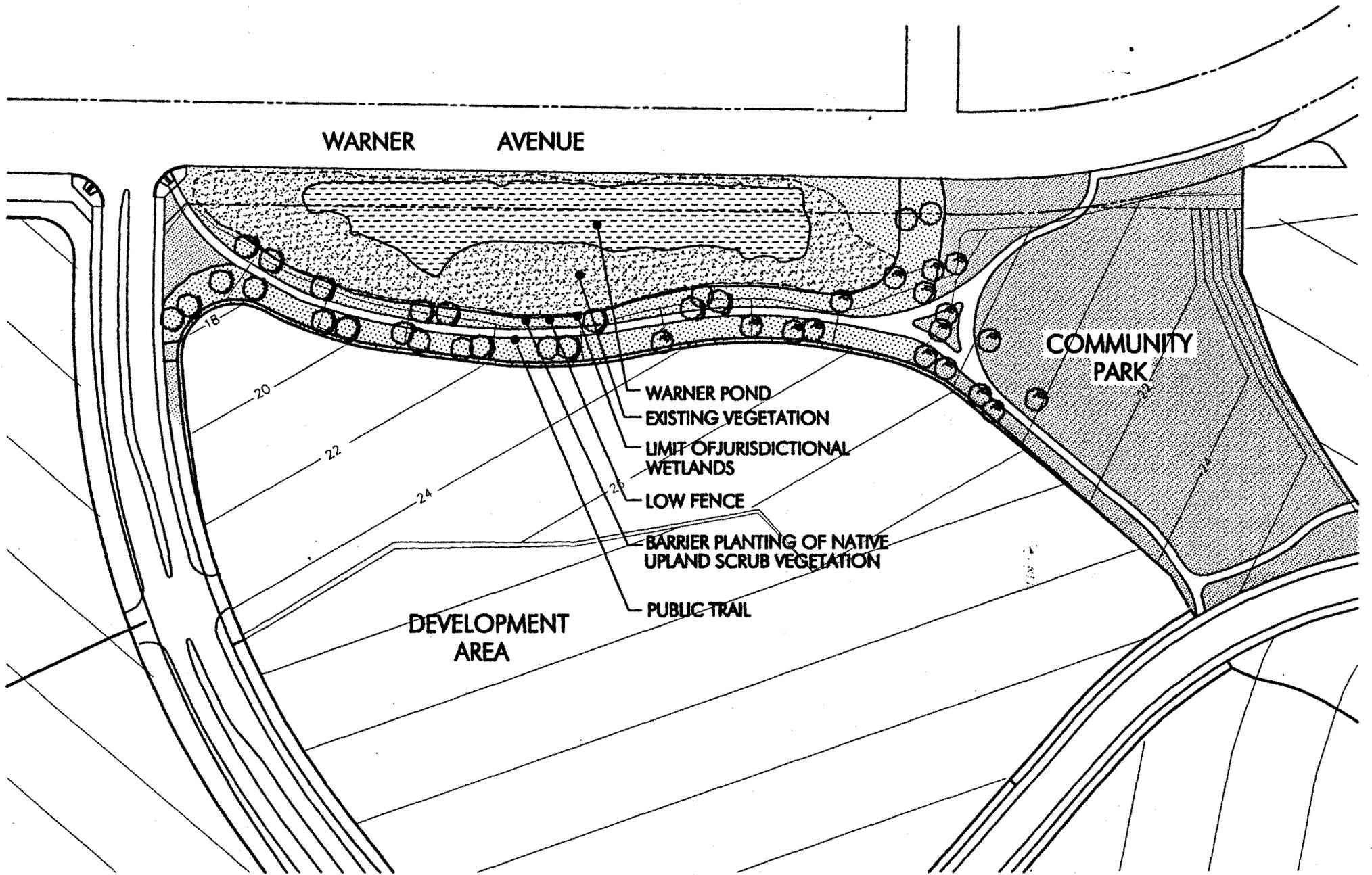
Michael Josselyn, Ph.D.
Professional Wetland Scientist
Certification 0121



WARNER POND - SECTION

BOLSA CHICA





BOLSA CHICA

WARNER POND

