STATE OF CALIFORNIA - THE RESOURCES AGENCY

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PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
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Date: January 11, 1998

RECORD PACKET COPY

TO: COASTAL COMMISSIONERS AND INTERESTED PERSONS

FROM: CHARLES DAMM: Senior Deputy Director
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SUBJECT: CITY OF SAN CLEMENTE LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN SUBMITTAL

SYNOPSIS

The City of San Clemente has a Land Use Plan which was certified by the Commission in 1988 and amended in October 1995. The City of San Clemente Land Use Plan was amended in 1995 to reflect changes made in the General Plan of the City of San Clemente, revised land use designations, and an updated format, text and graphics. There is only one area of deferred certification in the Land Use Plan, the Marblehead Coastal site.

Historically, the Commission has concentrated its resource protection efforts on protecting and preserving the coastal canyons (designated as Environmentally Sensitive Habitat Area), the coastal bluffs, the North Beach area, the Pier Bowl area, and beach access and parking. San Clemente is famous for its beaches and surfing spots, including San Clemente State Beach. The San Clemente Municipal Pier, located in the Pier Bowl area, is a major tourist destination point. The coastal bluffs in San Clemente are separated from the ocean by the Orange County Transit Authority railroad tracks and right-of-way.

The proposed Implementation Plan encompasses the entire coastal zone area of the City of San Clemente with the exception of the 254 acre Marblehead site, the largest vacant parcel in the coastal zone in the City of San Clemente. The Marblehead site is an area of deferred certification and the owner of the site is working with the City on a specific plan.

This Implementation Plan, if approved, would result in the City of San Clemente having a fully certified Local Coastal Program and taking over the permit authority (with the exception of the Marblehead area of deferred certification) currently exercised by the Coastal Commission.

The core elements of Implementation Plan for the City of San Clemente include the coastal development permit ordinance, the coastal zone overlay district, a definitions section, the West Pico Corridor Specific Plan, the Pier Bowl Specific Plan, the downtown parking waiver ordinance, and an outdoor dining ordinance. However, the Implementation Plan also incorporates the City of San Clemente Zoning Code. The original City Implementation Plan included a Categorical Exclusion section (Section 7.055) which has been removed from the Implementation Plan by suggested modifications and will be processed at a later date.

At the February hearing the Commission will also act on Land Use Plan Amendment 1-97 which involves changes to land use designations in the West Pico Corridor Specific Plan area. The staff is recommending that Land Use Plan Amendment 1-97 be approved as submitted.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing, deny the City of San Clemente Implementation Plan as submitted and then approve the Implementation Plan with suggested modifications. Staff recommends suggested modifications to all areas of the proposed Implementation Plan, but primarily to the Coastal Development Permit Ordinance, the coastal overlay district, the outdoor dining ordinances, the downtown parking waiver ordinance and the two specific plans. There are also suggested modifications to the City of San Clemente Zoning Code.

The Implementation Plan, as modified, would achieve the following: 1) maximize the protection of environmentally sensitive habitat and minimize impacts from development and grading, 2) minimize geologic instability on coastal bluffs and coastal canyons through requirements for geotechnical reports and landscaping plans, minimizing grading and the use of native, drought tolerant plants for landscaping, 3) preserve and protect visual resources by requiring that adverse impacts be mitigated and including a list of potential mitigation measures, 4) assuring continued public access and the provision of adequate parking in conjunction with development in critical beach destination areas, and 5) ensuring that the transfer of authority from the Coastal Commission to the City of San Clemente is consistent with the Land Use Plan and the coastal development permit processing requirements of the Coastal Act and California Code of Regulations.

Commission staff and City of San Clemente staff met previously on two occasions and reached agreement on the suggested modifications to Chapter 7 the coastal overlay district and the coastal zone definitions. However, prior to the publishing of this report, suggested modifications to the parking ordinances,

the Pier Bowl Specific Plan and the Pico Corridor Specific Plan were not reviewed by the City Staff. It is expected that there will be disagreement on some of these suggested modifications and that further meetings will occur to try and reach agreement on the suggested modifications prior to the Commission hearing in February.

STANDARD OF REVIEW

The standard of review for the proposed Implementation Plan, pursuant to Section 30513 of the Coastal Act, is conformity with and adequacy to carry out the provisions of the Land Use Plan as certified.

ADDITIONAL INFORMATION

For additional information regarding this Implementation Plan submittal request or copies of the staff report, please contact Robin Maloney-Rames of the Coastal Commission's South Coast Area office at (562) 590-5071. Please send any written comments regarding this Implementation Plan to the attention of Robin Maloney-Rames at the following address:

California Coastal Commission
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I MOTIONS AND RESOLUTIONS

Staff Recommends that the Commission adopt the following resolutions:

A. Rejection of the Implementation Plan as Submitted

Motion 1:

*"I move that the Commission **reject** the Implementation Plan of the City of San Clemente Local Coastal Program."*

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

Resolution 1: (to reject the IP)

The Commission hereby rejects the Implementation Plan of the City of San Clemente Local Coastal Program on the grounds that it does not conform with and is inadequate to carry out the provisions of the Land Use Plan as certified. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Implementation Plan would have on the environment.

B. Approval of the Implementation Plan with Suggested Modifications

Motion 2:

*"I move that the Commission **approve** the Implementation Plan of the City of San Clemente Local Coastal Program if it is modified in conformity with the modifications suggested below."*

Staff recommends a **YES** vote for the adoption of the following resolution. The motion requires an affirmative vote of a majority of the Commissioners present to pass the motion.

Resolution 2. (To Certify the Implementation Plan if Modified):

The Commission hereby approves certification of the Implementation Plan of the City of San Clemente Local Coastal Program if modified based on

the findings set forth below on the grounds that the zoning ordinance, zoning map, and other implementing materials, if modified as suggested, conform with and are adequate to carry out the provisions of the Land Use Plan as certified. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Zoning and Implementation Program would have on the environment.

II. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

> *During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.*

A draft of the Local Coastal Program Implementation Plan was available for public review for 30 days from October 19, 1995 to November 20, 1995. A notice to this effect was published in the San Clemente Sun/Post on October 24, 1995. A public hearing on the Implementation Plan was held by the City of San Clemente Planning Commission on February 6, 1996 and by the City Council on March 6, 1996. Both of these hearings were duly noticed.

The City of San Clemente submitted their Implementation Plan on April 23, 1996, at which time the submittal was deemed incomplete. The submittal was deemed incomplete pending receipt of background documentation and a final zoning map. The Implementation Plan submittal was deemed complete on August 15, 1997, upon submittal of the Zoning Map, West Pico Corridor Specific Plan, and Downtown Parking Waiver Ordinance.

After City Council approval of the Implementation Plan and prior to Commission staff deeming the submittal complete, the downtown parking waiver ordinance, the outdoor dining ordinance and the West Pico Corridor Specific Plan were added to the Implementation Plan. The San Clemente City Council held a public hearing on July 2, 1997 amending the Implementation Plan to include Resolution No. 97-33 adopting Implementation ordinance 97-21 which includes the parking waiver program and the outdoor dining program. On March 18, 1997 the San Clemente City Council held a hearing on General Plan Amendment No. 96-05 amending the Land Use Plan to include the West Pico Corridor Specific Plan. The West Pico Corridor Specific Plan involves land use changes which are

addressed in the City of San Clemente Land Use Plan Amendment 1-97 which is agendized for hearing along with the Implementation Plan.

The City of San Clemente Implementation Plan includes two specific plans, the West Pico Corridor Specific Plan and the Pier Bowl Specific Plan. The Marblehead and North Beach area are two other specific plan areas in the Coastal Zone whose specific plans have not been adopted by the City Council and, thus, are not included with the Implementation Plan.

III. CITY COUNCIL APPROVAL OF SUGGESTED MODIFICATIONS

Should the Coastal Commission approve this Implementation Plan request, the City of San Clemente would still have another opportunity to review the final suggested modifications, if any, to the Implementation Plan approved by the Coastal Commission.

Pursuant to Section 13544.5 of Title 14 of the California Code of Regulations, the City of San Clemente must, by action of its governing body, (1) acknowledge receipt of the Coastal Commission's resolution of certification of the Implementation Plan, including any suggested modifications, (2) accept and agree to the suggested modifications and take whatever formal action is required to satisfy the suggested modifications (e.g., adoption of ordinances and zone text to incorporate the suggested modifications, and (3) agree to issue coastal development permits for the total area included in the certified local coastal program.

If the City Council does not take the actions described above within six months from the date of Coastal Commission approval on the Implementation Plan with suggested modifications, then pursuant to Sections 13542(b) of Title 14 of the California Code of Regulations, the Coastal Commission's approval with suggested modifications expires and the City would have to submit a new Implementation Plan.

IV. SUGGESTED MODIFICATIONS

A. Explanation of Procedure

The San Clemente Zoning Code, including Chapter 7 (Coastal Development Permit Process), Section 14.050 (Coastal Overlay District) of Chapter 14, the Coastal Zone Definitions of Chapter 21, the Pier Bowl Specific Plan, the West Pico Corridor Specific Plan, the Downtown Parking Waiver Ordinance, and the Outdoor Dining Ordinance which have not been modified as shown below shall become part of the certified Implementation Plan, if the City accepts the suggested modifications, in the form and content which they existed on August 15, 1997, the date which the proposed Implementation Plan was found by the

Executive Director to be in proper order and legally adequate to comply with the requirements of Section 30513 of the Coastal Act

The core of the April 23, 1996 Implementation Plan submittal consists of the Zoning Code dated February 21, 1996, Chapter 7 (CDP Processing), Chapter 15 (Coastal Zone Overlay District), Chapter 21 (Definitions) and the Pier Bowl Specific Plan. However, the text of the City's Zoning Code, as submitted, included an existing Chapter 15 (Parking and Access Standards) and Chapter 21 (Definitions). Chapter 14 of the City's Zoning Code included Section 14.050 (Coastal Zone Overlay District) and a heading in Chapter 21 for Coastal Zone definitions. Therefore, this staff report includes suggested modifications to delete the existing Section 14.050 and the Chapter 21 section on coastal zone definitions and replacing them with the Chapter 15 and Chapter 21 sections submitted on April 23, 1996, respectively.

Chapter 15 of the City of San Clemente Zoning Code concerns "Parking and Access Standards". Section 15.050 (E) is entitled "Outdoor Seating on Private Property for Restaurants". The existing Section 15.050 (E) will be replaced with the new parking ordinance and the public outdoor seating ordinance submitted on August 12, 1997. The downtown parking waiver ordinance will be added to Section 15.050 of the Zoning Code, with suggested modifications.

Section 7.055 of Chapter 7 of the Implementation Plan submittal is the City's Categorical Exclusion policy. Pursuant to the Coastal Act, all existing categorical exclusions for the City of San Clemente automatically expire upon Commission certification of an LCP for the City. A Categorical Exclusion Order has different noticing and voting requirements than an LCP action and therefore can not be acted on as a part of an LCP action. Additionally, the notice requirements have not been met. The Commission may act on the categorical exclusion request at a later date after proper noticing.

Sections of the Zoning Code which are to be deleted entirely through suggested modifications are not be included in the text but are included as attachments. In addition, suggested modifications which involve format or numbering changes only will be referenced as notations instead of the full strike-out and underline procedures. Only textual suggested modifications are included in their entirety in order to keep the length of the staff report manageable.

Finally, the City amended the Zoning Code in July 1997 and re-formatted the entire document with a new numbering system. This staff report and its suggested modifications are taken from the original zoning code submittal, dated April 23, 1996, and not the amended Zoning Code. If the Commission approves the Implementation Plan with suggested modifications, the Commission action has to go back to the San Clemente City Council for formal action. If the City Council agrees with the Commission's action and accepts the Implementation

Plan as modified, then the City will have to incorporate the modifications into the text of the Zoning Code. At that time the City may use the reformatted Zoning Code as long as the language or text is consistent with that certified by the Commission.

Modifications are shown as follows:

1) **Added text** is shown in underline
2) **Deleted text** is shown in ~~strikeout~~
3) **Notes** are shown in *{bracketed italics}*

{The tabs, indents, font styles, and point sizes of the City's original text as submitted have been changed, reduced or eliminated solely for the purpose of reducing space in this report. Coastal Commission staff is NOT suggesting that tabs, indents, font style, or point sizes be changed or eliminated in the actual zoning code.}

B. Text of Suggested Modifications

1. CHAPTER 1 - ADMINISTRATION

Section 1.030 Applicability

The provisions of this title hereby are declared to be in effect upon all properties included within the boundaries of each and every zone established by this title, ~~except for the Pico Corridor Study Area. For standards for the Pico Corridor Study Area, please refer to Chapter 13 Section ___ of this title~~. For properties with a specific plan "SP" designation, the standards in the Zoning Ordinance shall apply when development standards are not specified within individual specific plans.

The regulations and standards of Chapter 7, Section 14.050 of Chapter 14 and Chapter 21 (Coastal Zone Definitions) shall apply specifically in the Coastal Zone Overlay District (CZ designation on the City's Zoning Map) and to areas indicated on the Permit Jurisdiction and Appeals Map approved by the California Coastal Commission.

Section 1.030(C) Exempt Projects

The foregoing exemptions are intended to exempt from the provisions of this amended zoning ordinance those projects which are either in the process of receiving or have received the last discretionary approval necessary to develop the project. All such exempted projects shall be required to comply with the zoning ordinance as it existed on the date the application for the project was deemed complete. For development in the coastal zone (CZ Overlay District)

preceding approval of this amended zoning ordinance refer to Chapter 7 Section 7.130(A)(B). It is not the City's intent to exempt from this amended Zoning Ordinance changes to any project which are proposed after the effective date of this ordinance. Furthermore, in granting or denying subsequent time extensions for exempted projects, the City shall consider the extent to which the project is inconsistent with the Zoning Ordinance of the City on the date the request for the time extension is considered.

Section 1.040 Interpretations

If ambiguity arises concerning the appropriate classification of a particular use or with respect to any standards and/or requirements set forth within this title, the ambiguity shall be resolved as follows. For ambiguities regarding zone boundaries, please refer to Chapter 2, Section 2.030D of this title.

For procedures regarding questions on the delineation of the type of Coastal Development Permit required, please refer to Chapter 7, Section 7.030(B) of this title.

Section 1.060 Zoning Ordinance Violations

{There are no Suggested Modifications to "A", "B", and "D".}

C. Violation and Penalties

Any person, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this title shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment in the city of county jail for six months, or by both such fine and imprisonment. Any violation of this title which is committed and continues from day to day constitutes a separate offense for each and every day during which such violation is committed or continued.

For information on violation and penalties within the Coastal Zone, please refer to Chapter 7, Section 7.170.

Section 1.070 Relationship to Other City Documents and the Coastal Act

{Add a section "B" and change existing section numbers "B-F"}

B. California Coastal Act

The California Coastal Act requires that prior to the City of San Clemente taking over the authority to issue coastal development permits, the City must have a

Local Coastal Program certified by the California Coastal Commission. A Local Coastal Program consists of a Land Use Plan and an Implementation Plan. The City's Land Use Plan or Coastal Element was certified by the Commission in 1988 and a major amendment was certified by the Commission in 1995.

The core of the City's Implementation Plan consists of Chapter 7 (coastal development permit processing procedures), Section 14.050 (coastal overlay district ordinance), and "Coastal Zone Definitions" portion of Chapter 21 (definitions). In addition, the City's Implementation Plan includes two specific plans: the Pier Bowl Specific Plan and the West Pico Corridor Specific Plan. The City's Implementation Plan also includes the downtown parking waiver ordinance and the outdoor dining ordinance. The procedures and regulations in these core sections (above) shall take precedence in the coastal zone over other standards in the Zoning Code. The standards in these sections shall be applied in a manner which is most protective of coastal resources and public access. The standards and regulations of the core coastal zone sections (above) do not apply to the Marblehead Coastal area which is an area of deferred certification and is not included in the City's Coastal Element or Implementation Plan.

The provisions of this Code are intended to address the requirements of Articles 1 and 2 of Chapter 6 of the California Coastal Act (commencing with Section 30500) and Chapter 8 of Title 14 of the California Code of Regulations (commencing with Section 13500). The provisions of this Code are to be the Implementation part of the City's Local Coastal Program.

2. CHAPTER 2 ESTABLISHMENT OF ZONES

Section 2.020 Adoption of Zoning Map

A copy of the current Zoning Map shall be kept on file with the City Clerk and City Planner and shall be made available to the public. Changes in the boundaries of any zone shall be made by ordinance pursuant to Section 4.040(C) of this title, and shall be reflected on the Zoning Map. The City Clerk shall be responsible for keeping official records relative to Zoning Map Amendments.

Zoning Map Amendments shall not be effective until they are submitted for certification by the Coastal Commission as Local Coastal Program Amendments.

3. CHAPTER 3 DEVELOPMENT REVIEW PROCESS

Section 3.010 Development Review Process, Purpose and Intent

This chapter is intended to describe the general procedures for filing applications when required or permitted by this title. Information related to

specific applications can be found in Chapter 4 of this title. Tables 3.1 and 3.2, contained in this chapter, list the various applications that are explained in detail in Chapter 4, as well as a summary of the review process for each application.

For coastal development permit application submittal, review, jurisdiction, and processing procedures in the Coastal Zone refer to Chapter 7.

4. CHAPTER 4 APPLICATIONS

Section 4.020 General Plan Amendments

A. Purpose and Intent

The purpose of this section is to provide a method for amending the City of San Clemente's General Plan, as it may become necessary, or desirable from time to time, or as required by State Law. It is intended that this section be consistent and in compliance with Section 65350 et seq. of the Government Code.

The Land Use Plan (Coastal Element) is an element of the General Plan. Therefore, amendments to the Coastal Element or to other policies of the General Plan that are included in the LUP must be certfied by the California Coastal Commission in order to become effective. The procedures for amending the City's Local Coastal Program (Land Use Plan or Implementation Plan), are found in Section 7.190 of Chapter 7 of the Zoning Code.

Section 4.030 Specific Plan Adoption and Amendments

A. Purpose and Intent

It is the purpose and intent of this section to provide a method for the adoption of specific plans. In addition, it is the purpose of this section to provide a method for amending specific plans to ensure their continued effectiveness and responsiveness to community concerns and market demands over time. It is intended that the provisions of this section shall be consistent with Section 65450 et seq. of the Government Code.

The Pier Bowl Specific Plan and the West Pico Corridor Specific Plan are specific plans which are part of the Local Coastal Program Implementation Plan. The procedures for amending specific plans contained in the Coastal Zone are found in Chapter 7, Section 7.190. The procedures for the adoption of amendments to the certified portions of the Local Coastal Program are found in Chapter 7, Section 7.190(J).

Section 4.040 Zoning Amendments

A. Purpose and Intent

The purpose of this section is the establishment of procedures for amending the Zoning Ordinance. Amendments to the Zoning Ordinance are necessary to maintain its effectiveness as a regulatory and information document and to ensure its consistency with the General Plan. adopted Specific Plans and State Law.

Although Chapters 7, Section 14.050 of Chapter 14 and the "Coastal Zone Definitions" portion of Chapter 21 (Definitions) comprise the core of the Implementation Plan for the coastal zone, the entire City of San Clemente Zoning Code is a part of the Local Coastal Program. Therefore, any changes in the City of San Clemente Zoning Code constitute an amendment to the Local Coastal Program and must be submitted to and certified by the Coastal Commission in order to become effective. The procedures for amending the Implementation Plan of the City of San Clemente Local Coastal Program are found in Chapter 7, Section 7.190.

{There are no Suggested Modifications to subsection "B".}

C. Initiation of Amendments to the Zoning Ordinance or Zoning Map

Zoning amendments and/or amendments to the zoning map shall be initiated in the same manner as amendments to the General Plan. Zoning amendments and amendments to the zoning map require Local Coastal Program Amendments which are not effective until certified by the California Coastal Commission.

Section 4.080 Variances

{There are no Suggested Modifications to sections "A" and "B".}

C. Applicability

Unless indicated otherwise by this title, a variance is required to deviate from any of the standards contained within the Zoning Ordinance.

For the purposes of the Coastal Zone, no variances shall be allowed.

5. CHAPTER 5 GENERAL DEVELOPMENT STANDARDS

Section 5.0101 Purpose and Intent

The intent of this chapter is to provide general development standards for the City, resulting in new development that is harmonious with existing and potential development in the surrounding area. The standards provided in this chapter apply to all zones, unless otherwise indicated. The standards are minimum or maximum requirements and may be modified to be more stringent through the discretionary review process, when it is required for a project.

For development in the coastal overlay zone (CZ) please refer to Section 14.050 of Chapter 14 (Coastal Overlay District standards) which supplement and may override the development standards in Chapter 5.

Section 5.060 Canyon Setbacks, Inland

A. Purpose and Intent

The purpose of setback requirements for non-coastal canyons is to preserve important topographical features and/or habitat found in San Clemente. For the location of coastal canyons in the coastal zone, refer to the zoning map or the certified Land Use Plan. For standards on setbacks from coastal canyons and coastal bluffs, refer to Section 14.050 of Chapter 14 of this Zoning Code.

Section 5.080 Encroachments into Setbacks and Height Limits, General

A. Purpose and Intent

The regulations included in this section provide for the encroachment of architectural and functional features into setback areas. Limitations have also been established as a measure to control the overuse of the projection provisions in this section. The maximum percentages will help prevent aesthetically inappropriate architectural facades or features that would pose a detriment to adjacent properties.

For setback encroachments on coastal canyons and coastal bluffs in the Coastal Zone, see Section 14.050 of Chapter 14 of this Zoning Code.

Section 5.090 Fences, Walls & Hedges

A. Purpose & Intent

{No suggested modifications to the first paragraph}

This section establishes standards for all fences, hedges and walls, including those not requiring a building permit. (For information regarding whether a fence requires a building permit, please contact the City's Building Division).

In the Coastal Zone fences, walls and in some cases hedges require a coastal development permit regardless of whether a building permit is required. See Section 14.050 of Chapter 14 of this Zoning Code.

Section 5.180 Retaining Walls

A. Purpose and Intent

{There are no suggested modifications to the first paragraph}

This section establishes standards for all retaining walls, including those not requiring a building permit. (For information regarding whether a retaining wall requires a building permit, please contact the City's Building Division.)

For information on permit requirements for retaining walls, including whether a retaining wall requires a coastal development permit application, see Section 14.050 of Chapter 14 of the Zoning Code.

6. CHAPTER 6 SPECIAL USES

Section 6.130 Grading

A. Purpose and Intent

The City's General Plan contains a number of policies related to the preservation of the community's natural topography, for biological and aesthetic reasons. Grading which does not accompany development can result in the unnecessary elimination of topographic and aesthetic resources, if the development plans for the site change, or in unsightly visual impacts for an uncertain length of time, if the land remains undeveloped. Request to grade property prior to processing any development plans for a site require special consideration to ensure that grading is necessary and complies with the City's General Plan, Local Coastal Program, and Hillside Development Ordinance and to prevent unnecessary visual and topographic impacts.

B. Review Requirements

All grading requests which do not accompany requests for development projects shall require the approval of a conditional use permit, in accordance with the provisions of Chapter 4, Section 4.060 of this title, with the following exceptions to

be determined by the City Engineer (Coastal Zone development excepted, see Section 14.050 of Chapter 14):

1. Emergency grading for purposes of public safety; or

2. Grading, including grading for the purpose of structure excavation, which does not result in physical or visual changes in the existing area.

All grading request require review by the City's Engineering Division. Please refer to the City's Grading Ordinance~~, Chapter of the City's Municipal Code,~~ for further specifications related to grading and grading permits.

Section 6.240 Public Utilities

B. Review Requirements

{There are no Suggested Modifications to sections "1" and "2".}

3. For information on development permits for public utilities in the coastal zone, please refer to Chapter 7 of this title.

7. CHAPTER 7 COASTAL DEVELOPMENT PERMIT REVIEW PROCESS

Section 7.010 Purpose and Intent

The purpose and intent of this Chapter is to establish ~~a procedure~~ procedures for the processing of Coastal Development Permits within the City's Coastal Zone ~~that are~~ consistent with the City's Certified Coastal Element (land use plan), ~~Local Coastal Program,~~ the California Coastal Act of 1976 (Division 20 of the State of California Public Resources Code) as amended, and Title 14 of the California Code of Regulations. The Local Coastal Program encourages new development in the Coastal Zone that is designed to minimize impacts to coastal resources and to protect the public health, safety, and welfare. The regulations of this chapter shall apply in the Coastal Zone, as defined by the Coastal Act and map prepared by the California Coastal Commission.

{There are no further Suggested Modifications to this section.}

Section 7.030 Determination of Type of Coastal Review

The intent of this section is to identify how to determine the type of coastal review required for development within the Coastal Zone. The type of Coastal Development Permit review varies depending on which of the three permit and

appeal jurisdiction areas a project is located. Whether a project lies within the Coastal Commission Permit Jurisdiction Area, the City Permit Jurisdiction Area - Not Appealable to Coastal Commission depends on whether the location of the proposed development meets certain criteria set forth in sections 30519 and 30603 of the Coastal Act. ~~is determined by the City of San Clemente~~. The City of San Clemente Post Local Coastal Program Certification and Appeal Jurisdiction Map is intended to show the boundaries of California Coastal Commission permit jurisdiction, permits appealable to the Coastal Commission, and City permit jurisdiction. However, where the map is inconsistent with the criteria of Sections 30603 and 39519, the criteria of the statute prevail. ~~Permit and Appeal Jurisdiction Map.~~

A. Determining the Type of Coastal Review Required

The City Planner is responsible for determining the type of coastal review required for development proposals within the CZ Overlay District. The City Planner shall make this determination based on the provisions of this chapter, the project's location, and the information submitted with the application. Development within the Coastal Zone shall require one of the following types of coastal review:

1. Coastal Commission Permit Jurisdiction Area

Within an area where the Coastal Commission continues to exercise original permit jurisdiction as defined in Section and 30519(b) of the Coastal Act and identified as "permit Jurisdiction" on the City of San Clemente Post Local Coastal Program (LCP) Certification and Appeal Jurisdiction Map, an applicant must obtain a coastal development permit directly from the Coastal Commission. ~~Development located within the area identified as the "Permit Jurisdiction" on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map, shall obtain a Coastal Development Permit directly from the Coastal Commission~~. The Coastal Commission Permit Jurisdiction Area includes any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled. ~~any new development below the mean high tide line~~. An example of development that requires a Coastal Development Permit from the Coastal Commission would be the expansion of the restaurant on the City Municipal Pier.

2. City Permit Jurisdiction Area - Appealable to Coastal Commission

Development located within the area identified as the "Appeal Jurisdiction" as shown on the City of San Clemente Post Local Coastal Program Certification and Appeal Jurisdiction Map requires a Coastal Development Permit be obtained from the City. This type of application is appealable to the City Council and the Coastal Commission. The appeal jurisdiction area includes lands between the sea and the designated first public road paralleling the sea or 300 feet from the inland extent of any beach or of the mean high tide line if there is no beach,

whichever is the greater distance. Also included are lands within 100 feet of streams and wetlands and lands within 300 feet of the top of the seaward face of a coastal bluff. ~~development that is within 300 feet of the beach, the first public road and the beach, or within 100 feet of a stream.~~ An example of this type of development is a structure proposed on a coastal bluff top.

3. Development within the City Permit Jurisdiction Area - Non-Appealable to Coastal Commission

Development located outside of the area identified as the Coastal Commission "Permit Jurisdiction" ~~or~~ and the "Appeal Jurisdiction," as shown on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map, requires a Coastal Development Permit be obtained from the City. ~~This type of application~~ Development in this area is appealable to the City Council, but is not appealable to the Coastal Commission. ~~This includes the area within the Coastal Zone that is located outside the appealable area~~. An example of this type of permit category ~~development~~ is development in the Coastal Zone adjacent to El Camino Real in the downtown area.~~a structure proposed east of the first public road parallel to the beach.~~

4. Development determined to be exempt

The development determined to be exempt, in accordance with Section 7.050 and 7.055 (if approved by the Coastal Commission), does not require a Coastal Development Permit. An example of development that may be exempt from Coastal Development Permit requirements is an addition to an existing single family home located in an area not appealable to the Coastal Commission. ~~Section 7.050 and 7.055 specifies development categories exempt from the requirements of this chapter.~~

B. Questions on the Determination of the Type of Coastal Review Required

~~If it is unclear which type of coastal review described in subsection A is required, the City Planner may request a Coastal Commission determination as to the appropriate type of Coastal Development Permit review. In addition,~~ An applicant, the City Planner or other interested party may request a determination by the Coastal Commission as to the appropriate type of Coastal Development Permit review required by submitting a written request for a Coastal Commission determination to the City Planner. When a request for a determination is made, by either the City Planner, the applicant or other interested party, the following procedures shall be followed:

{there are no suggested modifications to numbers 2-4}

1. The City ~~local government~~ shall make its determination as to what type ~~of development~~ of coastal review is required based upon the type of development proposed and its location. ~~is being proposed and~~ The City shall inform the applicant of the notice and hearing requirements for the type of coastal review required. ~~that particular development.~~

Section 7.040 Authority to Grant a Coastal Development Permit

This section identifies the review body responsible for the approval, conditional approval, or denial of Coastal Development Permits. The review body responsible for a project is based on the project's scope and location.

{There are no Suggested Modifications to "A" and "B".}

C. Coastal Commission

The Coastal Commission shall have authority for all development proposed tide lands, submerged lands and public trust lands, whether filled or unfilled, shown on the "Coastal Commission Permit Jurisdiction" Area as delineated on the City of San Clemente Post LCP Certification and Appeal Jurisdiction Map. ~~Permit Jurisdiction Map filed with the City as amended. Where a proposed development lies partially within the Coastal Commission Permit Jurisdiction Area, the Coastal Commission shall be the responsible agency for the issuance of the Coastal Development Permit.~~ When a proposed project is within the jurisdiction of both the Coastal Commission and the City of San Clemente, each shall retain permit and appeal authority for that portion of the development within its respective jurisdiction.

Section 7.050 Exemptions for Existing Development

{there are no Suggested Modifications to the introductory paragraph or to paragraphs "A" and "B"}

C. Development Categories that may be Exempt from Coastal Development Permit Review.

The following are general development categories that do not have any significant impact on coastal resources and are therefore exempt from Coastal Development Permit requirements. However, within the general development categories, there are specific types of development that do have a potential to impact coastal resources and, therefore, require a Coastal Development Permit.

1. Improvements to Single-Family Dwellings

a. Exempt from review

Improvements to existing single-family dwellings ~~and/or mobile homes~~ are exempt from a Coastal Development Permit, provided the project does not involve any of the situations specified in subsection 1.b below. Improvements to single-family dwellings include fixtures and other structures directly attached to or normally associated with a residence, including ~~a residence~~, landscaping, garages, swimming pools, fences, storage sheds and other similar structures.

b. Require review

The following types of improvements to single-family dwellings and/or mobile homes require a Coastal Development Permit:

(i) Guest houses or self-contained 2nd residential units.

(ii) Improvements to a structure located on a beach, wetland or seaward of the mean high tide line or where the structure or proposed improvements would encroach within 50 feet of a coastal bluff edge.

(iii) Improvements to any structure located within the ~~refer to~~ Appeal Jurisdiction (as indicated on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map) and would result in any of the following:

(a) Improvement that would result in the increase of 10 percent or more of the floor area of an existing structure(s) on the building site or lot or when the combination of improvements to a structure results in an aggregate increase in floor area of 10 percent or more.

(b) ~~The construction of an additional story or loft, or an increase in building height of more than 10 percent~~. An increase in building height of more than 10 percent to an existing structure and/or any significant detached structure such as a garage, wall, fence, or shoreline protective works.

~~(c) The construction, placement or establishment of any significant detached structure as determined by the City Planner. Examples of significant detached structures include, but are not limited to, a garage, wall, fence, or shoreline protective works.~~

2. Existing Structures other than Single-Family Dwellings and Public Works Facilities:

a. Exempt from review

Improvements to an existing structure other than single-family dwellings or public works facilities are exempt from a Coastal Development Permit, provided the project does not involve any of the situations specified in subsection 2.b below. Improvements ~~to an existing structure, other than a single-family dwelling,~~ include fixtures and other structures directly attached to the principal structure and landscaping.

b. Require review

The following types of improvements to an existing structure, other than single-family dwellings or public works facilities, require a Coastal Development Permit:

(i) Improvements specified in Section 7.050.C.1.b~~(i)-(v).~~ (ii-iv).

(ii) Improvements to a structure that would result in a change in intensity of use of the structure. A change in the intensity of use means a change in the use of a lot or structure that, as a result of the underlying zone, requires ~~more off-street parking than did the immediately prior use of the lot or structure~~. a change in the number of required parking spaces.

(iii) ~~The conversion of a multi-family residential structure into a condominium or stock cooperative~~. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

(iv) Any grading of a land form or removal of vegetation on a beach, within 100 feet of a coastal bluff edge, stream or in a sensitive habitat area.

(v) The expansion or construction of water wells or septic systems.

3. ~~Protection of Shoreline~~ Repair and Maintenance Activities:

a. Exempt from review

Repair or maintenance ~~of shoreline protective works~~ activities are exempt from a Coastal Development Permit, provided the project does not involve any of the situations specified in subsection 3.b below.

b. Require review

The following types of repair or maintenance activities require a Coastal Development Permit:

{There are no intervening Suggested Modifications.}

(ii) Repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline protective work which involves:

{There are no Suggested Modifications to "a" and "c"}

(b) The placement, whether temporary or permanent, of artificial berms of sand, or other beach materials, rip-rap, or any other form of solid material, on a shoreline protective works, a beach or in coastal waters, streams, wetlands, and estuaries;

(d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, ~~within 50 feet of a coastal bluff edge~~ or coastal bluff or within 20 feet of coastal waters or streams.

(iii) The replacement of ~~20~~ 50 percent or more of a sea wall revetment, bluff retaining wall, breakwater, groin, or similar shoreline protective work under one ownership, unless destroyed by natural disaster.

(iv) Any method of routine maintenance dredging that involves:

{There are no Suggested Modifications to "a" - "b".}

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

{There are no Suggested Modifications to "v".}

4. Utility Connection

The installation, testing, and placement in service or the replacement of any necessary utility connection, between an existing service facility and any

development, is exempt from Coastal Development Permit review unless the activity involves work on the beach, within 50 feet of a coastal bluff or in an ESHA.

5. Roadway/Transportation Maintenance

The ongoing routine repair or maintenance activities of the City, state agencies, and public utilities (such as railroads) ~~involving shoreline works protecting transportation roadways~~ are exempt from Coastal Development Permit review unless the activity involves work on the beach, within 50 feet of a coastal bluff or in an ESHA.

6. Replacement of Structures Following Disaster:

Replacement of any structure, other than a public works facility, destroyed by natural disaster is exempt from Coastal Development Permit review, provided such replacement structure conforms to applicable existing zoning requirements, is designed and intended for the same use as the destroyed structure and further, such replacement structure does not exceed the floor area, height or bulk of the destroyed structure by more than ten percent and is situated in the same location on the same building site as the destroyed structure.

Section 7.055 Exemptions for New Development

{This entire section constitutes the Categorical Exclusion portion which must be removed from the IP and acted on at a separate hearing. It will be included in Attachment A.}

Section 7.060 Waiver of Public Hearing ~~Permit Requirements~~ for ~~De Minimis~~ Minor Development

This section identifies the procedures to process waivers from Coastal Development Permit hearing requirements for projects that do not qualify for an exemption but are determined to be minor ~~de minimis~~.

A. Application

The City Planner may waive the requirement for a public hearing on a coastal development permit application ~~issue a waiver from Coastal Development Permit review requirements~~ for development within the Appeal Jurisdiction in accordance with this section after review of a complete application pursuant to Section 7.080, if the City Planner determines that the proposed development is minor. Minor development, as defined in Section 30624.9 of the Coastal Act, is development which is: consist with the certified local coastal program, requires no discretionary approvals other than a coastal development permit, and has no individual or cumulative adverse effects on coastal resources. ~~Projects that are within the Appeal~~

~~Jurisdiction can not be waived from Coastal Development Permit review.~~ If, upon review of the application, the City Planner determines that the proposed development is minor, ~~the Coastal Development Permit review requirements may be waived,~~ the applicant shall post public notice as required in Section 7.100, where applicable, and shall provide any additional notice to the public that the City Planner deems appropriate. The public hearing requirement may be waived for minor development only if notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other known interested persons, and no request for a public hearing is received by the City within 15 working days from the date of sending the notice. ~~The notice provided pursuant to Section 7.100 shall provide that a public hearing shall be held only upon request and~~ The notice shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal any action taken by the City on the Coastal Development Permit application. ~~The City Planner shall notify any person known to be interested in the proposed development of the waiver request.~~

B. Required Finding

The City Planner may designate a development as minor for purposes of this section ~~only issue a waiver~~ if the proposed project is consistent with the Local Coastal Program, the proposed project requires no discretionary approval other than a Coastal Development Permit and a finding can be made that the proposed project ~~is de minimis and~~ has no adverse effect either individually or cumulatively on coastal resources or public access to the shore line or along the coast. ~~impact on coastal resources. A proposed project is de minimis when it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and it is consistent with the policies of the California Coastal Act and Chapter 3 of the Coastal Element Land Use Plan.~~

~~C. Report to the Planning Commission~~

~~Issuance of the waiver shall not take effect until the City Planner has sent a report to the Planning Commission. A report on a waiver shall be scheduled at the next Planning Commission meeting after the waiver has been issued. The report on the waiver shall include a sufficient description of the project and how the project is de minimis with respect to the policies of the Local Coastal Plan. A list of waivers issued by the City Planner shall be available for public inspection at the meeting during which the waivers will be reported. If the Planning Commission requests that the waiver not be effective, the applicant is required to obtain a Coastal Development Permit if the applicant wishes to proceed with the development.~~

Section 7.080 Application Review

A. Submittal Requirements

Application for a Coastal Development Permit shall be made to the Planning Division on the Coastal Development Permit application forms provided by the Planning Division. The Coastal Development Permit application form shall require that all the information listed herein be included with any submittal for a Coastal Development Permit. Coastal Development Permit application forms may be amended from time to time to require additional information needed to assess a project's impacts on coastal resources but shall in no case require less than the minimum submittal requirements established by the California Coastal Act. The minimum information that shall be included in an application for a Coastal Development Permit includes:

{There are no suggested modifications to 1, 4, 5a, 5b, 5d and 7. 5d becomes 5c, and number 6 becomes number 7.}

2. Public notification material required for public hearings on the Coastal Development Permit, including owners, occupants and the owner of record at a minimum 100 foot radius of the property boundary;

3. ~~The signature of the property owner of record or the owner's authorized agent;~~ A dated signature by or on behalf of each of the applicant(s), attesting to the truth, completeness and accuracy of the contents of the application, and if the signer is not the applicant, written evidence that the signer is authorized to act as the applicant's representative;

5. ~~A site plan, drawn to scale, showing~~: An adequate description including maps, plans of the proposed development and project site including a site plan drawn to scale, showing:

b. All existing and proposed topography, including, when applicable the location of the bluff and/or the canyon edge;

~~c. All existing and proposed structures, roads, utility lines, signs, fences, access ways and other improvements;~~

6. A description and documentation of the applicant's legal interest in all the property upon which work would be performed, if the application were approved.

B. Required Findings

A Coastal Development Permit application may be approved or conditionally approved only after the appropriate discretionary body has reviewed the development project and has made all of the following written findings:

(There are no Suggested Modifications to #1}

2. That ~~T~~the project is located in the Appealable Jurisdiction (as identified in the City of San Clemente Permit Jurisdiction Map), ~~and~~ that said project conforms with the policies of Chapter 3 of the Coastal Element Land-Use Plan, and if the project is located between the sea and the first public road that the project conforms with the policies of Chapter 3 of the Coastal Element Land Use Plan and the Access and Recreation policies of. ~~the public access policies of~~ Chapter 3 of the California Coastal Act (commencing with Section 30200 of the California Public Resource Code).

C. Conditions

In approving an application for a Coastal Development Permit, the approving body may impose conditions necessary to ensure the project is in conformance with the Local Coastal Program. Projects located ~~within the Appealable Jurisdiction~~ between the sea and the first public road shall include a condition regarding public access and recreation as required by subsection L of Section 14.050 of Chapter 14. When conditions pertaining to public access and/or open space or conservation easements are imposed, notification of such action shall be submitted to the Executive Director of the Coastal Commission in accordance with subsection M of Chapter 14, Section 14.050.

D. Effective Date of Decision

Development pursuant to an approved Coastal Development Permit shall not commence until the permit becomes effective. The permit becomes effective only if all applicable appeal periods expire or, if appealed, until all appeals, including those to the Coastal Commission have been exhausted. A Coastal Development Permit decision ~~that is subject to appeal~~ shall not become effective until:

{There are no Suggested Modifications to 1a and 2.)

1. For ~~appealable~~ projects appealable to the Coastal Commission

b. The 10 working days from receipt of the notice of final action by the ~~of the~~ Coastal Commission appeal period has ~~expired~~ elapsed and a valid appeal was not filed (in accordance with Section 7.110).

E. Expiration of a Coastal Development Permit

A Coastal Development Permit approval shall expire:

~~1. On the latest expiration date applicable to any other permit or approval required for the project, including any extension(s) granted for such other permits or approvals.~~

~~2. Should the project not require other City permits or approvals, within the time period specified in the approval of the Coastal Development Permit or, if a time period is not specified, within one year, the time period during which a project must be commenced starts on the effective date of a decision approving a project, as defined in subsection~~ D above.

1. Two years from the date of final approval unless development has commenced or unless the permit has been extended.

F. Extension of Time

1. Authority

The City ~~approving authority for the original Coastal Development Permit application, as described in Section 7.040,~~ may grant a one year a ~~reasonable~~ extension of time from the permit expiration date based on showing of cause when the findings made for the original project still apply.

2. Submittal of extension request

a. Time limits on submitting extension requests

A request for an extension of time shall only be considered by the City if a written request, including reasons for the extension, is filed with the City Planner prior to the approved application's expiration date.

~~b. Method of request~~

~~Request for extensions shall be made in writing and shall state the reasons why an extension is needed.~~

3. Processing extension request

A request for an extension of time shall be processed in the same manner as the approved application and may be granted or denied. ~~If granted, conditions may be added to the original approved project.~~

4. Circumstances under which extensions may be granted

A request for an extension of time may be granted for good cause if the same findings can be made as were made for the original approved project.

G. Reapplication

An applicant may not file an application for a Coastal Development Permit which is the same as or substantially the same as an application upon which has been denied ~~denial has become effective~~ within 12 months, unless the request for reapplication reflects a major change in circumstances and is accepted by a motion of the approving authority.

Section 7.090 Coastal Development Permit Hearing

A. Public Hearings

The appropriate discretionary body specified in Section 7.040 shall conduct a public hearing prior to any action on a Coastal Development Permit where:

{No Suggested Modifications to numbers 1 and 2.}

3. The project is appealable to the Coastal Commission, except where the public hearing has been waived pursuant to Section 7.060.

B. Public Hearings on Concurrent Applications

To the extent possible an application for a Coastal Development Permit shall be reviewed in conjunction with any other permit or approval required for the project in accordance with Chapter 3, Section 3.090. However, all decisions on coastal development permit applications must be accompanied by separate written findings.

C. Public Comment

Any person may submit written comments on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit at any time prior to the close of the applicable public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in the public notice. Written comments shall be submitted to the City Planner, or City Clerk for City Council meetings, who shall then forward such comments to the approving body, the applicant and all other appropriate persons.

Section 7.100 Notice Procedures

The following shall constitute the minimum notice requirements for Coastal Development Permits and record of exempt development reviewed by the City:

A. ~~Notice~~ Record of Exempt Development

Development which is exempt from the Coastal Development Permit requirements shall be exempt from notice and hearing requirements of this section. The City shall maintain a record of ~~all permits issued for~~ exempt developments which shall be made available to the Coastal Commission or any interested person upon written request. The record shall include the applicant's name, the location of the project, a brief description of the project, and rationale indicating why the project is exempt from coastal permit application requirements. ~~and a brief description of the project~~. Projects determined to be exempt in accordance with Sections 7.050 and 7.055, shall not require a Notice of Final Action.

B. Notice Posted at Project Site

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for a permit for the proposed development has been submitted to the City. Such notice shall contain a general description of the nature of the proposed development.

C~~B~~. Noticing of a Public Hearing for Coastal Development Permits

Within 10 calendar days, prior to the first public hearing on a development proposal for a Coastal Development Permit, the City shall provide notice in a newspaper and by first class mail of the pending application. ~~The noticing procedures shall be the same for projects appealable and non-appealable to Coastal Commission.~~ This notice shall be provided ~~to~~ as follows:

1. For appealable and non-appealable development:

{There are no Suggested Modifications to "a", numbers 2-5 become b-e.}

f. Owner of the property.

2. Notice for development appealable to the Coastal Commission shall also include the following:

a. All persons who have, within the past calendar year submitted a written request for notice of all Coastal Permit applications and all persons who at any time have requested to be on the mailing list for that development project.

b. Public agencies which, in the judgement of the Director of Community Development, have an interest in the project.

~~Publication in a newspaper of general circulation in the City of San Clemente shall be provided for all Coastal Development Permit public hearings~~.

3. The notice of public hearing for appealable and non-appealable permit items shall contain the following information:

a.~~1.~~ A statement that the development is within the Coastal Zone and is either appealable to the Coastal Commission or not appealable to the Coastal Commission;

{There are no further Suggested Modifications to #3 except for re-numbering}

{Section 7.100 subsections C and D become D and E respectively.}

E.~~D.~~ The Notice of Final Action

1. Mailing of Notice of Final Action

After all City appeal periods have expired a Notice of Final Action shall be mailed first class within seven (7) calendar days of the final local action to each of the following:

{There are no further Suggested Modifications to #1.}

2. Contents of the Notice of Final Action

The Notice of Final Action shall include the following:

{There are no Suggested Modifications to "a" and "c".}

b. Written ~~F~~findings for the approval, conditional approval or denial;

d. The procedures for appeal of the Coastal Development Permit action to the Coastal Commission.

E. Time Limits for Processing Applications

Coastal Development Permit applications shall be processed within the time limits prescribed in Chapter 4.5 of the State Planning and Zoning Law as applied in Chapter 3, Section 3.070, Time Limits for Processing Applications.

Section 7.110 Appeals

~~Development pursuant to an~~ An approved Coastal Development Permit shall not ~~commence~~ become effective until all applicable appeal periods expire or, if appealed, until all appeals, including to the Coastal Commission, when applicable, have been exhausted. The action regarding any Coastal Development Permit application may be appealed in compliance with the provisions of Chapter 3, Section 3.140 on or before the 10th working day and with the following additional provisions:

A. Appeals of City Planner, Zoning Administrator and Planning Commission Decisions

Any person may appeal a decision of the City Planner, Zoning Administrator or Planning Commission regarding a Coastal Development Permit to the City Council. An appeal of a decision shall be filed in the office of the City Clerk or with the City Planner on or before the tenth working day following the decision sought to be appealed.

B. Appeals to Coastal Commission

All action on a Coastal Development Permit located within the Appealable Jurisdiction, sensitive coastal resource area, major public works facility or major energy facility may be appealed to the Coastal Commission by a qualified appellant (refer to subsection "D") within 10 working days from the date of Coastal Commission receipt of the Notice of Final Action.

{There are no Suggested Modifications to #C.}

D. Request to Appeal to Coastal Commission (Qualified Appellant)

An appeal of a Coastal Development Permit to the Coastal Commission may only be filed by the applicant or the applicant's authorized representative of the Coastal Development Permit in question, an aggrieved person as defined in the Coastal Zone Definitions portion of Chapter 21, or any two members of the Coastal Commission.

E. Grounds for Appeals

An Appeal to the City Council and Coastal Commission for any ~~project~~ coastal development permit shall be limited to an allegation that the development does not conform ~~(or does conform in the case of a denial)~~ to the standards set forth in the Certified Local Coastal Program or the access and recreation policies of Chapter 3 of the Coastal Act.

The grounds for appeal to the Commission of a denial of a major public works project or major energy facility shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program or the access and recreation policies of Chapter 3 of the Coastal Act.

F. Filing of an Appeal

An appeal shall be filed with the Planning Division on a form provided by the City Planner. The appeal shall be accompanied by a fee set by resolution of the City Council and a statement of the grounds for the appeal. It shall be the duty of the City Planner to forward a Coastal Development Permit appeal, together with a recommendation, to the appropriate body.

Section 7.120 Emergency Coastal Development Permit

{There are no Suggested Modifications to the introduction.}

A. Application

Application shall be made to the Director of Community Development in writing, if time permits, or in person or by telephone. The information to be reported at the time of the emergency or within three days after the emergency shall include the following:

{No Suggested Modifications to numbers 1-4.}

5. The circumstances during the emergency that appeared to justify; the ~~cause(s)~~ courses of action taken, including the probably consequences, if any, of failing to take action.

B. Limitations

The Director of Community Development shall not grant an Emergency Coastal Development Permit for any development when:

1. The location of the emergency falls within the Permit Jurisdiction or Appeal Jurisdiction area (see the City of San Clemente Post LCP Certification Permit and Appeal Jurisdiction Map), or

~~2. The emergency work involves the division of land~~.

In such cases a request for an emergency authorization must be made to the Coastal Commission as provided in Section 13136 et. seq. of Title 14 of the California Code of Regulations.

C. Notice

The following notice procedures shall be followed for an Emergency Coastal Development Permit:

1. The Director of Community Development shall provide notice of the proposed emergency action, the nature and extent of such notice shall be determined by the nature of the emergency.

~~2. The extent and type of the notice shall be determined by the Director of Community Development on the basis of the nature of the emergency.~~

{Subsection 3 becomes subsection 2, no substantive changes .}

D. Findings and Conditions

{There are no textual Suggested Modifications to "D" or "F".}

E. Expiration of Emergency Permit

An emergency permit shall be valid for sixty days from the date of issuance by the Director of Community Development. Prior to expiration of the emergency permit, the permittee must submit a regular Coastal Development Permit application for the development or remove the development undertaken pursuant to the emergency permit and restore the site to its previous condition within 120 days.

Section 7.130 Permit Jurisdiction For Development Carried Out Before LCP Certification

{There are no Suggested Modifications to the introduction of this section.}

A. Development Approved by Coastal Commission

Development that is approved by the Coastal Commission prior to certification of the Local Coastal Program ~~by the Coastal Commission~~ will remain under the jurisdiction of the Coastal Commission for the purposes of reviewing compliance with the conditions of approval, and amendments to, extension, reconsideration and/or revocation of the permit.

B. Proposals Pending at Time of LCP Certification

Development proposals that are pending at the time of the City's Local Coastal Program certification shall be processed as follows:

{There are no Suggested Modifications to #1.}

2. An applicant has the option of either retaining the request with the Coastal Commission for completion of review or submitting the request to the City where:

> The development proposal received City approval before certification of the City's Local Coastal Program and the application for the development proposal was submitted to ~~filed with~~, but not acted upon by the Coastal Commission.

The review of the application in either case shall be based upon the requirements of the certified Local Coastal Program.

Section 7.140 Assignment of Permits

{No Suggested Modifications to this section.}

Section 7.150 Amendments to Coastal Development Permits

Projects shall be developed in conformity with ~~project approvals~~. the project description, conditions of approval and approved plans. If the applicant wishes to modify the project, the applicant shall submit an amendment application along with revised plans, where applicable, to the City for review by the City Planner. The City Planner shall make one of the following determinations regarding this request:

A. Minor Modification

If the City Planner determines that a modification to an approved project is in substantial conformance with the plans, project description and special conditions, ~~the modifications are minor,~~ the modification may be approved by the City Planner. If the City Planner determines that the project is an immaterial change, notice of such determination including a summary of the procedures shall be posted at the project site and mailed to all known interested parties. If the City Planner receives objections within 10 working days of the mailing of the notice, then the matter shall be deemed material and subject to the procedures in "B" below.

B. Significant Modification

If the City Planner determines that the modifications are significant, a submittal of an application to amend the Coastal Development Permit is required. An amendment shall be deemed a material change if objection is made to the determination of immateriality, if the proposed amendment has the potential for significant adverse impacts on coastal resources or public access. The amendment to the Coastal Development Permit shall be ~~reviewed by~~ referred to the original approving

authority. An amendment application shall follow all the application procedures and regulations of this Chapter.

Section 7.160 Coastal Development Permit Revocations

A. Grounds for Revocation of a Coastal Development Permit

Grounds for revocation of a Coastal Development Permit include any of the following:

1. The intentional inclusion of inaccurate, erroneous or incomplete information connected with a coastal development permit application ~~on an application or submitted plan~~ where the City finds that accurate and complete information would have caused the City to impose additional or different conditions or to deny the application; or

{There are no Suggested Modifications to #2.}

~~3. Failure of the applicant to abide by, and comply with, any and all conditions that may be attached to the approval of a Coastal Development Permit issued pursuant to the provisions of this Chapter.~~

B. Initiation of Proceedings to Revoke a Coastal Development Permit

Initiation of proceedings to revoke a permit may be made by any of the following:

1. Any person who did not have an opportunity to fully participate in the original permit proceedings because of the reasons stated in subsection ~~A.2~~ A1 or A2, above, may submit a written request stating the particular grounds for the revocation, to the City Planner. The City Planner shall review the request and the stated grounds for revocation and ~~may~~ shall initiate revocation proceedings unless the grounds for revocation are determined to be without merit. If the City Planner determines that sufficient grounds to proceed with the revocation do not exist, the City Planner shall provide a written response to the person making the request explaining the reason for this determination.

2. The Planning Commission or City Council, upon a determination that grounds under subsection A above exist for the revocation of a Coastal Development Permit, ~~may~~ shall initiate the revocation process.

C. Suspension of Operation of a Coastal Development Permit

~~The operation of the permit shall automatically be suspended until a determination on the request for revocation is completed~~. Where the City Planner, Planning Commission or City Council determines that grounds exist for revocation of a permit,

the operation of the permit shall automatically be suspended until denial of the request for revocation. The City Planner shall notify the permittee by mailing a copy of the request for revocation and a summary of procedures contained in this section to the address shown in the Coastal Development Permit application. The City Planner shall advise the applicant in writing that any development undertaken during suspension of the permit may be in violation of the certified LCP and California Coastal Act and subject to the penalties contained therein and Section 7.170.

D. Review Proceedings

1. Planning Commission review

Revocation of a Coastal Development Permit shall be considered at a public hearing conducted before the Planning Commission, notice of which shall be provided in accordance with Section 7.100 of this Chapter. After completion of the public hearing, the discretionary body shall recommend to the City Council by resolution, whether the Coastal Development Permit ~~shall be modified or~~ shall or shall not be revoked.

2. City Council Review

Following receipt of a recommendation on the Coastal Development Permit from the Planning Commission, the City Council shall conduct a public hearing in compliance with Section 7.090 of this Chapter. After completion of the public hearing, the City Council ~~may modify or~~ shall either revoke or sustain the Coastal Development Permit.

Section 7.170 Judicial Review, Enforcement and Penalties

In addition to the provisions contained in this Chapter, the provisions of Chapter 9 of Division 20 of the California Public Resources Code shall also apply with respect to judicial review, enforcement and penalties.

Section 7.190 Amendments to the Local Coastal Program

The City Council may amend the Local Coastal Program, in whole or in part, but the amendment will not take affect until it has been certified by the Coastal Commission. Any General Plan Element or specific plan or ordinance of the City that is applicable to the same areas or matters affected by a Local Coastal Program amendment must be reviewed and amended, as necessary, to ensure consistency with the Local Coastal Program. Because the City of San Clemente Zoning Code is incorporated into the Local Coastal Program, any zoning code amendment must also be accompanied by a Local Coastal Program amendment.

A. Authority

The Planning Commission shall provide recommendations to the City Council regarding Local Coastal Program amendments. The City Council is responsible for final action upon Local Coastal Program amendments. The City Council may amend the Local Coastal Program, in whole or in part. ~~The Coastal Commission is responsible for certification of all amendments to the Local Coastal Program.~~ Local Coastal Program amendments must be submitted to the Coastal Commission as per subsection "J". The Commission can approve the amendment as submitted, approve the amendment with suggested modifications or deny the amendment.

B. Initiation of Amendments to the Local Coastal Program.

An amendment to the Local Coastal Program may be initiated by one of the following:

1. ~~A majority vote of the City Council~~. A resolution of intention initiated by the City Council directing the City Planner to initiate an amendment.

{There are no Suggested Modifications to #2.}

C. Restriction on Number of Amendments

A maximum of three major amendment packages or submittals ~~requests~~ per calendar year may be submitted to the California Coastal Commission pursuant to 30514(b) of the Coastal Act. An amendment package may include more than one amendment ~~change~~ to the Local Coastal Program. Deadlines for Local Coastal Program amendment applications are contained in the Planning Division's Policy documents on file with the Department of Community Development. There is no restriction on the number of amendment requests which may be submitted for a minor or de minimis Local Coastal Program Amendment, specified in subsection J, below.

D. Restriction on Timing of Amendments

Individual Local Coastal Program major amendments submitted by specific deadlines shall be grouped and processed as one Local Coastal Program amendment, for City purposes, within one of the three major amendment requests per calendar year (pursuant to Section 30514(b) of the Coastal Act). ~~dates held each year~~. Processing guidelines and deadlines for submittal of Local Coastal Plan amendments are available from the Planning Division.

~~E. Submittal Requirements~~

~~Submittal requirements are specified in Chapter 3, Section 3.040 of this code.~~

E. Planning Commission Action on Amendment

1. Upon receipt in proper form of a completed amendment application or duly adopted resolution of intention, and following any necessary investigation, a public hearing before the Planning Commission must be held and notice of such hearing given consistent with the Coastal Act and California Code of Regulations.

2. The Planning Commission must make a written recommendation on the proposed amendment whether to approve, approve in modified form, or disapprove.

3. Planning Commission action recommending that the proposed Local Coastal Program amendment be approved, or approved in modified form, must be considered for adoption by the City Council. Planning Commission action disapproving a proposed Local Coastal Program amendment, regardless of how such amendment was initiated, may be appealed by any interested person, including a Commissioner or Council member, to the City Council provided such appeal is filed in writing within 14 consecutive calendar days of the Planning Commission's action.

F. City Council Action on Amendment

The recommendation of the Planning Commission to approve a proposed Local Coastal Program amendment must be acted upon by the City Council. A public hearing on the amendment shall be conducted after first giving notice of the hearing pursuant to Sections 30501, 30503, 30504, 30605 of the Coastal Act and Section 13515 of the California Code of Regulations . The City Council may approve, approve with modifications, or disapprove any amendment.

{Subsections 1 and 2 have been deleted from subjection "J" below and added to this section.}

1. A denial by the City Council on an amendment request shall be final and no appeal to the Coastal Commission shall be allowed except as provided by subsection b of this section.

2. Pursuant to Section 30515 of the Coastal Act, any person or agency authorized to undertake a public works project or major energy facility development, who was denied a request to amend the Local Coastal Program, may file the request for amendment with the Coastal Commission.

G.~~K.~~ Required Findings

{Subsection "K" has been moved to become "G".}

Prior to the approval of a Local Coastal Program amendment, the following findings shall be made:

{There are no Suggested Modifications to #1 and #2.}

3. The proposed amendment is consistent with the Chapter 3 policies of the Coastal Act.

H~~F~~. Fees

The City Council, by resolution, shall establish and from time to time amend a schedule of fees for applications required or authorized by Chapter 4 of this Title. Applicants shall pay the fees and costs for processing applications when the application is filed with the Planning Division.

I~~G~~. Noticing Requirements

~~Public hearing and notice procedures are specified in Chapter 3, Section 3.100.~~ Maximum opportunities for public participation shall be provided in the LCP amendment process for the public, governmental agencies and known interested persons. At a minimum, all notices for public hearings, availability of review drafts, studies or other relevant documents or actions pertaining to the preparation of an LCP amendment shall be mailed to any member of the public who has so requested, each local government which is contiguous to the amendment area, local governments or special districts which may be affected, all state and federal agencies listed in Appendix A of the Local Coastal Program Manual, local libraries and media.

J~~H.~~ Review Procedures

{There are no Suggested Modifications to this subsection.}

K.~~I.~~ Coastal Commission Certification of Amendments.

Any proposed amendment to the Local Coastal Program shall not take affect until it has been certified by the Coastal Commission. Any amendment approved by the City shall be submitted to the Coastal Commission in accordance with Sections 30512 and 30513 of the California Public Resources Code and the requirements of Section 13551 et seq. of the California Code of Regulations ~~. An amendment to this Local Coastal Plan as certified by the California Coastal Commission shall not become effective after City Council adoption until the amendment is submitted pursuant to the requirements of Section 13551 et seq. of the California Code of Regulations and also certified by the California Coastal Commission pursuant to Chapter 6, Article 2 of the California Coastal Act, as follows:~~

1. A denial by the City Council on an amendment request shall be final and no appeal to the Coastal Commission shall be allowed except as provided by subsection b of this section.

{There are no Suggested Modifications to #2.}

L.~~J.~~ ~~De Minimis~~ Types of Local Coastal Program Amendments

Upon approval of a Local Coastal Program amendment by the City Council the City may submit to the Executive Director an application for a de minimis Local Coastal Program amendment when the amendment has no impacts, either individually or cumulatively, on coastal resources. ~~The de minimis review procedure is a simplified review process which may be used for minor amendments such as minor procedural changes, clean up to text and graphics or other minor changes that do not impact coastal resources as provided in the Coastal Act.~~ There are "minor", "de minimis" and "major" local coastal program amendments.

1. Minor Amendments

Section 13554 of the California Code of Regulations defines a minor amendment consisting, in part, of the following:

a. changes in wording that do not change kind, location, density or intensity or use and are found by the Executive Director to be consistent with the LUP; change in notification, and;

b. hearing procedures consistent with the Coastal Act;

2. De Minimis Amendments

The Executive Director may designate a proposed LCP amendment as de minimis if the amendment does not involve:

a. a change is use,

b. individual or cumulative impacts on coastal resources.

3. Major Amendments

A major amendment is a proposed amendment which the Executive Director finds involves:

a. a change in use,

b. a change in designation,

c. every change not minor or de minimis.

~~K. Required Findings~~

~~Prior to the approval of a Local Coastal Program amendment, the following findings shall be made:~~

~~*{There are no Suggested Modifications to #1 and #2.}*~~

~~3. The proposed amendment is consistent with the Chapter 3 policies of the Coastal Act.~~

8. CHAPTER 8 RESIDENTIAL ZONES AND STANDARDS

Section 8.050 Residential Zone Special Development Standards

{There are no suggested modifications for "A", "B" and "C".}

D. Canyon Setbacks, Non-Coastal

Please refer to Chapter 5, Section 5.060 for provisions for setbacks in non-coastal canons. For setbacks in coastal canyons please refer to the policies in subsection 14.050 of Chapter 14 of this code.

9. CHAPTER 11 OPEN-SPACE ZONES AND STANDARDS

Section 11.010 Purpose and Intent

{There are no suggested modifications to the introductory paragraph or to subsection "A".}

B. Publicly-Owned Shoreline (OS 1) Zone

The OS 1 land-use designation is intended to preserve publicly-owned open shoreline as open space, while allowing for passive and active recreational activities, and preserving the unique character of San Clemente's oceanfront, coastal resources, public views, and access to coastal resources. Activities in the OS S1 Zone shall range from passive recreational uses such as walking to more intensive, active recreational, cultural, and tourist-oriented uses requiring indoor or outdoor facilities, such as the public pier.

The OS1 land-use designation is entirely within the Coastal Zone and is either in the appeal or permit jurisdiction of the California Coastal Commission (see Chapter 7).

{There are no Suggested Modifications to subsection "C".}

D. Privately-Owned Shoreline (OS S2) Zone

The OS 2 land-use designation is intended to preserve privately-owned open shoreline as open space, while allowing for passive recreational activities, encouraging increasing public access, and preserving the unique character of San Clemente's oceanfront, coastal resources, public views, and access to coastal resources. Activities in the OS S2 Zone shall include passive recreational activities such as surfing, hiking, and swimming.

The OS 2 land-use designation is entirely within the Coastal Zone and is either in the appeal or permit jurisdiction of the California Coastal Commission (see Chapter 7).

10. CHAPTER 13 SPECIFIC PLAN AND STUDY AREA ZONES AND STANDARDS

Section 13.010 Purpose and Intent

{There are no Suggested Modifications to the first paragraphs of this section.}

~~The Pico Corridor Study Area has been designed to provide interim standards for an area of the City for which a specific plan is currently being prepared~~.

Section 13.030 Adoption and Amendment of Specific Plans

Adoption and/or amendment of a specific plan shall occur in accordance with the provisions for specific plans and specific plan amendments described in Chapter 4, Section 4.030 of this title. Because the entire zoning code, including specific plans, are a part of the San Clemente Local Coastal Program, the adoption and/or amendment of a specific plan also constitutes an amendment to the LCP and shall be processed in accordance with the LCPA provisions of Section 7.190.

The adopted specific plan shall operate as the zoning regulations for the subject property.

Section 13.040 General Requirements for Specific Plan Zones

{There are no suggested modifications for sections "A" and "C"

B. Limitations on Grading Permits, Building Permits, and Land Use Permits

No grading permits, building permits, or land use permits, or other development entitlements, shall be issued for any property with an SP designation prior to the adoption of a specific plan for the property, unless such permits or entitlements are solely for emergency measures, restoration or remedial maintenance and do not in any way predispose the future use of the land.

This provision does not apply to areas designated as specific plans in the Coastal Zone.

D. Amendment of the Zoning Ordinance and Map

Adoption of a specific plan shall include an amendment to the Zoning Ordinance and Zoning Maps in accordance with Chapter 4, Section ~~4.040~~ of this title. Each Specific Plan shall be named. The zoning map shall not indicate the land use designations within the Specific Plan, but shall show the letters "SP" and an abbreviation of the Specific Plan name. Thereafter, all land use, development and improvements shall conform to the provisions of the adopted Specific Plan.

Because the entire zoning code, including zoning maps, are a part of the San Clemente Local Coastal Program, the adoption and/or amendment of a specific plan also constitutes an amendment to the LCP and shall be processed in accordance with the LCPA provisions of Section 7.190.

~~**Section 13.050 Requirements for the Pico Corridor Study Area**~~

~~A specific plan is currently being prepared for the Pico Corridor Study Area. In the interim, between the adoption of the Zoning Ordinance and the adoption of the Pico Corridor Specific Plan, the standards of the City's previous zoning ordinance and the zoning designations from the City's previous precise zoning map shall be in effect for the Pico Corridor Study Area. Please refer to Appendix A of the Municipal Code of the City of San Clemente~~.

Section 13.060 Adopted Specific Plans

As of the date of the adoption of this Zoning Ordinance, the following specific plans have been adopted to the City of San Clemente. Complete specific plans are provided as a separate appendix to this title.*{The Pico Corridor Specific Plan needs to be added to Table 13.1}*

11. CHAPTER 14 OVERLAY DISTRICTS AND STANDARDS

{No suggested modifications to Sections 14.010-14.040.}

Section 14.050 Coastal Zone (-CZ) Overlay District

{This entire section needs to be struck out and replaced with Chapter 15 of the Implementation Plan Submittal. The entirety of Chapter 15 of the Implementation Plan submittal shall be reformatted and renumbered under a new section 14.050. The replaced section is included as Attachment D.}

Sections

{There are no Suggested Modifications to the index other than formatting changes.}

{There are no Suggested Modifications, other than formatting, to subsections A-D.}

E. ~~Section 15.050~~ Coastal Landforms

2.~~B~~. Geotechnical Review

A geotechnical report prepared within one year of the application submittal is required on all coastal bluff and coastal canyon parcels (refer to the City Zoning Map for coastal canyon and bluff locations) to assess the potential hazard from soil erosion, soil creep, and landsliding and determine appropriate setbacks to protect the development for the life of the project (75 years). If the geotechnical report or the City recommends ~~If, as a result of geotechnical review,~~ a greater setback than is required in the development standards in the Coastal Element Land Use Plan and Zoning Code, ~~is recommended~~, the greater setback shall apply.

3.~~C~~. Coastal Setbacks

a.~~1~~. Purpose and intent

~~The following setbacks are to be applied in addition to the setbacks required for the underlying zone~~. The purpose and intent of the coastal setback for coastal bluffs and coastal canyons is to protect coastal resources and prevent potential hazards to life and property from landsliding and erosion. When there are two (2) or more setback choices available in the standards below (e.g., stringline and coastal bluff or coastal canyon edge setback), the City Planner shall determine, subject to the appeals provisions of Chapter 7, Section 7.110, which of the setbacks shall be applied to a development based on the geology, soil, topography, existing vegetation, public views, adjacent development and other site characteristics. The setback required shall be determined

through the Coastal Development Permit Process and shall ~~not impact~~ be protective of coastal resources. The setbacks below are minimum setbacks. Greater setbacks may be required or recommended as a result of a geotechnical review prepared pursuant to subsection E(2) of this section. No development shall be permitted within the setbacks provided below except for certain types of minor development prescribed in subsection ~~H~~. D (refer to the City Zoning Map for coastal canyon and bluff locations).

b.~~2~~. Coastal Bluff Setback

Proposed development on coastal bluff lots ~~(refer to the City Zoning Map for coastal canyon and bluff locations).~~shall be set back:

1.a. At least 25 feet from the bluff edge, as determined by subsection E; or

2.~~b.~~ In accordance with a stringline drawn between the nearest corners of adjacent structures on either side of the development as provided in subsection ~~C5~~ E(3)(e) (see stringline figure ~~Figure~~).

3.~~c.~~ In accordance with the ESHA policies in Section F.

c.~~3.~~ Coastal Beach Front Setback

Proposed development on a beach front lot (refer to the City Zoning Map for locations of, coastal canyons, bluffs and beach fronts) shall be set back:

{There are no Suggested Modifications to 2.}

1.~~a.~~ In accordance with a stringline as determined in accordance with subsection ~~C5~~ E(3)(e) or

3.~~c.~~ In accordance with the ESHA policies in Section 14.050 of Chapter 14 of this title.

d.~~4.~~ Coastal Canyon Setback

New development shall not encroach into coastal canyons and shall be set back:

1.a. A minimum of 30% of the depth of the lot and not less than 15 feet from the canyon edge; or

2.~~b.~~ A minimum of 30% of the depth of the lot and set back from the line of native vegetation ~~primary vegetation line~~ (not less than 15 feet from Coastal Sage Scrub vegetation or not less than 50 feet from riparian vegetation); or

3.~~c.~~ In accordance with house and deck/patio stringlines drawn between the nearest corners of adjacent structures, only like structures/development shall be utilized when determining a stringline setback for a proposed development (see stringline figure ~~Figure ??~~ and subsection ~~C5~~ E(3)(e).

4.~~d.~~ In accordance with the ESHA policies in subsection 14.050 of Chapter 14 of this title.

e.~~5.~~ Infill Development (Stringline)

The stringline illustration ~~in Figure ???~~ depicts how the two different stringlines are used. If the adjacent lot is vacant, a stringline shall not be used.

When new construction along a coastal canyon, bluff or beach front is infill development and is consistent with the policies of the City of San Clemente Coastal Element Land Use Plan, the following setback standards shall be applied:

1.~~a.~~ No part of a proposed new deck/patio shall be built ~~farther~~ seaward or canyonward of ~~than~~ a line drawn between the nearest adjacent corners of the adjacent deck/patios (deck stringline); and

2.~~b.~~ No part of ~~a proposed new structure's living space~~ the footprint of a residential structure shall be built farther seaward or canyonward than a line drawn between the nearest adjacent corners of the adjacent structures' living space (house stringline).

4.~~D.~~ Encroachment into Coastal Setbacks

a.~~1.~~ Purpose and Intent

The purpose of this subsection is to allow minor development (see section (b)(2) below) that has no impacts on the coastal topography or coastal resources within the setback area. Development approved under this section shall be approved with the understanding that due to its location adjacent to a bluff, canyon edge, or sea the development may be subject to erosional conditions. Approval of minor development under this subsection, does not guarantee that retaining walls or other support structures that impact coastal resources will be allowed for its protection in the event of a bluff or canyon failure. Development encroaching into the setback zones is considered non-

permanent and subject to removal in the event the minor development is undermined or threatened.

b.~~2.~~ Permitted Development

The following types of development are allowed, subject to the Coastal Development Permit Process, within the setback area for a coastal beach front, bluff or canyon lot:

{There are no textual changes to 1, 2(i), 3, 5, 7(a)(2)(i) and 7(a)(2)(i)(v).}

1.~~a.~~ Public accessways to coastal resources, public viewing areas or passive coastal recreational areas are allowed. The design of public walks shall minimize grading and minimize impacts to the coastal landform to the maximum extent feasible.

2.~~b.~~ Minor development, including landscaping, flat work, retaining and non retaining walls, ~~and~~ fences, gazebos, spas, sheds and other similar accessory structures excluding grading or backfilling, are allowed within 10 feet of the bluff edge or 5 feet of a canyon edge with a coastal development permit subject to the following development standards:

(ii) There shall be no significant visual impacts to the coastal landform from the public beach, trails or scenic corridors.

(iii) A geotechnical report must indicate that there is adequate stability for the development and that within the foreseeable future, no bluff alteration or stabilization structures or shoreline protective works are necessary to protect the proposed development..

(iv) Minor development on coastal canyons is subject to the habitat protection policies of Section 15.050(C)(3)

3.~~c.~~ ~~Development on~~ On a coastal bluff or canyon face permitted development is limited to engineered staircases or accessways to provide public beach access, where no reasonable alternative means of public access exists.

4.~~d.~~ ~~Drainage devices extending over or down the bluff face will not be permitted for new development. if the property can be drained away from the bluff face~~. Drainpipes, terrace drains or other appropriate site drainage devices approved by the City Engineer will be allowed for existing development only where there are existing drainage pipes, there is no feasible, less environmentally-damaging alternative drainage system and where the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach or

canyon. Drainage devices are not allowed for development of minor projects within the setback.

5.~~e.~~ Development required for reasons of compelling public safety, such as the stabilization of a bluff to protect a public road or to protect existing structures (except for minor development as defined in section (b)(2). Permitted development shall be consistent with sections 6 and 7. ~~(refer to subsection F and G).~~

5.~~E.~~ Determination of Coastal Bluff or Canyon ~~Cliff~~ Edge

6.~~F.~~ ~~Prohibition~~ Limitations of Landform Alterations

Grading, cutting or filling that will materially alter coastal bluff, canyon or cliff edges and faces ~~coastal bluffs, canyons, and cliffs~~ shall be permitted only if it is determined to be the least environmentally damaging feasible alternative, and is approved through the Coastal Development Permit process in accordance with Chapter 7 and if one of the following findings is made:

a.~~1.~~ Alterations to a coastal bluff, canyon or cliff are required for compelling reasons of public safety (e.g., grading work necessary for stabilization of the coastal bluffs adjacent to the Pacific Coast Highway which without stabilization would threaten life and property); or to protect an existing structure, except for minor development as defined in section (b)(2).

b.~~2.~~ The alterations are required to provide a significant overriding coastal public benefit (e.g., public staircases or public accessways to provide beach access to the public where none previously existed).

7.~~G.~~ Standards for Permitted Landform Alterations

a.~~1.~~ Where permitted, pursuant to the standards in subsections E and F ~~15.050F and 15.060~~, alterations of coastal bluffs, and canyons ~~and cliffs~~ shall comply with all of the following standards:

1.~~a.~~ Where landform alterations are required for reasons of public safety, ~~or~~ public benefit or to protect existing structures (except for minor development specified in section (b)(2) all grading shall be minimized to the greatest extent feasible. In the areas where the natural landform is impacted (e.g., bluffs, cliffs, ravines) the stabilization method used shall be visually compatible with the coastal landform (e.g., land-form or contour grading, artificial sculptured bluff face that matches the natural bluff etc.). Landscaping shall be required consistent with section F.

~~b. Drought tolerant plants and efficient irrigation shall be required for landscaping to minimize water consumption, fertilization and chemical application, and to visually relate development to existing natural landscapes. Grading shall not alter the biological integrity of the sensitive habitat areas unless it is replaced with habitat of equal or greater value (refer to Section .050 B).~~

2.~~c.~~ As a condition of development, control of sediment transport and debris originating at the construction site ~~or upstream property~~ shall be required as follows:

(ii) Sediment basins (including debris basins, ~~desalting~~ desilting basins or silt traps) shall be installed in conjunction with the initial grading operations and maintained current to site development through the development process to remove sediment from runoff waters. All debris and sediments shall be retained on site unless removed to an appropriate dumping location approved by the City Engineer.

(iii) Temporary vegetation, seeding, mulching or other suitable stabilization method shall be used to protect against soil erosion on slopes during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native, drought tolerant grasses and shrubs, appropriate non-native plants ~~or with~~ using accepted landscaping practices.

F. ~~Section 15.060~~ Sensitive Habitat

2.~~B.~~ Development Requirements

Development located within an environmentally sensitive habitat area (see the City Zoning Map) or along a coastal bluff, shall conform to the following provisions:

a.~~1.~~ The review of a Coastal Development Permit ~~shall include an assessment of the potential impact on the ESHA~~. for all development on coastal bluffs and coastal canyons, including minor development, shall include a report by a qualified landscape architect/contractor when development occurs within 25 feet of a coastal bluff or 15 feet of a canyon edge. Minor development which would have an adverse impact on native vegetation on coastal canyons and coastal bluffs will not be permitted. The report shall include the following:

1.. a description of the existing native plant resources,
2.. a site plan showing the location of the native vegetation,
3.. an assessment of the impact of the proposed development on the native vegetation,
4.. measures taken to avoid impacts on native vegetation,
5.. measures to replace native vegetation in the event of unavoidable impacts,

6.. a landscape plan comprised of native, drought tolerant plants
7. a monitoring plan that requires replanting if vegetation is not successful

b.~~2.~~ A biological assessment report for development involving substantial grading or landform alteration of coastal bluffs and coastal canyons for the purposes of public safety, to protect existing structures or for public staircases shall be required when development is proposed on the face or within 25 feet of a coastal bluff edge or in a coastal canyon or within 15 feet of a coastal canyon edge. ~~when the development results in the removal of any significant amount of native vegetation and/or an Initial Study has determined that there is a potential for a significant adverse impact to biological resources.~~ The biological assessment report shall:

1.~~a.~~ Be prepared by a qualified professional; and

{There are no Suggested Modifications to #2.}

3.~~c.~~ Identify mitigation measures necessary to eliminate significant adverse impacts to sensitive biological resources; including an alternatives analysis, measures taken to avoid disturbance of native vegetation, and measures taken to replace and enhance native vegetation,

4.~~d.~~ Define a program for monitoring and evaluating the effectiveness of the specified mitigation measures, including revegetation requirements where necessary.

Mitigation measures identified during the Coastal Development Permit review shall be included as conditions of approval of the project.

c.~~3.~~ ~~Native landscape materials~~ A native landscaping and irrigation plan shall be required on all natural topographic features such as in coastal canyons and on a bluff top ~~(with the exception of fuel modification zones when required).~~ Plants that are invasive shall be prohibited. A list of drought tolerant, native and invasive plants is available from the Community Development Department. Landscaping within coastal canyon setbacks or within 25 feet of coastal bluff edges requires a coastal development permit and submittal of a landscaping plan consisting of drought-tolerant native plants to prevent landslides, soil slips, and soil erosion.

G. ~~Section 15.070~~ Visual Resources

2.~~B.~~ Development Requirements

a.~~1.~~ All development within the Coastal Zone requiring a Coastal Development Permit shall include an assessment of the project's potential impact on

public views as per Section 302G policies VII.3 and VII.4 and Section 305A policies XII-X11.9 of the Coastal Element.

b.~~2.~~ If it is determined in the assessment by the City Planner that a project has a potential of adversely impacting a public views, as defined in Chapter 21, regarding development near the ocean or scenic coastal areas (e.g., coastal canyons, public viewing areas, scenic corridors and parks), an analysis of the effect of the proposed project on public views shall be required as part of the coastal development permit submittal process . This analysis shall pictorially or photographically indicate, to the satisfaction of the City Planner, the proposed site in its current state and compare it with an accurately scaled illustration showing the proposed building volume in its proposed location. Adverse impacts to public views shall be mitigated.

c.~~3.~~ Measures to mitigate adverse visual impacts on views shall include but not be limited to the use of setbacks, stepping down the proposed structure, limiting the height of structures and situating proposed structures closer to the road and away from the coastal bluff or coastal canyon.

H. ~~Section 15.080~~ Affordable Housing Units

{The suggested modifications to this section include re-numbering the text and changing "county" to "County"}

2.~~B.~~ Applicability

a.~~1.~~ Applicable Projects

This section shall apply to the conversion of apartments to condominiums or demolition of 3 or more dwelling units, where at least one of the units is occupied by a household earning 80% or less of the ~~county~~ County median income, defined as an Eligible Household in the Inclusionary Housing Program included in the City's Housing Element.

b.~~2.~~ Exempt Projects

This section shall not apply to projects meeting either of the following criteria:

(i) The conversion or demolition of a residential structure to a non-residential use which is "coastal dependent" or "coastal related" as defined in the ~~California Coastal Act of 1976, as amended,~~ Chapter 21 and consistent with the underlying zone;

I. ~~Section 15.090~~ Public Access Purpose and Intent

The purpose and intent of the public access requirements is to both maximize and maintain public visual, recreational and access opportunities inland and to and along the City of San Clemente shoreline. The requirements in this section implement both the public access and recreational polices of Chapter 3 of the California Coastal Act and the policies in the Coastal Element Land-Use Plan of the City of San Clemente as provided in Chapter 3, Sections 303 and 304 of the Coastal Element Land-Use Plan.

J. ~~Section 15.100~~ Requirements to Provide Public Access

1.~~A.~~ Applicability

An offer to dedicate an easement, pursuant to the requirements of subsection M, ~~Section 15.130,~~ for coastal access, coastal trails, or recreational areas described under subsection ~~D-G~~ 4-7 shall be required for the following types of new development, unless the development is exempt as provided in subsection 2.~~B.~~

~~1. New development between the nearest public roadway and the sea that physically impedes or blocks an area of existing public access.~~

a.~~2.~~ New development on any site where there is substantial evidence of a public right-of-access to the sea acquired through consistent long-term public use of the property for such access as set forth in subsection K(4), ~~Section 15.110.D~~, Historic Public Use, or where a public right of access exists through legislative authorization.

{There are no Suggested Modifications to "b".}

c.~~4. New development between the nearest public roadway and the sea that encroaches onto public land.~~

d.~~5.~~ New development that individually or cumulatively will impact public access to or along the shoreline.

An offer to dedicate an easement shall only be required when supported by the findings required under Section ~~15.120~~ L.

An offer to dedicate an easement shall only be required when supported by the findings required under subsection L. ~~Section 15.120~~.

2.~~B.~~ Exemptions

3.~~C.~~ Requirement to Dedicate an Easement as a Condition of Approval of Development

~~A~~ When the dedication of an easement for public access is appropriate it shall be required as a condition of approval of the Coastal Development Permit. A condition of development requiring an easement for public access shall be supported by the findings required in subsection L. ~~Section 15.120~~. The condition of approval shall specify that the offer to dedicate an easement be made prior to issuance of a Coastal Development Permit.

4.~~D.~~ Types of Public Access

This subsection describes the different types of public access and the requirements associated therewith which may be imposed as a condition of approval for development in the Coastal Zone. There are three ~~two~~ basic categories of Coastal Access:

~~1.~~ Access to and along the beach;

~~2.~~ Inland Access that connects coastal bluff tops, inland trails and recreational areas and parking lots. ~~, coastal recreational areas, parking areas and resources areas~~.

One or all of these accesses may be required for new development that adversely affects public access or recreational opportunities. There are some situations where the access required may meet the description of more than one of the types of access described below. For example, a recreational access connecting a bluff top park and a parking facility may also be classified as a bluff top trail. Refer to *Figure ???* for different graphic examples of the different types of coastal access.

a.~~1.~~ Access to and along the beach

There are two types of public access that run to and along the beach. There is lateral access which runs along or parallel to the beach, and vertical access, which leads from the first public road, bluff top or parking area to the beach or bluff edge.

1.~~a.~~ Lateral (Horizontal) Public Access

Lateral public access provides public access and use along or parallel the beach and sea. Lateral public access is located in the area between the mean high tide line (as applicable)~~,~~ and the toe of the bluff, the toe of the seawall or other appropriate boundary to the sea. Lands seaward of the Mean High Tide Line

are public trust lands belonging to the people of California. An example of lateral access is the beachwalk identified in the Coastal Element Land Use Plan which runs parallel to the sea from North Beach to State Park as depicted in Figure 2-4 of the Coastal Element Land-Use Plan.

When lateral access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection A, the lateral access shall provide the public with permanent right of lateral public access and passive recreational use, as defined in Chapter 21, along the seashore ~~(or public recreational area, bikeway or bluff top area, as applicable).~~

2.~~b~~. Vertical Public Access

Vertical public access extends from the first public road, bluff top or parking area to the seashore (or bluff edge). The vertical access points to the seashore are identified in the Coastal Element Land Use Plan, as set forth in Chapter 2, Section 205. An example of vertical access is the T-Street overpass which runs from the Street Paseo de Cristobal over the OCTA railroad right-of-way to the beach and sea.

{No intervening suggested modifications except to numbering.}

b.~~2.~~ Inland Access Opportunities ~~Access~~ Connecting Coastal Resources

There are ~~three (3)~~ two (2) types of access that provide connections between coastal resources other than the beach and ocean. These resources include, but are not limited to, coastal bluffs, coastal canyons, parks and public parking areas. These types of accesses are referred to as blufftop and trail access. ~~bluff top, trail and recreational access.~~

1.~~a.~~ Bluff Top Lateral Access

Bluff top trails ~~access~~ shall extend ~~along the bluff top~~ inland 10 feet from the current bluff edge or set back as recommended by a geotechnical consultant to provide ~~the~~ public access and coastal viewing along a coastal bluff ~~top~~. An example of bluff top access is the bluff top trail identified in the Pier Bowl Specific Plan that connects T-Street to the Pier Bowl.

(a) When a bluff top ~~access~~ trail is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of access along the bluff to enjoy scenic and visual ~~access~~ coastal resources.~~from the bluff top to the shoreline~~.

(b) The bluff top trail ~~access~~ shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use, findings shall be made on the specific factors identified in subsection L. ~~Section 15.120.~~

2.~~b.~~ Inland Trail Access

Trail access extends inland from the bluff edge or beach along the alignment of a recreational trail. Inland trails ~~Trail access~~ extend~~s~~ to and run~~s~~ along significant habitat and open space areas or similar resource areas, and may link inland recreational facilities to the beach and ocean. An example of a trail access could be a trail that runs the length of a coastal canyon to the beach or to a public parking area. When trail access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of access and active recreational use in the following areas:

{There are no Suggested Modifications to (i)-(iii).}

~~c. Recreational Access~~

~~Recreational access connects recreational resources including parking facilities, bluff tops, viewing areas, and parks from one to one another. An example of a recreational access is the walk that leads from Avenida Lobeiro to the Calafia parking area.~~

~~When recreational access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of access and use within the designated recreational access area.~~

K. ~~Section 15.110~~ General Provisions for Public Access

1.~~A.~~ Purpose

This section describes general provisions that apply to public ~~access~~ accessways and/~~or~~ public recreation areas.

2.~~B.~~ Development Standards for Public Access

The following development standards shall be incorporated into the design of public access:

a.~~1.~~ Siting of Accessways

Lateral blufftop access easements shall preferably be located within the 25 foot coastal bluff setback. If an easement within the 25 foot setback is not feasible due to geotechnical site constraints and/or public safety considerations the easement may be located elsewhere on the site. Vertical access easements shall generally be located along the property boundary.

b.1. Access Width

Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. The width of facilities can vary for ramps or paved walkways, depending on site factors. As a general rule, however, vertical and horizontal access easements should be a minimum of 10 feet wide, whenever possible.

c.~~3.~~ Privacy Buffers

{There are no textual Suggested Modifications to this section.}

~~3. Vertical Access Easements~~

~~Vertical access easements shall be a minimum of 10 feet wide.~~

~~4. Bluff Top Access Easements~~

~~Bluff top access easements shall extend 25 feet inland beginning at the current bluff edge. Due to the potential for erosion of the bluff edge, the easement shall include a mechanism that will cause the accessway to be adjusted inland as the edge recedes. The provision for an inland adjustment of an easement shall consider constraints of the site and property development rights~~.

3.~~C.~~ Type and Use of Access

In determining the appropriate type of public access that is required for a project pursuant to Section 15.100.D, findings and factors described in Section 15.120 shall be applied.

4.~~D.~~ Historic Public Use

{There are no textual Suggested Modifications to subsection a(1) and a(2)(a-c).}

(c) Mechanisms for guaranteeing the continued public use of the area or equivalent areas shall be required in accordance with subsection M. ~~Section 15.130.~~

(d) An analysis has been done which shows that the proposed development is the least intrusive feasible alternative.

b.~~2.~~ Conditions of Approval and Historic Public Rights to Access

The relocation or alteration of historic public access shall not serve to extinguish or waive historic public use ~~public prescriptive~~ rights to the access. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition of approval regarding access:

"Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement."

~~E. Active Recreational Use~~

~~As a part of public recreational access requirements for a project, active recreational use, such as playgrounds, basketball and volleyball courts, may be required in cases where the development requires provision of these facilities as per Section 30252 of the Coastal Act. is determined to be especially burdensome on public access. Examples of this type of development includes: development which may be determined to be especially burdensome include:~~

~~1. A project which would severely impact public recreational use of the shoreline;~~

~~2. A project that is not a priority use as specified in California Public Resources Code Section 30222;~~

~~3. A project in which the historic public use of the site has been active recreational use;~~

~~4. A project in which active recreational uses would be consistent with the use of the proposed project and where such uses would not significantly interfere with the privacy of the landowner.~~

~~5.F.~~ Access Management Plan

An access management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts

between public access use and other uses on or immediately adjacent to the site. Written findings in support of a condition of approval requesting an access management plan are required in compliance with subsection L. ~~Section 15.120~~.

An access management plan shall be required for all private beach areas where an offer to dedicate an easement is required under this title. Such a plan shall comply with policy ~~XI.15~~ XI.16 of the Coastal Element pertaining to requirements for an access management program for the private beach areas of Capistrano Shores, La Ladera, Cypress Cove and Cotton Point private communities.

Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy buffers and requirements for maintenance of aesthetic values through such measures as litter control pursuant to subsection K, 2 and 7. Examples include access in areas of sensitive habitats, agricultural resources, significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the entity accepting the public access and approved by the City of San Clemente prior to the opening of the access to public use.

6.~~G.~~ Opening of Access for Public Use

{No Suggested Modifications}

L. ~~Section 15.120~~ Factors and Required Findings for Public Access

1.~~A.~~ Purpose

{No suggested modifications}

2.~~B.~~ Required Overall Findings for an Access Dedication

Written findings addressing public access shall be included in support of all approvals, denials or conditional approvals of projects located within the City Jurisdiction Area if located between the sea and the first public road, projects appealable to the Coastal Commission and for all approvals or conditional approvals of projects (whether redevelopment or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the specific factors identified by subsection C and shall reflect the specified level of detail, as applicable. Findings supporting such decisions shall include the following:

a.~~1.~~ A statement of the individual and cumulative impacts that the new development will impose on public access and recreation opportunities. Assessment of these impacts shall be based on specific factors identified by

subsection C or D. The type of public access and recreation opportunities affected by the development shall be clearly described.

b.~~2.~~ An analysis that shows that in order to find the development consistent with public access provisions of this LCP and the Coastal Act, it is necessary to require public access conditions of approval. This analysis shall be based on specific factors identified in subsection C.

c.~~3.~~ A description of the legitimate governmental interest furthered by any access condition required.

d.~~4.~~ An explanation of how imposition of an access dedication requirement alleviates the access impacts identified.

e.~~5.~~ An analysis of alternative designs which may mitigate or avoid adverse impacts.

3.~~C.~~ Specific factors in determining whether Public Access should be required

{No modifications}

a.~~1.~~ Project effects on demand for access and recreation

{There are no textual Suggested Modifications to 1, 2 and 3.}

4.~~d.~~ Analysis of the project's potential effects upon existing public access and recreation opportunities.

5.~~e.~~ Analysis of the project's potential cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public shoreline and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out.

{No intervening suggested modifications except for format and numbering changes}

3.~~C.~~ Specific factors in determining whether Public Access should be required

d.~~4.~~ Physical obstructions.

Description of any physical aspects of the development which block or impede public access to, or along the shoreline, public recreation areas or other public coastal resources or to see/view the shoreline and alternatives analysis to mitigate those impacts.

{There are no textual Suggested Modifications to subsections e, f, 4, and 5.}

M. ~~Section 15.130~~ Recordation of Public Access

{No Suggested Modifications for this section except for format and numbering changes.}

12. CHAPTER 15 – PARKING AND ACCESS STANDARDS

{The format of Sections 15.120 (Modifications and Waivers of Parking Requirements) has been modified to replace subsection "E" and add subsections "F" and "G" the "Downtown Parking Waiver Ordinance" and the "Outdoor Dining" ordinances. Section 15.120 E is attached as an exhibit.}

{There are no suggested modifications to Sections 15.010-15.050.}

a. Section 15.050 Off-Street Parking Requirements by Land Use

A. Enforcement and Interpretation of Parking Requirements

1. Number of Off-Street Parking Spaces Required

The number of off-street parking spaces required for the land uses identified in the Permitted and Conditional Use Tables in Chapters 8 through 12 of this title are listed in Table 15.1, except where parking requirements are established in Chapter 6, Special Uses. Exceptions: Exceptions to these requirements are listed in Section 15.120, Modifications to Parking Requirements, in this chapter.

2. Uses Not Listed

When parking requirements for land uses are not specifically listed in this section or in Chapter 6, Special Uses, the parking requirements shall be those required for the most similar use. The most similar use shall be determined by the City Planner as provided for in ~~Section~~, Chapter 4, of this title. Exception: The highest review body having authority over a project shall determine the number of spaces required when the use requires a discretionary permit.

{No intervening Suggested Modifications.}

B. Number of Parking Spaces Required

The number of off-street parking spaces required for various land uses shall be as listed in Table 15.1, except for those listed in Chapter 6, Special Uses. Unless otherwise indicated, the parking requirements are for square feet of gross floor area occupied by the use and, in the case of non-residential uses, include the parking required for customers and employees. Exception: Where a portion of a structure is used for automobile parking, that portion shall not be counted in calculating the

required parking for the structure. If parking is eliminated and the space is occupied by another use, parking shall be required for the use as indicated for the use in this chapter. (Section 5.48).

Table 15.1
Number of Parking Spaces Require

(No suggested modifications to numbers 1-3.}

4. Lodging

Hotels and Motels	Please refer to Chapter 6, Special Uses For accessory uses, such as retail, bars, and restaurants, see the parking requirements in this table.
Timeshares	1.2 per unit, plus 2 spaces for a manager's unit if applicable

b. Section 15.120 Modifications and Waivers of Parking Requirements

{There are no Suggested Modifications to sections A-D.}

1. E. Outdoor Seating on Private Property for Restaurants

{This section is replaced by Suggested Modification by the new outdoor dining ordinance submitted by the City of San Clemente following the original submittal. The entirety of the struck out text is provided in Exhibit .

~~**Section 17.28.205 Outdoor Dining Areas on Private Property Permanent and Accessory**~~

1.~~A.~~ Purpose and Intent

{There are no suggested modifications to the first paragraph.}

This section applies to outdoor dining facilities on private property. For provisions for outdoor dining facilities on public property, or sidewalk cafe permits, please refer to Section F ~~17.28.206,~~ Outdoor Dining Areas on Public Property, Permanent and Accessory, of this title.

2.~~B.~~ Applicability

This section shall apply only to outdoor dining facilities on private property which have not been approved by the City of San Clemente as of February 7, 1997. The

standards of this section do not apply to dining facilities within the following areas of the Coastal Zone: the appealable areas, and the Pier Bowl and North Beach specific plan areas.

{There are no suggested modifications other than format and numbering chnages to subsections "C", "D", and "E"

2. F. Outdoor Seating on Public Property for Restaurants

~~Section 17.28.206 Outdoor Dining Areas on Public Property Permanent and Accessory~~

1.~~A.~~ Purpose and Intent

{There are no suggested modifications to the first paragraph.}

This section applies to outdoor dining facilities on public property. For provisions for outdoor dining facilities on private property, or sidewalk cafe permits, please refer to Section E ~~17.28.205~~, Outdoor Dining Areas on Private Property, Permanent and Accessory, of this title.

2.~~B.~~ Applicability

This section shall apply only to outdoor dining facilities on public property which have not been approved by the City of San Clemente as of February 7, 1997. The standards of this section do not apply to dining facilities on the San Clemente Municipal Pier.

{There are no suggested modifications to subsections "C-F" except for format and numbering changes.}

3. G. Downtown Parking Waiver Ordinance

~~SECTION 17.64.125 WAIVERS OF PARKING REQUIREMENTS~~

1.~~A.~~ The Downtown Parking Study Area

{There are no Suggested Modifications to subsections a (Purpose and Intent).}

b.~~2.~~ Review Requirements

{There are no suggested modifications to "Waivers for Alteration of Use.}

2.~~b~~ Waivers for Outdoor dining, Additions and New Structures

The waiver of some or all parking requirements for outdoor dining, additions to existing structures, and new structures shall be reviewed by the approval body required to review other aspects of the outdoor dining facility, addition or new structure, in accordance with Chapter 17.16, Applications, of this title and subject to the findings of subsection 4 of this section. Addition of outdoor dining seating on private property is subject to the requirements of this parking waiver program. An application for a waiver shall be filed and processed in the following manner:

{There are no suggested modifications to subsections (i)-(iv).}

C.~~3.~~ Limitations on Waiver Requests

a. For the Downtown Parking Study Area. The City may waive ~~approve up to 90~~ the parking space requirements for a maximum of 180 parking spaces ~~waivers~~ in the Downtown Parking Study Area. Parking waivers may be granted for additional indoor and outdoor seating for food and beverage service facilities, alterations of use and new non-residential development. Each parking waiver is equal to one parking space. ~~After 90 waivers have been granted, the City shall consider whether an additional parking study is necessary to assure that granting of an additional 90 waivers for a total of 180, will not create inadequate parking in the Study area.~~ After the City has issued a total of 180 parking waivers (180 parking spaces) in the downtown area, the City may apply for a Local Coastal Program Amendment for extension of the parking waiver program.

{There are no further suggested modifications to this section.}

{Existing sections F, G, H, and I, become H, I, J, and K as a result of adding two new sections.}

4. .I. Indoor Seating for Restaurants[1]

Reductions or modifications of that portion of a restaurant's off-street parking requirements attributable to the restaurant's indoor seating area, except in the Pier Bowl, North Beach and Downtown areas, may be granted through the approval of a minor exception permit, in accordance with Chapter 4, Section 4.090, if all of the following findings are made:

{There are no Suggested Modifications to this section.}

13. CHAPTER 16 LANDSCAPE STANDARDS

Section 16.020 Applicability

A. Applicability of Standards

The standards listed below apply to landscaping for new and/or improvements to existing development. Standards in the Coastal Zone Overlay District may be more restrictive than the standards listed below. For development in the coastal zone, please refer to Chapter 14, Section 14.050.

1. New Development: The standards in this chapter apply to all new and/or improvements to non-residential, mixed use, and residential development.

{There are no other suggested modifications for this section.}

Section 16.030 Related Documents

The following City documents contain~~ing~~ information regarding landscape requirements or guidelines:

{There are no Suggested Modifications to "A"-"G"

H. City of San Clemente Local Coastal Program

Section 14.050 of Chapter 14 of this title is the Coastal Zone Overlay District ordinance which provides standards and requirements for landscaping in the coastal zone.

14. CHAPTER 21 COASTAL ZONE DEFINITIONS

{The City of San Clemente submitted a Chapter 21, Coastal Zone Definitions. The Zoning Code submitted with the Implementation Plan submittal includes an existing Chapter 21. In the Zoning Code Chapter 21 there is a heading for Coastal Zone Definitions. The coastal zone definitions which the City submitted as Chapter 21 of the Implementation Plan replace the definitions "A"-"P" in the Zoning Code Chapter 21, which are included as Attachment E.}.

COASTAL ZONE DEFINITIONS (SC NEW): For the purposes of the Coastal Zone ~~Overlay~~, the following definitions shall apply:

{Delete existing numbers A-P and replace with the definitions submitted as Chapter 21.. The list of definitions to be added includes format numbering changes to match

the zoning code numbering system. The text which is being replaced is included as Attachment E.}

{There were many deletions and additions of definitions which caused the numbering as submitted to change. These suggested modifications work with the framework of the document as submitted. As submitted there are no suggested modifications to 1-3, 6-8, 17-18, 20-21, 24, 27-29, 31-32, 35, 38-39, 41-43, and 45-50. "Appealable Development" is an added suggested modification. Number 15 is deleted. "Historic Public Use" is an added suggested modification. "Minor Development" is an added suggested modification. "Public Trust Lands" is an added suggested modification.

The existing numbering system has been changed from a numeric to alpha system.

For the purposes of the Local Coastal Program ~~Coastal Zone~~, the following definitions shall apply:

{No modifications to numbers A-C}

D.~~4.~~ **APPEALABLE AREA:** The area identified on the Local Coastal Program Post Certification Map as "Appeal Jurisdiction." (see "APPEALABLE DEVELOPMENT")

E. **APPEALABLE DEVELOPMENT**: Section 30603 of the Coastal Act provides that the following types of development are appealable to the Commission:

(1) Developments approved by the local government {City of San Clemente} between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government {City of San Clemente} not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government {City of San Clemente} not included within paragraph (1) or (2) that are located in a sensitive coastal resource areas.

(4) Any development which constitutes a major public works project or a major energy facility.

F.~~5.~~ **APPLICANT:** Any person, partnership, corporation, special district, federal or state or local government, agency applying for a Coastal Development Permit.

{No intervening modifications to numbers G, H, I}

J.~~9.~~ **CERTIFIED COASTAL ELEMENT LAND USE PLAN (LUP):** A plan for the use of property, protection and preservation of natural resources, identified in Chapter 3 of the Coastal Act, within the Coastal Zone which has been adopted by the City of San Clemente ~~local government~~ and certified by the California Coastal Commission pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code). ~~Public Resources Code.~~

The land use plan is the relevant portion of a local government's general plan, or local coastal program which is sufficiently detailed to indicate the kinds, location and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.

K.~~10.~~ **CERTIFIED LOCAL COASTAL PROGRAM (LCP):** A program for the use of property and protection of natural resources within the Coastal Zone. The Local Coastal Program includes the Land Use Plan and implementing ordinances ~~specific regulations~~, and land use regulation maps, which have been adopted by the local government and certified by the California Coastal Commission pursuant to the Coastal Act of 1976 ~~Public Resources Code~~. With a certified Local Coastal Program the City of San Clemente ~~Local governments with certified LCPs~~ can issue Coastal Development Permits.

L.~~11.~~ **COASTAL ACCESS:** An area dedicated to provide public access to or along the beach, to or along the coastal bluffs, linking recreation areas or for public viewing of the shoreline.

M.~~12.~~ **COASTAL ACT:** Division 20 of the public Resources Code ~~The California Coastal Act of 1976,~~ as amended.

N.~~13.~~ **COASTAL BLUFF ~~OR CLIFF~~:** Any landform that has vertical relief of ten feet or more that is adjacent to the beach or ocean. ~~coast.~~.

O.~~14.~~ **COASTAL CANYON:** Any valley, or similar landform in the coastal zone which has a vertical relief of ten feet or more and is situated on a drainage or watercourse.

~~15. COASTAL CLIFF: Any steep vertical landform which has a vertical relief of ten feet or more.~~

P.~~16.~~ **COASTAL BLUFF OR CANYON FACE: ~~, CANYON, *OR* CLIFF FACE:~~** A sharp or steep face of rock, decomposed rock, sediment or soil resulting from erosion, faulting, folding, uplifting or excavation of the land mass. The canyon or bluff face may be a simple planar or curved surface or it may be step-like in section (Refer to Figure 15-1).

{No suggested modifications to Q and R}

S.~~19.~~ COASTAL DEVELOPMENT PERMIT: A discretionary entitlement which is required of development in specified areas of the Coastal Zone to ensure that such development is consistent with the City of San Clemente Local Coastal Program. ~~Coastal Element~~.

{No suggested modifications to numbers T and U}

V.~~22.~~ COASTAL SAGE SCRUB: Native ~~V~~egetation which include, but are not limited to, the following: many species of Dudleya, Calandrinia maritima, Cleomeisomeris, Coreopsisgigantea, Eriogomunigiganteum, Eriogomungrande, Eriophyllumnevinii, Galvesia speciosa, Haplopappus venetus, Hemizonia clementina, Lavatera assurgentiflora, Malacothrix saxatilis, Phacelia lyonii, and Rhus integrifolia, plus two species of Polypodium, Artemisia californica, Crossosoma californicum, Diplacus species, Encelia californica, Eriogonum fasciculatum, Galium, Haplopappus, Helianthemum, Lotus, Lupinus, Malacothamnus, and Opuntia species, Malosma laurina, Rhus integrifolia, Salvia, Senecio, and Solanum species, and Toxico-dendron radicans diversilobum, the sprawling Marah macrocarpus and Calystegia macrostegia, and many other showy herbs like species of Castilleja, Haplopappus, Lotus, Lupinus, and Zauschneria, and Eriophyllum confertiflorum.

W.~~23.~~ COASTAL ZONE: That land and water area of the City of San Clemente, as described in California Public Resources Code Section 30103 ~~30170~~ and amendments thereto, and as delineated on the Coastal Zone Boundary Map (Refer to the coastal boundary indicated on the "Zoning Map of the City of San Clemente").

{No suggested modification to number X.}

Y.~~25.~~ DEVELOPMENT, COASTAL: The placement or erection, on land, in or under water, of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the California Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp

harvesting, or timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provision of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 45.11).

Z.~~26.~~ EDGE, BLUFF OR CANYON ~~*OR CLIFF*~~: The upper termination of a bluff, canyon, or cliff. When the top edge is rounded away from the face as a result of erosional processes related to the presence of the steep bluff, canyon, or cliff face, the edge shall be defined as that point nearest the face beyond which the downward gradient of the land surfaces increases more or less continuously until it reaches the general gradient of the bluff, canyon, or cliff. In a case where there is a step-like feature at the top of the bluff face, canyon, or cliff face, the landward edge of the topmost riser shall be taken as bluff edge, canyon edge, or cliff edge (refer to Figure 15-1).

{No suggested modification to number AA}

BB.~~28.~~ENVIRONMENTALLY-SENSITIVE HABITAT AREA: Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Environmentally-sensitive habitat areas in San Clemente's Coastal Zone include wetlands, riparian areas, habitats of rare or endangered species and several coastal canyons which still contain native plant communities. The environmentally sensitive habitat areas are depicted on the "Environmentally Sensitive Habitat Areas" Map of the City's Coastal Element. The canyons contain important natural habitat areas. Development of land in and adjacent to the canyons is subject to the canyon-preservation policies noted in the City of San Clemente Coastal Element. The canyons are as follows: Palizada canyon, Trafalgar canyon, Toledo canyon, Lobos Marinos canyon, Riviera canyon, Montalvo canyon, and Calafia canyon (See Coastal Canyon and Bluff Figure) ~~(See Figure ???? Coastal Canyons and Bluffs).~~

{No suggested modification to number CC.}

DD.~~30.~~FIRST PUBLIC ROADWAY: The road nearest to the sea which:

(a) Is lawfully open to uninterrupted public use and is suitable for such use,
(b) is publicly maintained,
(c) is an improved, all-weather road open to motor vehicle traffic in at least one direction,
(d) is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes,

(e) Does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

~~The nearest through public access route (open to vehicular traffic) paralleling the ocean shoreline, which forms a continuous linkage from the northernmost to the southernmost limits of the City of San Clemente shoreline~~.

EE. HISTORIC PUBLIC USE: Historic public use means:

a. Public use of the land for five years as it were public land,
b. Public use without asking or receiving permission from the owner,
c. Public use with the actual or presumed knowledge of the owner,
d. Public use without significant objection or bona fide attempts by the fee owner to prevent or halt such use.

{No suggested modification to numbers FF and GG}

HH.~~33~~. MAJOR ENERGY FACILITY: Any energy facility as defined in Title 14 of the California Code of Regulations Section 13012 a & ***b*** ~~by the California Public Resources Code Section 30107~~ and exceeding $100,000 ~~$50,000~~ in estimated cost of construction.

II.~~34~~. MAJOR PUBLIC WORKS PROJECT: Any public works project as defined by the California Code of Regulations Section 30114 and exceeding $100,000 ~~$50,000~~ in estimated cost of construction.

{No suggested modification to number JJ "Native Vegetation"}

KK.~~36~~. PASSIVE RECREATIONAL AREA: Areas used primarily for non-active type of uses such as open quiet areas, walking paths, stationary benches, picnic facilities and bicycling, hiking and riding trails.

LL~~37~~.LINE OF NATIVE VEGETATION ~~PRIMARY VEGETATION LINE~~: One development setback standard that may be utilized for coastal canyons. Characteristics to be established based on an on-site visit, and inventory of existing vegetation and topography.

MM. MINOR DEVELOPMENT (Setbacks): Development excluding grading or backfilling, including landscaping, flat work, retaining and non-retaining walls, fences, gazebos, spas, sheds and other similar accessory structures.

{No suggested modification to number NN "Public Benefit Coastal"}

OO. PUBLIC TRUST LANDS: All land below tide water, and below ordinary high-water mark, bordering upon tide water within the State: of all land below the water use: of all property dedicated to the State: and of all property of which there is no other owner. (Civil Code Section 670)

{No suggested modification to number PP "Public View"}

QQ.~~40~~.PUBLIC WORKS: As defined in Section 30114 of the Coastal Act, ~~P~~ublic facilities and infrastructure, including:

1. All production, storage, transmission, and recovery facilities for utilities subject to the jurisdiction of,the California Public Utilities Commission, except for energy facilities;

2. All public transportation facilities, including streets, roads, highways, mass transit facilities and stations and bridges, public parking lots and structures, ports, harbors, airports, railroads, and other related facilities;

3. All publicly financed recreational facilities; and

4. All community college facilities.

{No suggested modifications to number RR "Riparian Vegetation", number SS "Sea", and number TT "Stream"}

UU.44.STRINGLINE: On a coastal canyon or coastal bluff, a line drawn between the nearest adjacent corners of primary structures (residence) and a line drawn between the nearest corners of accessory structures (i.e., decks). ~~In a developed area where new construction is generally infilling and is otherwise consistent with the policies of the Land Use Plan of the City of San Clemente Local Coastal Program, no part of a proposed new structure, including decks, shall be built further toward a bluff edge, canyon edge or beach front than a line drawn between the nearest adjacent corners of the adjacent structures.~~. (Refer to Figure ???).

{No suggested modifications to number VV "Structure", Number WW "Submerged Lands", number XX "Tidelands", number YY "Toe", number ZZ "Vertical Access", and number AAA "Wetlands".

15. PIER BOWL SPECIFIC PLAN

CHAPTER 2 AREA DESCRIPTION/LAND USE

Section 201 Relationship to Other City Planning Documents ~~General Plan~~

1, GENERAL PLAN

The General Plan Land-Use Element and Coastal Element regulate the land uses in the Pier Bowl. The Land-Use Element has been recently updated as part of a Comprehensive General Plan Amendment and was adopted in May of 1993. ~~The most recent Coastal Element was adopted in 1988.~~ The Coastal Element was certified by the Coastal Commission in 1988 and a major amendment was certified in 1995. ~~There are some land-use inconsistencies between the General Plan and the existing Coastal Element. The City will update the City's Coastal Element following the adoption of the General Plan to eliminate these land-use conflicts.~~ The Specific Plan reflects the land uses in the General Plan, which is the most recent statement of the City's land-use policies (see Figure 6 in Chapter 4). The General Plan land uses for the Pier Bowl area include:

{No further suggested modifications to this section.}

2. LOCAL COASTAL PROGRAM

The California Coastal Act mandates that all local jurisdictions located entirely or partially in the coastal zone, prepare a Local Coastal Program (LCP). The purpose of the LCP is to establish policies, procedures, and implementation measures that preserve coastal resources as identified in the Coastal Act. The City's LCP consists of:

A. A Coastal Element with goals, policies and objectives for the preservation of coastal resources within San Clemente;

B. Zoning documents for all land within San Clemente's coastal zone. The Pier Bowl Specific Plan, the West Pico Corridor Specific Plan, and portions of the Zoning Ordinance make up the coastal zoning portion of the City's LCP;

C. An Implementation Ordinance to establish Coastal Development Permit application and review procedures. Unless exempt, development in the Coastal Zone requires a Coastal Development Permit, as per the procedures in Chapter 7 of the Zoning Code.

CHAPTER 4 LAND USE/DEVELOPMENT STANDARDS

402. PIER BOWL CORE STANDARDS

F. DEVELOPMENT STANDARDS

{No Suggested Modifications to number 1 text}

2. Maximum Unit Density

{No intervening Suggested Modifications}

Up to a ten (10) percent density increase may be permitted for hotels, motels, bed-and-breakfast inns and time shares if the increase proposed is to provide for lower cost visitor-serving overnight accommodations and adequate parking is provided. ~~substantial public benefits that exceed standards mandated by the Specific Plan and other City Codes and Ordinances are provided~~.

{No Suggested Modifications to sub-sections 4-10.}

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional use Permit in accordance with City Zoning Ordinance. b) A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area on public property only may be modified or waived in accordance with the City Zoning Ordinance.

12. Off-Site Parking - Off-site parking on ~~both public and~~ private lots may be granted for commercial uses (residential projects shall provide all parking on-site) through the approval of a Conditional Use Permit provided that all the required parking for the project is in place at the time of development of the project. ~~Off-site parking on a private lot shall be within five-hundred (500) feet of the project. City municipal parking lots located farther than five-hundred (500) feet from the project including satellite facilities designed to provide centralized parking may be used to provide off-site parking for commercial uses in the Pier Bowl Core, subject to the approval of a Conditional Use Permit and a parking agreement with the City~~.

13. Joint-Use Parking - Joint-use parking for ~~both public and~~ private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple-use projects.

403. CASA ROMANTICA STANDARDS

(No Suggested Modifications to subsections "A" through "E")

F. DEVELOPMENT STANDARDS

{No Suggested Modifications to sub-sections 1-10.}

9. Landscaping - A minimum of ten (10) percent of the net lot area shall be private landscape area. Landscaping should be concentrated in areas that are open or visible to public view adjacent to streets, courtyards or pedestrian corridors. A minimum of one 15-gallon tree, or equivalent as approved by the City Planner, per twenty-five (25) linear feet of street frontage shall be planted adjacent to the street within the landscape setback. This requirement is in addition to required streetscape planting in the City parkway. Hardscape improvements shall not be counted toward fulfilling the required landscape. Refer to Chapter 10, Landscaping/Streetscape Design Standards, for further landscape requirements.

Whenever feasible, preserve the mature landscaping on site. Preserve and/or enhance native coastal vegetation on the coastal bluff in accordance with the ESHA policies of Section 14.050 of Chapter 14 of the Zoning Code.

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit. b) the parking requirements for a maximum of 16 outdoor seats and 4 tables may be waived under the City Zoning Code Public Outdoor Dining Ordinance. ~~A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with the City Zoning Code.~~

12. Off-Site Parking - Off-site parking on ~~both public and~~ private lots may be granted for commercial uses (residential projects shall provide all parking on-site) through the approval of a Conditional Use Permit provided that all the required parking for the project is in place at the time of development of the project. ~~Off-site parking on a private lot shall be within five-hundred (500) feet of the project. City municipal parking lots located farther than five-hundred (500) feet from the project including satellite facilities designed to provide centralized parking may be used to provide off-site parking for commercial uses in the Pier Bowl Core, subject to the approval of a Conditional Use Permit and a parking agreement with the City~~.

13. Joint-Use Parking - Joint-use parking for ~~both public and~~ private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study,

prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple-use projects.

404. ALAMEDA LANE STANDARDS

{No Suggested Modifications to subsections "A"-"F"}

G. DEVELOPMENT STANDARDS

{No Suggested Modifications to subsections 1-10}

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit in accordance with City Zoning Ordinance. b) the parking requirements for a maximum of 16 outdoor seats and 4 tables per restaurant may be waived under the City Zoning Code Public Outdoor Dining Ordinance. ~~A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with the City Zoning Code.~~

12. Off-Site Parking - Off-site parking on ~~both public and~~ private lots may be granted for commercial uses (residential projects shall provide all parking on-site) through the approval of a Conditional Use Permit provided that all the required parking for the project is in place at the time of development of the project. ~~Off-site parking on a private lot shall be within five-hundred (500) feet of the project. City municipal parking lots located farther than five-hundred (500) feet from the project including satellite facilities designed to provide centralized parking may be used to provide off-site parking for commercial uses in the Pier Bowl Core, subject to the approval of a Conditional Use Permit and a parking agreement with the City~~.

13. Joint-Use Parking - Joint-use parking for ~~both public and~~ private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple-use projects

405. PIER BOWL MUNICIPAL PARKING LOT STANDARDS

{No Suggested Modifications to "A" and "C". Subsections "F", "G", and "H" are re-formatted to "D", "E" and "F".}

B. PRINCIPAL USES PERMITTED

1. Surface parking lot,
2. Parks, plazas, and open space, and
3. Parking structure.

F.~~H~~ DEVELOPMENT STANDARDS

{No Suggested Modifications to subsections 1-4. Delete numbers 5 and 6, existing 7 and 8 become 5 and 6.}

~~5. Joint-Use Parking - Joint use parking for both public and private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced demand to the satisfaction of the Community Development Director for multiple uses/projects.~~

5. Joint-Use and Off-Site Parking - In the event a parking structure is constructed and new parking spaces are created, those new parking spaces may be utilized for joint-use and off-site parking arrangements with area development through the approval of a CDP and CUP and if there are no adverse impacts on beach parking.

~~6. Off-Site Parking - Off-site parking may be granted for commercial uses in the Pier Bowl Core, Casa Romantica, Alameda Lane, and Beach Frontage Sub Areas through the approval of a Conditional Use Permit.~~

G. TEMPORARY USES PERMITTED

1. Outdoor sales, such as food, art displays, or similar types of uses associated with special or promotional events, are permitted with the approval of a Temporary Use Permit in accordance with the City Zoning Ordinance; so long as there is no reduction in the supply of available public beach parking, if the event is private.

406 BEACHCOMBER AND ROBISON PROPERTIES STANDARDS

{No Suggested Modifications to subsections "A"-"F"}

G. DEVELOPMENT STANDARDS

{No Suggested Modifications to subsections 2, 4-9, 13, & 15}

1. Maximum Floor Area Ratio - A maximum floor area ratio of 1.0. Floor area ratios that exceed 1.0, but not to exceed 1.5, may be permitted if

substantial public benefits are provided exceeding those development standards mandated by the Specific Plan and other City Codes and Ordinances, subject to the approval of A Conditional Use Permit. Substantial public benefit might include lower-cost, visitor-serving overnight accommodations, fifteen (15) percent of the net lot area in public open space, ~~courtyards, arcades, pedestrian oriented uses,~~ preservation of historic buildings ~~or features, the use of exemplary materials, fountains, public art, use of arches, and other types of public amenities or exemplary design features.~~

3. Maximum Height:

A maximum of forty-five (45) feet, not to exceed five (5) levels above grade at any one location and provided that the fifth story element does not exceed twenty-five (25) percent of the total roof-plan area. ~~Individual building elements may extend up to fifty-five (55) feet with the approval of a Conditional Use Permit.~~ The Avenida Victoria view corridor shall be preserved in conformance with policy (14) of this section.

For the Robison Property if developed residential - A maximum of forty-five (45) feet.

For the purposes of this chapter, height shall be determined in accordance with the City Zoning Ordinances.

9. Landscaping

{No intervening suggested modifications.}

The landscaping meeting either of the two requirements shall be visible from the street or other public spaces. Hardscape improvements shall not be counted toward fulfilling the required landscape. If feasible, preserve the mature landscaping on site. Preserve and/or enhance native coastal vegetation on the coastal bluff in accordance with the ESHA policies of Section 14.050 of Chapter 14 of the Zoning Code.

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit in accordance with City Zoning Ordinance. b) the parking requirements for a maximum of 16 outdoor seats and 4 tables per restaurant may be waived under the City Zoning Code Public Outdoor Dining Ordinance. ~~A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with the City Zoning Code.~~

12. Joint-Use Parking - Joint-use parking for ~~both public and~~ private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple-use projects

14. View Preservation - Public views of the ocean from Avenida Victoria shall be maintained. A view analysis shall be required for any new development within this view corridor. (See Figure 5 of Chapter 3, Goals, Objectives, and Policies.) Building height of proposed development within the Avenida Victoria view corridor shall be reduced so that the development conforms to the view preservation policies of Section 307 of this document. Any adverse impacts to the Avenida Victoria view corridor shall be mitigated by providing on-site public viewing opportunities consistent with the policies of Section 14.050 of Chapter 14 of the Zoning Code concerning public access and ESHAs.

407. BEACH AND PARKS STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The purpose of the Beaches and Parks Development and Design Standards is to ensure the continuation and enhancement of recreational opportunities in the Pier Bowl and Linda Lane Park.

2. Applicability - This section applies to the Linda Lane Park Sub-Area and Beach and Parks Sub-Area (Figure 6).

{No Suggested Modifications to subsections "B"-"E".}

F. TEMPORARY USES PERMITTED

1. Special cultural, sports, and community events, such as the "Ocean Festival," "Chowder Cook-Off", surf contest, beach runs, ocean swims, volleyball tournaments, art shows, music festivals, and other similar types of events, if a Special Events Permit is approved in accordance with the City Zoning Ordinance and if the event is private, it does not result in a reduction in the available supply of public beach parking.

G. DEVELOPMENT STANDARDS

{No intervening suggested modifications to "Beach", "Parque Del Mar" or "Municipal Pier"}

{No suggested modifications to 1-3.}

4. Off-Site Parking - Parking for non-private events shall be provided on-street, at Linda Lane Park, at the Municipal Parking Lot, and at satellite parking lots.

CHAPTER 7

Section 703 EXPANSION OF PARKING

Due to a variety of constraints, such as small lot sizes, limited availability of land, and high land cost, it would be desirable to concentrate parking facilities in several central locations within the Pier Bowl. ~~Six of the sub-areas (Casa Romantica, Alameda Lane, Municipal Parking Lot, Pier Bowl Core, Linda Lane Park, and Beach Frontage) within the Specific Plan are allowed to use centralized parking areas with the approval of a Conditional use Permit. The remaining two (2) sub-areas (Beachcomber/Robison and Pier Bowl Residential) are required to provide on-site parking.~~

CHAPTER 12 DEFINITIONS

For the purposes of this Specific Plan, certain terms shall be defined as set forth in this section. Terms not listed herein shall be defined per the City's Zoning Ordinance, or if not listed in said Zoning Ordinance, shall be construed in accordance with accepted usage. Words used in the present tense shall include the future; words in the singular shall include the plural; the words "will" and "shall" are mandatory and the word "may" is permissive. The word "Should": refers to policy guidance which must be followed in the absence of compelling opposing considerations identified by the City.

For definitions pertaining specifically to the Coastal Zone please refer to "Coastal Zone Definitions" in Chapter 21 of the Zoning Code. C.

16. WEST PICO CORRIDOR SPECIFIC PLAN

CHAPTER 1

2. LOCAL COASTAL PROGRAM

The California Coastal Act mandates that all local jurisdictions located entirely or partially in the coastal zone, prepare a Local Coastal Program (LCP). The purpose of the LCP is to establish policies, procedures, and implementation measures that preserve coastal resources as identified in the Coastal Act. The City's LCP consists of:

A. A Coastal Element with goals, policies and objectives for the preservation of coastal resources within San Clemente;

B. Zoning documents for all land within San Clemente's coastal zone. The Pier Bowl Specific Plan, the West Pico Corridor Specific Plan, and portions of the Zoning Ordinance make up the coastal zoning portion of the City's LCP;;

C. An Implementation Ordinance to establish Coastal Development Permit application and review procedures. Unless exempt, development in the Coastal Zone requires a Coastal Development Permit, as per the procedures in Chapter 7 of the Zoning Code.

III ZONING ORDINANCE

The City's Zoning Ordinance is the document that implements the General Plan. It provides regulations regarding permitted land uses, development standards, the development entitlement process, etc. for all parcels of land within the corporate boundaries of the City of San.Clemente. Certain areas of the City, e.g., the Pier Bowl, North Beach Village, Rancho San Clemente, Forster Ranch, Marblehead Inland, Marblehead Coastal, the West Pico Corridor and Talega are zoned SP (Specific Plan). The various adopted Specific Plans for these areas are incorporated into the Zoning Ordinance by reference. They establish regulations applicable to the land within the boundaries of a particular Specific Plan. Likewise the Zoning Ordinance provides certain regulations that apply within the Specific Plan areas. Each Specific Plan incorporates these sections of the Zoning Ordinance by reference.

The Zoning Ordinance includes several sections which are geared specifically to development in the Coastal Zone. These sections include Chapter 7 (Coastal Development Permit Processing), Section 14.050 (Coastal Overlay Ordinance), and the definitions entitled "Coastal Zone Definitions" in Chapter 21.

{No intervening Suggested Modifications.}

CHAPTER 7 DEFINITIONS

For the purposes of this Specific Plan, certain terms shall be defined as set forth in this section. Terms not listed herein shall be defined per the City's Zoning Ordinance, or if not listed in said Zoning Ordinance, shall be construed in accordance with accepted usage. Words used in the present tense shall include the future; words in the singular shall include the plural; the words "will" and "shall" are mandatory and the word "may" is permissive. The word "Should": refers to policy guidance which must be followed in the absence of compelling opposing considerations identified by the City.

For definitions pertaining specifically to the Coastal Zone please refer to "Coastal Zone Definitions" in Chapter 21 of the Zoning Code.. C;

B. GRAPHIC MODIFICATIONS

Graphic Modifications are shown as follows:

1. Coastal Zoning Map

On the Coastal Zoning Map canyons, bluffs and beachfront property are indicated in blue as overlay district. However, the beach in the North Beach area is not indicated in blue as overlay district. The beach area of North Beach and any bluffs must be indicated in blue as beach and bluff overlay district.

2. Stringline Graphic

The graphic depicting the stringline policy of the certified LUP does not depict the stringline accurately. The definition in Chapter 21 describes the stringline as a straight drawn between the nearest corners of the adjacent structures. As submitted the stringline figure shows the a stringline drawn between the corner of one residence and the most seaward extent of the corner of the adjacent residence.

3. Canyon Edge

The graphic depicting the canyon or bluff edge does not match the description in the definitions section. The edge is described as follows:

> *The upper termination of a bluff, canyon, or cliff. When the top edge is rounded away from the face as a result of erosional processes related to the presence of the steep bluff, canyon, or cliff face, the edge shall be defined as that point nearest the face beyond which the downward gradient of the land surfaces increases m ore of less continuously reaches the general gradient of the bluff, canyon, or cliff. In a case where there is a step-like feature at the top of the bluff face, canyon or cliff face, the landward edge of the topmost riser shall be taken as bluff edge, canyon edge or cliff edge (refer to Figure 15.1)*

Figure 15.1 does not convey an accurate depiction of the definition and must be amended.

IV. FINDINGS FOR DENIAL AS SUBMITTED AND APPROVED AS MODIFIED

The Commission hereby finds and declares as follows:
Section 30513 of the Coastal Act states, in part:

> *The Commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.*

The Commission finds that, for the reasons described below, the City of San Clemente Implementation Plan as submitted does not conform with, nor is it adequate to carry out, the provisions of the certified land use plan (Coastal Element) and must therefore be denied. The Commission also finds, that for the reasons described below, the City of San Clemente Implementation Plan, as modified, would be consistent with and adequate to carry out the certified land use plan.

A. LOCAL COASTAL PROGRAM. HISTORY

The history of San Clemente's LCP process began in 1979 when the Commission adopted a work program. The City submitted an LCP to the Commission in 1981. In 1981 the Commission certified the Land Use Plan with suggested modifications and denied the implementation plan portion of the LCP. The City resubmitted the LUP in March 1984 and on May 15, 1987 the Commission denied the LUP as submitted and certified the plan with suggested modifications. At the May 15, 1987 hearing the Commission found that the LUP was inconsistent with the public access, recreation, resource protection and new development policies of the Coastal Act. ;On March 2, 1988 the City adopted the Commission's suggested modifications in those areas deemed inconsistent by the Commission and the document was resubmitted to the Commission on March 23, 1988. The LUP was certified on May 11, 1988.

In 1995 the City submitted and the Commission approved LUP Amendment 1-95. This amendment was undertaken to bring the City's Coastal Element in conformance with the updated City's General Plan. LUP Amendment 1-95 consisted of format revisions, new graphics, some new text concerning coastal resources, and land use designation changes. The Commission approved LUP Amendment 1-95 with suggested modifications on October 11, 1995. On March

12-15, 1996 the Commission found that the action of the City of San Clemente in accepting the suggested modifications was legally adequate.

The Implementation Plan portion of the LCP was submitted on April 23, 1996. It was deemed incomplete for supporting documents and a zoning map. The submittal was deemed complete on August 15, 1997. Before August 15th, however, the City amended their Implementation Plan submittal to include the West Pico Corridor Specific Plan and several parking ordinances.

B. CONFORMITY WITH THE CERTIFIED LAND USE PLAN

1. Environmentally Sensitive Habitat Area

Denial (ESHA)

The ESHA policies are found in Section 307 of Chapter 3 of the certified Land Use Plan. Environmentally Sensitive Habitat Area in the City of San Clemente consists primarily of the seven coastal canyons designated as ESHA in the Land Use Plan or Coastal Element. ESHA areas also include beaches and coastal bluff tops and bluff faces.

Policies XV.2 and XV.3 correspond to Section 30240(a) and 30240(b) of the Coastal Act regarding the protection, preservation and restoration of environmentally sensitive habitat areas and areas adjacent to environmentally sensitive habitat area. Policy XV.1, also a General Plan policy, encourages activities to improve the natural biological value and integrity of coastal canyons through restoration, control of alien plants and landscape buffering. Policy XV.7 requires the review of all development projects within the coastal zone shall include an assessment of the potential impact on natural habitat areas. Policy XV.11 requires that mitigation measures limit a project's effect on the coastal canyon environment. Finally, policy XV.13 requires that the removal of native vegetation and introduction of non-native vegetation be minimized and the planting of native plants on and adjacent to canyons be encouraged.

The ESHA policies of the Implementation Plan are found in subsection "F" ("Sensitive Habitat") of Section 14.050 (Coastal Zone Overlay District) of Chapter 14. As submitted, the "Sensitive Habitat" subsection is not protective of coastal sage scrub which exists in coastal canyons and on coastal bluffs, as required by policies XV.1-XV.18 of section 307 of the LUP. Therefore, the Commission finds that the Implementation Plan as submitted is not adequate to carry out nor is it in conformance with the LUP polices regarding ESHAs and must be rejected.

Suggested Modifications

The Suggested Modifications to the "Sensitive Habitat" policies of the Implementation Plan primarily concern the provision of biological reports and the content of biological reports for all development adjacent to ESHA areas, including minor development. A definition of minor development has been added as a suggested modification to the Coastal Zone definitions in Chapter 21. The suggested modifications clarify that there are two types of development adjacent to sensitive habitat areas requiring landscape plans: minor development and development involving substantial grading or landform alteration for public safety purpose, public staircases or to protect existing structures. The biological report requirements are more stringent for larger (grading) projects that have greater potential impacts, and less stringent for minor development projects.

The inclusion of suggested modifications insures that minor development, such as landscaping, construction of accessory structures, fences and walls, will not result in the destruction of native habitat. The suggested modifications also include a statement that minor development which results in adverse impacts to native plant resources is not permitted.

Chapter 16 of the Zoning Code contains standards for landscaping. The landscaping standards in the coastal zone are more restrictive than those for the City at large. Therefore, in order to prevent conflicting policies, the suggested modification requires that for landscaping in the coastal zone refer to Chapter 14, Section 14.050. One other suggested modification to 16.030 H states that Section 14.050 of Chapter 14 of the Zoning Code contains the standards for landscaping in sensitive habitat areas of the coastal zone.

Conclusion

As modified, the Commission finds the Implementation Plan of the City of San Clemente to be consistent with and adequate to carry out the ESHA policies of the certified Land Use Plan.

2. Geologic Hazards / Coastal Canyons and Bluffs

Denial (Geologic hazards)

The LUP policies regarding geologic hazard and landform alteration are found in Section 302(G) (Planning and New Development) of Chapter 3. Policies include VII.5 and VII.13-VII.19. Policy VII.5 corresponds to Section 30253 of the Coastal Act requiring that new development assure stability and integrity, neither create nor contribute to erosion, geologic instability or require the construction of protective devices along bluffs and cliffs. Policy VII.13 requires that grading

which alters landforms be discouraged except for compelling reasons of public safety. Policy VII.14 contains the 25 foot setback from the bluff edge or stringline policy for coastal bluff development. Policy VII.15 contains the setback policies for new development on coastal canyons. Policy VII.17 contains a prohibition on structures on bluff faces, except for public stairways. Finally, Policy VII.19 contains mitigation measures to offset the adverse impact of new development on landform alteration and visual impact.

Section 14.050(E) of Chapter 14 of the Implementation Plan contains policies regarding coastal bluff and canyon setbacks, geological stability, stringline policies, encroachment into bluff and canyon setbacks, limitation on landform alteration and erosion control measures. As submitted, the geologic hazard and landform alteration policies of the Implementation Plan are not adequate to carry out, nor are in conformance with, the hazards policies of the LUP and must be rejected.

Suggested Modifications

Regarding the provision of geotechnical reports, the suggested modifications require that a report be prepared within one year of application submittal for all coastal bluff and coastal canyon parcels to assess the potential hazard from soil erosion, creep and landsliding and to determine appropriate setbacks necessary to protect development for the life of the project or at least 75 years.

The setback policies for coastal canyons and coastal bluffs include suggested modifications to require conformance with the ESHA policies of subsection "F" of section 14.050 of Chapter 14. There are suggested modifications requiring that the coastal canyon vegetation setbacks be from the line of native vegetation and that landscaping consist of native, drought tolerant plants in conformance with the ESHA policies of this Implementation Plan.

The Implementation Plan provides for encroachments into coastal canyon and coastal bluff setbacks, so long as the encroachments do not adversely impact coastal resources identified in the ESHA policies of Section 14.050(F) of Chapter 14. The suggested modifications add a requirement that minor development permitted in the setback zones are considered non-permanent and subject to removal if subsequent hazardous conditions develop..

The Implementation Plan states that allowable development in coastal canyon and coastal bluff setback zones consists of public accessways and viewing areas, minor development, drainage devices and development required for public safety or to protect existing structures. The suggested modifications include a list of what development constitutes minor development. Excluded from the definition of minor development is grading or backfilling. Minor development is allowed only if a geotechnical report indicates that the site is

stable and no bluff stabilization structures, caissons or retaining walls, would be required to protect it. In addition, a suggested modification stipulates that there be no adverse impacts to public views from the beach or scenic corridors. There is also a suggested modification that the geotechnical report prepared for site development indicate that the site is stable and that bluff stabilization structures or shoreline protective works are not necessary to protect the development.

Conclusion

As modified the Commission finds that the Implementation Plan of the City of San Clemente to be consistent with and adequate to carry out the landform alteration polices of the certified Land Use Plan.

3. Visual / Scenic Quality

Denial (Visual)

The visual and scenic quality policies (XII.11-XII.9) of the LUP are found in Section 305 (Coastal Visual and Historic Resources Goals and Policies). Policy XII.5 calls for the preservation of aesthetic resources of the City, including coastal bluffs, ridgelines and coastal canyons. Policy XII.6 calls for the preservation of undeveloped coastal canyon areas. Policy XII.7 advocates the promotion of coastal canyons as a visual resource. Policy XII.9 calls for the preservation of significant view corridors to the ocean. In addition, the setback policies of the landform alteration and geologic hazard section of the LUP are protective of coastal visual resources.

The visual resource policies of the Implementation Plan are found in subsection G of Section 14.050 of Chapter 14. The certified Land Use Plan has policies protective of visual resources. However, the Implementation Plan as submitted does not include measures to implement those policies. Therefore, as submitted, the Commission finds that the Implementation Plan is not in conformance with, nor is it adequate to carry out, the visual resource protection policies of the certified Land Use Plan.

Suggested Modifications

The Implementation Plan requires that if the City Planner determines that a project has the potential to adversely impact public views, an analysis of the effect will be required with a coastal development permit application submittal. The suggested modification requires that adverse visual impacts to public views be mitigated and that mitigation measures include setbacks, stepping down a structure to conform with topography, limiting the height of a structure and situating a structure to minimize impacts.

Conclusion

As modified the Commission finds that the Implementation Plan of the City of San Clemente to be consistent with and adequate to carry out the visual/scenic protection policies of the certified Land Use Plan.

4. Access

Denial (Access)

The public access policies of the LUP are found in Section 303 (B), policies IX.1-IX.18.
The policy intent section of 303 (B) corresponds to Section 30211 of the Coastal Act which requires for the provision of maximum shoreline access and recreational shoreline opportunities. Some of these policies outline the primary and secondary beach access points in the City of San Clemente. Other policies relate to the improvement of recreation facilities on the beach and safety of access to the beach across the railroad right-of-way. The access management program is found in Policy IX.13 and contains criteria for signage, accessory facilities, and hours of operation. Policy IX.14 corresponds to Section 30212 (A)(1)(2)(3) regarding exceptions to requiring public access in new development projects. Policy IX.15 lists the private communities where public access does not exist and where public access may be required under the appropriate circumstances. Policy IX.17 contains a list of questions to be asked and answered when a public access easement is being considered.

The public access component of the Implementation Plan is found in subsections "I" through "L" of Section 14.050 of Chapter 14. The public access section is separated into segments consisting of: Requirements to Provide Public Access, General Provisions for Public Access and Factors and Required Findings for Public Access. The Commission finds that the Implementation Plan as submitted is not adequate to carry out, nor is it in conformance with, the public access policies of the LUP and must be rejected.

Suggested Modifications

There are minor suggested modifications to subsection "J" (Requirements to Provide Public Access) involving referencing other access sections and changes to clarify elements of the two major types of access: access to and along the beach and inland access. One suggested modification requires coastal bluff top trails to be set back 10 feet or as recommended by geotechnical consultants.

Subsection "K" (General Provisions for Public Access) includes suggested modifications for policies on siting of accessways, access width, privacy buffers,

uses of access, and access management plans. For clarification purposes several portions of text were deleted and several added. "Siting of Accessways" was added as a suggested modification to allow blufftop access easements to be located elsewhere on a site other than 10 feet from the bluff top, where there are geotechnical constraints or public safety considerations.

The section on active recreational use was deleted from the Implementation Plan because the requirement for active recreational resources such as basketball courts, etc. is largely a local matter.

Section "L" (Factors and Required Findings for Public Access) includes a suggested modification to state that written findings concerning access accompany coastal development permit actions on development located between the sea and the first public road. Another suggested modification requires that findings on public access include an analysis of alternative designs which may mitigate or avoid adverse public access impacts.

The suggested modification on subsection L(3)(d) requires that an alternatives analysis be conducted to mitigate potential adverse impacts to coastal access, recreation or viewing.

Conclusion

As modified the Commission finds that the Implementation Plan of the City of San Clemente to be consistent with and adequate to carry out the public access and recreation policies of the certified Land Use Plan.

5. Parking

Denial (Parking)

Section 304 (Recreational and Visitor Serving Facilities Goals and Policies) contains policies concerning parking. Policy X.1 corresponds to Section 30212.5 of the Coastal Act which states that public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts of overcrowding or overuse of any single area.

Chapter 15 of the Zoning Code contains "Parking and Access Standards", including Section 15.050 "Off-Street Parking Requirements" and Section 15.120 "Modifications and Waivers of Parking Requirements." Section 15.120 contains three important parking ordinances: subsection E "Outdoor Seating on Private Property," subsection F "Outdoor Seating on Public Property," and subsection G "Downtown Parking Waiver Ordinance."

In 1995 the City of San Clemente commissioned a citywide "Parking Needs Assessment," in part as a part of the update of the General Plan. The parking study found that there was an excess of public parking in the downtown area and that, in general, the prior City parking standards were too strict and did not account for shared parking. Of particular concern to the Commission is the parking situation in the North Beach, Pier Bowl and Linda Lane Park areas. North Beach and the Pier Bowl are major beach destination and parking points adjacent to commercial and retail areas. The North Beach area is currently economically underutilized. Another major destination point is the San Clemente State Beach, however, the parking there is exclusively for beach parking as there are no commercial uses in the vicinity.

The conclusion of the parking study was that in peak summer weekends, the greatest utilization of parking is in the Pier Bowl Municipal Lot and in North Beach. Therefore, provision of public parking in destination areas is a policy of the LUP. In its recommendations concerning the Pier Bowl, the Parking Needs Assessment by IBI Group states:

> "In the Pier Bowl area, we estimate that the existing parking demand is about 410 spaces as compared to the existing parking supply of 554 spaces. This represents a moderately high level of parking utilization. Also, the projected demand is estimated to be 783 spaces. No waiver should be permitted in the Pier Bowl. *Accordingly, we suggest that all new developments in the Pier Bowl area supply parking in accordance with the reduced parking requirements described in Section 8."*

However, as submitted, the parking policies of Chapter 15 of the Implementation Plan are not adequate to carry out, nor are in conformance with, the parking policies of the LUP and must be rejected.

Suggested Modifications

Table 15.1 of section 15.050 details the parking requirements of the City's Zoning Code. There are two suggested modifications in connection with this table. First, for the hotel and motel category, parking requirements for accessory uses such as bars, restaurants and retail uses were excluded. The suggested modification requires that for the parking requirements for accessory uses the reader refer to specific categories of use. The second suggested modification concerns "Timeshares" and requires that if there is a manager's unit, that two parking spaces be made available for the manager.

Section 15.120 (E) of the Zoning Code concerns provision of outdoor dining on private property. This entire section was deleted and replaced with a new ordinance submitted by the City with the same title. Outdoor dining on private property could involve expanding seating on private property areas fronting

public property (sidewalks or alleys) or outdoor dining in restaurant interior areas, such as courtyards. The ordinance allows parking space waivers for up to 16 seats and four tables per restaurant. The outdoor dining ordinance, companion ordinance for public property, would allow another 16 seats and four tables on public areas. A suggested modification would not allow the ordinance for waivers for outdoor dining on private property to take effect in the appealable areas of the coastal zone, in the Pier Bowl and in North Beach so as to minimize negative impacts on public parking and beach access from potential cumulative impacts.

Section 15.120 (F) of the Zoning Code is entitled "Outdoor Seating on Public Property for Restaurants." This ordinance would allow up to 16 seats and 4 tables on public sidewalks if there is room and there are no adverse impacts to pedestrian circulation. The effect of this ordinance would operate citywide. Parking requirements for these seats/tables would be waived. A suggested modification excludes the Municipal Pier. Expansion of outdoor dining on the Municipal Pier has historically been conditioned by the Commission to provide parking because of the potential adverse impacts to beach parking in the Pier Bowl Municipal Parking Lot. There are several existing Coastal Commission permits governing development on the municipal pier.

Section 15.120 (G) is the Downtown Parking Waiver Ordinance. The parking needs assessment showed that people tend to park and visit multiple shops and that there is an excess of public parking in the downtown area. The downtown area is located close to the Coastal Zone boundary inland of the coast. The Downtown Parking Waiver Ordinance will allow up to 180 parking spaces to be waived for select development (new development, improvements, and change of uses) in the downtown area in order to facilitate development and minimize bureaucracy. Because of this 180 parking space waiver program, it is not appropriate to also allow the provisions of the outdoor dining on private property, with additional parking waivers in the downtown area. Parking space waivers would be allowed for outdoor dining on public property. The parking requirements for any new development involving the expansion of outdoor dining on private property should be processed through the Downtown Parking Waiver Program. The provisions of the downtown parking waiver ordinance should apply to all parking requirements with the exception of outdoor dining on public property in the downtown area. Therefore, the suggested modification excludes the provisions of 15.120 (E) in the downtown area.

The suggested modifications also require that a maximum of 180 parking space waivers be allowed and that if the City wishes to extend the waiver program the City may apply for a Local Coastal Program Amendment.

Section 15.120 (I) provides for reductions or modifications of off-street parking for restaurant indoor seating. The suggested modification excludes the Pier

Bowl, North Beach and Downtown areas from this provision. Expansion of seating for restaurants in the Pier Bowl and North Beach areas, without the provision for additional parking, could potentially interfere with beach parking. Regarding the downtown area, parking considerations can be handled through the downtown parking waiver ordinance.

Conclusion

As modified the Commission finds that the amended Implementation Plan of the City of San Clemente to be consistent with and adequate to carry out the public access and recreation policies of the certified Land Use Plan.

C. COASTAL DEVELOPMENT PERMIT ORDINANCE - TRANSFER OF COASTAL COMMISSION AUTHORITY

Section 30519(a) of the Coastal Act states:

Except for appeals to the commission, as provided in Section 30603, after a local coastal program, or any portion thereof, has been certified and all implementing actions within the area affected have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) shall no longer be exercised by the commission over any new development proposed within the area to which the certified local coastal program, or any portion thereof, applies and shall at that time be delegated to the local government that is implementing the local coastal program or any portion thereof.

Section 30519(b) of the Coastal Act lists the exceptions to which Section 30519(a) does not apply. Nevertheless, the California Coastal Act provides for the transfer of much of the Commission's authority to local jurisdictions upon effective certification of a Local Coastal Program (LCP) for their geographic area. The Coastal Act and accompanying implementing Code of Regulations (Title 14 of the California Administrative Code) therefore require that the Implementation Plan (IP) portion of the LCP includes procedures for carrying out this transferred authority.

In addition to satisfying the requirements of Section 30519 of the Coastal Act and respective implementing Code of Regulations, an LCP's coastal development permitting ordinance must be adequate to provide for the effective implementation of the certified Land Use Plan (LUP). It is during the coastal development permitting process that a development is reviewed for consistency with the certified LUP policies as well as the provisions of the IP. Therefore, if the Coastal Development Permit (CDP) ordinance in the IP does not allow for proper evaluation of a proposed development for consistency with the certified

LUP policies, then development inconsistent with the certified LUP might be permitted. As a result, the certified LUP policies will not be carried out.

As submitted, the proposed IP coastal development permit processing ordinance is not adequate to effectively implement the certified LUP. Therefore, the Commission finds that the proposed CDP ordinance must be rejected. If modified to be consistent with the development review authority of the Coastal Act and related implementing Code of Regulations, however, the Commission finds that the proposed CDP ordinance is adequate to effectively implement the certified LUP.

Four basic groups of procedures must be addressed to adequately fulfill the coastal development permit process procedural requirements. These groups of procedures are as follows:

1. Permit Requirements
2. Hearing and Notice Procedures
3. Appeal Procedures
4. LCP Amendment Procedures

Chapter 7 (CDP processing ordinance), Chapter 15 (Coastal Zone Overlay District), and Chapter 21 (Definitions) constitute the primary elements of the City of San Clemente's Implementation Plan. As submitted, the coastal development permit processing portion of the City's Implementation Plan is contained in Chapter 7 of the proposed Zoning Code and entitled "Coastal Development Permit Review Process." The IP local hearing notice procedures are found in Section 7.100 and the appeal procedures in Section 7.110. LCP amendment procedures are found in Section 7.190 of the IP. The open space and access implementation procedures are found in Chapter 15 of the zoning code. Definitions are found in Chapter 21.

Additionally, the City is including two specific plans in its Implementation Plan submittal (Pier Bowl Specific Plan and West Pico Corridor Specific Plan), a parking waiver ordinance for the central downtown district of San Clemente, and an outdoor dining ordinance.

The Coastal Development Permit (CDP) Ordinance portions of the Implementation Plan proposed by the City of San Clemente omit or contradict certain procedural requirements of the Coastal Act and its implementing regulations as contained in the California Code of Regulations. Consequently, the procedural portions of the Implementation Plan, as proposed, are inadequate to transfer coastal development permitting authority from the Commission to the City of San Clemente and must be modified. Therefore, Staff is recommending that certain proposed sections of the City of San Clemente's coastal

development permit processing procedures be approved only if modified as set forth herein.

1. Permit Requirements

With few exceptions, Section 30600 of the Coastal Act mandates that all new development undertaken within the coastal zone requires a coastal development permit. Upon certification of an LCP, most of the Commission's authority to issue coastal permits transfers to the local jurisdiction. The coastal development permitting process ensures that development is reviewed for consistency with the provisions of the certified local coastal program. The implementing ordinances must therefore provide for the assumption of all appropriate authority and ensure that all new development is subject to the coastal permit requirement. As submitted by the City of San Clemente, the IP does not contain all the requirements to ensure the delegation of coastal permitting authority and must be rejected.

Chapter 7 contains the basic coastal development permit requirements. Chapter 21 contains a list of definitions. The zoning map submitted with the IP identifies the coastal zone where the permit requirement applies. Modifications to Chapter 7 would provide for the assumption of all appropriate authority and ensure that all new development is subject to the coastal development permit requirements.

a. Permit Jurisdiction

1. Permit Authority Passes to Local Government

An important part of coastal development permit procedures is to identify which type of permit authority passes to the City. Not all permit authority passes to the local government jurisdiction. For instance, permitting authority doesn't pass to the City for development located in areas of deferred certification. Only development located within the City's post certification geographic jurisdiction and which is not undertaken pursuant to a Coastal Act Section 30611 emergency waiver will be reviewed by the City upon effective certification. Upon effective certification, the typical coastal development permit application will fall into one of the following four categories:

2. Original Permit Jurisdiction:

Development for which the Commission retains permit jurisdiction as defined in Coastal Act Section 30519(b). Pursuant to Coastal Act Section 30519(b), after effective certification, the Commission retains permit jurisdiction over tidelands, submerged lands and public trust lands.

Section 7.030(A)(1) of the Implementation Plan does not adequately define the area of the Commission's original permit jurisdiction. If the Implementation Plan is modified to include the suggested modifications, it will be adequate to define the area of Commission original jurisdiction and carry out the transfer of coastal permitting authority to the City.

3. Pre-Certification Development:

This category includes development which has received a coastal permit or other permit action from the Coastal Commission. After certification, development authorized by a permit issued by the Coastal Commission remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, enforcement, amendment, reconsideration, extension, and revocation. Section 30519(a) of the Coastal Act provides in part that the Commission's development review authority is delegated to local governments for new development. Development which has previously been approved by the Commission and completed prior to certification is not new development subject to review by local governments. Further, the acceptance of a Commission issued coastal development permit creates a contractual relationship between the Commission and the applicant/permittee, to which local governments are not a party. Consequently, the Commission's right to insist upon compliance with the terms and conditions of permits it has issued is not transferred to a local government after LCP certification.

Section 7.130(A) of the Implementation Plan describes the Commission's authority over permits it had acted upon. However, the Implementation Plan does not adequately define the range of permit actions which the Commission would still retain jurisdiction over. Section 7.130 (Permit Jurisdiction for Development Carried Out Before LCP Certification) of the City's proposed CDP ordinance does state that development approved prior to certification of the LCP remains under the jurisdiction of the Coastal Commission but omits permit extension and reconsideration.

Therefore, this section of the IP is not consistent with the Coastal Act and implementing regulations. If the Implementation Plan is modified to include the suggested modifications, it will correctly define the jurisdiction of the Commission over prior permit actions original jurisdiction and be adequate to carry out the transfer of coastal permitting authority to the City.

4. Projects "In the Pipeline":

A project "in the pipeline" is a project which has received local approval, and a coastal development permit application for the project has been filed complete with the Coastal Commission, but the Commission had not yet acted on the project prior to certification of the LCP. Pursuant to Section 13546 of the

California Code of Regulations, applicants in this situation have the option of either continuing Coastal Commission processing of their application or withdrawing their submittal and re-filing their application with the local jurisdiction to be heard and decided based on the post-certification local coastal permit requirements described below. If the applicant elects to stay with the Coastal Commission process, the coastal permit remains with the Commission, but the standard of review is the certified LCP. Upon effective certification of an LCP, no new applications for coastal development permits within the certified area will be accepted by the Commission offices.

Section 7.130(B) describes the procedures for determining permit jurisdiction over projects "in the pipeline." With a minor modification, this section is would be adequate for the City to carry out its coastal permitting authority under the IP.

5. Post-Certification Projects:

This category includes projects in certified areas for which a coastal development application had not been submitted to the Coastal Commission prior to certification and which may be appealable or not appealable to the Coastal Commission. Coastal development permit applications for such projects would be filed with the City and acted on pursuant to the certified LCP.

The LCP Implementation Program must ensure that all non-exempt development in the coastal zone has a coastal development permit either issued by the Commission or the certified local government. The Implementation Plan amendment must provide the procedures for determining how applications for coastal development permits will be processed for the types of permit situations described above.

In addition, the introductory portion of Section 7.130 describes the process for pre-certification development and projects in the pipeline but does not state that projects received after LCP certification are filed with the City, with exceptions for areas of original jurisdiction.

By modifying the Implementation Plan submittal so that it clearly outlines the procedures for processing pre-certification development and defining responsibility for coastal development permits by the Commission and by the City post-certification, the proposed chapter would be adequate to implement tThe transfer of coastal development permitting authority to the City.

b. Permit Exemptions

Included in the Implementation plan as submitted are two classifications of exemptions: 1. Exemptions for existing development (Section 7.050), and 2.

Exemptions for new development (Section 7.055). Section 7.055 is the City's equivalent of a categorical exclusion order permitted under the Coastal Act.

1. Exemptions other than categorical exclusions

Section 30610 of the Coastal Act and Sections 13250 through 13253 of the California Code of Regulations exempt a limited amount of development from coastal permit requirements. However, the Coastal Act and applicable regulations must be read together to determine exactly what type of development is exempt. As proposed, the Implementation plan identification of coastal permit exemptions is inconsistent with Coastal Act requirements because it does not define development exempted consistent with the Coastal Act and California Code of Regulations.

In conformance with the Coastal Act and California Code of Regulations, the IP identifies three categories of development which may be exempt: 1) improvements to single family residences, 2. improvements to existing structures other than single family residences and public works facilities, and 3. repair and maintenance activities, which includes shoreline protective structures, dredging, work in environmentally sensitive habitat areas (ESHAs), utility connections, roadway/transportation maintenance, and disaster replacement.

Section 7.030 of the Implementation Plan (Determination of type of coastal review) does not specifically identify the areas of Commission original jurisdiction or the areas of appeal jurisdiction. The staff has included as a suggested modification to the Chapter 21 section on definitions the specific language from Section 30603 of the Coastal Act describing post certification appealable development as well as the Coastal Act definition of the "First Public Roadway" and "Public Trust Lands."

a. Single Family Residence -- The Implementation Plan section on exemptions does not include language from Section 13250(a)(2) which defines the type of development considered to be a part of a single-family residence. The IP does not adequately define the specific areas in the California Code of Regulations 13250(b)(1) .which would require a coastal development permit and therefore would not be exempt. In addition, the Implementation Plan does not adequately define improvements to single-family dwellings which increase the height of more than 10 percent of a primary or accessory structure.

b. Structures Other than Single Family Residences -- As regards improvements to structures other than single family residences, the Implementation Plan does not adequately define a change in the intensity of use as per 13253(b)(7) of the California Code of Regulations. Nor does the Implementation Plan adequately describe improvements made pursuant to the

conversion of an existing structure as per Section 13253(b)(8) of the California Code of Regulations. Finally, the Implementation Plan does not include the expansion or construction of water wells or septic systems as per 13253(b)(3) of the California Code of Regulations. The improvements listed above require a coastal development permit and are not exempt.

c. Repair and Maintenance Activities -- As regards repair and maintenance activities, the Implementation Plan does not adequately conform to the Coastal Act and Sections 13252(a)(1)(B), 13252(a)(1)(D), and 13253(b). The portion of the repair and maintenance section regarding "utility connection" and "roadway/transportation maintenance" do not adequately describe those areas which are not exempt from coastal development permits.

Finally, as regards replacement of structures because of disaster, the Implementation Plan needs to add a sentence specifying that any such replacement is allowable provided it conforms to existing zoning requirements as per Section 30610(g)(1) of the Coastal Act.

2. Exemptions for new development (Section 7.055)

The Coastal Act provides for the discretionary exclusion of certain types of development by Commission action (Coastal Act Section 30610.5 and 30610(e) and Implementing Regulations 13240 et seq.). Categorical Exclusions approved by the Commission for local government expire upon LCP Certification (California Code of Regulations 13249(b)). A new "post cert" Categorical Exclusion may be applied for, but because the voting requirements are different, must be processed separately from the LCP. A two-thirds vote of the Commission is required to approve a Categorical Exclusion (California Code of Regulations 13243), whereas a simple majority is needed for LCP approval. Submittal and action requirements are also different.

There is an existing categorical exclusion order approved by the Commission which will expire upon Commission certification of the Implementation Plan. The City has included a Categorical Exclusion section in their Implementation Plan submittal (Chapter 7, Section 7.055). However, because of the different voting requirements, Section 7.055 of the Implementation Plan cannot be heard as part of the Implementation Plan and must be handled as a separate hearing item. Therefore, the Implementation Plan as submitted with the Categorical Exclusion section is not consistent with the Coastal Act.

c. Application Requirements

California Code of Regulations Sections 13052 and 13053 identify information requirements which shall be required in every permit application. Section 7.080 of the Implementation Plan as submitted identifies some but not all of the

information needed to evaluate proposed development for consistency with certified LCP policies. The information which needs to be added, includes notification of owners and occupants within a 100 foot radius of the property boundary, a dated signature of the applicant attesting to the truth of the application contents, evidence that an agent is authorized to act on behalf of the applicant, plans drawn to scale, an adequate project description, and a description and documentation of the applicant's legal interest in the property upon which work would be performed. If the Implementation Plan is modified to include all the necessary review information, it will be adequate to carry out the transfer of coastal permitting authority to the City. (See suggested modifications to proposed Section 7.080, Application Review).

d. Coastal Development Permit

1. De Minimis Waivers

Coastal Act Section 30624.7 and Subchapter 4.5 (Sections 13238-13238.2) of Title 14 of the California Code of Regulations contains provisions to waive permit requirements for De Minimis development, thus helping to streamline permit procedures. Section 7.060 of the Implementation Plan establishes procedures for the City's issuance of de minimis waivers. However, the section states that the City can issue a waiver of coastal development permit review for development within the appeal jurisdiction of the Coastal Commission. This is not consistent with the Coastal Act. The California Code of Regulations states that the City may waive the public hearing requirement for de minimis development in the appealable area if certain criteria are met and certain findings are made. If amended to include the suggested modifications, Section 7.060 of the Implementation Plan would be consistent with the California Code of Regulations and would be adequate to transfer Coastal Act authority to the City of San Clemente.

2. Format of Coastal Development Permits

As submitted, the proposed Implementation Plan does not contain requirements for the format, content, and issuance of the actual coastal development permit once the proposed development has been approved. Therefore, as modified for the inclusion of these provisions in a new Zoning Code Section , the Implementation Plan would be consistent with Section 13156 of the California Code of Regulations and would be adequate to transfer Coastal Act authority to the City of San Clemente.

3. CDP Conditions and Findings

Section 7.080(B) and (C) of the Implementation Plan contain provisions for the findings necessary for the approval or conditional approval of coastal

development permits. Section 30604(b) and (c) of the Coastal Act requires that a Coastal development permit can be issued if the development conforms with the Local Coastal Program and if the development is located between the sea and the first public road, that the development conforms with the access and recreation policies of the Coastal Act. As submitted the Implementation Plan does not include these findings and therefore is not consistent with Section 30604(b) and (c) of the Coastal Act. If the Implementation Plan is modified to include all the necessary findings, it will be adequate to carry out the transfer of coastal permitting authority to the City.

The Coastal Act provides for two methods of dealing with emergencies. First, Coastal Act Section 30611 and its implementing Regulatory Section 13144, provide for emergency development without a permit only if the development is:

1. *Limited to emergencies which threaten life or public property* (public works, utilities or services) and;

2. *Does not involve the permanent erection of structures valued at more than twenty-five thousand dollars ($25,000).*

However, this authority to waive permit requirements for these specific types of emergencies remains with the Executive Director of the Commission even after certification of an LCP. The Implementation Plan does not include provisions for this type of emergency permit.

Second, Section 30624 of the Coastal Act and California Code of Regulations 13136 et seq. provides an emergency permit procedure applicable to all emergencies other than those specified in Section 30611 and is transferable to local government upon LCP certification. Such a procedure is contained in Section 7.120 of the Implementation Plan as submitted. The emergency permit section is consistent with the Coastal Act and California Code of Regulations if a provision is included that the development be removed within 120 days and the site restored if an applicant does not apply for a follow-up coastal development permit.

e. <u>Post Permit Actions</u>

1. <u>Amendments to Coastal Development Permits</u>

As submitted the Implementation Plan allows for amendments to coastal development permits in Section 7.150. However, the Implementation Plan does not include criteria to distinguish between a minor or "immaterial" change and a "material" change. Neither does Section 7.150 contain critical information regarding notice of both material and immaterial amendments. If the Implementation Plan is modified, then it would be adequate to transfer coastal

development permitting authority to the City. (See suggested modifications to Zoning Code Section 7.150.)

2. Permit Expiration

Section 13156(g) of the California Code of Regulations requires that permits be effective for a period of two years from the time of approval of the Commission and that permits can be extended if a request for extension is received prior to the date of expiration of the permit. Section 7.080(E) of the Implementation Plan as submitted is not consistent with the provisions of Section 13156(g) of the California Code of Regulations. If modified to include suggested modifications, then the Implementation Plan would be adequate to transfer coastal development permit authority to the City.

3. Permit Extension

Section 13169 of the California Code of Regulations requires that a coastal development permit for which construction has not commenced may be extended for a period not to exceed one year. Section 7.080(F) of the Implementation Plan as submitted states that permits may be extended for a reasonable time and therefore is not consistent with the provisions of Section 13169 of the California Code of Regulations. If modified to include suggested modifications, then the Implementation Plan would be adequate to transfer coastal development permit authority to the City.

4. Permit Reconsideration

Section 30519(a) of the Coastal Act provides that, with certain exceptions, the development review authority provided for in Chapter 7 (commencing with Section 30600) of the Coastal Act is delegated to a local government at the time its local coastal program is certified. Reconsideration provisions are part of the development review authority contained in Chapter 7. As submitted, the Implementation Plan does not contain adequate provisions for reconsideration procedures and must be rejected. If modified to include reconsideration procedures as provide for by Section 30627 of the Coastal Act and Sections 13109.1 through 13109.5 of Title 14 of the California Code of Regulations, then the Implementation Plan would be adequate to transfer coastal development permitting authority to the City.

5. Revocation of Permit

In accordance with Section 30333 of the Coastal Act and Sections 13104-13108.5 of the California Code of Regulations, procedures are established for the revocation of permits. Section 7.160 of the Implementation Plan does include provisions for revocation of permit, however, the grounds for revocation

include provisions for revocation of permit, however, the grounds for revocation have to be modified in order to be consistent with the California Code of Regulations. In addition, the Implementation Plan notes that during the revocation review a permit can be modified. This is not consistent with the California Code of Regulations and must be modified. If modified to include suggested modifications, then the Implementation Plan would be adequate to transfer coastal development permit authority to the City.

6. Enforcement

The enforcement of the provisions of the certified local coastal program and the enforcement of coastal development permit issued pursuant to the LCP is an important part of ensuring that development in the coastal zone occurs consistent with the provisions of the certified LCP. As submitted, the Implementation Plan incorporates by reference the provisions of Chapter 9 of Division 20 of the California Public Resources Code (Coastal Act) with respect to judicial review, enforcement and penalties. However, the provisions of chapter 9 must be included in the Implementation Plan either directly in Section 7.170 or as an attachment to the Implementation Plan. If modified to include suggested modifications, then the Implementation Plan would be adequate to transfer coastal development permit authority to the City.

f. Definitions

Proposed Chapter 21 of the City's Implementation Plan defines critical Coastal Zone terms. Some of the proposed definitions for terms such as "Appealable Development" and "Major Public Works Project" and "Stringline" are defined inconsistent with the definitions of these terms in the Coastal Act and Title 14 of the California Code of Regulations. Other definitions necessary for the Implementation Plan to transfer authority adequately, such as "First Public Roadway", "Minor Development", "Historic Public Use", "Legal Interest" and "Public Trust Lands" are not included in the definitions section of the Implementation Plan. Consequently, Chapter 21, as proposed, must be rejected. If modified to include the revised and omitted definitions necessary for the Implementation Plan to adequately transfer authority, Chapter 21 of the City's Zoning Ordinance will be adequate.

2. Hearing and Notice Procedures

The Post Certification LCP Regulations (California Code of Regulations Section 13560 et seq.) outline the notice and hearing requirements for locally issued coastal permits. In summary, these regulations require that the local government notify the Commission and interested persons of all pending coastal permits (appealable and non-appealable, California Code of Regulations Section 13565, 13568(a)(b)). Finally, local coastal permits are not effective until the

Commission has receive adequate final local notice (California Code of Regulations Section 13570-13573) and, if appealable , the Commission's appeal period has run and a valid appeal has not been filed. As submitted the Implementation Plan provisions for public notice and hearing requirements do not conform with the noticing requirements of the Coastal Act and Code of Regulations and must be rejected.

The procedures for public notice for coastal development permits and appealable projects are found in subsection 7.100 of Chapter 7 of the Zoning Code. The procedures in this section apply specifically to the coastal zone.

a. Posting of the Site

As submitted, the Implementation Plan does not contain adequate provisions for providing public notice via the posting of a development site and must be rejected. Section 13054(b) requires that applicants for coastal development permits must post at the proposed development site, notice of the pending application. Section 7.100 (B) does not provide for public posting of a site for waivers, nor for the content of the posting notice. Suggested modification 7.100 (B) includes the requirement for posting of a site and specifies what the content of the notice will be.

If modified to include the provisions of Section 13054(b), the Implementation Plan would be adequate to transfer development review authority to the City of San Clemente.

b. Noticing Provisions Prior to Final City Action

Sections 13565 and 13568 of the California Code of Regulations contain different noticing and hearing requirements for appealable versus non-appealable developments. The Implementation Plan as submitted does not contain the minimum requirements and must be rejected. The proposed notice requirements in Chapter 7.100 did not differentiate between the notice requirements for appealable and non-appealable development. Suggested modification 7.100 (C)(2) expands upon the noticing requirements for appealable development in conformance with the California Code of Regulations. In addition, the suggested modification for 7.100 (C)(3)(a) inserts the requirement that a public notice include a statement that the public notice state whether the proposed development is appealable to the Commission or not.

c. Notice after Final Action

As submitted subsection 7.100 (E)(1) does not contain procedures which are consistent with the California Code of Regulations for notifying the Commission of a final City decision and must be rejected. Regarding the "Notice of Final

Action" following appeal periods, a suggested modification requires that these notices be mailed within seven (7) calendar days of the final local action. As modified to include provisions for notice of final action consistent with Section 13571 of Title 14 of the California Code of Regulations, the noticing procedures of the Implementation Plan would be adequate to transfer Coastal Act authority to the City of San Clemente.

If modified to include suggested modifications, then the Implementation Plan would be adequate to transfer coastal development permit authority to the City.

3. Appeal Procedures

The Coastal Act provides for a post-certification appeal process for a limited variety of coastal development projects (Coastal Act Section 30603 and 30625, California Code of Regulations Sections 1311-13120, 13565, 13566, 13569,. 13572 and 13573). In order to comply with the Coastal Act and attendant regulations, an Implementation Plan must include the following elements:

a. *Identification of appealable projects*
b. *Identification of grounds for appeal*
c. *Identification of qualified applicants*
d. *Public hearing/notice requirement for all appealable projects*
e. *Local appeal process (Hearing Bodies/Fees)*
f. *Procedure for resolving disputes.*

After certification of an LCP for a local government, only a limited number of projects remain appealable to the Coastal Commission. Appealable projects include those developments proposed within the geographic appeal area as defined in Section 30603(a) of the Coastal Act and indicated on the post certification appeals maps, as well as all major energy facilities. With the exception of major public works and major energy facilities, only local approvals or approvals with conditions may be appealed to the Commission. Any local action on a major public works or energy facility may be appealed. Post certification appeal maps must also be adopted so that geographic appeal areas are defined consistent with the Coastal Act for the types of local action subject to appeal.

a. Identification of Appealable Development

Section 7.030(A)(3) describes the appeals area of the City of San Clemente. As submitted this subsection does not adequately describe the appeals area. The suggested modification would add that the appeals area includes lands between the sea and the first public road paralleling the sea or 300 feet from the inland extent of any beach or the mean high tide line if there is no beach. As modified,

the Implementation Plan is adequate to identify what constitutes appealable development as per Section 30603(a) of the Coastal Act.

b. Identification of Grounds for Appeal

The Coastal Act provides the grounds for appeal of local coastal permits in Section 30603(b). The grounds for appeal must be based on the provisions of the certified local coastal program and the access policies included within Chapter 3 of the Coastal Act. The Implementation Plan, as submitted, identifies grounds for appeal. However, Section 7.110(E) does not include the requirement that the grounds for appeal include the access and recreation policies of the Coastal Act. In addition, the grounds for appeal do not discuss major public works and public energy facilities. As modified, the Implementation Plan is adequate to identify what constitutes grounds for appeal under section 30603(b) of the Coastal Act.

c. Identification of Qualified Applicant

Section 7.110(D) of Chapter 7 of the proposed Implementation Plan identifies that the applicant, an aggrieved person or two members of the Coastal Commission are qualified to appeal a coastal development permit to the Coastal Commission. The list of definitions in Coastal Zone Definitions in Chapter 21 also includes "aggrieved person." The suggested modification adds that the applicant's authorized representative may also appeal a coastal development permit to the Coastal Commission. As modified, the Implementation Plan is adequate to identify who is qualified to appeal under section 30801 of the Coastal Act and California Code of Regulations Sections 13006 and 13573.

d. Public Hearing/Notice Requirement for Appealable Development

Refer to the sections on Noticing Provisions, above.

4. LCP Amendments - (Section 7.190)

The Coastal Act (Section 30514) and the accompanying Regulations (Section 13551 et seq. and Section 13544, 13544.5, 13587, 13515, 13512, 13511 and 13514) provide for the Amendment of Certified Local Coastal Programs. A maximum of three amendments per calendar year may be submitted for Commission review.

Section 7.190 of Chapter 7 of the Implementation Plan describes the procedures for amending and submitting Local Coastal Program amendments to the Coastal Commission. As submitted, the procedures in 7.190 are not adequate to implement the LCP amendment procedures of the Coastal Act and California Code of Regulations.

This section of the Implementation Plan does not state that because the Zoning Code is a part of the Local Coastal Program, any changes to the Zoning Code require an LCP amendment.

The Implementation Plan includes provisions for limiting LCP amendments to three per year. However, the Implementation Plan does not distinguish between major, minor and de minimis amendments. The regulations require that the City can submit three major LCP amendments per year.

Section 7.190 (A) includes a suggested modification that local coastal program amendments must be submitted to the Coastal Commission, and the Commission can approve the amendment as submitted, amend the submittal with suggested modifications or deny the amendment.

The Coastal Act requires that the City Council must make certain specific findings when approving an LCP amendment. Section 7.190 (G) includes a suggested modification to the City to include the finding that a proposed amendment is consistent with the Chapter 3 policies of the Coastal Act.

Finally, the Coastal Act and California Code of Regulations provide for maximum public input into the LCP process. Section 7.190 (G) includes a requirement that maximum opportunities for public participation be proved in the LCP amendment process and that notice of all public hearings be provided to known interested persons.

a. Local Action on Amendments

As regards City Council action on LCP amendments, a suggested modification requires that the City Council can initiate an LCP amendment by a resolution of intention directing the City Planner to initiate an amendment. The suggested modifications include entirely new language concerning procedures for the Planning Commission Action on Amendments and City Council action on amendments. The suggested modifications require that an amendment be submitted in accordance with certain standards and that a public hearing, complete with proper notice, be held. The suggested modifications to 7.190 (E) include requirements that the Planning Commission make a recommendation and contain procedures for forwarding their recommendation to the City Council, complete with provisions for an appeal.

The suggested modifications require that a Planning Commission recommendation to approve and amendment be acted on by the City Council, and that the City Council hold a public hearing pursuant to Sections 30502, 30503, 30504, 30605 of the Coastal Act and section 13515 of the California Code of Regulations. The suggested modifications state that the City Council

may approve, approve with modifications or deny an LCP amendment. Finally, the suggested modifications contain procedures for appeal to the Coastal Commission in the event of a City Council denial and what type of development which is denied can be appealed.

5. Conclusion (Coastal Development Permit Processing Procedures)

With the suggested modifications, above, to the Coastal Development Permit Processing ordinance the Commission finds that the City of San Clemente Implementation Plan submittal would be consistent with the coastal development permit processing procedures of the Coastal Act and California Code of Regulations and would be adequate to transfer coastal development permit authority to the City of San Clemente.

D. SPECIFIC PLANS

1. Pier Bowl Specific Plan

The Pier Bowl is the primary tourist destination area of the City of San Clemente. Existing development in the Pier Bowl includes a popular beach, the San Clemente Municipal Pier, the municipal parking lot, the Casa Romantica, the Beachcomber Hotel, and Linda Lane Park. There is also residential and mixed land uses.

The Pier Bowl Specific Plan contains the land use and implemention policies which constitute the Local Coastal Program. In areas where the Specific Plan does not provide guidance regarding land use policies and implementation plan policies, the LUP and the Zoning Code, respectively, take precedence. There are no suggested modifications to the land use plan portion of the Pier Bowl Specific Plan.

The suggested modifications for the implementation plan portion of the Pier Bowl Specific Plan focus on parking, landscaping, visual impact and increasing density if a project provides substantial public uses.

Section 304 of the Pier Bowl Specific Plan contains the policies regarding parking and circulation. Among the policies are policies stating that the City shall encourage more efficient use of parking and that new development shall provide adequate parking to serve new uses while replacing existing spaces serving the public. Section 307 of the Pier Bowl Specific Plan identifies six (6) view corridors and states that existing view corridors be preserved. Several areas in the Pier Bowl Specific Plan contain coastal bluffs and coastal canyons (Linda Lane Park, the Casa Romantica, and the Beachcomber Hotel). The Pier Bowl Specific Plan does not include the ESHA policies of section 14.050 of Chapter 14 of the Zoning Code. However, these policies are applicable to all

coastal bluff and coastal canyon areas in San Clemente. As submitted, the Pier Bowl Specific Plan is not in conformance with nor adequate to carry out the LUP policies regarding landscaping, views and parking.

The suggested modifications include adding a requirement that a 10 percent increase in density for visitor-serving facilities can be permitted if the increase is to provide for lower cost visitor-serving overnight accommodations and adequate parking is provided. This suggested modification applies to the Pier Bowl Core and the Beachcomber and Robison property.

Another suggested modification requires that parking waivers for public restaurants apply to outdoor dining on public property only, i.e., sidewalks and that commercial uses can reach agreement with private parking lots but may not be permitted using existing public parking lots to meet parking requirements. :In regard joint use parking provisions, the suggested modifications delete public parking lots for being used for shared parking. The suggested modifications regarding parking apply to the Pier Bowl Core, the Casa Romantica, Alameda Lane, the Pier Bowl Parking Lot, the Beachcomber and Robison properties and Beaches and Parks.

Another suggested modification would allow temporary uses in public areas, so long as public parking was not displaced. Regarding landscaping, there is a suggested modification which requires that native vegetation on coastal bluffs be preserved or enhanced wherever possible. This modification applies to the Casa Romantica and the Beachcomber and Robison properties.

Regarding preservation of view corridors, there is a suggested modification placed on the height standards for the Beachcomber and Robison properties requiring that the Avenida Victoria view corridor be preserved. Another suggested modification requires that any adverse impacts to this view corridor be mitigated by provision of on-site public viewing opportunities.

There were no separate development standards included for the Linda Lane Park subarea. Therefore, a suggested modfication includes Linda Lane Park in with section 407, Beach and Parks Standards.

As modified, the Commission finds the Pier Bowl Specific Plan would protect and maintain public parking, native vegetation, and viewing opportunities within the specific plan area. The Commission finds that the Pier Bowl Specific Plan, as modified, would be in conformance with and adequate to carry out the provisions of the Local Coastal Program.

2. West Pico Corridor Specific Plan

The West Pico Corridor Specific Plan is the primary industrial and light manufacturing area of the City of San Clemente. Existing development in the West Pico Corridor includes the sewer plant, city incorporation yard, miscellaneous light manufacturing, and residential.

The West Pico Corridor Specific Plan contains the land use and implemention policies which constitute the Local Coastal Program. In areas where the Specific Plan does not provide guidance regarding land use policies and implementation plan policies, the LUP and the Zoning Code, respectively, take precedence. Prior to the public hearing on the Implementation Plan submittal, the Commission will consider Land Use Plan Amendment 1-97, which changes some land use designations from I1 to I2 and a small portion of residential from RL to I2.

As submitted, the West Pico Corridor Specific Plan is not in conformance with nor adequate to carry out the coastal development permit transfer provisions of the Coastal Act. The suggested modifications include adding requirements for coastal development permits in the coastal zone, references to the coastal development permit processing provisions of the Implementation Plan, and a description of the composition of the Local Coastal Program.

As modified, the Commission finds the West Pico Corridor Specific Plan in conformance with and adequate to carry out the coastal development permit process in the coastal zone. The Commission finds that the Pier Bowl Specific Plan, as modified, would be in conformance with and adequate to carry out the provisions of the Local Coastal Program.

E. 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 its local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission.

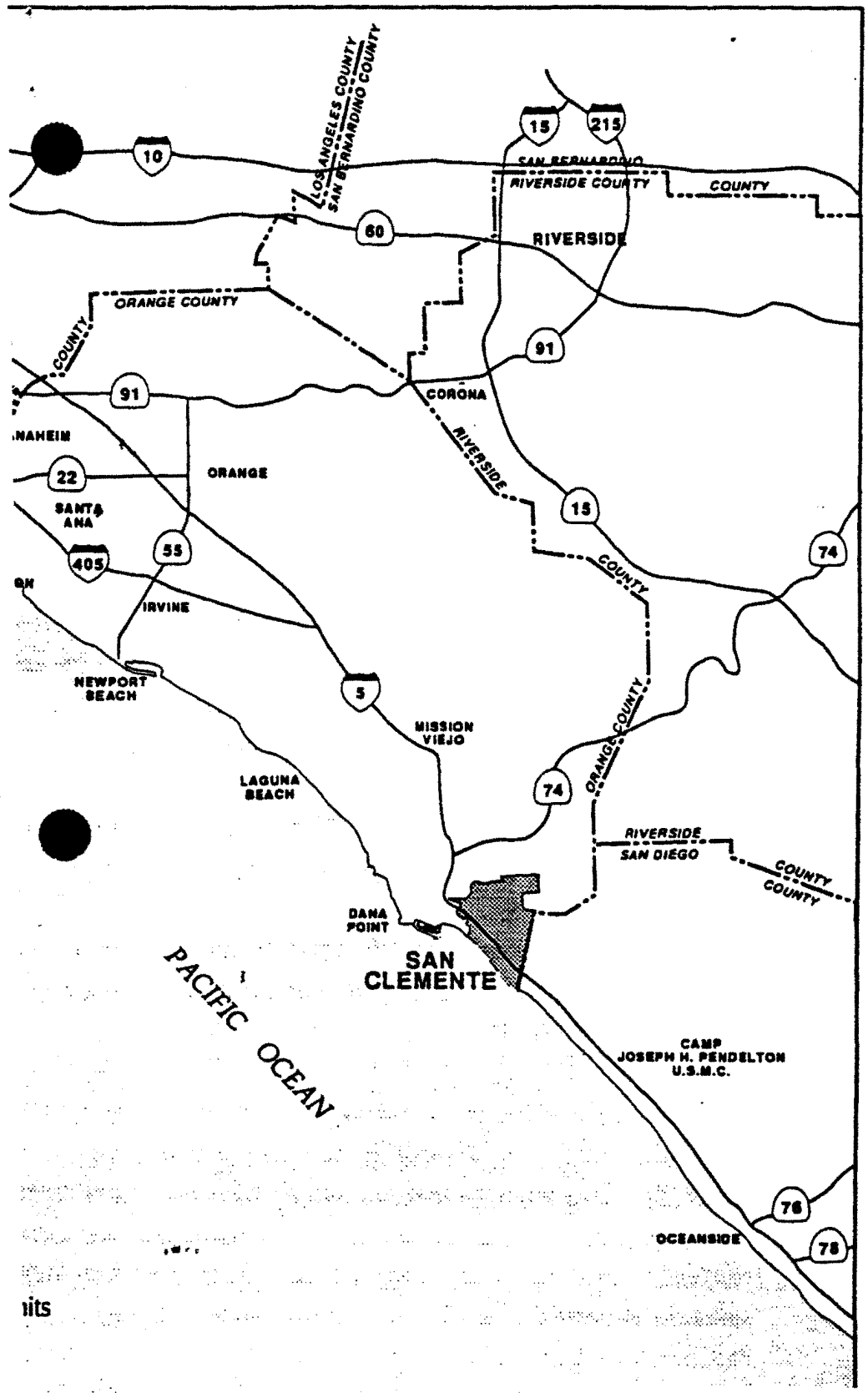
However, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required in an LCP submittal to find that the LCP does conform with the provisions of CEQA.

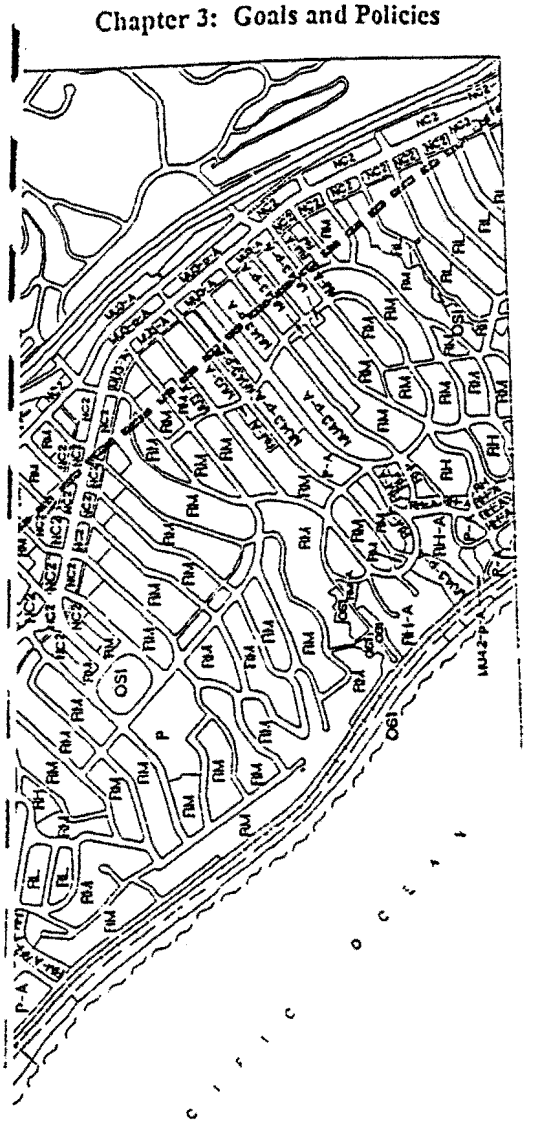
As submitted, the Implementation Plan is not adequate to carry out nor is it in conformance with the policies of the certified Land Use Plan. As modified by the

incorporation of the suggested modifications of this staff report, however, the Commission finds that the Implementation Plan is adequate to carry out and is in conformance with the policies of the certified Land use Plan. The Commission finds that the Implementation Plan, as modified, does not result in significant adverse 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 (1) maximize protection of environmentally sensitive habitat area through requirements for coastal development permits for all development on or adjacent to ESHAs, landscaping plans, the use of native, drought-tolerant plants, minimizing adverse impacts to coastal sage scrub, requiring mitigation for unavoidable impacts, and monitoring; (2) minimize public safety and geological instability through requirements for geotechnical reports, analysis of the potential for bluff stabilization structures, characterizing minor development in bluff and canyon setbacks as temporary, defining what minor development is, prohibiting grading on coastal canyons and bluffs unless certain criteria is met, and requiring landscaping with native, drought-tolerant plants to minimize adverse impacts from irrigation; (3) preserve and protect visual resources by requiring that adverse impacts to visual resources be mitigated and including a list of potential mitigation measures; and (4).assuring continued public access and the provision of adequate parking in conjunction with new development in critical beach destination areas.

Given the proposed mitigation measures, the Commission finds that the City of San Clemente Implementation Plan, as modified, will not result in significant adverse impacts to the environment under the meaning of CEQA. Further, future individual projects would require coastal development permits, either issued by the City of San Clemente or, in the case of original jurisdiction, by the Coastal Commission. Throughout the City's Coastal Zone, the specific impacts associated with individual development projects would be assessed through the CEQA environmental review process; thus, the individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for significant adverse environmental impacts which have not been explored.





RM	10 Unit/ 20 Gross Acre
RH	15 Unit/ Gross Acre
RL	45 Units/ Gross Acre
RML	7.0 Units/ Gross Acre
RM	15.0 Units/ Gross Acre
RH	24.0 Units/ Gross Acre

Commercial

NC	Neighborhood Serving (1-5) F.A.R. 0.35	
CC	Community Serving CC1 & CC2 - F.A.R. 0.5 CC3 - F.A.R. 0.7	
CRC	Coastal and Recreation Services See General Plan for Details	
RC	Regional Serving RC1 - F.A.R. 0.5 RC2 - F.A.R. 2.0 RC3 - F.A.R. 2.0	

Mixed Commercial and Residential

MU	Mixed Use Standards Vary with Subzone. Refer to General Plan

Industrial

I1 and I2	Light Industrial I1 - F.A.R. 0.35 I2 - F.A.R. 0.5
I3	Heavy Industrial I3 - F.A.R. 0.75

P	Utilities, Schools, Public and Private Parking, Undeveloped Parks
CVC	Civic Center

Institutional

Inst	Institutional

Open Space

OS1	Public Parks and Public-ly Owned Open space
OS2	Privately Owned Open Space (Includes Open space no formal easement)
OS3	Privately Owned Open Space (Restricted by Easement)
OSC	Golf courses and Commercial Recreation
OSR	Talega Reserve

Overlay Districts

P	Pedestrian Overlay
A	Architectural Overlay

* See General Plan List (Extensions and Approximately of Net and Gross Area Density)

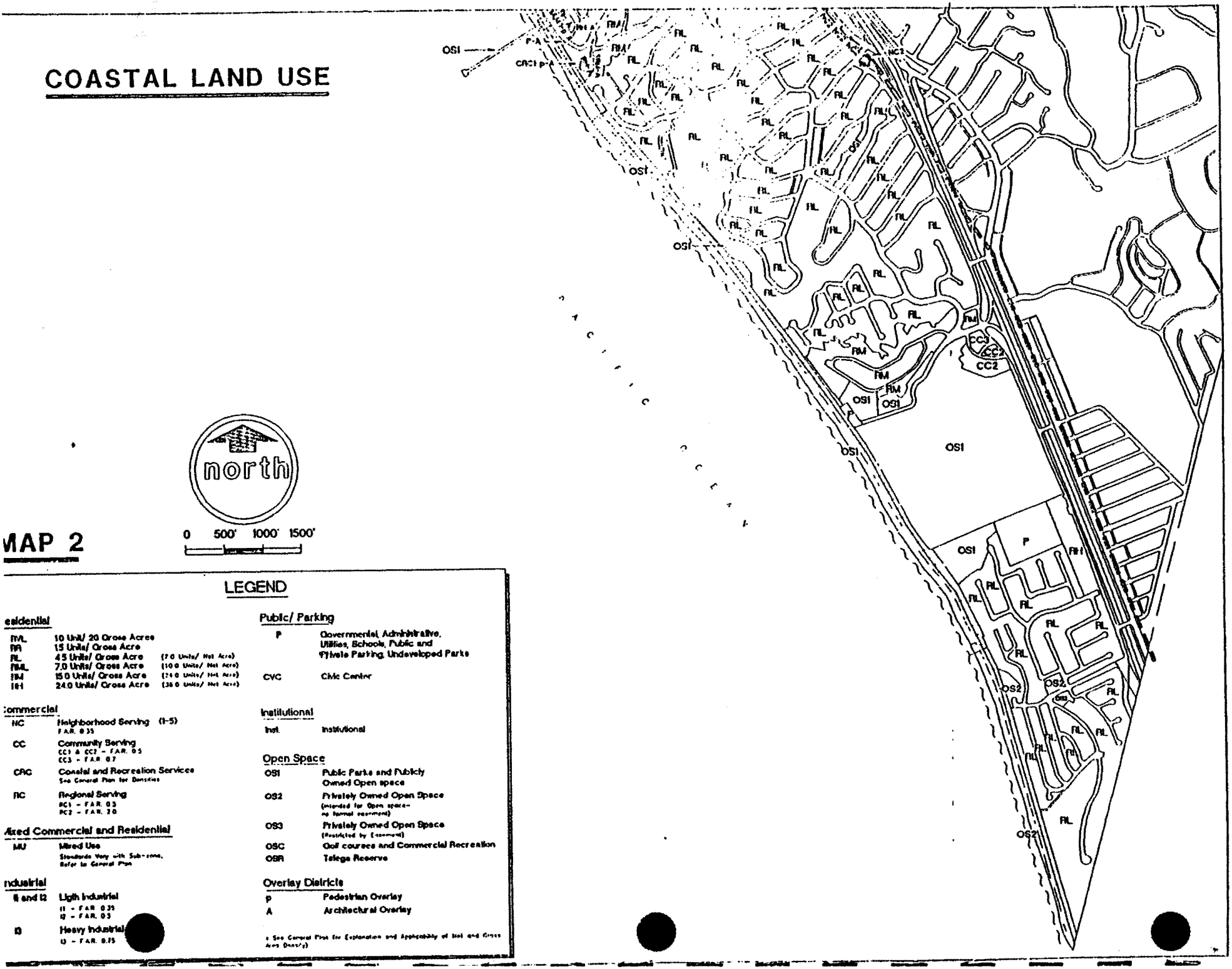
EXHIBIT NO. 1

APPLICATION NO. SAN CLEMENTE LP

LOCATION

California Coastal Commission

COASTAL LAND USE



MAP 2

LEGEND

Residential

RVL	1.0 Unit/ 2.0 Gross Acres	
RR	1.5 Units/ Gross Acre	
RL	4.5 Units/ Gross Acre	(7.0 Units/ Net Acre)
RML	7.0 Units/ Gross Acre	(10.0 Units/ Net Acre)
RM	15.0 Units/ Gross Acre	(21.0 Units/ Net Acre)
RH	24.0 Units/ Gross Acre	(38.0 Units/ Net Acre)

Commercial

NC	Neighborhood Serving (1-5) F.A.R. 0.35	
CC	Community Serving CC1 & CC2 - F.A.R. 0.5 CC3 - F.A.R. 0.7	
CRC	Coastal and Recreation Services See General Plan for Densities	
RC	Regional Serving RC1 - F.A.R. 0.5 RC2 - F.A.R. 2.0	

Mixed Commercial and Residential

MU	Mixed Use Standards Vary with Sub-zone, Refer to General Plan

Industrial

I1 and I2	Light Industrial I1 - F.A.R. 0.35 I2 - F.A.R. 0.5
I3	Heavy Industrial I3 - F.A.R. 0.75

Public/ Parking

P	Governmental, Administrative, Utilities, Schools, Public and Private Parking, Undeveloped Parks
CVC	Civic Center

Institutional

Inst.	Institutional

Open Space

OS1	Public Parks and Publicly Owned Open space
OS2	Privately Owned Open Space (intended for Open space- no formal easement)
OS3	Privately Owned Open Space (Restricted by Easement)
OSC	Golf courses and Commercial Recreation
OSR	Talega Reserve

Overlay Districts

P	Pedestrian Overlay
A	Architectural Overlay

* See General Plan for Explanation and Applicability of Net and Gross Area Density

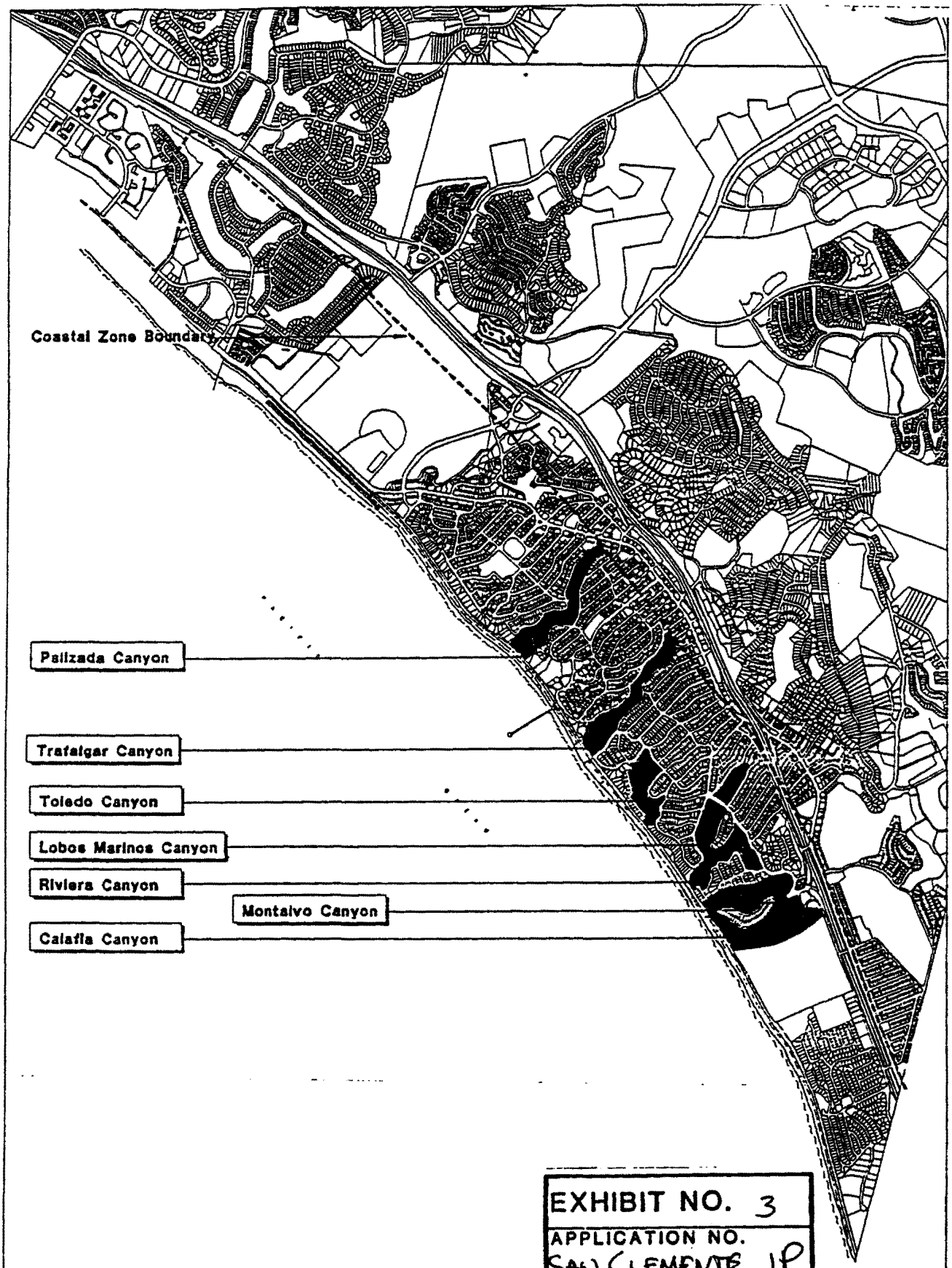
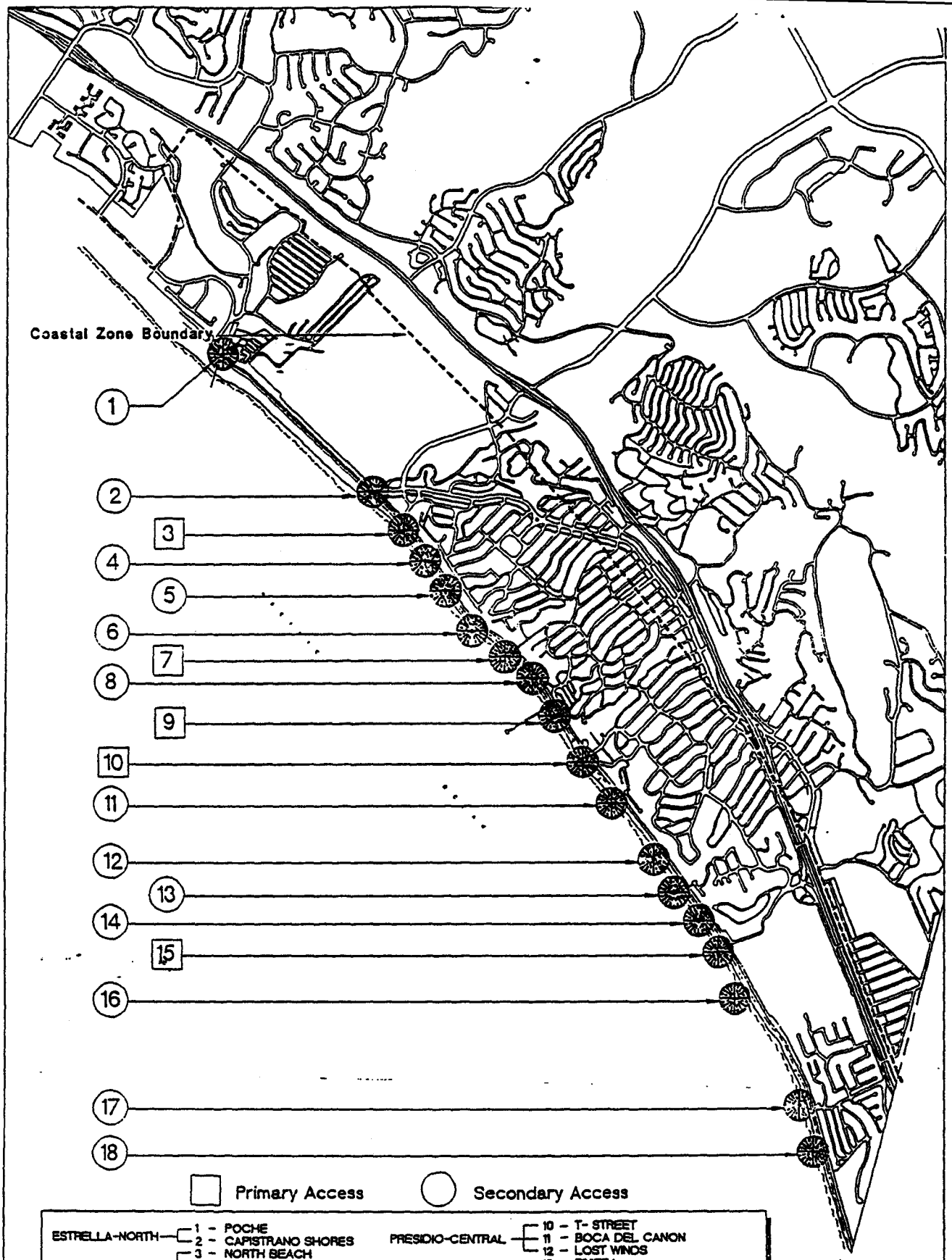


EXHIBIT NO. 3
APPLICATION NO.
SAN CLEMENTE LP
ESHA MAP
California Coastal Commission

FIGURE 2-1

CITY OF SAN CLEMENTE

COASTAL CANYONS/ ENVIRONMENTALLY SENSITIVE HABITAT AREAS



Primary Access Secondary Access

ESTRELLA-NORTH
1 - POCHE
2 - CAPISTRANO SHORES

PICO-PALIZADA
3 - NORTH BEACH
4 - DIJE COURT
5 - EL PORTAL
6 - MARIPOSA

PRESIDIO-CENTRAL
7 - LINDA LANE PARK
8 - CORTO LANE
9 - MUNICIPAL PIER

PRESIDIO-CENTRAL
10 - T- STREET
11 - BOCA DEL CANON
12 - LOST WINDS

CALAFIA-SOUTH
13 - RIVIERA
14 - MONTALVO
15 - AVE. CALAFIA
16 - SAN CLEMENTE STATE PARK
17 - AVE. DE LAS PALMERAS
18 - CALLE ARIANA

FIGURE 2-5

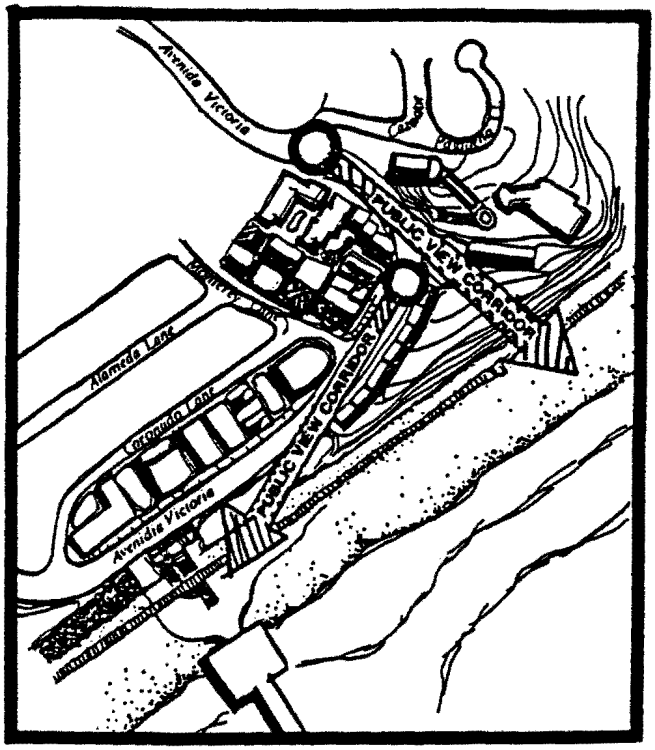
CITY OF SAN CLEMENTE
COASTAL ACCESS POINTS

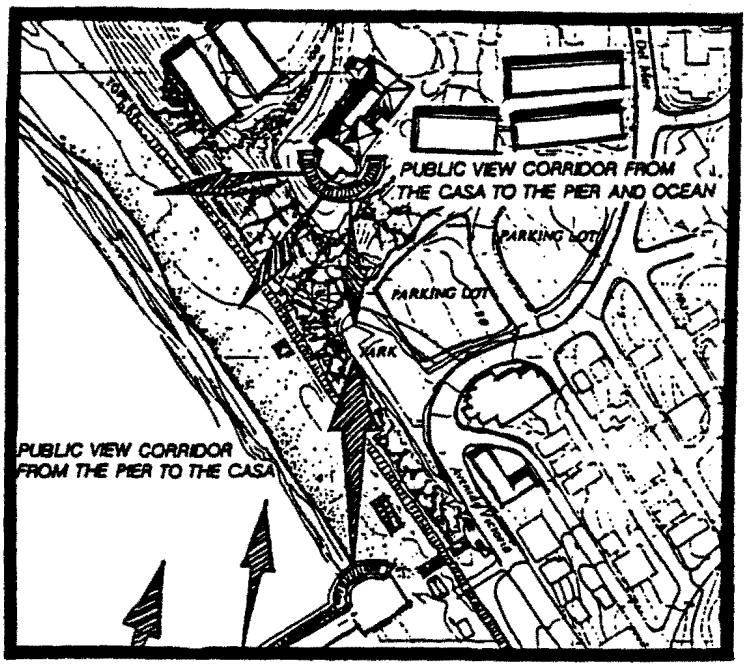
EXHIBIT NO. 4

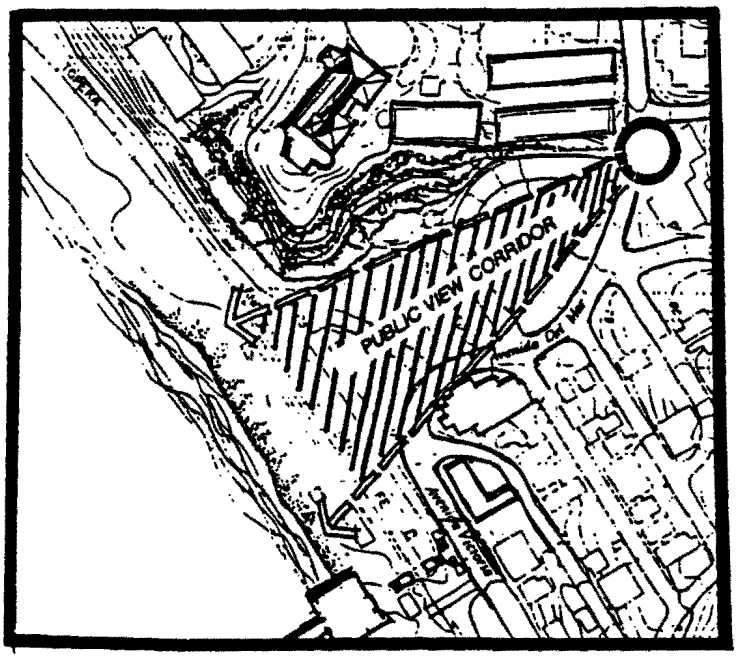
APPLICATION NO. SAN CLEMENTE LCP

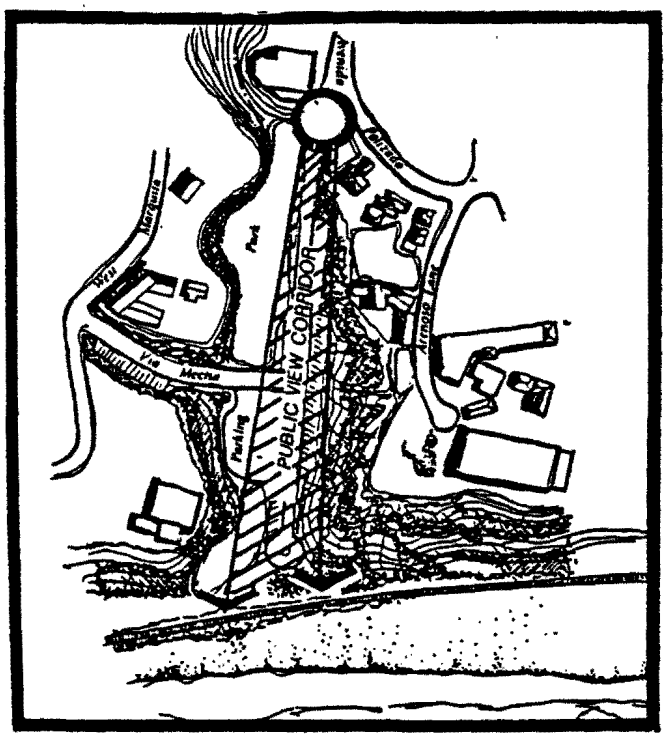
ACCESS POINTS

California Coastal Commission





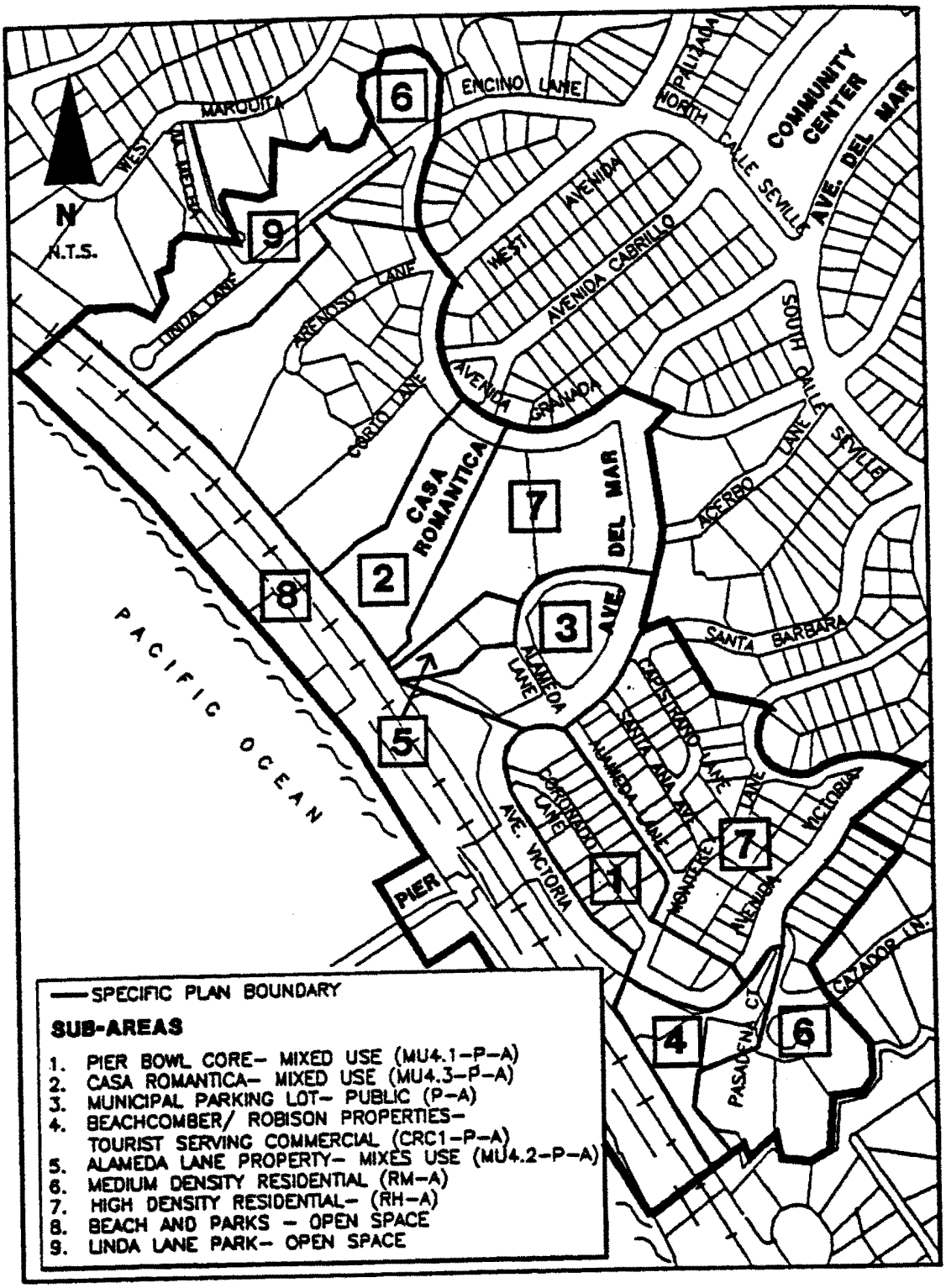




SAN CLEMENTE CALIFORNIA

PIER BOWL
SPECIFIC PLAN

EXHIBIT NO. 5
APPLICATION NO.
SAN CLEMENTE 1A
PIER BOWL
VIEW CORRIDORS
California Coastal Commission



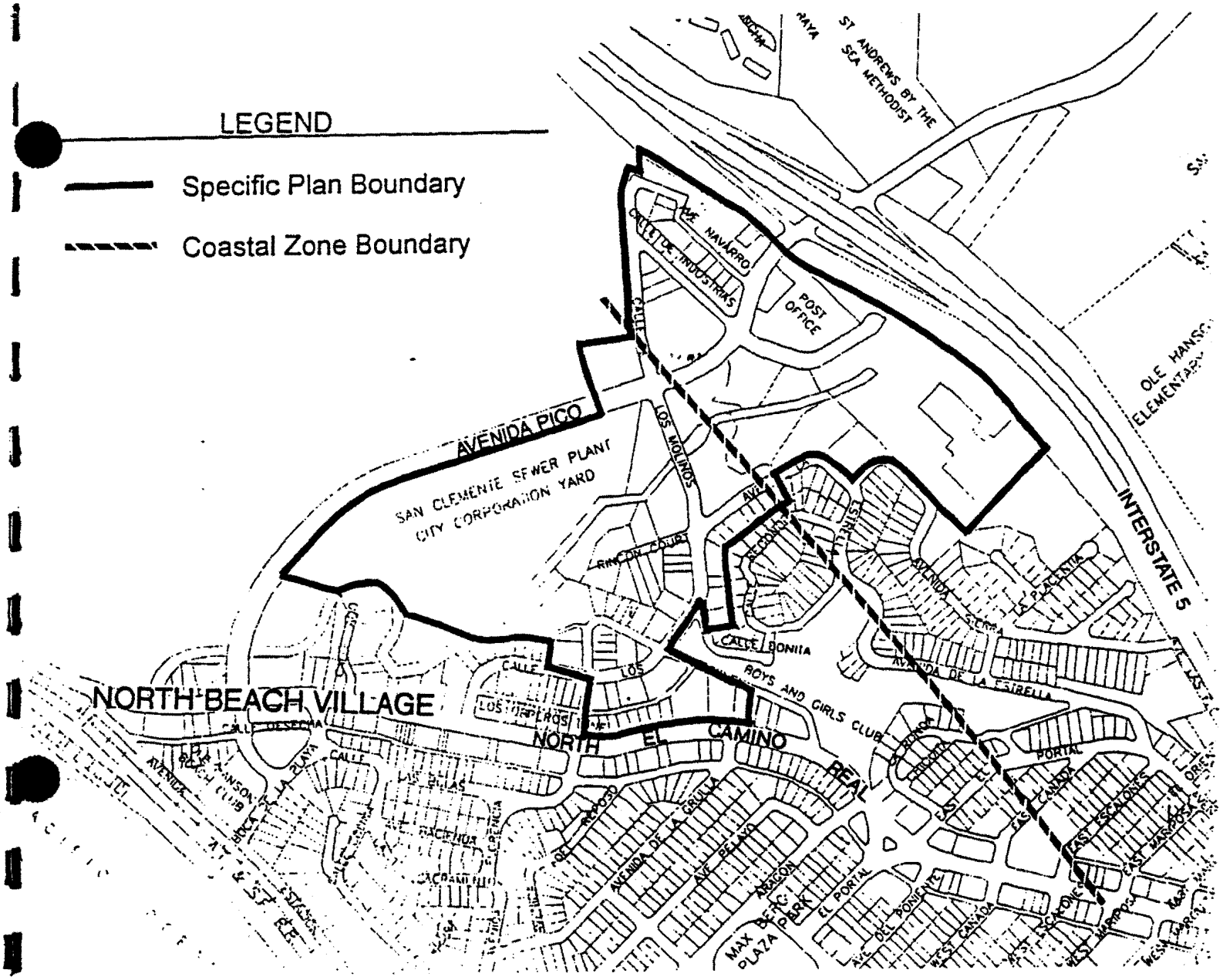
CITY of SAN CLEMENTE CALIFORNIA

PIER BOWL SPECIFIC PLAN

AND USE MAP

FIGURE 6

EXHIBIT NO. 6
APPLICATION NO. SAN CLEMENTE LP
PIER BOWL S.P. MAP
California Coastal Commission



LOCATION MAP

EXHIBIT NO. 7

APPLICATION NO.
SAN CLEMENTE LP
PICO CORRIDOR SP
MAP

California Coastal Commission

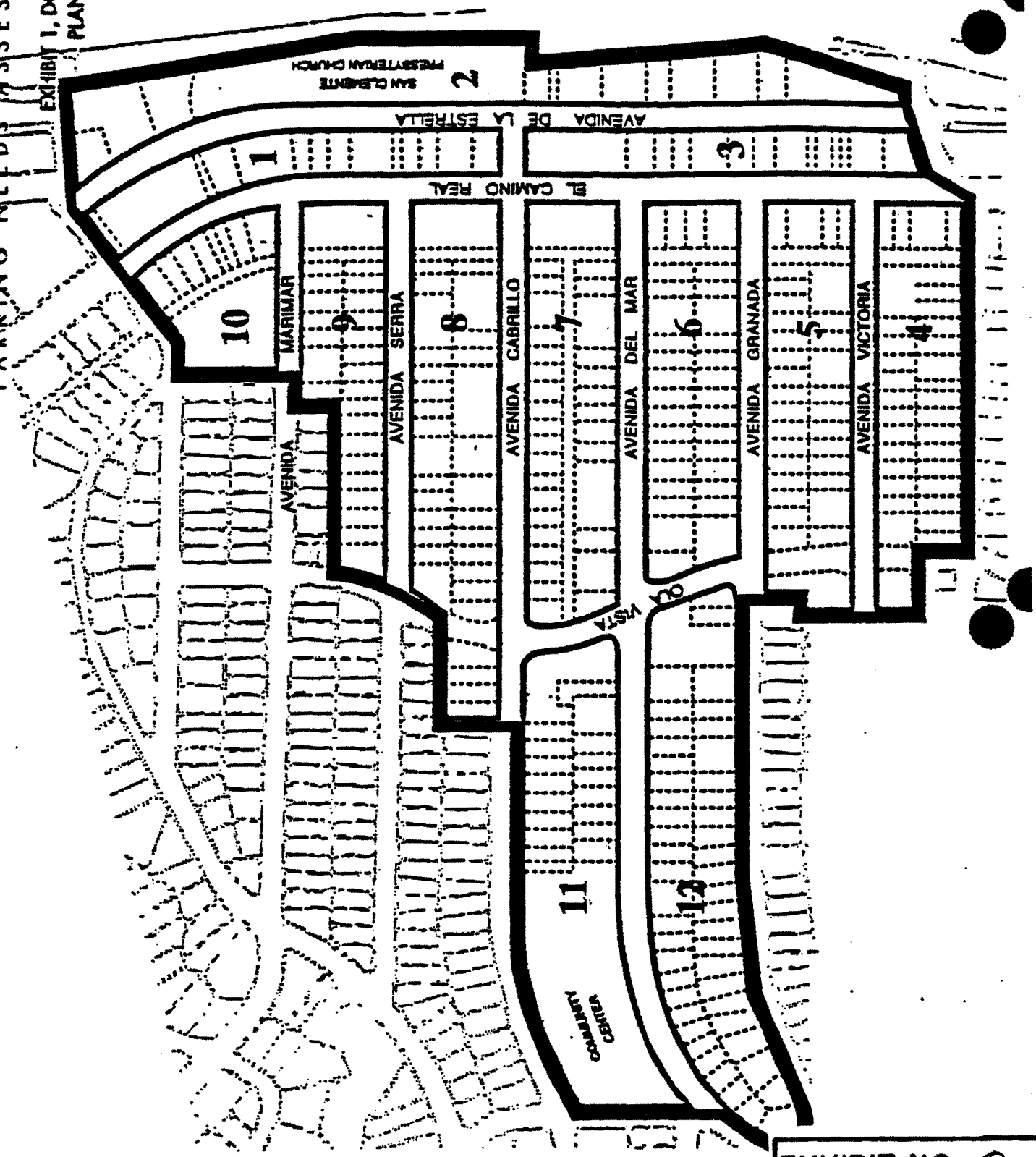
WEST PICO CORRIDOR SPECIFIC PLAN
FIGURE 1-1

CITY OF SAN CLEMENTE

DOWNTOWN / PIER BOWL / NORTH BEACH PARKING NEEDS ASSESSMENT

EXHIBIT 1, DOWNTOWN PLANNING AREA

DOWNTOWN PARKING STUDY AREA



ATTA

EXHIBIT NO. 8

APPLICATION NO. SAN CLEMENTE

DOWNTOWN AREA

California Coastal Commission

PENALTY OF PERJURY THE FOREGOING INSTRUMENT TO BE A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL NOW ON FILE IN THE CITY OF SAN CLEMENTE

DATE: 4-29-96

MYRNA ERWAY
CITY CLERK

BY _____

RECEIVED

APR 23 1996

CALIFORNIA COASTAL COMMISSION SOUTH COAST DISTRICT

RESOLUTION NO. 96-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE APPROVING THE CITY OF SAN CLEMENTE LOCAL COASTAL PROGRAM

WHEREAS, pursuant to Division 20, commencing with Section 30000, of the California Public Resources Code, the California Coastal Act, the City of San Clemente, has prepared a Local Coastal Program for the portion of the City located within the coastal zone; and

WHEREAS, the California Coastal Act provides for the exclusion from coastal development permit process of certain categories of development within specifically defined geographic areas if the California Coastal Commission finds that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast; and

WHEREAS, pursuant to Section 30503 of the California Public Resources Code and Section 65351 of the California Government Code, the Planning Commission of the City of San Clemente held duly advertised public hearings on all aspects of said Local Coastal Program on December 5, 1995, December 19, 1995, and February 6, 1996, and all interested persons were given the opportunity to be heard; and

WHEREAS, on February 6, 1996, the Planning Commission of the City of San Clemente adopted Resolution Nos. PC 95-53 and PC 95-49 recommending approval of the San Clemente Local Coastal Program, including certain categorical exclusions from the coastal development permit process; and

WHEREAS, pursuant to Section 30503 of the California Public Resources Code and Section 65351 of the California Government Code, the City Council of the City of San Clemente held a duly noticed public hearing on all aspects of said Local Coastal Program on March 6, 1996, and all interested persons were given the opportunity to be heard; and

WHEREAS, the San Clemente Local Coastal Program constitutes all of the following documents, copies of which are on file with the City Clerk's Office:

1. City of San Clemente Coastal Element Land Use Plan;

2. City of San Clemente Zoning Ordinance, Title 17 of the Municipal Code, including, but not limited to, Chapter 7, Coastal Development Permit Review Process, and Chapter 15, Coastal Zone Overlay District, and Chapter 21, Definitions;

3. Pier Bowl Specific Plan;

EXHIBIT NO. 9
APPLICATION NO.
SAN CLEMENTE LP
RES 96-11 (LCP)
California Coastal Commission

4. City of San Clemente Zoning Map; and

WHEREAS, pursuant to Section 30510 of the California Public Resources Code, the City is authorized to submit its Local Coastal Program to the California Coastal Commission for review and approval provided that the Local Coastal Program is certified by a resolution adopted following a public hearing and contains materials sufficient for a thorough and complete review.

WHEREAS, the preparation and adoption of the Local Coastal Program is statutorily exempt from the California Environmental Quality Act pursuant to Section 21080.9 of the California Public Resources Code;

NOW, THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: The San Clemente Local Coastal Program, which includes the San Clemente Coastal Element Land Use Plan, San Clemente Zoning Map, Pier Bowl Specific Plan, and Title 17 of the Municipal Code, the San Clemente Zoning Ordinance including, but not limited to, Chapter 7, Coastal Development Permit Review Process, and Chapter 15, Coastal Zone Overlay District, and Chapter 21, Definitions, is hereby approved.

Section 2: The San Clemente Local Coastal Program shall be submitted to the California Coastal Commission for approval and certification.

Section 3: In accordance with California Code of Regulations, Title 14, Division 5.5, 13518, the San Clemente Local Coastal Program shall take effect automatically upon California Coastal Commission approval pursuant to California Public Resource Code Sections 30512, 30513 and 30519.

ADOPTED, SIGNED and APPROVED this 6th day of March, 1996.

MAYOR OF THE CITY OF SAN CLEMENTE

ATTEST:

CITY CLERK OF THE CITY OF SAN CLEMENTE

Approved as to Form

City Attorney

RECEIVED
APR 25 199
CALIFORNIA
COASTAL COMMISSI
SOUTH COAST DISTR

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF SAN CLEMENTE)

I Myrna Erway, duly elected City Clerk of the City of San Clemente, California, do hereby certify that the foregoing Resolution Number 96-11 was duly and regularly adopted by the City Council of the City of San Clemente at a regular meeting thereof held the 6 th day of March, 1996, by the following roll call vote:

AYES: AHLE, ANDERSON, DIEHL, HAGGARD, MAYOR APODACA
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

Myrna Erway
City Clerk

a:\21811931

Section 2: Chapter 15, Coastal Zone Overlay District, as set forth in Exhibit "B" attached hereto and incorporated herein by this reference, is hereby added to Title 17 of the San Clemente Municipal Code, the Zoning Ordinance.

Section 3: Chapter 21, Definitions, of Title 17 of the San Clemente Municipal Code, the Zoning Ordinance, is hereby amended by adding new definitions as set forth in Exhibit "C" attached hereto and incorporated herein by this reference.

Section 4: The Planning staff is hereby authorized and directed to make any and all necessary nonsubstantive modifications, as identified in Exhibit "D" attached hereto and incorporated herein by this reference, to the Chapters set forth in Exhibits "A," "B" and "C," including, but not limited to, revising chapter and section numbers and amending references to other code sections.

Section 5: Severability.

The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance or the Codes hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, by the California Coastal Commission or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance and the Codes hereby adopted shall remain in full force and effect.

Section 6: Effective Date.

This Ordinance shall become effective upon certification of the San Clemente Local Coastal Program by the California Coastal Commission.

Section 7: The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published in the manner prescribed by law.

ADOPTED, SIGNED and APPROVED this 20th day of March, 1996, 1996.

MAYOR OF THE CITY OF SAN CLEMENTE

ATTEST:

CITY CLERK OF THE CITY OF SAN CLEMENTE

FS2S61\062266-0160\2185708.1 a02/28/96

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF SAN CLEMENTE)

I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Ordinance No. 1173was regularly introduced at the Regular City Council meeting of March 6, 1996, the reading in full thereof unanimously waived, and was adopted at a Regular City Council meeting held on the 20 day of March 1996 by the following vote:

AYES: AHLE, ANDERSON, DIEHL, HAGGARD, MAYOR APODACA

NOES: NONE

ABSENT: NONE

Myrna Erway
CITY CLERK of the City of
San Clemente, California

Approved as to form:

/S/ Jeffery Oderman
City Attorney

I, MYRNA ERWAY, CITY CLERK OF THE CITY OF SAN CLEMENTE, STATE OF CALIFORNIA, HEREBY CERTIFY UNDER PENALTY OF PERJURY THE FOREGOING INSTRUMENT TO BE A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL NOW ON FILE IN MY OFFICE.

DATE: 3-29-96

Myrna Erway
MYRNA ERWAY
CITY CLERK

BY: _____

RESOLUTION NO. 97- 18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A NEGATIVE DECLARATION AND APPROVING THE WEST PICO CORRIDOR SPECIFIC PLAN (SP 96-01)

WHEREAS, the City of San Clemente has initiated consideration of a specific plan for the West Pico Corridor in order to implement the policies of the General Plan for the area; and

WHEREAS, the City's Development Management Team has reviewed the subject specific plan for compliance with General Plan policies and applicable City ordinances; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Guidelines, staff completed an Initial Study for the above referenced project and determined that the proposed project would not have any significant environmental effects and that a Negative Declaration is recommended; and

WHEREAS, on March 18, 1997, the Planning Commission held a duly-noticed public hearing on the proposed specific plan and recommended approval; and

WHEREAS, on April 16, 1997, the City Council of the City of San Clemente held a duly-noticed public hearing on the proposed specific plan and considered evidence presented by City staff and other interested parties.

NOW, THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1: Pursuant to CEQA Guidelines Section 15063, an Initial Study has been prepared for this project. After reviewing the Initial Study, the proposed Negative Declaration, and all comments received during the public review process, the Planning Commission recommends the City Council approve a Negative Declaration reflecting the independent judgment of the City of San Clemente and determine that the project will not have a significant impact upon the environment. Those records are retained in the Planning Division of the City of San Clemente.

Pursuant to Title 14, California Code of Regulation Section 753.5(c)(1), the City Council has determined that, after considering the record as a whole, there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources of the habitat upon which the wildlife depends. Furthermore, on the basis of substantial evidence, the City Council hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code Section 711.2 and Title 14, California Code of Regulations Section 753.5(a)(3), the project is not required to pay Fish and Game Department filing fees.

EXHIBIT NO. 12
APPLICATION NO.
SAN CLEMENTE
Res. 97-18
PICO CORRIDOR
California Coastal Commission

SP 96-01: Pico Corridor Specific Plan

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF SAN CLEMENTE)

I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 97-17 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 16th day of April, 1997, by the following vote:

AYES: ANDERSON, APODACA, BERG, DAHL
NOES: NONE
ABSENT: MAYOR AHLE

Myrna Erway
CITY CLERK of the City of
San Clemente, California

Approved as to form:

STATE OF CALIFORNIA - THE RESOURCES AGENCY PETE WILSON, Governor

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

MEMORANDUM

DATE: October 15, 1997

TO: Commissioners and Interested Persons

FROM: South Coast District Staff

SUBJECT: Request to extend 90 day time limit for Commission hearing and action on the City of San Clemente's Land Use Plan Amendment and Implementation Plan Submittal 1-97

On April 23, 1996 the City of San Clemente submitted Local Coastal Program implementation plan 1-97 to South Coast Commission staff. On May 7, 1996 Commission staff notified the City of San Clemente that the application was incomplete. On June 4, 1996 the City of San Clemente submitted most of the items requested, however, the application was still deemed incomplete pending submittal of a final zoning map.

On July 28, 1997 the City of San Clemente submitted their final map and revised their submittal to include a parking waiver program for the downtown area and the West Pico Corridor Specific Plan. Staff determined that the West Pico Corridor Specific Plan involved changes in land use designations and therefore required a Land Use Plan amendment.

On August 15, 1997 Commission staff received a letter from the City of San Clemente agreeing to characterize the West Pico Corridor Specific Plan as a Land Use Plan amendment. On August 15, 1997 the implementation plan and land use plan amendment submittal was deemed complete, pursuant to the requirements of Section 13520 of the California Code of Regulations and Section 30510 of the Coastal Act. The 90 day deadline for the submittal to come to hearing is November 13, 1997.

Pursuant to Section 30512 of the Coastal Act, a land use plan amendment must be acted on by the Commission within 90 days of complete submittal. An implementation plan must be acted on by the Commission within 60 days of complete submittal. In the case where there is an implementation plan and a land use plan amendment, the longer time period prevails.

Section 30517 of the Coastal Act and Section 13535(c) of the California Code of Regulations states that the Commission may extend for good cause the 90 day itme limit for a period not to exceed one year. Commission staff is requesting this extension in order to fully analyze the amendment submittal. The City of San Clemente has been consulted and does not object to the extension request.

EXHIBIT NO. 12
APPLICATION NO. SAN CLEMENTE 1
90-DAY EXTENSION
California Coastal Commission

STAFF RECOMMENDATION: Staff recommends that the Commission extend the 90 day time limt to act on San Clemente land use plan amendment and implementation plan submittal 1-97 for a period not to exceed one year.

MOTION:

I move that the Commission extend the 90 day time limit to act on the San Clemente Land Use Plan Amendment and Implementation Plan submittal 1-97 for a period not to exceed one year.

STAFF RECOMMENDATION:

Staff recommends a YES vote. An affirmative vote of a majority of the Commissioner's present is needed to pass the motion.

0113G

City of San Clemente
Planning Division
Jim Pechous, Associate Planner
Phone: (714) 498-2533 x3304 Fax: (714) 361-8281

August 4, 1997

Robin Maloney-Rames, Coastal Program Analyst
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302

Dear Robin:

As we discussed, the City has amended our Local Coastal Program (LCP) application to include the Pico Corridor Specific Plan and the Parking Wavier Program. City staff has completed our review of your proposed changes to the Coastal Development Permit review process. These comments are attached. The comments include recommended revisions and a request for clarification. After you have had a chance to review City staff's comments, please give me a call to discuss them. We appreciate the opportunity to comment on the suggested modifications prior to the hearing. Please forward any additional suggested modifications to the City as they become available. I anticipate that there will be a steady dialogue between the City and Coastal Commission staff up to the LCP public hearing date.

The San Clemente City Council has made the final certification of the LCP a high priority. The City's goal is to be certified by the beginning of 1998. It order to meet this goal it is important that from this point forward, the City and Coastal staff work diligently toward the LCP's completion.

Please let us know if there is any additional information necessary for Coastal Staff's review of the San Clemente LCP and the date and location of the Coastal Commission hearing.

Sincerely,

Jim Pechous
Associate Planner

Attachments

cc: James B. Hare, City Planner
Kelly Main, Associate Planner

i:\pechlcp.doc

EXHIBIT NO. 13
APPLICATION NO.
SAN CLEMENTE 1
AMEND SUBMITTAL
California Coastal Commission

STATE OF CALIFORNIA - THE RESOURCES AGENCY PETE WILSON, *Governor*

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

EXHIBIT NO. 14
APPLICATION NO.
SAN CLEMENTE LP
LP COMPLETE
California Coastal Commission

September 3, 1997

James B. Hare
City Planner
City of San Clemente
910 Calle Negocio, Ste. 100
San Clemente, CA 92673

Re: Completion of City's Submittal of Implementation Plan LCP 1-97
LUP Amendment 1-97

Dear Mr. Hare:

This office has received your letter dated August 15, 1997 in which the City of San Clemente agrees that the West Pico Corridor Specific Plan requires an amendment to the certified Land Use Plan. For purposes of Commission action this land use plan amendment has been designated "City of San Clemente Land Use Plan Amendment No. 1-97."

Pursuant to Section 13520 of the California Code of Regulations this submittal has been reviewed by Coastal Commission staff and found to be in proper order and legally adequate to comply with the filing requirements of Section 30510 of the Coastal Act. Therefore, the City of San Clemente's implementation plan portion of the Local Coastal Program is complete as of August 15, 1997.

In addition to the implementation plan portion of the LCP the City's submittal also includes a land use plan amendment, i.e., the West Pico Corridor Specific Plan. The specific plan involves changes in land use designations and as such is considered a major amendment. Pursuant to Section 13553 of the California Code of Regulations this land use plan amendment has been reviewed by Coastal Commission staff and found to be in proper order and legally adequate to comply with the filing requirements of Section 30510 of the Coastal Act. Therefore, the amendment has been deemed properly submitted effective August 15, 1997.

From the date of filing, the Commission has up to ninety (90) days in which to act on a local coastal program amendment involving changes to both the land use plan and implementation program. The 90 day time period expires on November 13, 1997. Coastal Commission staff anticipates that the amendment will be placed on the Commission's agenda for the November 4-7, 1997 hearing to be held in Agoura Hills. You will be sent a formal meeting notice once the actual agenda is set for this hearing.

Thank you for your cooperation and your hard work in completing the implementation plan submittal. Staff looks forward to begin meeting with the City to discuss draft suggested modificaitons within the next few weeks.

If you have any questions, please call the analyst assigned to the project, Robin Maloney-Rames, at the Long Beach offices of the California Coastal Commission (562) 590-5071.

Sincerely yours,

Teresa Henry

Teresa Henry
District Manager

cc: CD, TH, SR, RMR, RR, FILE

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CHAPTER 7

COASTAL DEVELOPMENT PERMIT REVIEW PROCESS

RECEIVED
APR 23 1996
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Section

7.010	Purpose and Intent
7.020	Applicability
7.030	Determination of Type of Coastal Review
7.040	Authority to Grant a Coastal Development Permit
7.050	Exemptions for Existing Development
7.055	Exemptions for New Development
7.060	Waiver of Permit Requirements for De Minimis Development
7.070	Preapplication Review
7.080	Application Review
7.090	Coastal Development Permit Hearing
7.100	Notice Procedures
7.110	Appeals
7.120	Emergency Coastal Development Permits
7.130	Permit Jurisdiction for Development Carried Out Before LCP Certification
7.140	Assignment of Permits
7.150	Amendments to Coastal Development Permits
7.160	Coastal Development Permit Revocations
7.170	Judicial Review, Enforcement and Penalties
7.180	Coastal Commission Review of Documents
7.190	Amendments to the Local Coastal Program

Section 7.010 Purpose and Intent

The purpose and intent of this Chapter is to establish a procedure for the processing of Coastal Development Permits within the City's Coastal Zone that are consistent with the City's Certified Local Coastal Program, the California Coastal Act, and the California Administrative Code of Regulations. The Local Coastal Program encourages new development in the Coastal Zone that is designed to minimize impacts to coastal resources and to protect the public health, safety, and welfare.

In order to maintain the unique qualities of the Coastal Zone, i
valuable natural resources, this Chapter provides the maxim
development which may have the potential to adversely impact

SAN CLEMENTE IP
ATTACHMENT # A
CHAPTER 7

Section 7.020 Applicability

Except as provided by Sections 7.050 and 7.055, any person, partnership, or corporation, or state or local governmental agency wishing to undertake any development, as defined in Chapter 21, in the Coastal Zone (CZ Overlay District), shall obtain a Coastal Development Permit under the provisions of this chapter, in addition to any other permit required by law. Development undertaken pursuant to a Coastal Development Permit shall conform to the plans, specifications, terms and conditions approved or imposed in granting the permit.

The City of San Clemente zoning map, on record with the Community Development Department, indicates all property within the Coastal Zone by adding a "CZ" to the base zoning district designator. The regulations of this Chapter shall apply in addition to the regulations of any district with which the CZ District is combined.

Where the plans, policies, requirements or standards of the Local Coastal Plan, as applied to any project in the CZ overlay district, conflict with those of the underlying zoning district or other provisions of the zoning ordinance, the plans, policies, requirements or standards of the Local Coastal Plan shall take precedence.

Section 7.030 Determination of Type of Coastal Review

The intent of this section is to identify how to determine the type of coastal review required for development within the Coastal Zone. The type of Coastal Development Permit review varies depending on which of the three permit and appeal jurisdiction areas a project is located. Whether a project lies within the Coastal Commission Permit Jurisdiction Area, the City Permit Jurisdiction Area Appealable to Coastal Commission, or the City Permit Jurisdiction Area - Not Appealable to Coastal Commission, is determined by the City of San Clemente Permit and Appeal Jurisdiction Map.

A. Determining the Type of Coastal Review Required

The City Planner is responsible for determining the type of coastal review required for development proposals within the CZ Overlay District. The City Planner shall make this determination based on the provisions of this chapter, the project's location, and the information submitted with the application. Development within the Coastal Zone shall require one of the following types of coastal review:

1. Coastal Commission Permit Jurisdiction Area

   Development located within the area identified as the "Permit Jurisdiction" on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map, shall obtain a Coastal Development Permit directly from the Coastal Commission. The Coastal Commission Permit Jurisdiction Area includes any new development below the mean high tide line. An example of development that requires a Coastal Development Permit from the Coastal Commission would be the expansion of the restaurant on the City Municipal Pier.

2. City Permit Jurisdiction Area - Appealable to Coastal Commission

   Development located within the area identified as the "Appeal Jurisdiction" as shown on the City of San Clemente Post Local Coastal Program Certification and Appeal Jurisdiction Map requires a Coastal Development Permit be obtained from the City. This type of application is appealable to the City Council and the Coastal Commission. The appeal jurisdiction area includes development that is within 300 feet of the beach, the first public road and the beach, or within 100 feet of a stream. An example of this type of development is a structure proposed on a coastal bluff top.

3. Development within the City Permit Jurisdiction Area - Non-Appealable to Coastal Commission

   Development located outside of the area identified as the "Permit Jurisdiction" or the "Appeal Jurisdiction," as shown on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map, requires a Coastal Development Permit be obtained from the City. This type of application is appealable to the City Council, but is not appealable to the Coastal Commission. This includes the area within the Coastal Zone that is located outside the appealable area. An example of this type of development is a structure proposed east of the first public road parallel to the beach.

4. Development determined to be exempt

   The development determined to be exempt, in accordance with Section 7.050, does not require a Coastal Development Permit. An example of development that may be exempt from Coastal Development Permit requirements is an addition to an existing single family home located in an area not appealable

to the Coastal Commission. Section 7.050 and 7.055 specifies development categories exempt from the requirements of this chapter.

B. Questions on the Determination of the Type of Coastal Review Required

If it is unclear which type of coastal review described in subsection A is required, the City Planner may request a Coastal Commission determination as to the appropriate type of Coastal Development Permit review. In addition, an applicant or other interested party may request a determination by the Coastal Commission as to the appropriate type of Coastal Development Permit review required by submitting a written request for a Coastal Commission determination to the City Planner. When a request for a determination is made, by either the City Planner, the applicant or other interested party, the following procedures shall be followed:

1. The City shall notify the Coastal Commission, by telephone, about the dispute/question and shall request the Executive Director's opinion.

2. The Executive Director shall, within two (2) working days of the City's request or upon a timely site inspection where such inspection is warranted, transmit his or her determination as to whether the development is exempt, non-appealable, or appealable.

3. If there is a disagreement between the City and the Executive Director, the determination shall be subject to a hearing before the Coastal Commission. The purpose of the hearing shall be to determine the appropriate type of coastal review required for the project. The Coastal Commission shall schedule the hearing on the determination for the next Coastal Commission meeting (in the appropriate geographical region in the state) following the City's request.

Section 7.040 Authority to Grant a Coastal Development Permit

This section identifies the review body responsible for the approval, conditional approval, or denial of Coastal Development Permits. The review body responsible for a project is based on the project's scope and location.

A. Projects Requiring Other Discretionary Approvals

Authority to approve, conditionally approve, or deny a Coastal Development Permit for a project shall be the responsibility of the Zoning Administrator, the Planning Commission, or the City Council, whichever has responsibility for final approval of other discretionary permits required for the project.

B. Projects that Only Require a Coastal Development Permit

Projects that require no other discretionary approvals, other than a Coastal Development Permit, shall be the responsibility of the Zoning Administrator.

C. Coastal Commission

The Coastal Commission shall have authority for all development proposed in the "Coastal Commission Permit Jurisdiction" Area as delineated on the City of San Clemente Permit Jurisdiction Map filed with the City as amended. Where a proposed development lies partially within the Coastal Commission Permit Jurisdiction Area, the Coastal Commission shall be the responsible agency for the issuance of the Coastal Development Permit.

Section 7.050 Exemptions for Existing Development

The California Coastal Act provides exemptions from Coastal Development Permit requirements for development that has no potential to significantly impact coastal resources. This section identifies development that may be exempt from Coastal Development Permit requirements because it does not have any significant impact on coastal resources. This section also identifies specific situations where development that is ordinarily exempt has a potential to impact coastal resources and therefore requires a Coastal Development Permit. For example, an addition to a single-family residence ordinarily has no impact to coastal resources. However, if the addition to a residence is located adjacent to a coastal bluff or a sensitive habitat area, and impacts coastal resources, it would require a Coastal Development Permit.

A. Potential to Adversely Affect Coastal Resources

No development shall be exempt from a Coastal Development Permit under this section when it is determined that the development has a potential to adversely affect coastal resources.

B. Development Determined to be Exempt

Development determined to be exempt under this section shall be to the procedures specified in **Section 7.100A.**

C. Development Categories that may be Exempt from Coastal Development Permit Review.

The following are general development categories that do not have any significant impact on coastal resources and are therefore exempt from Coastal Development Permit requirements. However, within the general development categories, there are specific types of development that do have a potential to impact coastal resources and, therefore, require a Coastal Development Permit.

1. Improvements to Single-Family Dwellings

a. Exempt from review

Improvements to existing single-family dwellings and/or mobile homes are exempt from a Coastal Development Permit, provided the project does not involve any of the situations specified in subsection 1.b below. Improvements to single-family dwellings include fixtures and other structures directly attached to a residence, landscaping, garages, swimming pools, fences, storage sheds and other similar structures.

b. Require review

The following types of improvements to single-family dwellings and/or mobile homes require a Coastal Development Permit:

(i) Guest house.

(ii) Improvements to a structure located on a beach or where the structure would encroach within 50 feet of a coastal bluff edge.

(iii) Improvements to any structure located within the refer to Appeal Jurisdiction (as indicated on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map) and would result in any of the following:

(a) Improvement that would result in the increase of 10 percent or more of the floor area of an existing struc-

ture(s) on the building site or when the combination of improvements to a structure results in an aggregate increase in floor area of 10 percent or more.

(b) The construction of an additional story or loft, or an increase in building height of more than 10 percent.

(c) The construction, placement or establishment of any significant detached structure as determined by the City Planner. Examples of significant detached structures include, but are not limited to, a garage, wall, fence, or shoreline protective works.

(iv) Any improvement where the Coastal Development Permit issued for the original structure indicates that future additions would require a Coastal Development Permit.

(v) Significant alteration of land forms, as determined by the City Planner, within 50 feet of a coastal bluff edge, or within a sensitive habitat area including the grading or removal or placement of vegetation on a beach.

2. Existing Structures other than Single-Family Dwellings and Public Works Facilities:

a. Exempt from review

Improvements to an existing structure other than single-family dwellings or public works facilities are exempt from a Coastal Development Permit, provided the project does not involve any of the situations specified in subsection 2.b below. Improvements to an existing structure, other than a single-family dwelling, include fixtures and other structures directly attached to the principal structure and landscaping.

b. Require review

The following types of improvements to an existing structure, other than single-family dwellings or public works facilities, require a Coastal Development Permit:

(i) Improvements specified in Section 7.050.C.1.b(i)-(v).

(ii) Improvements to a structure that would result in a change in intensity of use of the structure. An intensification of use means a change in the use of a lot or structure that, as a result of the underlying zone, requires more off-street parking than did the immediately prior use of the lot or structure.

(iii) The conversion of a multi-family residential structure into a condominium or stock cooperative.

(iv) Any grading of a land form or removal of vegetation on a beach, within 100 feet of a coastal bluff edge or in a sensitive habitat area.

3. Protection of Shoreline Repair and Maintenance Activities:

a. Exempt from review

Repair or maintenance of shoreline protective works are exempt from a Coastal Development Permit, provided the project does not involve any of the situations specified in subsection 3.b below.

b. Require review

The following types of repair or maintenance activities require a Coastal Development Permit:

(i) Repair or maintenance of shoreline protective works that result in the addition, enlargement or expansion of a protective works structure.

(ii) Repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groine, culvert, outfall or similar shoreline protective work which involves:

(a) Substantial alteration of the foundation including pilings and other surface and subsurface structures;

(b) The placement, whether temporary or permanent, of artificial berms of sand, rip-rap, or any other form of solid material, on a shoreline protective works, a beach or in coastal waters, streams, wetlands, and estuaries;

(c) The replacement of 20 percent or more of the materials of an existing structure with material of a different kind;

(d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, within 50 feet of a coastal bluff edge or within 20 of coastal waters or streams.

(iii) The replacement of 20 percent or more of a sea wall revetment, bluff retaining wall, breakwater, groine, or similar shoreline protective work under one ownership, unless destroyed by natural disaster.

(iv) Any method of routine maintenance dredging that involves:

(a) The dredging of 100,000 cubic yards or more within any 12 month period;

(b) The placement of dredged spoils of any quantity on any sand area, within 50 feet of a coastal bluff edge, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams;

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

(v) Any repair or maintenance of facilities or structures or work located in any sand area, within 50 feet of a coastal bluff edge or environmentally sensitive habitat area; or within 20 feet of any coastal waters and streams that include:

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

(b) The presence, whether temporary or permanent, of mechanized equipment or construction materials, except

for use of such equipment solely for routine beach cleaning and park maintenance.

4. Utility Connection

The installation, testing, and placement in service or the replacement of any necessary utility connection, between an existing service facility and any development, is exempt from Coastal Development Permit review.

5. Roadway/Transportation Maintenance

The ongoing routine repair or maintenance activities of the City, state agencies, and public utilities (such as railroads) involving shoreline works protecting transportation roadways are exempt from Coastal Development Permit review.

6. Replacement of Structures Following Disaster:

Replacement of any structure, other than a public works facility, destroyed by natural disaster is exempt from Coastal Development Permit review, provided such replacement structure is designed and intended for the same use as the destroyed structure and further, such replacement structure does not exceed the floor area, height or bulk of the destroyed structure by more than ten percent and is situated in the same location on the same building site as the destroyed structure.

Section 7.055 Exemptions for New Development

The California Coastal Act allows cities to exempt certain types of new development categories within specific geographical areas (or exclusion areas) from the requirements of a Coastal Development Permit when the development has no potential to significantly impact coastal resources. This section identifies development that may be exempt from Coastal Development Permit requirements because it does not have any significant impact on coastal resources. This section also identifies specific situations where development that is ordinarily considered exempt, nevertheless, has a potential to impact coastal resources and therefore requires a Coastal Development Permit. For example, the development of a new single family residence would not ordinarily have an impact to coastal resources, however, if a residence is located in proximity to a coastal bluff or a sensitive habitat area and impacts coastal resources it would require a Coastal Development Permit.

A. Potential to Adversely Affect Coastal Resources

No development shall be exempt from a Coastal Development Permit under this section when it is determined that the development has a potential to adversely affect coastal resources.

B. Development Determined to be Exempt

Development determined to be exempt under this section shall be subject to the procedures specified in **Section 7.100A.**

C. Development Categories that may be exempt from Coastal Development Permit Review.

The following general development categories do not have any significant impact on coastal resources and are therefore exempt from Coastal Development Permit requirements. Within the general development categories, there are specific types of development that do have a potential to impact coastal resources and therefore require a Coastal Development Permit.

1. New Single and Multi-Family Development

   a. Exempt from review

      The construction of single and multi-family dwellings including improvements, accessory structures (such as garages, swimming pools.

fences, storage sheds, and landscaping) in designated RL, RML, RM and RH zones is exempt from Coastal Development Permit review, provided the project does not involve any of the situations specified in subsection 1.b below.

b. Require review

The construction of single and multifamily dwellings requires a Coastal Development Permit in the following instances:

(i) Development of a single or multi-family structure located within the "Appeal Jurisdiction (as indicated on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map).

(ii) Development that requires one or more City discretionary approvals (e.g. Conditional Use Permit, Variance, Parcel Map, Tract Map, Site Plan Review).

2. New Commercial and Industrial Structures

a. Exempt from review

The construction of a commercial structure in the MU, CRC, CC and NC zones or the construction of a light industrial structure in the I 1 zone is exempt from Coastal Development Permit review provided the project does not involve any of the situations specified in subsection 2.b below.

b. Require review

The construction of a commercial or light industrial structure requires a Coastal Development Permit in the following instances:

(i) Development of a commercial or light industrial structure located within the Appeal Jurisdiction (as indicated on the City of San Clemente Post Local Coastal Program Certification Permit and Appeal Jurisdiction Map).

(ii) Development that requires one or more City discretionary approvals (e.g., Conditional Use Permit, Variance, Parcel Map, Tract Map, Site Plan Review).

3. Demolition of Single-Family Residential, Commercial and Industrial Structures.

a. Exempt from review

The demolition of the following are exempt from Coastal Development Permit review, provided the project does not involve any of the situations specified in subsection 3.b, below: a single-family residence or accessory structures in the RL, RML, RM and RH zones; commercial structure in the MU, CRC, CC and NC zoning zones, and any light industrial structure in the I 1 zone.

b. Require review

The demolition of a single-family dwelling or accessory structures in the RL, RML, RM and RH zones, commercial structure in the MU, CRC, CC and NC zones, and any light industrial structure in the I 1 zone require a Coastal Development Permit in the following instances:

(i) Demolition of motels and hotels;

(ii) Demolition of residential dwellings of three or more units that are occupied by persons or families of low or moderate income as defined in Section 50093 of the California Health and Safety Code, as amended.

(iii) The demolition of a residential structure for the conversion to a commercial use which is not a "coastal dependent," use as defined in Section 30101 of the California Public Resource code, as amended.

4. Municipal Improvement Projects

a. Exempt from review

Municipal improvement projects undertaken by the City are exempt from Coastal Development Permit review, provided the project does not involve any of the situations specified in subsection 4.b, below.

b. Require review

Municipal projects (e.g. road improvements, street planting, parks maintenance etc.) undertaken by the City require a Coastal Development Permit in the following instances:

(i) Bluff modifications, channelization, or other projects that would decrease vehicular capacity of public streets by more than 10 percent.

(ii) Projects within an environmentally sensitive habitat area or within 50 feet of a coastal bluff edge.

(iii) Projects that exceed a cost of $50,000.

5. Signs

a. Exempt from review

Signs that do not require a sign exception permit pursuant to the provisions in Chapter 14 of this code are exempt from Coastal Development Permit review.

F. Temporary Uses:

Temporary uses pursuant to Chapter 6, Section 6.270 of this code are exempt from Coastal Development Permit review.

Section 7.060 Waiver of Permit Requirements for De Minimis Development

This section identifies the procedures to process waivers from Coastal Development Permit requirements for projects that do not qualify for an exemption but are determined to be de minimis.

A. Application

The City Planner may issue a waiver from Coastal Development Permit review requirements for development within the Appeal Jurisdiction in accordance with this section after review of a complete application pursuant to Section 7.080. Projects that are within the Appeal Jurisdiction can not be waived from Coastal Development Permit review. If, upon review of the application, the City Planner determines that the Coastal Development Permit review requirements may be waived, the applicant shall post public notice as required in Section 7.100, where applicable, and shall provide any additional notice to the public that the City Planner deems appropriate. The notice provided pursuant to Section 7.100 shall provide that a public hearing shall be held only upon request and shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal any action taken by the City on the Coastal Development Permit application. The City Planner shall notify any person known to be interested in the proposed development of the waiver request.

B. Required Finding

The City Planner may only issue a waiver if the proposed project is consistent with the Local Coastal Program, the proposed project requires no discretionary approval other than a Coastal Development Permit and a finding can be made that the proposed project is de minimis and has no impact on coastal resources. A proposed project is de minimis when it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and it is consistent with the policies of the California Coastal Act and Chapter 3 of the Coastal Element Land Use Plan.

C. Report to the Planning Commission

Issuance of the waiver shall not take effect until the City Planner has sent a report to the Planning Commission. A report on a waiver shall be scheduled at the next Planning Commission meeting after the waiver has been issued. The report on the

waiver shall include a sufficient description of the project and how the project is de minimis with respect to the policies of the Local Coastal Plan. A list of waivers issued by the City Planner shall be available for public inspection at the meeting during which the waivers will be reported. If the Planning Commission requests that the waiver not be effective, the applicant is required to obtain a Coastal Development Permit if the applicant wishes to proceed with the development.

Section 7.070 Preapplication Review

A prospective applicant may request a preapplication review for a Coastal Development Permit in accordance with Chapter 3, Section 3.020 of the Zoning Ordinance.

Section 7.080 Application Review

This section specifies the City's requirements for the submittal and the processing of a Coastal Development Permit.

A. Submittal Requirements

Application for a Coastal Development Permit shall be made to the Planning Division on the Coastal Development Permit application forms provided by the Planning Division. The Coastal Development Permit application form shall require that all the information listed herein be included with any submittal for a Coastal Development Permit. Coastal Development Permit application forms may be amended from time to time to require additional information needed to assess a project's impacts on coastal resources but shall in no case require less than the minimum submittal requirements established by the California Coastal Act. The minimum information that shall be included in an application for a Coastal Development Permit includes:

1. Payment of a fee, as set by resolution of the City Council, as amended from time to time;

2. Public notification material required for public hearings on the Coastal Development Permit;

3. The signature of the property owner of record or the owner's authorized agent;

4. A location map showing the area to be developed in relation to nearby lots, streets, highways, and major natural features such as the ocean, beaches, wetlands, and other major landforms;

5. A site plan, drawn to scale, showing:

   a. Existing and proposed structures, roads, utility lines, signs, fences, access ways and other improvements;

   b. All existing and proposed topography, including, when applicable the location of the bluff and/or the canyon edge;

   c. All existing and proposed structures, roads, utility lines, signs, fences, access ways and other improvements;

   d. Major natural and man-made landscape features, including the location, type and size of any trees or other vegetation to be removed or planted;

6. Additional information determined by the City Planner to be necessary for the evaluation of the proposed development. A determination for additional information shall be made within 30 days of the date when the Coastal Development Permit application is submitted.

B. Required Findings

A Coastal Development Permit application may be approved or conditionally approved only after the appropriate discretionary body has reviewed the development project and has made all of the following findings:

1. That the project, as described in the application and accompanying plans and materials, as modified by any conditions of approval, conforms with the plans. policies, requirements and standards of the City of San Clemente Certified Local Coastal Program;

2. The project is located in the Appealable Jurisdiction (as identified in the City of San Clemente Permit Jurisdiction Map), and said project conforms with the policies of Chapter 3 of the Coastal Element Land-Use Plan and the public access policies of Chapter 3 of the California Coastal Act (commencing with Section 30200 of the California Public Resource Code).

C. Conditions

In approving an application for a Coastal Development Permit, the approving body may impose conditions necessary to ensure the project is in conformance with the Local Coastal Program. Projects located within the Appealable Jurisdiction shall include a condition regarding public access as required by Chapter 15, Section 15.120. When conditions pertaining to public access and/or open space or conservation easements are imposed, notification of such action shall be submitted to the Executive Director of the Coastal Commission in accordance with Chapter 15, Section 15.130.D.

D. Effective Date of Decision

A Coastal Development Permit decision that is subject to appeal shall not become effective until:

1. For appealable projects

   a. Adequate Notice of Final Action, as provided in Section 7.100.D, has been received in the appropriate district office (Long Beach) of the Coastal Commission.

   b. The 10 working days of the Coastal Commission appeal period has expired and a valid appeal was not filed (in accordance with Section 7.110).

2. For non-appealable projects

   a. Adequate Notice of Final Local Action, as provided in Section 7.100.D, has been received in the appropriate district office (Long Beach) of the Coastal Commission.

   b. The City Appeal period, as provided Section 7.100, has expired.

E. Expiration of a Coastal Development Permit

A Coastal Development Permit approval shall expire:

1. On the latest expiration date applicable to any other permit or approval required for the project, including any extension(s) granted for such other permits or approvals.

2. Should the project not require other City permits or approvals, within the time period specified in the approval of the Coastal Development Permit or, if a time period is not specified, within one year, the time period during which a project must be commenced starts on the effective date of a decision approving a project, as defined in subsection D above.

F. Extension of Time

1. Authority

The approving authority for the original Coastal Development Permit application, as described in Section 7.040, may grant a reasonable extension of time based on showing of cause when the findings made for the original project still apply.

2. Submittal of extension request

a. Time limits on submitting extension requests

A request for an extension of time shall only be considered by the City if a written request is filed with the City Planner prior to the approved application's expiration date.

b. Method of request

Request for extensions shall be made in writing and shall state the reasons why an extension is needed.

3. Processing extension request

A request for an extension of time shall be processed in the same manner as the approved application and may be granted or denied. If granted, conditions may be added to the original approved project.

4. Circumstances under which extensions may be granted

A request for an extension of time may be granted if the same findings can be made as were made for the original approved project.

G. Reapplication

An applicant may not file an application for a Coastal Development Permit which is the same as or substantially the same as an application upon which denial has become effective within 12 months, unless the request for reapplication reflects a major change in circumstances and is accepted by a motion of the approving authority.

Section 7.090 Coastal Development Permit Hearing

A. Public Hearings

The appropriate discretionary body specified in Section 7.040 shall conduct a public hearing prior to any action on a Coastal Development Permit where:

1. Action or recommendation on other permits or approvals required for the project provide that a public hearing be conducted;

2. Action is required by the Zoning Administrator; or

3. The project is appealable to the Coastal Commission.

B. Public Hearings on Concurrent Applications

To the extent possible an application for a Coastal Development Permit shall be reviewed in conjunction with any other permit or approval required for the project in accordance with **Chapter 3, Section 3.090**.

C. Public Comment

Any person may submit written comments on an application for a Coastal Development Permit, or on an appeal of a Coastal Development Permit at any time prior to the close of the applicable public hearing. Written comments shall be submitted to the City Planner, or City Clerk for City Council meetings, who shall then forward such comments to the approving body, the applicant and all other appropriate persons.

Section 7.100 Notice Procedures

The following shall constitute the minimum notice requirements for Coastal Development Permits reviewed by the City:

A. Notice of Exempt Development

Development which is exempt from the Coastal Development Permit requirements shall be exempt from notice and hearing requirements of this section. The City shall maintain a record of all permits issued for exempt developments which shall be made available to the Coastal Commission or any interested person upon written request. The record shall include the applicant's name, the location of the project and a brief description of the project. Projects determined to be exempt in accordance with Sections 7.050 and 7.055, shall not require a Notice of Final Action.

B. Noticing of a Public Hearing for Coastal Development Permits

Within 10 calendar days, prior to the first public hearing on a development proposal for a Coastal Development Permit, the City shall provide notice by first class mail of the pending application. The noticing procedures shall be the same for projects appealable and non-appealable to Coastal Commission. This notice shall be provided to:

1. The applicant;
2. All persons who have requested such notice;
3. All property owners within three hundred feet of the proposed project;
4. All residents within one hundred feet of the proposed project; and
5. The Coastal Commission.

Publication in a newspaper of general circulation in the City of San Clemente shall be provided for all Coastal Development Permit public hearings.

The notice of public hearing shall contain the following information:

1. A statement that the development is within the Coastal Zone;
2. The date of filing of the application and the name of the applicant;

3. The number assigned to the application;

4. A description of the proposed development and its proposed location;

5. The date, time and place at which the application will be heard;

6. The general procedure concerning hearings and action on applications; and

7. The procedure for appeals to the City Council and Coastal Commission, including fees required.

C. Final Action

A decision on a Coastal Development Permit shall be deemed final upon the conclusion of the following events:

1. The decision has been made and required findings pursuant to Section 7.080.B are adopted;

2. When all rights of appeal have been exhausted in accordance with Section 7.110; and

3. The Notice of Final Action has been completed in accordance with subsection D, below.

D. The Notice of Final Action

1. Mailing of Notice of Final Action

After all City appeal periods have expired a Notice of Final Action shall be mailed first class to each of the following:

a. The applicant, or his or her duly authorized agent;

b. All persons who have requested notification of action of a particular Coastal Development Permit application; and

c. The Coastal Commission.

2. Contents of the Notice of Final Action

The Notice of Final Action shall include the following:

a. A description of the action taken on the Coastal Development Permit (e.g. approved, approved with conditions or denied);

b. Findings for the approval, conditional approval or denial;

c. The conditions of approval, if any; and

d. The procedures for appeal of the Coastal Development Permit action.

E. Time Limits for Processing Applications

Coastal Development Permit applications shall be processed within the time limits prescribed in Chapter 4.5 of the State Planning and Zoning Law as applied in **Chapter 3, Section 3.070**, Time Limits for Processing Applications.

Section 7.110 Appeals

Development pursuant to an approved Coastal Development Permit shall not commence until all applicable appeal periods expire or, if appealed, until all appeals, including to the Coastal Commission, when applicable, have been exhausted. The action regarding any Coastal Development Permit application may be appealed in compliance with the provisions of Chapter 3, Section 3.140 and with the following additional provisions:

A. Appeals of City Planner, Zoning Administrator and Planning Commission Decisions

Any person may appeal a decision of the City Planner, Zoning Administrator or Planning Commission regarding a Coastal Development Permit to the City Council. An appeal of a decision shall be filed in the office of the City Clerk or with the City Planner on or before the tenth working day following the decision sought to be appealed.

B. Appeals to Coastal Commission

All action on a Coastal Development Permit located within the Appealable Jurisdiction may be appealed to the Coastal Commission by a qualified appellant within 10 working days from the date of Coastal Commission receipt of the Notice of Final Action.

C. Appeals by the City Council

The City Council may appeal any decision by the City Planner, Zoning Administrator, or Planning Commission regarding a Coastal Development Permit by a majority vote of the City Council at a regular City Council meeting.

D. Request to Appeal to Coastal Commission (Qualified Appellant)

An appeal of a Coastal Development Permit to the Coastal Commission may only be filed by the applicant of the Coastal Development Permit in question, an aggrieved person as defined in Chapter 21, or any two members of the Coastal Commission.

E. Grounds for Appeals

An Appeal to the City Council and Coastal Commission for any project shall be limited to an allegation that the development does not conform (or does conform in the case of a denial) to the standards set forth in the Certified Local Coastal Program.

F. Filing of an Appeal

An appeal shall be filed with the Planning Division on a form provided by the City Planner. The appeal shall be accompanied by a fee set by resolution of the City Council and a statement of the grounds for the appeal. It shall be the duty of the City Planner to forward a Coastal Development Permit appeal, together with a recommendation, to the appropriate body.

Section 7.120 Emergency Coastal Development Permit

In the event of a verified emergency, temporary emergency authorization to proceed with remedial measures may be given by the Director of Community Development, through the issuance of an Emergency Coastal Development Permit, until such time as a full Coastal Development Permit application is filed.

A. Application

Application shall be made to the Director of Community Development in writing, if time permits, or in person or by telephone. The information, to be reported at the time of the emergency or within three days after the emergency shall include the following:

1. Nature of the emergency;

2. Cause of the emergency, insofar as this can be established;

3. Location of the emergency;

4. The remedial, protective, or preventive work required to deal with the emergency; and

5. The circumstances during the emergency that appeared to justify the cause(s) of action taken, including the probable consequences, if any, of failing to take action.

B. Limitations

The Director of Community Development shall not grant an Emergency Coastal Development Permit for any development when:

1. The location of the emergency falls within the Permit Jurisdiction or Appeal Jurisdiction; or

2. The emergency work involves the division of land.

In such cases a request for an emergency authorization must be made to the Coastal Commission as provided in Section 13136 et. seq. of Title 14 of the California Code of Regulations.

C. Notice

The following notice procedures shall be followed for an Emergency Coastal Development Permit:

1. The Director of Community Development shall provide notice of the proposed emergency action.

2. The extent and type of the notice shall be determined by the Director of Community Development on the basis of the nature of the emergency.

3. If the nature of the emergency does not allow sufficient time for public notice to be given before the emergency work begins, the Director of Community

Development shall provide public notice of the action taken, or being taken, as soon as is practical.

4. Public notice of the nature of the emergency and the remedial actions to be taken shall be posted on the site in a conspicuous place and mailed to all persons the Director of Community Development has reason to know would be interested in such action and to the Coastal Commission.

D. Findings and Conditions

The Director of Community Development may grant an Emergency Coastal Development Permit upon reasonable terms and conditions, which shall include an expiration date and the necessity for a regular permit application at a later date, if the Director of Community Development finds that:

1. An emergency exists that requires action more quickly than permitted by the procedures for a Coastal Development Permit and the work can and will be completed within thirty days unless otherwise specified by the terms of the permit;

2. Public comment on the proposed emergency action has been received, if time permits;

3. The work proposed would be consistent with the requirements of the certified Local Coastal Program including Public Safety requirements referenced in Sections VII.5 and VII.13, of the Coastal Element Land Use Plan.

E. Expiration of Emergency Permit

An emergency permit shall be valid for sixty days from the date of issuance by the Director of Community Development. Prior to expiration of the emergency permit. the permittee must submit a regular Coastal Development Permit application for the development or remove the development undertaken pursuant to the emergency permit and restore the site to its previous condition.

F. Report to City Council and Coastal Commission

The Director of Community Development shall report in writing, the granting of an emergency permit to the City Council at its next scheduled meeting, and to the Coastal Commission. The report shall include a description of the nature of the emergency, the development involved and the person or entity undertaking the

development. Copies of the report shall be available at the meeting and shall be mailed to the Coastal Commission and to all persons requesting such notification of local coastal development decisions.

Section 7.130 Permit Jurisdiction For Development Carried Out Before LCP Certification

This section identifies which entity, the City or the Coastal Commission, has jurisdiction over projects processed prior to certification of the City's Local Coastal Program and projects pending at the time of the City's Local Coastal Plan certification.

A. Development Approved by Coastal Commission

Development that is approved prior to certification by the Coastal Commission will remain under the jurisdiction of the Coastal Commission for the purposes of reviewing compliance with the conditions of approval, and amendments to, and/or revocation of the permit.

B. Proposals Pending at Time of LCP Certification

Development proposals that are pending at the time of the City's Local Coastal Program certification shall be processed as follows:

1. An application for a Coastal Development Permit shall be submitted to the City where:

   - The development proposal has received City approvals prior to the certification of the City's Local Coastal Program, but the project has not been submitted to the Coastal Commission for approval.

   The decision on the application shall be based solely on the requirements of this Local Coastal Program.

2. An applicant has the option of either retaining the request with the Coastal Commission for completion of review or submitting the request to the City where:

   - The development proposal received City approval before certification of the City's Local Coastal Program and the application for the development proposal was filed with, but not acted upon by the Coastal Commission.

   The review of the application in either case shall be based upon the requirements of the certified Local Coastal Program.

Section 7.140 Assignment of Permits

A. Any person who has obtained a Coastal Development Permit pursuant to the provisions of this chapter may assign such permit to another person subject to the following requirements;

1. Submission of an application fee as set by resolution of the City Council; and

2. An affidavit executed by the assignee attesting to the assignee's agreement to comply with all of the terms and conditions of the permit; and

3. Evidence of the assignee's legal interest in the real property involved and legal capacity to undertake the development, as approved, and to satisfy all of the conditions required in the permit; and

4. The original permittee's request to assign all rights to undertake the development to the assignee; and

5. A copy of the original permit showing that it has not expired.

B. The applicant for assignment shall submit the above documents together with a completed application form to the Director of Community Development. The assignment shall be effective upon written approval of the documentation submitted, and the assigned permit shall be granted subject to the terms and conditions of the original permit.

Section 7.150 Amendments to Coastal Development Permits

Projects shall be developed in conformity with project approvals. If the applicant wishes to modify the project, the applicant shall submit revised plans to the City for review by the City Planner. The City Planner shall make one of the following determinations regarding this request:

A. **Minor Modification**
If the City Planer determines that the modifications are minor, the modification may be approved by the City Planner.

B. Significant Modification

If the City Planner determines that the modifications are significant, a submittal of an application to amend the Coastal Development Permit is required. The amendment to the Coastal Development Permit shall be reviewed by the original approving authority. An amendment application shall follow all the application procedures and regulations of this Chapter.

Section 7.160 Coastal Development Permit Revocations

A. Grounds for Revocation of a Coastal Development Permit

Grounds for revocation of a Coastal Development Permit include any of the following:

1. The inclusion of inaccurate, erroneous or incomplete information on an application or submitted plan where the City finds that accurate and complete information would have caused the City to impose additional or different conditions or to deny the application; or

2. Failure to comply with the notice provisions of this Chapter, where the views of the person not notified were not otherwise made known to the City and could have caused the City to impose additional or different conditions, or to deny the application; or

3. Failure of the applicant to abide by, and comply with, any and all conditions that may be attached to the approval of a Coastal Development Permit issued pursuant to the provisions of this Chapter.

B. Initiation of Proceedings to Revoke a Coastal Development Permit

Initiation of proceedings to revoke a permit may be made by any of the following:

1. Any person who did not have an opportunity to fully participate in the original permit proceedings because of the reasons stated in subsection A.2, above, may submit a written request stating the particular grounds for the revocation, to the City Planner. The City Planner shall review the request and the stated grounds for revocation and may initiate revocation proceedings unless the grounds for revocation are determined to be without merit. If the City Planner determines that sufficient grounds to proceed with the revocation do

not exist, the City Planner shall provide a written response to the person making the request explaining the reason for this determination.

2. The Planning Commission or City Council, upon a determination that grounds under subsection A, above exist for the revocation of a Coastal Development Permit, may initiate the revocation process.

C. Suspension of Operation of a Coastal Development Permit

The operation of the permit shall automatically be suspended until a determination on the request for revocation is completed. The City Planner shall notify the permittee by mailing a copy of the request for revocation and a summary of procedures contained in this section to the address shown in the Coastal Development Permit application. The City Planner shall advise the applicant in writing that any development undertaken during suspension of the permit may be in violation of the California Coastal Act and subject to the penalties contained therein and Section 7.170.

D. Review proceedings

1. Planning Commission review

Revocation of a Coastal Development Permit shall be considered at a public hearing conducted before the Planning Commission, notice of which shall be provided in accordance with Section 7.100 of this Chapter. After completion of the public hearing, the discretionary body shall recommend to the City Council by resolution, whether the Coastal Development Permit shall be modified or revoked.

2. City Council review

Following receipt of a recommendation on the Coastal Development Permit from the Planning Commission, the City Council shall conduct a public hearing in compliance with Section 7.090 of this Chapter. After completion of the public hearing, the City Council may modify or revoke the Coastal Development Permit.

Section 7.170 Judicial Review, Enforcement and Penalties

In addition to the provisions contained in this Chapter, the provisions of Chapter 9 of Division 20 of the California Public Resources Code shall also apply with respect to judicial review, enforcement and penalties.

Section 7.180 Coastal Commission Review of Documents

Any legal documents required as a condition of approval pertaining to public access shall be processed in accordance with Chapter 15, Section 15.130.D.

Section 7.190 Amendments to the Local Coastal Program

The City Council may amend the Local Coastal Program, in whole or in part, but the amendment will not take affect until it has been certified by the Coastal Commission. Any General Plan Element or specific plan or ordinance of the City that is applicable to the same areas or matters affected by a Local Coastal Program amendment must be reviewed and amended, as necessary, to ensure consistency with the Local Coastal Program.

A. Authority

The Planning Commission shall provide recommendations to the City Council regarding Local Coastal Program amendments. The City Council is responsible for final action upon Local Coastal Plan amendments. The City Council may amend the Local Coastal Program, in whole or in part. The Coastal Commission is responsible for certification of all amendments to the Local Coastal Program.

B. Initiation of Amendments to the Local Coastal Program.

An amendment to the Local Coastal Program may be initiated by one of the following:

1. A majority vote of the City Council.

2. An application from a property owner or his/her authorized agent, provided that such application involves the development or modification of property located within the area affected by such amendment.

C. Restriction on Number of Amendments

A maximum of three amendment requests per calendar year may be submitted. An amendment may include more than one change to the Local Coastal Program. Deadlines for Local Coastal Program amendment applications are contained in the Planning Division's Policy documents on file with the Department of Community Development. There is no restriction on the number of amendment requests which may be submitted for a de minmis Local Coastal Program Amendment, specified in subsection J, below.

D. Restriction on Timing of Amendments

Individual Local Coastal Program amendments submitted by specific deadlines shall be grouped and processed as one Local Coastal Program amendment within one of the three amendment dates held each year. Processing guidelines and deadlines for submittal of Local Coastal Plan amendments are available from the Planning Division.

E. Submittal Requirements

Submittal requirements are specified in **Chapter 3, Section 3.040** of this code.

F. Fees

The City Council, by resolution, shall establish and from time to time amend a schedule of fees imposed for any amendment to the Local Coastal Program.

G. Noticing Requirements

Public hearing and notice procedures are specified in Chapter 3, Section 3.100.

H. Review Procedures

Review procedures for General Plan Amendments are specified in Chapter 4, Section 4.020.H.

I. Coastal Commission Certification of Amendments.

Any proposed amendment to the Local Coastal Program shall not take affect until it has been certified by the Coastal Commission. Any amendment approved by the City shall be submitted to the Coastal Commission in accordance with Sections 30512

and 30513 of the California Public Resources Code. An amendment to this Local Coastal Plan as certified by the California Coastal Commission shall not become effective after City Council adoption until the amendment is submitted pursuant to the requirements of Section 13551 et seq. of the California Code of Regulations and also certified by the California Coastal Commission pursuant to Chapter 6, Article 2 of the California Coastal Act, as follows:

1. A denial by the City Council on an amendment request shall be final and no appeal to the Coastal Commission shall be allowed except as provided by subsection b of this section.

2. Pursuant to Section 30515 of the Coastal Act, any person or agency authorized to undertake a public works project or major energy facility development, who was denied a request to amend the Local Coastal Program, may file the request for amendment with the Coastal Commission.

J. De Minimis Local Coastal Program Amendments

Upon approval of a Local Coastal Program amendment by the City Council the City may submit to the Executive Director an application for a de minimis Local Coastal Program amendment when the amendment has no impacts on coastal resources. The de minimis review procedure is a simplified review process which may be used for minor amendments such as minor procedural changes, clean up to text and graphics or other minor changes that do not impact coastal resources as provided in the Coastal Act.

K. Required Findings

Prior to the approval of a Local Coastal Program amendment, the following findings shall be made:

1. The proposed amendment is internally consistent with those portions of the Local Coastal Program and General Plan which are not being amended.

2. The proposed amendment will not adversely affect the public health, safety, and welfare.

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CHAPTER 15

COASTAL ZONE OVERLAY DISTRICT

Sections

15.010 Purpose and Intent
15.020 Applicability
15.030 Coastal Element Land Use Policies
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15.060 Sensitive Habitat
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Section 15.010 Purpose and Intent

The purpose of the Coastal Zone (-CZ) Overlay District is to provide standards which preserve and protect the coastal resources within San Clemente, and implement the coastal policies of the City's Coastal Element Land Use Plan and the California Coastal Act (Division 20 of the California Public Resources Code). The Coastal Zone Overlay District is an overlay which is combined with all other zones that lie within the Coastal Zone of San Clemente.

Section 15.020 Applicability

In addition to the development standards for the underlying zone described in Chapters 8 through 12 of this title, the following standards apply to all applicable projects, as indicated in the sections below, within the CZ overlay. Any development project within the CZ overlay shall require a Coastal Development Permit issued pursu project is exempt. With respect to the Coastal Zone, where standards of this Chapter and those set forth in Chapters 8 thr provisions of this Chapter shall govern.

SAN CLEMENTE IP
ATTACHMENT # B
CHAPTER 15

Section 15.030 Coastal Element Land Use Policies

In addition to the development standards within the underlying zone and the coastal overlay zone, the policies within Chapter 3 of the Coastal Element Land Use Plan shall also be applied during the review of all Coastal Development Permits. Coastal policies in the Coastal Element Land Use Plan include but are not limited to the following: land use, shoreline access, recreation, visitor serving facilities, visual resources, historic resources, sensitive habitat, coastal landforms, marine resources, water quality and air quality.

Section 15.040 Permitted and Conditional Uses

Permitted and conditional uses within the -CZ overlay are the same uses as those provided in Chapters 8 through 12 for the underlying base zones.

Section 15.050 Coastal Landforms

A. Purpose and Intent

The topography of San Clemente's coast includes foothills, coastal plains, bluffs and canyons. Affected by erosional forces coastal topography is constantly evolving, making the bluffs both beautiful and a potential hazard to life and property. The following provisions are intended to minimize hazards to life and property, and protect coastal topography as a scenic resource.

B. Geotechnical Review

A geotechnical report prepared within one year of the application submittal is required on all bluff and canyon parcels (**refer to the City Zoning Map for coastal canyon and bluff locations**). If, as a result of geotechnical review, a greater setback than is required in the development standards in the Coastal Element Land Use Plan and Zoning Code is recommended, the greater setback shall apply.

C. Coastal Setbacks

1. Purpose and intent

The following setbacks are to be applied in addition to the setbacks required for the underlying zone. The purpose and intent of the coastal setback is to protect coastal resources and prevent potential hazards to life and property. When there are two (2) or more setback choices available in the standards

below (e.g., stringline and bluff or canyon edge setback), the City Planner shall determine, subject to the appeals provisions of Chapter 7, Section 7.110, which of the setbacks shall be applied to a development based on the geology, soil, topography, existing vegetation, public views, adjacent development and other site characteristics. The setback required shall be determined through the Coastal Development Permit Process and shall not impact coastal resources. The setbacks below are minimum setbacks. Greater setbacks may be required or recommended as a result of a geotechnical review prepared pursuant to subsection B). No development shall be permitted within the setbacks provided below except for certain types of minor development prescribed in **subsection H**.

2. Coastal Bluff Setback

Proposed development on coastal bluff lots (**refer to the City Zoning Map for coastal canyon and bluff locations**) shall be set back:

a. At least 25 feet from the bluff edge, as determined by subsection E; or

b. In accordance with a stringline drawn between the nearest corners of adjacent structures on either side of the development as provided in **subsection.**

3. Coastal Beach Front Setback

Proposed development on a beach front lot (**refer to the City Zoning Map for locations of, coastal canyons, bluffs and beach fronts**) shall be set back:

a. In accordance with a stringline as **determined in accordance with subsection C5**; or

b. In accordance with the setback required for the underlying zone.

4. Coastal Canyon Setback

New development shall not encroach into coastal canyons and shall be set back:

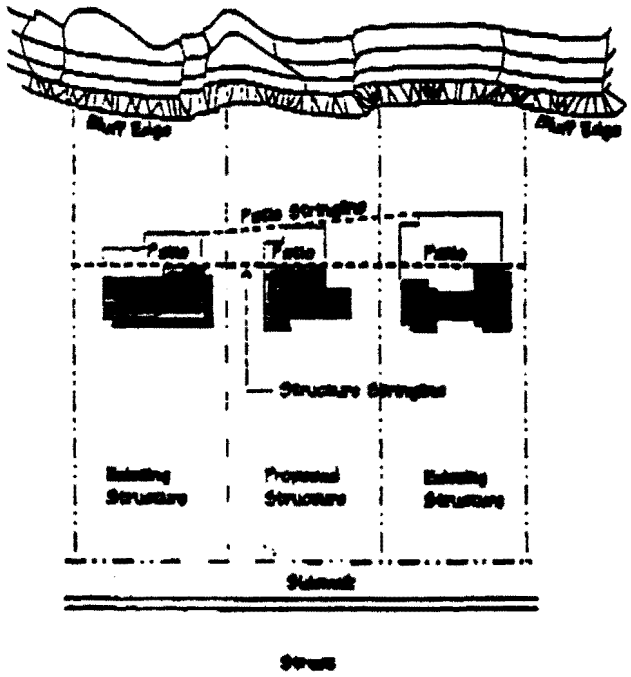
a. A minimum of 30% of the depth of the lot and not less than 15 feet from the canyon edge; or

b. A minimum of 30% of the depth of the lot and set back from the primary vegetation line (not less than 15 feet from Coastal Sage Scrub vegetation or not less than 50 feet from riparian vegetation); or

c. In accordance with house and deck/patio stringlines drawn between the nearest corners of adjacent structures, only like structures/development shall be utilized when determining a stringline setback for a proposed development (**see Figure ?? and subsection C5**).

5. Infill Development (Stringline)

The illustration in **Figure ???** depicts how the two different stringlines are used. If the adjacent lot is vacant, a stringline shall not be used.



Stringline Along Bluff Edges

When new construction along a coastal canyon, bluff or beach front is infill development and is consistent with the policies of the City of San Clemente Coastal Element Land Use Plan, the following setback standards shall be applied:

a. No part of a proposed new deck/patio shall be built farther than a line drawn between the nearest adjacent corners of the adjacent deck/patios (deck stringline); and

b. No part of a proposed new structure's living space shall be built farther than a line drawn between the nearest adjacent corners of the adjacent

D. Encroachment into Coastal Setbacks

1. Purpose and Intent

The purpose of this subsection is to allow minor development that has no impacts on the coastal topography or coastal resources within the setback area. Development approved under this section shall be approved with the understanding that due to its location adjacent to a bluff, canyon edge, or sea the development may be subject to erosional conditions. Approval of minor development under this subsection, does not guarantee that retaining walls or other support structures that impact coastal resources will be allowed for its protection in the event of a bluff or canyon failure.

2. Permitted Development

The following types of development are allowed, subject to the Coastal Development Permit Process, within the setback area for a coastal beach front, bluff or canyon lot:

a. Public accessways to coastal resources, public viewing areas or passive coastal recreational areas are allowed. The design of public walks shall minimize grading and minimize impacts to the coastal landform to the maximum extent feasible.

b. Minor development including landscaping, flat work, retaining and non retaining walls and fences are allowed within 10 feet of the bluff edge or 5 feet of a canyon edge subject to the following development standards:

(i) Any runoff created by the development shall be drained away from the bluff or canyon face to the street, storm drain or other drainage approved by the City Engineer which will not erode the coastal landform.

(ii) There shall be no visual impacts to the coastal landform.

(iii) A geotechnical report must indicate that there is adequate stability for the development.

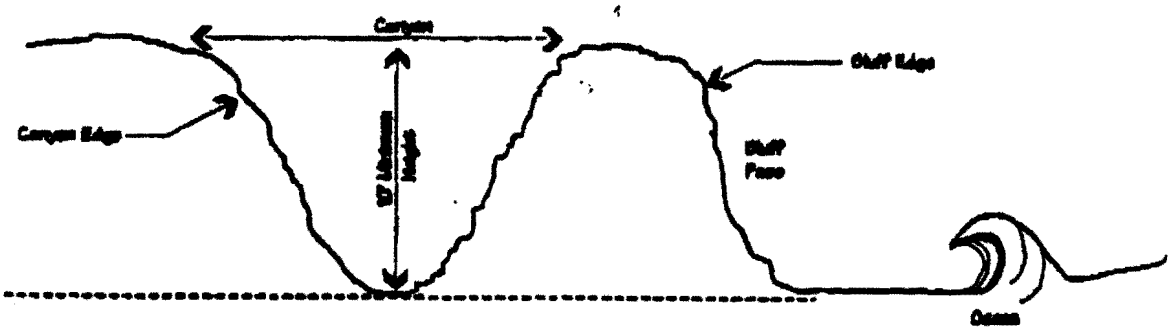
c. Development on a bluff or canyon face which is limited to engineered staircases or accessways to provide public beach access, where no reasonable alternative means of public access exists.

d. Drainage devices extending over or down the bluff face will not be permitted if the property can be drained away from the bluff face. Drainpipes, terrace drains or other appropriate site drainage devices approved by the City Engineer will be allowed only where there is no feasible, less environmentally-damaging alternative drainage system and where the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices are not allowed for development of minor projects within the setback.

e. Development required for reasons of compelling public safety, such as the stabilization of a bluff to protect a public road (**refer to subsection F and G**).

E. Determination of Bluff, Canyon or Cliff Edge

All development applications for a Coastal Development Permit for projects adjacent to a bluff, cliff or canyon edge shall provide a topographic survey of the property which includes the bluff, canyon or cliff edge. The topographic survey shall be prepared by a licensed surveyor or registered civil engineer. The edge location shall be drawn in accordance with the definition for "edge" as set forth in **Chapter 21 Coastal Zone Definitions.**



Coastal Canyon Bluff

c. Development on a bluff or canyon face which is limited to engineered staircases or accessways to provide public beach access, where no reasonable alternative means of public access exists.

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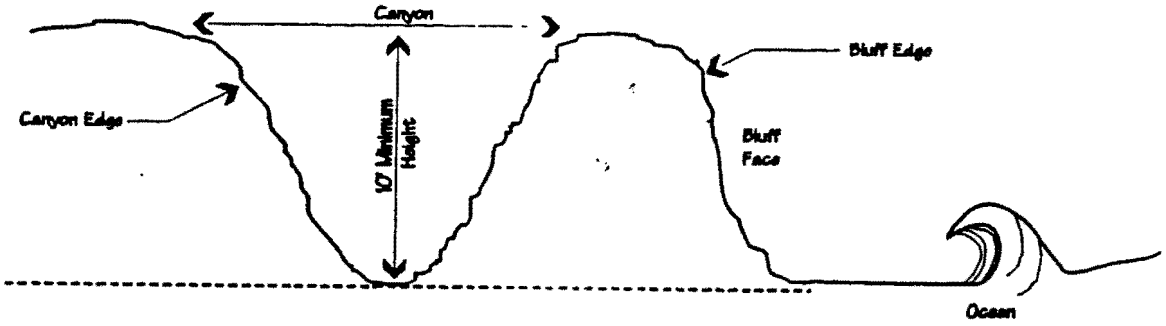


Coastal Canyon Bluff

If after reviewing the topographic survey, the City Planner determines that the location of the bluff, canyon or cliff edge has not been drawn in accordance with the definition of "edge," the City may stake the bluff, canyon or cliff edge on the property. Once the edge is staked, a licensed surveyor or registered civil engineer shall survey the location of the stakes and transfer the stakes coordinates onto the topographic survey. This information shall then be used to accurately establish the edge of the bluff on the topographic survey and the project site plan.

F. Prohibition of Landform Alterations

Grading, cutting or filling that will materially alter coastal bluffs, canyons, and cliffs shall be permitted only if approved through the Coastal Development Permit process in accordance with Chapter 7 and if one of the following findings is made:

1. Alterations to a coastal bluff, canyon or cliff are required for compelling reasons of public safety (e.g., grading work necessary for stabilization of the coastal bluffs adjacent to the Pacific Coast Highway which without stabilization would threaten life and property); or

2. The alterations are required to provide a significant overriding coastal public benefit (e.g., staircases or accessways to provide beach access to the public where none previously existed).

G. Standards for Permitted Landform Alterations

1. Where permitted, alterations of bluffs, canyons and cliffs shall comply with all of the following standards:

   a. Where landform alterations are required for reasons of public safety or public benefit all grading shall be minimized to the greatest extent feasible. In the areas where the natural landform is impacted (e.g.. bluffs, cliffs, ravines) the stabilization method used shall be visually compatible with the coastal landform (e.g., land-form or contour grading, artificial sculptured bluff face that matches the natural bluff etc.).

   b. Drought tolerant plants and efficient irrigation shall be required for landscaping to minimize water consumption, fertilization and chemical application, and to visually relate development to existing natural landscapes. Grading shall not alter the biological integrity of the

sensitive habitat areas unless it is replaced with habitat of equal or greater value (**refer to Section .050 B**).

c. As a condition of development, control of sediment transport and debris originating at the construction site or upstream property shall be required as follows:

(i) For necessary grading operations, the smallest practical area of land shall be exposed at any given time during development. The length of time such land shall be exposed will be kept to the least amount practicable. The clearing of land shall be avoided during the winter rainy season with all measures for removing sediments and for installing required stabilizing slopes in place before the beginning of the rainy season.

(ii) Sediment basins (including debris basins, desalting basins or silt traps) shall be installed in conjunction with the initial grading operations and maintained current to site development through the development process to remove sediment from runoff waters. All debris and sediments shall be retained on site unless removed to an appropriate dumping location approved by the City Engineer.

(iii) Temporary vegetation, seeding, mulching or other suitable stabilization method shall be used to protect against soil erosion on slopes during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate non-native plants or with accepted landscaping practices.

(iv) Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development.

Section 15.060 Sensitive Habitat

A. Purpose and Intent

The City of San Clemente Coastal Zone includes environmentally sensitive habitat areas (ESHA) that can be found within coastal canyons and along coastal bluffs. The following provisions are intended to protect and preserve these ESHAs, as well as the significant plant and wildlife species within the City of San Clemente Coastal Zone.

B. Development Requirements

Development located within an environmentally sensitive habitat area (**see the City Zoning Map**) or along a coastal bluff, shall conform to the following provisions:

1. The review of a Coastal Development Permit shall include an assessment of the potential impact on the ESHA.

2. A biological assessment report shall be required when the development results in the removal of any significant amount of native vegetation and/or an Initial Study has determined that there is a potential for a significant adverse impact to biological resources. The biological assessment report shall:

   a. Be prepared by a qualified professional; and

   b. Address the proposed project's impact on state and federally listed and candidate plants and animals, California Department of Fish and Game (CDFG) Special Animals, natural communities of high inventory priority with the CDFG's Nongame Heritage Program, and any other special interests hereafter named by state or federal trustee agencies; and

   c. Identify mitigation measures necessary to eliminate significant adverse impacts to sensitive biological resources; and

   d. Define a program for monitoring and evaluating the effectiveness of the specified mitigation measures.

   Mitigation measures identified during the Coastal Development Permit review shall be included as conditions of approval of the project.

3. Native landscape materials shall be required on all natural topographic features such as in coastal canyons and on a bluff face (with the exception of fuel modification zones when required). Plants that are invasive shall be prohibited. A list of drought tolerant, native and invasive plants is available from the Community Development Department.

Section 15.070 Visual Resources

A. Purpose and Intent

The scenic and visual qualities of coastal areas shall be considered a resource of public importance and protected as such. The following provision is intended to protect and preserve the scenic and visual qualities of the City of San Clemente Coastal Zone.

B. Development Requirements

1. All development within the Coastal Zone requiring a Coastal Development Permit shall include an assessment of the project's potential impact on public views.

2. If it is determined by the City Planner that a project has a potential of impacting a public views, as defined in **Chapter 21**, regarding development near the ocean or scenic coastal areas (e.g., coastal canyons and parks), an analysis of the effect of the proposed project on public views shall be required. This analysis shall pictorially or photographically indicate, to the satisfaction of the City Planner, the proposed site in its current state and compare it with an accurately scaled illustration showing the proposed building volume in its proposed location.

Section 15.080 Affordable Housing Units

A. Purpose and Intent

This section is intended to provide standards to implement affordable housing requirements, related to the replacement of existing affordable units in the Coastal Zone, included in the City's Housing Element and California Government Code Section 65590.

B. Applicability

1. Applicable Projects

This section shall apply to the conversion of apartments to condominiums or demolition of 3 or more dwelling units, where at least one of the units is occupied by a household earning 80% or less of the county median income, defined as an Eligible Household in the Inclusionary Housing Program included in the City's Housing Element.

2. Exempt Projects

This section shall not apply to projects meeting either of the following criteria:

(i) The conversion or demolition of a residential structure to a non-residential use which is "coastal dependent" or "coastal related" as defined in the California Coastal Act of 1976, as amended, and consistent with the underlying zone;

(ii) The demolition of a residential structure which has been declared a public nuisance.

3. Determination of Applicability

The Planning Division shall determine whether units to be converted or demolished are occupied by Eligible Households. This determination may be based upon an income survey of current residents. A dwelling unit need not be replaced if either of the following criteria apply:

(i) The dwelling unit is not occupied by an Eligible Household; or

(ii) A resident income survey is not received from the resident within 30 days after the mailing date of the survey.

The Planning Division shall make its determination and inform the developer of the number of below market rate rental units to be provided, as required in **subsection C below**, within 60 days of receipt of a complete application.

C. Standards

1. Requirement to Provide Affordable Housing

Dwelling units located in the Coastal Zone overlay which are to be demolished or converted to condominiums, and which are occupied by households whose income is no more than 80% of the county median income, shall be replaced. Requirements for affordability, eligibility, and implementation shall be in accordance with the requirements of **Chapter 5, Section 5.190, Inclusionary Housing Requirements,** and the standards and guidelines in the Inclusionary Housing Program in the City's Housing Element, except as otherwise stated in this section.

2. Number of Affordable Units to be Provided

The developer shall provide one below market rate rental unit for each dwelling unit to be demolished or converted that was occupied by an Eligible Household, or 20% of the total number of residential units in the project, whichever is greater.

Section 15.090 Public Access Purpose and Intent

The purpose and intent of the public access requirements is to both maximize and maintain public recreational and access opportunities to and along the City of San Clemente shoreline. The requirements in this section implement both the public access and recreational polices of Chapter 3 of the California Coastal Act and the policies in the Coastal Element Land-Use Plan of the City of San Clemente as provided in Chapter 3, Sections 303 and 304 of the Coastal Element Land-Use Plan.

Section 15.100 Requirements to Provide Public Access

The purpose of this section is to describe the different types of coastal access, coastal trails and coastal recreation that may be required as a condition of development in the Coastal Zone.

A. Applicability

An offer to dedicate an easement, pursuant to the requirements of Section 15.130, for coastal access, coastal trails, or recreational areas described under subsection D-G

shall be required for the following types of new development, unless the development is exempt as provided in subsection B:

1. New development between the nearest public roadway and the sea that physically impedes or blocks an area of existing public access.

2. New development on any site where there is substantial evidence of a public right-of-access to the sea acquired through consistent long-term public use of the property for such access as set forth in Section 15.110.D, Historic Public Use, or where a public right of access exists through legislative authorization.

3. New development on any site where coastal access, coastal trail, bluff top access or recreational area is necessary to mitigate impacts of the development on public access.

4. New development between the nearest public roadway and the sea that encroaches onto public land.

5. New development that individually or cumulatively will impact public access to or along the shoreline.

An offer to dedicate an easement shall only be required when supported by the findings required under Section 15.120.

B. Exemptions

New development which involves any of the following circumstances is exempt from the dedication requirements of this section:

1. Where there is no nexus between the required public access dedication and the impacts created by the development. Access dedication requirements shall apply only to the extent permissible under law.

2. Where the required findings for an access for public access dedication in Section 15.120.B can not be supported.

3. Where the development is exempt from the definition of "new development" as set forth in Chapter 7, Section 7.050 and 7.055.

4. Where findings required by Section 15.120.D establish any of the following:

a. Public access is inconsistent with the public safety, military security needs, or protection of coastal resources;

b. Adequate access exists nearby; or,

c. Agriculture would be adversely affected.

Projects that qualify for an exemption from coastal access requirements shall be supported by written findings required under Section 15.120.D.

C. Requirement to Dedicate an Easement as a Condition of Approval of Development

A dedication of an easement for public access shall be required as a condition of approval of the Coastal Development Permit. A condition of development requiring an easement for public access shall be supported by the findings required in Section 15.120. The condition of approval shall specify that the offer to dedicate an easement be made prior to issuance of a Coastal Development Permit.

D. Types of Public Access

This subsection describes the different types of public access and the requirements associated therewith which may be imposed as a condition of approval for development in the Coastal Zone. There are two basic categories of Coastal Access:

1. Access to and along the beach;

2. Access that connects coastal recreational areas, parking areas and resources areas.

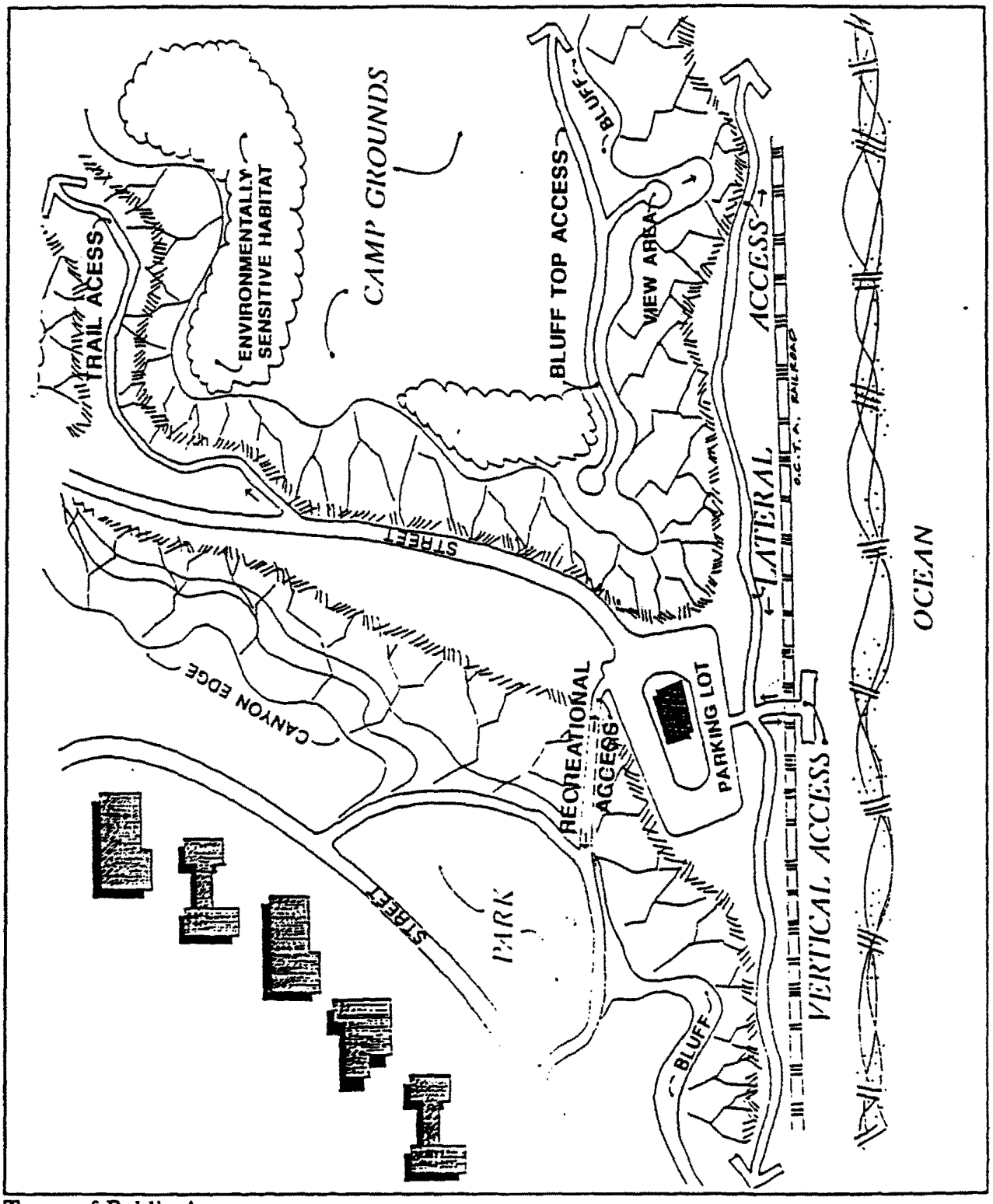
One or all of these accesses may be required for new development that adversely affects public access or recreational opportunities. There are some situations where the access required may meet the description of more than one of the types of accesses described below. For example, a recreational access connecting a bluff top park and a parking facility may also be classified as a bluff top trail. Refer to Figure ??? for different graphic examples of the different types of coastal access.

1. Access to and along the beach

There are two types of public access that run to and along the beach. There is lateral access which runs along or parallel to the beach, and vertical access, which leads from the first public road or parking area to the beach.

a. Lateral Public Access

Lateral public access provides public access and use along or parallel the beach and sea. Lateral public access is located in the area between the mean high tide line (as applicable), the toe of the bluff, the toe of the seawall or other appropriate boundary to the sea. An example of lateral access is the beachwalk identified in the Coastal Element Land Use Plan which runs parallel to the sea from North Beach to State Park as depicted in Figure 2-4 of the Coastal Element Land-Use Plan.



Types of Public Access

When lateral access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection A, the lateral access shall provide the public with permanent right of lateral public access and passive recreational use, as defined in Chapter 21, along the seashore (or public recreational area, bikeway or bluff top area, as applicable).

b. Vertical Public Access

Vertical public access extends from the first public road or parking area to the seashore (or bluff edge). The vertical access points to the seashore are identified in the Coastal Element Land Use Plan, as set forth in Chapter 2, Section 205. An example of vertical access is the T-Street overpass which runs from the Street Paseo de Cristobal over the OCTA railroad right-of-way to the beach and sea.

When vertical access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of vertical access. The vertical access shall comply with the following:

(i) The vertical access shall be located in specific locations identified in the certified Local Coastal Program, refer to Chapter 2, Section 205.F of the Coastal Element Land Use Plan for future vertical access, or;

(ii) The vertical access shall be located in a site for which the City has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act and/or the applicable provisions of the Local Coastal Program.

(iii) The vertical access shall be limited to passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 15.120.

2. Access Connecting Coastal Resources

There are three (3) types of access that provide connections between coastal resources other than the beach and ocean. These resources include, but are not limited to, coastal bluffs, canyons, parks and public parking areas. These types of accesses are referred to as bluff top, trail and recreational access.

a. Bluff Top Access

Bluff top access shall extend along the bluff top inland 10 feet from the current bluff edge to provide the public access and coastal viewing along a coastal bluff top. An example of bluff top access is the bluff top trail identified in the Pier Bowl Specific Plan that connects T-Street to the Pier Bowl.

(i) When bluff top access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of scenic and visual access from the bluff top to the shoreline.

(ii) The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use, findings shall be made on the specific factors identified in Section 15.120.

b. Trail Access

Trail access extends inland from the bluff edge or beach along the alignment of a recreational trail. Trail access extends to and runs along significant habitat and open space areas or similar resource areas, and may link inland recreational facilities to the beach and ocean. An example of a trail access could be a trail that runs the length of a coastal canyon to the beach or to a public parking area. When trail access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of access and active recreational use in the following areas:

(i) Along a designated alignment of a coastal recreational path or trail in specific locations identified in the Local Coastal Program ("LCP") for implementation of trail access; or

(ii) In locations where it has been determined that a trail access is required to link recreational areas to the shoreline; or

(iii) In locations that provide alternative recreation and access opportunities which are:

(a) Consistent with the access and recreation policies of the Local Coastal Program and Coastal Act.

(b) Consistent with other provisions of this section.

c. Recreational Access

Recreational access connects recreational resources including parking facilities, bluff tops, viewing areas, and parks from one to one another. An example of a recreational access is the walk that leads from Avenida Lobeiro to the Calafia parking area.

When recreational access is required as a condition of approval of a Coastal Development Permit (or other development approval) pursuant to subsection C, the condition shall provide the public with the permanent right of access and use within the designated recreational access area.

Section 15.110 General Provisions for Public Access

A. Purpose

This section describes general provisions that apply to public access and/or public recreation areas.

B. Development Standards for Public Access

The following development standards shall be incorporated into the design of public access:

1. Access Width

Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalks, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected. The width of facilities can vary for ramps or paved walkways, depending on site factors.

2. Privacy Buffers

Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer than 10 feet to any residential structure. The buffer can be reduced where separation is achieved through landscaping, fences or grade separation.

3. Vertical Access Easements

Vertical access easements shall be a minimum of 10 feet wide.

4. Bluff Top Access Easements

Bluff top access easements shall extend 25 feet inland beginning at the current bluff edge. Due to the potential for erosion of the bluff edge, the easement shall include a mechanism that will cause the accessway to be adjusted inland as the edge recedes. The provision for an inland adjustment of an easement shall consider constraints of the site and property development rights.

C. Type and Use of Access

In determining the appropriate type of public access that is required for a project pursuant to Section 15.100.D, findings and factors described in Section 15.120 shall be applied.

D. Historic Public Use

Historic public use of a site is established by the continuous use (continuous use can be seasonal) by the general public for a period of at least 5 years. This subsection provides standards that protect the public's rights of access to the shoreline or other coastal recreational areas based on the historic public use of an area.

1. Protection of Historic Public Use

The following standards shall be required of new development for the protection of historic public use:

a. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use;

b. When site constraints limit all other feasible alternatives, development may be sited in the area of any public right of access to the shoreline or public recreation area (based on historic public use) provided that:

(i) In the case of public access, the applicant provides an equivalent area of public access along the same destination and including the same type and intensity of public use as previously existed on the site.

(ii) In the case of public recreation, the applicant provides an equivalent area of public recreation in the same general area which is the same type and intensity of public recreational use previously existing on the site.

(iii) Mechanisms for guaranteeing the continued public use of the area or equivalent areas shall be required in accordance with Section 15.130.

2. Conditions of Approval and Historic Public Rights to Access

The relocation or alteration of historic public access shall not serve to extinguish or waive public prescriptive rights to the access. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition of approval regarding access:

"Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement."

E. Active Recreational Use

As a part of public access requirements for a project, active recreational use, such as playgrounds, basketball and volleyball courts, may be required in cases where the development is determined to be especially burdensome on public access. Examples of development which may be determined to be especially burdensome include:

1. A project which would severely impact public recreational use of the shoreline;

2. A project that is not a priority use as specified in California Public Resources Code Section 30222;

3. A project in which the historic public use of the site has been active recreational use;

4. A project in which active recreational uses would be consistent with the use of the proposed project and where such uses would not significantly interfere with the privacy of the landowner.

F. Access Management Plan

An access management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Written findings in support of a condition of approval requesting an access management plan are required in compliance with Section 15.120.

An access management plan shall be required for all private beach areas where an offer to dedicate an easement is required under this title. Such a plan shall comply with policy XI.15 of the Coastal Element pertaining to requirements for an access management program for the private beach areas of Capistrano Shores, La Ladera, Cypress Cove and Cotton Point private communities.

Where applicable, the plan should specify management controls on time and intensity of use, standards for privacy buffers and requirements for maintenance of aesthetic values through such measures as litter control. Examples include access in areas of sensitive habitats, agricultural resources, significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the entity accepting the public access and approved by the City of San Clemente prior to the opening of the access to public use.

G. Opening of Access for Public Use

A dedicated accessway shall not be required to be opened to public use until a public agency or private association approved in accordance with Section 15.130 agrees to accept responsibility for maintenance and liability of the accessway, except in cases where immediate public access is implemented through a deed restriction as described below.

When the size and character of a development would impose very substantial burdens on public access or public recreation area, such as a large resort development adjacent to the beach, and where the applicant has the capacity to operate and maintain the accessway or recreation area, a deed restriction may be required instead of an offer to dedicate in order to assure immediate public use of the area and maintenance of the area by the applicant and successors in interest. The applicant and successors in interest shall accept responsibility for maintenance and liability of the accessway. In such cases, all other applicable provisions of this title shall apply.

Section 15.120 Factors and Required Findings for Public Access

A. Purpose

The purpose of this section is to describe the factors to consider when making a decision on whether a development is required to provide public access and the written findings that are required for development within areas in the coastal zone that are appealable to the Coastal Commission.

B. Required Overall Findings for an Access Dedication

Written findings addressing public access shall be included in support of all approvals, denials or conditional approvals of projects located within the City Jurisdiction Area appealable to the Coastal Commission and for all approvals or conditional approvals of projects (whether redevelopment or new development) where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the specific factors identified by subsection C and shall reflect the specified level of detail, as applicable. Findings supporting such decisions shall include the following:

1. A statement of the individual and cumulative impacts that the new development will impose on public access and recreation opportunities. Assessment

of these impacts shall be based on specific factors identified by subsection C. The type of public access and recreation opportunities affected by the development shall be clearly described.

2. An analysis that shows that in order to find the development consistent with public access provisions of the Coastal Act, it is necessary to require public access conditions of approval. This analysis shall be based on specific factors identified in subsection C.

3. A description of the legitimate governmental interest furthered by any access condition required.

4. An explanation of how imposition of an access dedication requirement alleviates the access impacts identified.

C. Specific factors in determining whether Public Access should be required

In imposing requirements on a development to provide public access, the City shall evaluate the development's impacts on public access and documents, in writing, findings required in subsection B above. The findings shall be based on the specific factors identified below in subsections C.1 through 6, to the extent they are applicable to the development. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified, will be alleviated or mitigated by the dedication. Development shall only be required to mitigate public access impacts to the extent permissible under the law.

As used in this section "cumulative effect" means the effect of the individual project in combination with the effects of existing development, other current projects and probable future projects, including development allowed under applicable planning and zoning. The following specific factors shall be considered in determining requirements for public access and in support of the findings of public access:

1. Project effects on demand for access and recreation

   a. Description of the physical characteristics of the site and its proximity to the sea, shoreline viewing points, upland recreation areas, and trail linkages to the shoreline or recreation areas.

b. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to the shoreline or public recreation opportunities.

c. Identification of existing and open public access and coastal recreation areas and facilities in the local and regional vicinity of the development.

d. Analysis of the project's effects upon existing public access and recreation opportunities.

e. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public shoreline and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out.

f. Projection of the anticipated demand and need for increased coastal access and recreation opportunities for the public.

g. Analysis of the contribution of the project's cumulative effects on a potential increase of public use.

h. Consideration of safe public access across the railroad right-of-way to the sea.

2. Shoreline processes

a. Analysis of the effect of any identified changes of the project alone or in combination with other anticipated changes will have upon the ability of the public to use public tidelands and shoreline recreation areas.

b. Description of the existing shoreline conditions, including beach profile, accessibility and useability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site.

c. Identification of anticipated changes to shoreline processes and beach profile that are related to but not caused by the proposed development.

d. Description and analysis of any reasonably likely changes attributable to the primary and cumulative effects of the project to: wave and sand movement affecting beaches in the vicinity of the project, the profile of the beach; the character, extent, accessibility and useability of the beach; and any other factors which characterize or affect beaches in the vicinity.

3. Historic public use

a. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, bluff top, etc. and for passive and/or active recreational use, etc.).

b. Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made.

c. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts.

d. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use).

4. Physical obstructions.

Description of any physical aspects of the development which block or impede public access to, or along the shoreline, public recreation areas or other public coastal resources or to see/view the shoreline.

5. Public Safety

Analysis of the availability of safe and legal public access across and along railroad rights-of-way to public recreation areas and the shoreline.

6. Other adverse impacts on access and recreation

   a. Description of the development's physical proximity and relationship to the shoreline and any public recreation area.

   b. Analysis of the extent to which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of the shoreline or lands committed to public recreation.

   c. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

D. Required Findings for Public Access Exceptions

Any determination that one of the exemptions of Section 15.100.B applies to a development shall be supported by written findings which address all of the following:

1. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exemption, as applicable.

2. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected.

3. Ability of the public, through other reasonable means, to reach the same area of public shoreline as would be made accessible by an accessway on the subject land.

E. Required Findings for Access Management Plan Conditions

Written findings in support of a condition requiring an access management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

1. Identification and protection of specific habitat values including the reasons supporting the conclusion that such values must be protected by limiting the hours, seasons or character of public use.

2. Topographic constraints of the development site.

3. Recreational needs of the public.

4. Rights of privacy of the landowner which could not be mitigated by setting the project back from the accessway or otherwise conditioning the development.

5. The requirements of the possible accepting entity, if an offer of dedication is the mechanism for securing public access.

6. Feasibility of adequate setbacks, fencing, landscaping and other methods as part of an access management plan to regulate public use.

7. Public safety including the availability of legal and safe public access across and along the railroad rights-of-way to public recreation areas and the shoreline.

Section 15.130 Recordation of Public Access

A. Purpose

The purpose of this section is to describe the legal requirements for the recordation of public access, the legal requirements for a title report and the provisions for the review of public access dedications.

B. Legal Description of an Accessway: Recordation

A dedication of public access required pursuant to this title, shall be described in the conditions of approval of the permit (or other development approval) in a manner that provides the public, the property owner and the accepting agency with the maximum amount of certainty as to the location of the accessway. This information may include maps, legal descriptions or other information deemed necessary by the City Engineer. As part of the condition of approval, easements shall be described as follows:

1. Lateral access

   Along the entire width of the property from the mean high tide line to (as applicable): the toe of the bluff, the toe of the seawall or other appropriate boundary;

2. Vertical access

   When applicable, a privacy buffer provided pursuant Section 15.110.B2 to shall be described.

3. Bluff top access

   Extending along the bluff top inland 10 feet from the current bluff edge. As the bluff top edge may erode and move inland, the location of this right- of-way will change over time with the then current bluff edge, but in no case shall it extend any closer than 50 feet from the centerline of a public road, extend beyond any legally permitted development and shall only apply to the extent permissible under the "takings" clause of the United Sates and California Constitutions.

4. Trail or Recreational access

   Extending inland from the bluff edge or along the alignment of a recreational trail.

Prior to the issuance of the Coastal Development Permit or other authorization for development, the landowner shall execute and record a document, in a form and content acceptable to the Community Development Director and consistent with the provisions of this title, an easement for a specific type of access and a specific character of use as applicable to the particular condition.

The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with any rights of public access acquired through use which may exist on the property.

The recorded document shall include a legal description and a map to scale prepared by either a land surveyor or civil engineer qualified to prepare land surveys, showing the entire parcel and easement area. The offer shall be recorded free of prior liens and any other encumbrances which the Coastal Commission (or City when authorized by the Commission) determines may affect the interest being conveyed. The offer

to dedicate shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

C. Title Information

As a requirement for any public access, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreements. Title insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to subsection I determines may affect the interest being conveyed. If an interest exists which could erase the access easement, it shall be subordinated through a written and recorded agreement.

D. Legal Documents

For all Coastal Development Permits which are approved with conditions regarding grants of public access and open space, responsibility for reviewing completed legal documents and assuring that easements or offers of dedication are properly recorded shall remain with the Coastal Commission staff. Following approval of an application by the City, the resolution of approval containing the access and/or open space conditions and the associated legal documents will be forwarded to the Coastal Commission staff for review. The Executive Director shall have 15 working days from receipt of the documents in which to complete the review and notify both the City and the applicant of any recommended revisions. The Coastal Development Permit may be issued by the City unless it has received notification of inadequacies from Coastal Commission staff during the review period. Any inadequacies noted must be resolved to the satisfaction of the Coastal Commission's Executive Director prior to issuance of a Coastal Development Permit.

Any legal documents required as a condition of approval pertaining to public access, such as offers of dedication, open space or conservation easements, shall be processed in the following manner:

1. The offer of dedication, together with a copy of the Coastal Development Permit conditions of approval and findings shall be forwarded to the Coastal Commission Executive Director for review and approval.

2. The Coastal Development Permit shall be deemed final only after mailing such documents to the Executive Director of the Coastal Commission and the Executive Director has notified the City Planner that any such legal documents are adequate.

3. If the Executive Director has recommended revisions to the format of the legal documents, the Coastal Development Permit shall not be issued until the deficiencies have been resolved to the satisfaction of the Executive Director.

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ATTACHMENT # C

CHAPTER 21

CHAPTER 21

COASTAL ZONE DEFINITIONS (SC, NEW)

For the purposes of the Coastal Zone, the following definitions shall apply:

1. **ACTIVE RECREATIONAL AREA:** An area used for a variety of intense uses such as, but not limited to basketball, tennis, volleyball, softball, soccer or other recreational or sports activities.

2. **ADJACENT STRUCTURE:** A structure located on a lot contiguous (sharing a property line) with the proposed structure or development.

3. **AGGRIEVED PERSON:** Any person or representative who appeared at a public hearing, or by other appropriate means prior to action on a Coastal Development Permit, informed the City of his or her concerns about an application for such permit, or any person who, for good cause, was unable to do either, of the foregoing objects to the action taken on such permit and wishes to appeal such action to a higher authority.

4. **APPEALABLE AREA:** The area identified on the Local Coastal Program Post Certification Map as "Appeal Jurisdiction."

5. **APPLICANT:** Any person, partnership, corporation, or state or local government, agency applying for a Coastal Development Permit.

6. **APPROVING AUTHORITY:** The City Planner, City Council, Planning Commission. Zoning Administrator approving a Coastal Development Permit.

7. **BEACH:** A sandy, gravel or rocky portion of land along the edge of the ocean.

8. **BEACH FRONT:** An area of land that is adjacent to the beach and the edge of the ocean.

9. **CERTIFIED COASTAL ELEMENT LAND USE PLAN (LUP):** A plan for the use of property within the Coastal Zone which has been adopted by the local government and certified by the California Coastal Commission pursuant to the California Public Resources Code.

10. **CERTIFIED LOCAL COASTAL PROGRAM (LCP):** A program for the use of property within the Coastal Zone. The Local Coastal Program includes the Land Use Plan and specific regulations, and land use regulation maps, which have been adopted by the local government and certified by the California Coastal Commission

pursuant to the Public Resources Code. Local governments with certified LCPs can issue Coastal Development Permits.

11. **COASTAL ACCESS:** An area dedicated to provide public access to the beach or for public viewing of the shoreline.

12. **COASTAL ACT:** The California Coastal Act of 1976, as amended.

13. **COASTAL BLUFF:** Any landform that has vertical relief of ten feet or more that is adjacent to the coast.

14. **COASTAL CANYON:** Any valley, or similar landform which has a vertical relief of ten feet or more.

15. **COASTAL CLIFF:** Any steep vertical landform which has a vertical relief of ten feet or more.

16. **COASTAL BLUFF, CANYON, CLIFF FACE:** A sharp or steep face of rock, decomposed rock, sediment or soil resulting from erosion, faulting, folding, uplifting or excavation of the land mass. The canyon or bluff face may be a simple planar or curved surface or it may be step-like in section (Refer to Figure 15-1).

17. **COASTAL COMMISSION:** The California Coastal Commission.

18. **COASTAL-DEPENDENT DEVELOPMENT OR USE:** Any development or use that requires a site-on, or adjacent to, the sea to be able to function at all.

19. **COASTAL DEVELOPMENT PERMIT:** A discretionary entitlement which is required of development in specified areas of the Coastal Zone to ensure that such development is consistent with the City of San Clemente Coastal Element.

20. **COASTAL LANDFORM:** Coastal topographic features that form the landscape of the coastal zone. These features include: canyons, bluffs, cliffs, terraces, foot hills, and other similar landforms.

21. **COASTAL-RELATED DEVELOPMENT:** Any use that is dependent on a coastal-dependent development or use.

22. **COASTAL SAGE SCRUB:** Vegetation which include, but are not limited to, the following: many species of Dudleya, Calandrinia maritima, Cleomeisomeris, Coreopsisgigantea, Eriogomunigiganteum, Eriogomungrande, Eriophyllumnevinii, Galvesia speciosa, Haplopappus venetus, Hemizonia clementina, Lavatera

assurgentiflora, Malacothrix saxatilis, Phacelia lyonii, and Rhus integrifolia, plus two species of Polypodium, Artemisia californica, Crossosoma californicum, Diplacus species, Encelia californica, Eriogonum fasciculatum, Galium, Haplopappus, Helianthemum, Lotus, Lupinus, Malacothamnus, and Opuntia species, Malosma laurina, Rhus integrifolia, Salvia, Senecio, and Solanum species, and Toxicodendron radicans diversilobum, the sprawling Marah macrocarpus and Calystegia macrostegia, and many other showy herbs like species of Castilleja, Haplopappus, Lotus, Lupinus, and Zauschneria, and Eriophyllum confertiflorum.

23. **COASTAL ZONE:** That land and water area of the City of San Clemente, as described in California Public Resources Code Section 30170 and amendments thereto, and as delineated on the Coastal Zone Boundary Map (**Refer to the coastal boundary indicated on the "Zoning Map of the City of San Clemente"**).

24. **CUMULATIVE EFFECT:** The incremental effects of an individual project reviewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects.

25. **DEVELOPMENT, COASTAL:** The placement or erection, on land, in or under water, of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (**commencing with Section 66410 of the California Government Code**), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, or timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provision of the Z'berg-Nejedly Forest Practice Act of 1973 (**commencing with Section 45.11**).

26. **EDGE:** The upper termination of a bluff, canyon, or cliff. When the top edge is rounded away from the face as a result of erosional processes related to the presence of the steep bluff, canyon, or cliff face, the edge shall be defined as that point nearest the face beyond which the downward gradient of the land surfaces increases more or less continuously until it reaches the general gradient of the bluff, canyon, or cliff. In a case where there is a step-like feature at the top of the bluff face, canyon, or cliff face, the landward edge of the topmost riser shall be taken as bluff edge, canyon edge, or cliff edge (**refer to Figure 15-1**).

27. **EMERGENCY:** Sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services.

28. **ENVIRONMENTALLY-SENSITIVE HABITAT AREA:** Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

    Environmentally-sensitive habitat areas in San Clemente's Coastal Zone include wetlands, riparian areas, habitats of rare or endangered species and several coastal canyons which still contain native plant communities. The environmentally sensitive habitat areas are depicted on the "Environmentally Sensitive Habitat Areas" Map of the City's Coastal Element. The canyons contain important natural habitat areas. Development of land in and adjacent to the canyons is subject to the canyon-preservation policies noted in the City of San Clemente Coastal Element. The canyons are as follows: Palizada canyon, Trafalgar canyon, Toledo canyon, Lobos Marinos canyon, Riviera canyon, Montalvo canyon, and Calafia canyon (**See Figure ???? Coastal Canyons and Bluffs**).

29. **EXECUTIVE DIRECTOR:** The Executive Director of the California Coastal Commission.

30. **FIRST PUBLIC ROADWAY:** The nearest through public access route (open to vehicular traffic) paralleling the ocean shoreline, which forms a continuous linkage from the northernmost to the southernmost limits of the City of San Clemente shoreline.

31. **INTENSIFICATION OF USE:** A change in the use of a lot or premises which, based upon the provisions of the underlying zone, requires more off-street parking than did the immediately prior legal use of such lot or premises.

32. **LATERAL ACCESS:** An Area of land providing a connection parallel to the beach, along the beach front, toe of bluff or top of bluff. A lateral accessway may be used for public pass and repass, passive recreational use, or as otherwise designated in the City of San Clemente Local Coastal Program Land Use Plan.

33. **MAJOR ENERGY FACILITY:** Any energy facility as defined by the California Public Resources Code Section 30107 and exceeding $50,000 in estimated cost of construction.

34. **MAJOR PUBLIC WORKS PROJECT:** Any public works project as defined by the California Code of Regulations Section 13012 and exceeding $50,000 in estimated cost of construction.

35. **NATIVE VEGETATION:** Vegetation composed of plants which originated, developed, or were produced naturally in the Southern Orange County coastal region and were not introduced directly or indirectly by humans. Native vegetation includes, but is not limited to: marsh vegetation, native grasslands, coastal/inland sage scrub, and oak and riparian woodlands.

36. **PASSIVE RECREATIONAL AREA:** Areas used primarily for non-active type of uses such as open quiet areas, walking paths, stationary benches, picnic facilities and hiking and riding trails.

37. **PRIMARY VEGETATION LINE:** One development setback standard that may be utilized for coastal canyons. Characteristics to be established based on an on-site visit, and inventory of existing vegetation and topography.

38. **PUBLIC BENEFIT COASTAL:** Project elements that are related to coastal recreation or resources, provide a physical or aesthetic benefit to the public and restore or enhance coastal resources. Examples include but are not limited to public access to the beach, coastal recreational trail, passive and active recreational parks, habitat restoration and public viewing areas.

39. **PUBLIC VIEW:** Any publicly accessible location on dedicated or publicly owned property, including but not limited to, roadways, parks, and cultural or recreational facilities, which affords a view to the public of the ocean, a canyon or hillside area, ESHA, or any other open-space area identified in the General Plan, Zoning Ordinance or Specific Plan.

40. **PUBLIC WORKS:** Public facilities and infrastructure, including:

    1. All production, storage, transmission, and recovery facilities for utilities subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities;

    2. All public transportation facilities, including streets, roads, highways, mass transit facilities and stations and bridges, public parking lots and structures, ports, harbors, airports, railroads, and other related facilities;

    3. All publicly financed recreational facilities; and

4. All community college facilities.

41. **RIPARIAN VEGETATION:** An environment associated with plant communities which require high soil moisture conditions maintained by transported fresh water in excess of that otherwise available through local precipitation.

42. **SEA:** The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood-control and drainage channels.

43. **STREAM:** A natural watercourse identified as a stream on a map adopted pursuant to a certified Local Coastal Program; or as designated by a solid blue line or other symbol on the USGS 7.5 minute quadrangle series map. The bank of the stream shall be defined as the watershed and relatively permanent elevation or acclivity at the outer line of the stream channel which separates the bed from the adjacent upland, whether valley or hill, and serves to confine the water within the bed and to preserve the course of the stream. In areas where the stream has no discernible bank, the boundary shall be measured from the line closest to the stream where riparian vegetation is permanently established.

44. **STRINGLINE:** In a developed area where new construction is generally infilling and is otherwise consistent with the policies of the Land Use Plan of the City of San Clemente Local Coastal Program, no part of a proposed new structure, including decks, shall be built further toward a bluff edge, canyon edge or beach-front than a line drawn between the nearest adjacent corners of the adjacent structures. **(Refer to Figure ???).**

45. **STRUCTURE:** Any physical construction, including but not limited to, any building. road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

46. **SUBMERGED LANDS:** Lands which lie below the line of mean low tide.

47. **TIDELANDS:** Lands which are located between the line of mean high tide and mean low tide.

48. **TOE:** The lowest part of an embankment.

49. **VERTICAL ACCESS:** An area of land providing a connection between the first public roadway or use area nearest the sea and the publicly-owned tidelands or established lateral accessway. A vertical accessway may be used for public pass and

repass, passive recreational use, or as otherwise designated in the City of San Clemente Local Coastal Program Land Use Plan.

50. **WETLANDS:** Lands within the Coastal Zone which may be covered periodically or permanently with shallow water, and including salt water marshes, freshwater marshes, open or closed brackish water marshes, swamps, mud flats, and fens.

2. The uses and design of the development are compatible with adjacent uses and properties.

3. The development minimizes impacts to existing topographical conditions.

Section 14.050 Coastal Zone (-CZ) Overlay District

A. Purpose and Intent

The purpose of the Coastal Zone (-CZ) Overlay is to provide standards which preserve and protect the coastal resources within San Clemente, and implement the coastal policies in the City's Coastal Element and the California Coastal Act (Division 20 of the public Resources Code). The Coastal Zone is an overlay which may be combined with any other zone that lies within the Coastal Zone of San Clemente.

B. Applicability

The provisions in this section apply to development within the -CZ overlay. For purposes of this section, Bluff, Canyon, Beach Front standards shall apply to those Bluffs, Canyons, and Beach Front lots identified on the Zoning Map.

C. Permitted and Conditional Uses

Permitted and conditional uses within the -CZ overlay are the same uses as those allowed within the underlying base zones. Please refer to the Permitted and Conditional Use Tables in **Chapters 8 through 12** of this title.

D. Development Standards

In addition to the development standards for the base zone described in **Chapters 8 through 12** of this title, the following standards apply to all applicable projects, as indicated in the subsection below, within the CZ overlay. The purpose of the coastal standards is to protect coastal resources and reduce hazards to life and property. When there are two or more setback choices available in the standards below (e.g. stringline and bluff or canyon edge setback), the City Planner shall determine which of the setbacks shall be applied to a development based on the geology, soil, topography, existing vegetation, public views, adjacent development and other site characteristics, subject to the appeals provisions of **Chapter ???, Section ???** of this title. The setbacks below are minimum setbacks that may be altered to require greater setbacks when required or recommended as a result of a geotechnical review. No development shall be permitted within the setbacks provided below except for as provided in **subsection 7.**

1. Coastal Bluff Setback

Proposed development on coastal bluff lots (**refer to Zoning** back:

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CZ OVERLAY
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m the bluff edge (see subsection 5); or

ı a stringline drawn between the nearest corners of adjacent · side of the development (see subjection 4).

:tures shall not be permitted on a Bluff Face, except for or access ways to provide public beach access where no ıns of public access exists. Drainage devices extending over e will not be permitted if the property can be drained away Drainpipes will be allowed only where no other less ging drain system is feasible and the drainpipes are designed : impacts to the Bluff Face, Toe, and beach.

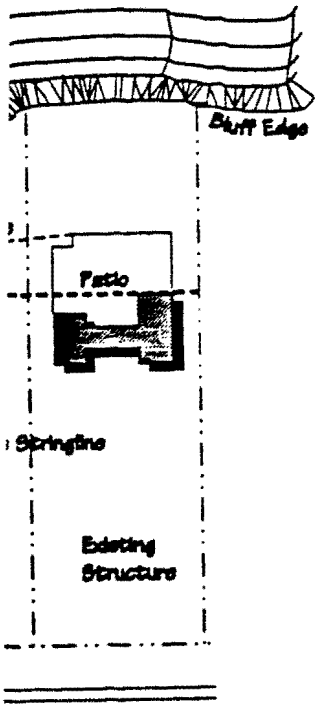
:k

l not encroach into coastal canyons and shall be set back:

% of the depth of the lot and not less than 15 feet from the

30% of the depth of the lot and set back from the primary (not less than 15 feet from Coastal Sage Scrub vegetation ı 5 t from riparian vegetation); or

with house and deck/patio stringlines drawn between the s of adjacent structures. Only like structures/development ed when determining a stringline setback for proposed ;ee Figure ?? and subsection 4).



luff Edges

·etback

t on a beach front lot shall be set back:

with a stringline (see subsection 4); or

with the underlying zoning district setback.

ringline)

ion along a coastal canyon, bluff or beach front is infill consistent with the policies of the City of San Clemente Use Plan, the following setback standards shall be applied:

ıro ed new deck/patio shall be built farther toward a bluff ed or beach front than a line drawn between the nearest rs of the adjacent deck/patios (deck stringline); and

b. No part of a proposed new structure's living space shall be built farther toward a bluff edge, canyon edge, or beach front than a line drawn between the nearest adjacent corners of the adjacent structures' living space (house stringline).

The illustration in **Figure ???** depicts how the two different stringlines are used. If the adjacent lot is vacant, a stringline shall not be used.

5. Determination of Bluff, Canyon or Cliff Edge

All development applications for projects adjacent to a bluff, cliff or canyon edge shall provide a topographic survey of the property which indicates the bluff, canyon or cliff edge. The topographic survey shall be prepared by a licensed surveyor or registered civil engineer. The edge location shall be drawn in accordance with the definition for "edge" as defined in **Chapter 21** of this title, under Coastal Zone Definitions.

If after reviewing the topographic survey, the City Planner determines that the location of the bluff, canyon or cliff edge has not been drawn in accordance with the definition of "edge", the City may stake the bluff, canyon or cliff edge in the field. Once the edge is staked a licensed survivor or registered civil engineer, shall survey the location of the stakes and transfer the stakes coordinates onto the topographic survey. This information shall then be used to accurately establish the edge of bluff on the topographic survey and project site plan.

6. Coastal Bluff and Canyon Preservation

a. Landscaping: Landscaping in Coastal Canyon setback areas or the Coastal Bluff setback areas, as defined in the subsections above, shall be primarily composed of Native plant species. The removal of Native plant species and the introduction of non-native plant species in the canyons shall be discouraged. The use of Native plant species in and adjacent to the canyons shall be encouraged.

b. Subdivision: Any subdivision of property in or adjacent to Coastal Bluffs and/or Coastal Canyons shall be reviewed for consistency with the Coastal Bluff and Canyon preservation policies. New parcels that do not have an adequate building site area to comply with the setback standards of these policies shall not be created.

c. Review of Projects:

(i) Projects Requiring Site Plan Review: Review of all projects within the Coastal Zone requiring site plan permit review or conditional use permit review shall include an assessment of the potential impact on natural habitat areas. Site plan review of all development projects located adjacent to parks and recreation areas shall include an evaluation of potential impacts on Coastal Bluffs and Coastal Canyons.

(ii) Mitigation measures identified during site plan review stages to limit a project's effect on the Coastal Bluff or Coastal Canyon environment shall be incorporated into final project design plans.

(iii) Large-scale Projects: The analysis and evaluation of large-scale development projects shall include a comprehensive inventory of biological resources. A determination should be made of the area's importance as a native habitat, including identification of rare or endangered species, or those species being considered to be listed as rare or endangered.

7. Exceptions to the Standards of this Section

Exceptions to the standards in this section granted by the Coastal Commission for additions to existing structures shall be allowed and shall not require the approval of a variance by the City of San Clemente.

E. Replacement of Affordable Housing Units

1. Purpose and Intent

This subsection is intended to provide standards to implement affordable housing requirements, related to the replacement of existing affordable units in the Coastal Zone, included in the City's Housing Element and the **State Government Code Section 65590.**

2. Applicability

a. Applicable Projects

This subsection shall apply to the conversion to condominiums or demolition of 3 or more dwelling units within the Coastal Zone, where at least one of the units was occupied by an Eligible Household, as defined in **Chapter 21.**

b. Exempt Projects

This subsection shall not apply to projects meeting any of the following criteria, unless the City determines that the replacement of all or any portion of the converted or demolished dwelling unit is feasible:

(i) The conversion or demolition of a residential structure which contains less than three dwelling units, or in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units.

(ii) The conversion or demolition of a residential structure to a non-residential use which is "coastal dependent" or "coastal related" as defined in Public Resources Code 30101 as amended, and consistent with the underlying zone;

(iii) The demolition of a residential structure which has been declared a public nuisance.

c. Determination of Applicability

The Planning Division shall determine whether units to be converted or demolished are occupied by Eligible Households. This determination may be based upon an income survey of current residents. A dwelling unit need not be replaced if either of the following criteria apply:

(i) The dwelling unit is not occupied by an Eligible Household. For purposes of this subsection, a residential dwelling shall be deemed occupied by a person or family if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of **subsection ?**; or

(ii) A survey of the residents of the units is infeasible, based on the City Planner's determination.

The Planning Division shall make its determination, and inform the developer of the number of below market rate rental units to be provided, as required in **subsection 3**, below, within 60 days of receipt of a complete application.

3. Standards

a. Requirement to Provide Affordable Housing

Dwelling units located in the Coastal Zone overlay which are to be demolished or converted to condominiums, and which are occupied by "Eligible households" shall be replaced. Requirements for affordability, eligibility, and implementation shall be in accordance with the requirements of **Chapter 5, Section ???, Inclusionary Housing Requirements**, and the standards and guidelines in the Inclusionary Housing Program in the City's Housing Element, except as otherwise stated in this section.

b. Number of Affordable Units to be Provided

The developer shall provide one below market rate rental unit for each dwelling unit to be demolished or converted that was occupied by an Eligible Household, or 20% of the total number of residential units in the project, whichever is greater.

F. Landform Alterations for Coastal Bluffs, Canyons, and Cliffs

1. Prohibition of Landform Alterations

Grading, cutting or filling that will materially alter coastal bluffs, canyons, and cliffs shall be prohibited unless approved by the City and one of the following findings made:

a. Alterations to a coastal bluff, canyon or cliff are required for compelling reasons of public safety (e.g. grading work necessary for stabilization of the coastal bluffs adjacent to the Pacific Coast Highway which without stabilization would threaten life and property); or

b. The alterations are required to provide a significant overriding coastal public benefit (e.g. staircases or accessways to provide beach access to the public where none previously existed).

2. Standards for Permitted Landform Alterations

a. Where permitted, alterations of Bluffs, Canyons and Cliffs shall comply with all of the following standards:

(i) Any landform alteration proposed for reasons of public safety or public benefit shall minimize the extent of the grading to the maximum extent feasible. In the areas where the natural landform is impacted (e.g. bluffs, cliffs, ravines) the stabilization method

used shall be visually compatible with the coastal landform (e.g. land-form or contour grading, artificial sculptured bluff face that matches the natural bluff etc.).

(ii) Drought tolerant plants and efficient irrigation shall be required for landscaping to minimize water consumption, fertilization and chemical application, and to visually relate development to existing natural landscapes. Grading shall not alter the biological integrity of the sensitive habitat areas unless it is replaced with habitat of equal or greater value.

(iii) Development shall be conducted with provisions for the control of sediment transport, and debris originating at the construction site or upstream property as follows:

(1) For necessary grading operations, the smallest practical area of land will be exposed at any one time during development, and the length of exposure will be kept to the minimum practical amount of time. The clearing of land shall be avoided during the winter rainy season with all measures for removing sediments and stabilizing slopes required in place before the beginning of the rainy season.

(2) Sediment basins (including debris basins, desalting basins or silt traps) shall be installed in conjunction with the initial grading operations and maintained current to site development through the development process to remove sediment from runoff waters. All debris and sediments shall be retained on site unless removed to an appropriate dumping location approved by the City Engineer.

(3) Temporary vegetation, seeding, mulching or other suitable stabilization method will be used to protect against soil erosion on slope during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate non-native plants or with accepted landscaping practices.

(4) Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development.

Section 14.060 Special Residential Overlays

For details regarding special residential zones designated by numerical overlays, please refer to **Chapter ???, Section ??? and Appendix A** of this title.

Section 14.070 Inland Canyon Overlay

For details regarding the inland canyon overlay designation, please refer to **Chapter ???, Section ???, Chapter ???, Section ???, Chapter ???, Section ???, and Appendix A** of this title.

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"C" DEFINITIONS

CARPORT: An accessible structure used for automobile shelter which is permanently roofed.

CARPORT, STREET-FACING: A carport which is oriented toward the street from which primary access to the carport is taken.

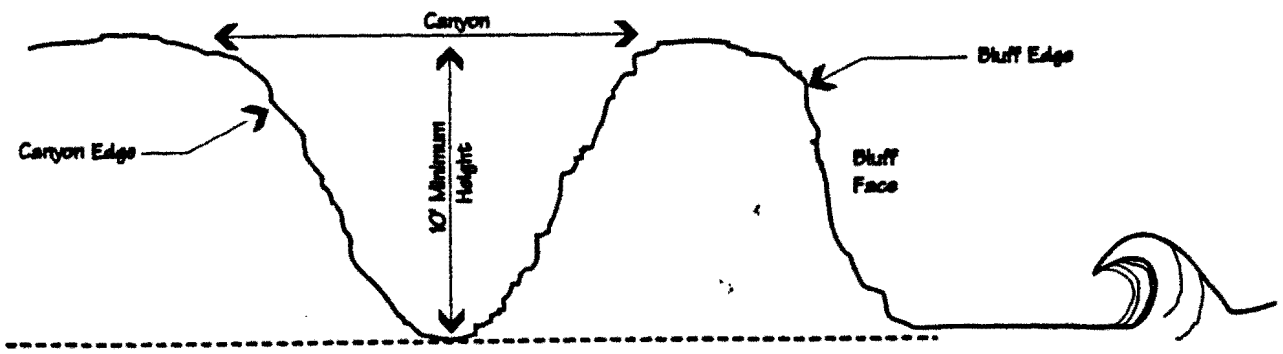
COASTAL ZONE DEFINITIONS (SC, NEW): For the purposes of the Coastal Zone Overlay, the following definitions shall apply:

A. **ADJACENT STRUCTURE**: A structure located on a lot contiguous (sharing a property line) to the proposed structure or development.

B. **BLUFF**: Any high landform which abuts or is adjacent to the coast and has a vertical relief of ten feet (10') or more. See also definition of EDGE and FACE.

C. **CANYON**: Any valley, or similar landform, which has a vertical relief of ten feet (10') or more. See also definition of EDGE and FACE.

D. **CLIFF**: A steep, vertical landform which has a vertical relief of ten feet (10') or more. See also definition of EDGE and FACE.



Coastal Canyon Bluff

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E. **COASTAL**: That area within the City's Coastal Zone as depicted on the "Environmentally Sensitive Habitat Areas" Map of the Land Use Plan in the City's coastal program attached as Exhibit A.

F. **COASTAL SAGE SCRUB**: Vegetation which include, but are not limited to, the following: Many species of Dudleya, Calandrinia maritima, Cleomeisomeris, Coreopsisgigantea, Eriogomunigiganteum, Eriogomungrande, Eriophyllumnevinii, Galvesia speciosa, Haplopappus venetus, Hemizonia clementina, Lavatera assurgentiflora, Malacothrix saxatilis, Phacelia lyonii, and Rhus integrifolia, plus two species of Polypodium, Artemisia californica, Crossosoma californicum, Diplacus species, Encelia californica, Eriogonum fasciculatum, Galium, Haplopappus, Helianthemum, Lotus, Lupinus, Malacothamnus, and Opuntia species, Malosma laurina, Rhus integrifolia, Salvia, Senecio, and Solanum species, and Toxicodendron radicans diversilobum, the sprawling Marah macrocarpus and Calystegia macrostegia, and many other showy herbs like species of Castilleja, Haplopappus, Lotus, Lupinus, and Zauschneria, and Eriophyllum confertiflorum.

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

Only like development shall be utilized when determining a stringline setback for proposed development.

H. **EDGE**: The upper termination of a Bluff, Canyon, or Cliff. When the top Edge is rounded away from the Face as a result of erosional processes related to the presence of the steep Bluff Face, Canyon, or Cliff Face, the Edge shall be defined as that point nearest the Face beyond which the downward gradient of the land surfaces increases more or less continuously until it reaches the general gradient of the Bluff, Canyon, or Cliff. In a case where there is a steplike feature at the top of the Bluff Face, Canyon, or Cliff Face, the landward Edge of the topmost riser shall be taken as Bluff Edge, Canyon Edge, or Cliff Edge.

I. **ENVIRONMENTALLY SENSITIVE AREA**: Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Environmentally sensitive habitat areas in San Clemente's Coastal Zone include wetlands, riparian areas, habitats of rare or endangered species and several coastal canyons which still

contain native plant communities. The environmentally sensitive habitat areas are depicted on the "Environmentally Sensitive Habitat Areas" Map of the City's Coastal Element. The canyons contain important natural habitat areas. Development of land in and adjacent to the canyons is subject to the canyon-preservation policies noted in the City of San Clemente Coastal Element. The canyons are as follows: Marblehead Coastal canyons*, Palizada canyon, Trafalgar canyon, Toledo canyon, Lobos Marinos canyon, Riviera canyon, Montalvo canyon, and Calafia canyon.

*The Marblehead Coastal Specific Plan site is an area of "deferred certification" and at this time is not a part of the City's adopted Local Coastal Plan. Therefore, these coastal canyon/coastal bluff development standards shall not apply to the Marblehead site or canyons.. At the time a Land Use Plan and Coastal Zoning Ordinance are adopted and certified by the California Coastal Commission for the Marblehead Coastal property, the provisions of this section will be incorporated as an addendum to the City of San Clemente Local Coastal Plan.

J. **FACE**: A sharp or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of the land mass of a Bluff, Canyon, or Cliff. The Face may be a simple planar or curved surface or it may be steplike in section.

K. **NATIVE VEGETATION**: Vegetation composed of plants which originated, developed, or were produced naturally in the Southern Orange County coastal region and were not introduced directly or indirectly by humans. Native vegetation includes, but is not limited to, marsh vegetation, native grasslands, coastal/inland sage scrub, and woodlands.

L. **PRIMARY VEGETATION LINE**: One development setback standard that may be utilized for Coastal Canyons; characteristics to be established based on an on-site visit, and inventory of existing vegetation and topography.

M. **RIPARIAN VEGETATION**: An environment associated with plant communities which require high soil moisture conditions maintained by transported freshwater in excess of that otherwise available through local precipitation.

N. **SEACLIFF**: A Cliff whose Toe is or may be subject to marine erosion.

O. **STRUCTURE**: Any physical construction, including but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Only like structures shall be utilized when determining a stringline setback for proposed development.

P. **TOE**: The lowest part of an embankment.

CONDOMINIUM: An undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map,

parcel map, or condominium plan, in sufficient detail to locate all boundaries thereof. An individual interest within a condominium may include, in addition, a separate interest in other portions of real property.

CONGREGATE CARE FACILITY: Facility for senior citizens, that is arranged in a group setting and includes independent living and sleeping accommodations in conjunction with shared dining and recreational facilities. No congregate care units shall contain kitchens.

CONVALESCENT HOME: Facility licensed by the State Department of Public Health, the State Department of Social Welfare, or the County, which provides bed and ambulatory care for patients with post-operative convalescent, chronically ill, or dietary problems, and persons aged or infirm unable to care for themselves; but not including treatment for alcoholism, drug addiction, or mental or contagious diseases or afflictions.

CONVENIENCE STORE (SC, NEW): Any retail establishment between one hundred (100) and twenty-five hundred (2,500) gross square feet in building area and/or land use area where the primary activity is the display, storage, and/or sale of convenience items, including, but not limited to, prepackaged food products, beverages, household goods, automotive-related items, or other items which the decision-making body determines are similar in nature.

CUSTOM HOME (SC): A residential home built within a Custom Lot Subdivision to satisfy the unique design specification of the owner of the lot on which the home is to be built. No property owner or designee shall be entitled to receive more than three (3) permits for such homes within the same Custom Lot Subdivision in any 365-day period. Any property owner or designee who receives more than one (1) permit for a Custom Home in the same Custom Lot Subdivision shall design each home to have a unique exterior appearance and individualized floor plan.

CUSTOM LOT SUBDIVISION (SC): A tract of land solely developed with Custom Homes. A subdivision shall be considered custom only when it is designated as such through the discretionary review process and the City Council adopts an authorizing ordinance pursuant to Government Code Sections 66434F and 66434.2; the tract's designation as a Custom Lot Subdivision shall be noted on any additional map sheet to be recorded with the final map.

other waiver requests in accordance with **Chapter 4, Section ???**, if the following findings are made:

1. The parking required by the district within which the property is located cannot be provided without altering or modifying the historical structure in a manner which is incompatible with its original style and character; and

2. The modifications of the parking and circulation requirements will not be detrimental to the health, safety and general welfare of either the people residing in the area or the general public. (Ord. No. 878, 4; Ord. No. 1040,3.)

D. Historically Significant Non-Residential and Mixed-Use Structures

Reductions or modifications of the parking requirements included within this title for non-residential and mixed-use structures which have been listed on the City's Designated Historical Structures List may be granted subject to the approval of a minor exception permit, if two or fewer parking spaces are proposed to be waived, or a conditional use permit, for any other waiver requests, in accordance with **Chapter 4, Section ???**, if all of the following findings are made:

1. The off-street parking required by the zone and/or district within which the property is located cannot be provided without altering or modifying the historical structure in a manner which is incompatible with the historical structure's original architectural style and character; and

2. There is available public parking in close proximity to the historical structure; and

3. The modification of the parking requirements will not be detrimental to the health, safety and general welfare of either the people residing in the area or the general public (Ord. No. 1070.)

E. Outdoor Seating on Private Property for Restaurants

1. Community Development Director Approval

   Reductions or modifications of that portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be granted by the Community Development Director, if all of the following findings are made:

   a. The request is for 16 or fewer seats and/or 4 or fewer tables, located on private property;

   b. No hard alcohol is being served;

   c. Public parking is available in close proximity to the resta

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OUT DOOR SEATIN

d. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking;

e. The property owner concurs, in writing, with the request; and

f. No building permits are required for the outdoor seating area.

2. Minor Exception Permit

Reductions or modifications of that portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be granted through the approval of a minor exception permit, in accordance with **Chapter 4, Section ???**, if all of the following findings are made:

a. The request is for more than 16 seats and/or 4 tables, located on private property;

b. No hard alcohol is being served;

c. Public parking is available in close proximity to the restaurant;

d. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking; and

e. No building permits are required for the outdoor seating area.

3. Conditional Use Permit

Reductions or modifications of that portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area which cannot qualify for Community Development Director approval in accordance with **subsection 1** or a minor exception permit, in accordance with **subsection 2** may be granted through the approval of a conditional use permit, in accordance with **Chapter 4, Section ???**, if all of the following findings are made:

a. Public parking is available in close proximity to the restaurant; and

b. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.

F. Shared Parking

In all non-residential and mixed-use zones, parking facilities may be shared by multiple non-residential uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction

in the total number of required off-street parking spaces. Shared parking may be permitted pursuant to a conditional use permit, in accordance with **Chapter 4, Section ???**, of this title, subject to the following conditions:

1. A sufficient number of spaces (both shared and separate) are provided to meet the greater parking demand of the participating uses;

2. Satisfactory evidence, as verified through the conditional use permit process, has been submitted by the parties operating the shared parking facility, demonstrating that substantial conflict will not exist in the principal hours or periods of peak demand for the uses for which the shared parking is proposed;

3. Shared parking facilities shall not be located further than 300 feet from any structure or use served; and

4. A written agreement shall be reviewed the City Attorney and executed by the property owner to assure the continued availability of the shared parking spaces for the life of the development. (Section 5.47)

G. Minor Additions to Non-Residential Structures and the Commercial Portion of Mixed-Use Structures

Reductions or modifications in the parking required for minor additions to non-residential structures and the commercial portion of mixed-use structures may be granted through the approval of a minor exception permit, in accordance with **Chapter 4, Section ???**, if all of the following findings are made:

1. The proposed expansion will not result in a deficit of more than 2 parking spaces for the use;

2. Public parking is available in close proximity to the structure; and

3. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.

H. Changes of Use

Reductions in the parking required for a change of use may be granted through the approval of a minor exception permit, in accordance with **Chapter 4, Section ???**, if all of the following findings are made:

1. The change of use will not result in a deficit of more than 2 parking spaces for the use;

2. Public parking is available in close proximity to the use; and

3. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.

I. Indoor Seating for Restaurants

Reductions or modifications of that portion of a restaurant's off-street parking requirements attributable to the restaurant's indoor seating area may be granted through the approval of a minor exception permit, in accordance with **Chapter 4, Section ???**, if all of the following findings are made:

1. The total indoor seating for the restaurant will not result in a deficit of more than 5 parking spaces;

2. Other non-residential uses whose activities are not normally conducted during the same hours share parking spaces with the restaurant;

3. Public parking is available in close proximity to the restaurant; and

4. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.

J. Relocation of Historic Structures

Reductions or modifications of the parking requirements for a structure which is on the City's Designated Historic Structures List and which is being relocated, may be granted through the approval of a minor conditional use permit, in accordance with **Chapter 4, Sections ??? and ???** of this ordinance.

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MOTION BY COUNCILMEMBER APODACA, SECOND BY COUNCILMEMBER ANDERSON, CARRIED 5-0, to:

1. Introduce Ordinance No. 1190 entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING CHAPTERS 17.16, 17.24, 17.28, 17.40, 17.64, 17.72, AND 17.88 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE PARKING REQUIREMENTS FOR THE DOWNTOWN PARKING STUDY AREA, OUTDOOR DINING REQUIREMENTS, AND OTHER MISCELLANEOUS CODE AMENDMENTS.

2. Adopt Resolution No. 97-33 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE AMENDING THE CITY OF SAN CLEMENTE LOCAL COASTAL PROGRAM AND THE DRAFT IMPLEMENTATION ORDINANCE, LCP 97-21, PURSUANT TO THE CALIFORNIA COASTAL ACT OF 1976.

3. Take the following actions regarding other parking-related issues raised in the public workshops:

   - No fee should be established for parking waivers (except for the normal application fee required for the City to consider the waiver request).
   - Two additional goals should be established for the Central Business District Transition Program: 1) investigation of ways to improve pedestrian access within the Study Area; and 2) improvement of the sign program for public parking. Staff should provide a status report regarding these issues and the parking waiver program to the Planning Commission and City Council in six months.
   - If considered to be a Vital Few Priority, Staff should be directed to pursue a reduction in the City's in-lieu parking fee from the current amount of $11,616 to $5,000.

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ATTACHMENT # G

PARKING ORDINANCES

RESOLUTION NO. 97-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE AMENDING THE CITY OF SAN CLEMENTE LOCAL COASTAL PROGRAM AND THE DRAFT IMPLEMENTATION ORDINANCE, LCP 97-21, PURSUANT TO THE CALIFORNIA COASTAL ACT OF 1976

WHEREAS, pursuant to Division 20 Section 30000 et seq. of the California Public Resources Code, the California Coastal Act, a Local Coastal Program adopted and approved by the City Council of the City of San Clemente on March 20, 1996; and

WHEREAS, pursuant to Section 30503 of the California Public Resources Code and Section 65351 of the California Government Code, the Planning Commission held a duly noticed public hearing on the amendment of the Local Coastal Program and Implementation Ordinance (LCP 97-21) attached hereto as Exhibit "A" on April 15, 1997, and May 20, 1997, and all interested persons were given opportunity to be heard; and

WHEREAS, on May 20, 1997, the Planning Commission of the City of San Clemente adopted Resolution No. PC 97-11 recommending amendment of the San Clemente Local Coastal Program; and

WHEREAS, pursuant to Section 30503 of the California Public Resources Code and Section 65351 of the California Government Code, the City Council of the City of San Clemente held a duly noticed public hearing on the amendment of the Local Coastal Program and Implementation Ordinance (LCP 97-21) attached hereto as Exhibit "A" on July 2, 1997, and all interested persons were given opportunity to be heard; and

WHEREAS, the City Council recognizes that the Local Coastal Program includes City of San Clemente Zoning Ordinance, Title 17 of the Municipal Code; and

WHEREAS, pursuant to Section 30510 of the California Public Resources Code, the City is authorized to submit its Local Coastal Program to the California Coastal Commission for review and approval provided that the Local Coastal Program is certified by a resolution adopted following a public hearing and contains materials sufficient for a thorough and complete review; and

WHEREAS, the amendment of the Local Coastal Program is statutorily exempt from the California Environmental Quality Act pursuant to Section 21080.9 of the Public Resources Code;

NOW, THEREFORE, THE CITY COUNCIL of the City of San Clemente hereby resolves as follows:

Section 1: The San Clemente Local Coastal Program and draft Implementation Ordinance, which includes Title 17 of the Municipal Code, is hereby amended in accordance with Exhibit "A".

Section 2: This amendment to the San Clemente Local Coastal Program shall be submitted to the California Coastal Commission for approval and certification along with the remainder of the Local Coastal Program, approved through Resolution No. 96-11, adopted by the City Council on March 6, 1996;

Section 3: In accordance with California Code of Regulations, Title 14, Divsion 5.5, 13518, the San Clemente Local Coastal Program shall take effect automatically upon California Coastal Commission approval pursuant to California Public Resource Code Sections 30512, 30513, and 30519.

APPROVED, ADOPTED and SIGNED this 2nd day of July, 1997.

Mayor of the City of
San Clemente, California

ATTEST:

CITY CLERK of the City of
San Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 97-33 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 2nd day of July, 1997, by the following vote:

AYES: ANDERSON, APODACA, BERG, DAHL, MAYOR AHLE
NOES: NONE
ABSENT: NONE

CITY CLERK of the City of
San Clemente, California

Approved as to form:

City Attorney

EXHIBIT "A"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADOPTING A NEGATIVE DECLARATION AND AMENDING CHAPTERS 17.16, 17.24, 17.28, 17.40, 17.64, 17.72, AND 17.88 OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE PARKING REQUIREMENTS FOR THE DOWNTOWN PARKING STUDY AREA, OUTDOOR DINING REQUIREMENTS, AND OTHER MISCELLANEOUS CODE SECTIONS

WHEREAS, the City Council of the City of San Clemente desires to encourage the revitalization of Downtown San Clemente and to waive some existing requirements based on the surplus of parking identified in the IBI Parking Needs Assessment study; and

WHEREAS, staff processed and completed an initial environmental assessment for the Project, in accordance with the California Environmental Quality Act. The Planning Division, having determined that the Project will have no significant environmental impacts, therefore recommends the City Council adopt a negative declaration; and

WHEREAS, on April 15, and May 20, 1997 the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by the City staff, and other interested parties and voted to recommend to the City Council adoption of a negative declaration and approval of Zoning Amendment 97-20; and

WHEREAS, on June 18, 1997, the City Council held a duly noticed public hearing on the subject application and considered evidence presented by City staff and other interested parties.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby ordain as follows:

SECTION 1: Pursuant to CEQA Guidelines Section 15063, an initial study has been prepared for this Project. After reviewing the initial study, the proposed negative declaration and all comments received during the public review period, the City Council has reviewed and considered the proposed negative declaration and finds the Project will not have a significant impact on the environment and therefore adopts a negative declaration. The City Planner is the custodian of record for those records making up the record of proceedings for the negative declaration. Those records are retained in the Planning Department of the City of San Clemente.

Pursuant to Title 14, California Code of Regulations Section 753.5 (c)(1), the Planning Commission has determined that, after considering the record as a whole, there is no evidence that the proposed Project will have the potential for any adverse effect on wildlife resources or the habitat upon which the wildlife depends. Furthermore, on the basis of substantial evidence, the Planning Commission hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish & Game Code Section 711.2 and Title 14, California Code

of Regulations Section 753.5(a)(3), the Project is not required to pay the Fish & Game Department filing fees.

SECTION 2: Paragraphs 22 through 33 of Subsection C, Applicability, of Section 17.16.060 of the San Clemente Municipal Code are hereby amended and added to read as follows:

22. Parking modifications for the Downtown Parking Study Area, as provided for in Section 17.64.125A, Parking Requirements for MU3, of this title

23. Parking modifications for historic non-residential and mixed-use structures, as provided for in Section 17.64.125.B, Historic Non-Residential and Mixed-Use Structures, of this title.

24. Parking modifications for historic structures in the RM and RH zones, as provided for in Section 17.64.125.B, Historic Structures in RM and RH Zones, of this title.

25. Parking modifications for hotel and bed and breakfast uses, in accordance with Section 17.64.125.B, Hotels, and Sections 17.28.090.D, Minimum Standards for Bed and Breakfast Inns in All Zones, of this title.

26. Parking, off-site, for non-residential uses, as provided for in Section 17.64.110, Off-Site Parking, of this title.

27. Parking modifications for outdoor dining for restaurants, as provided for in Section 17.28.205.D.6, Parking, of this title.

28. Parking modifications for public utilities, as provided for in Section 17.28.240.C.2.d., Minor Utilities, of this title.

29. Parking modifications for shared parking, as provided for in Section 17.64.120, Shared Parking, of this title.

30. Patio covers, detached, exceeding 15 feet in height and located within certain setback areas, as provided for in Table 17.24.080 B, Maximum Encroachments into Setbacks and Height Limits, of this title.

31. Pool halls and other similar uses within 200 feet of property zoned for single family residential development.

32. Public utilities, major, initiated by outside agencies, as provided for in Section 17.28.240.B.2.a, Projects Initiated by Outside Agencies, of this title.

33. All tentative maps for sites on which residential development is existing or currently proposed.

SECTION 3: Paragraphs k through p of Subsection F.2, Specific Findings, of Section 17.16.060 of the San Clemente Municipal Code are hereby amended and added to read as follows:

k. Parking modifications for the Downtown Parking Study Area, specific findings in accordance with Section 17.64.125.A, (Waivers of Parking Requirements) The Downtown Parking Study Area, of this title.

l. Parking modifications for historic structures in the RM and RH zones, specific findings in accordance with Section 17.64.125.B, Historic Structures in RM and RH Zones, of this title.

m. Parking modifications for historic non-residential and mixed-use structures, specific findings in accordance with Section 17.64.125.B., Historic Non-Residential and Mixed-Use Structures, of this title.

n. Parking modifications for hotel uses, specific findings in accordance with Section 17.64.125.B, Modifications and Waivers of Parking Requirements, Hotels, of this title.

o. Parking modifications for outdoor dining for restaurants, specific findings in accordance with Section 17.28.205.D.6, Parking, of this title.

p. Parking modifications for public utilities, specific findings in accordance with Section 17.28.240.C.2.d., Minor Utilities, of this title.

SECTION 4: Paragraphs 6 and 7 are hereby added to Subsection C, Applicability, of Section 17.16.070 of the San Clemente Municipal Code as follows:

6. Parking modifications for the Downtown Parking Study Area, as provided for in Section 17.64.125.A, (Waivers of Parking Requirements) The Downtown Parking Study Area, of this title.

7. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.28.205.D.6, Parking, of this title.

SECTION 5: Paragraphs c and d are hereby added to Subsection F.2, Specific Findings, of Section 17.16.070 of the San Clemente Municipal Code as follows:

c. Parking modifications for the Downtown Parking Study Area, specific findings in accordance with Section 17.64.125.A, (Waivers of Parking Requirements) The Downtown Parking Study Area, of this title.

d. Parking modifications for outdoor dining for a restaurant, as provided for in Section 17.28.205.D.6, Parking, of this title.

SECTION 6: Paragraphs 9 through 19 of Subsection C, Applicability, of Section 17.16.090 of the San Clemente Municipal Code are hereby amended to read as follows, with existing Paragraph 11 being deleted and of no further force or effect and being replaced by Paragraph 11 below.

9. Parking modifications for historic structures in RM and RH zones, as provided for in Section 17.64.125.B, Historic Structures in RM and RH Zones, of this title.

10. Parking modifications for non-residential and mixed-use historic structures, as provided for in Section 17.64.125.B, Historic Non-Residential and Mixed-Use Structures, of this title.

11. Parking modifications for minor additions to non-residential and the commercial portion of mixed-use structures, as provided for in Section 17.64.125.B, Minor Additions to Non-Residential and the Commercial Portion of Mixed-Use Structures, of this title.

12. Parking modifications for changes of uses on sites that cannot meet the parking requirements, as provided for in Section 17.64.125.B, Change of Use, of this title.

13. Parking modifications for restaurants, due to joint use of parking and off-peak parking demand periods, as provided for in Section 17.64.125.B, Indoor Seating for Restaurants, of this title.

14. Pools, spas, hot tubs, and other bodies of water in the front yard setbacks, as provided for in Table 17.24.B, Maximum Encroachments into Setbacks and Height Limits, of this title.

15. Retaining walls, as provided for in Section 17.24.180.B.5.a, Exceptions, of this title.

16. Satellite antennas, as provided for in Section 17.28.080.B.2, Minor Exception Permit, of this title.

17. Setbacks for primary and accessory structures, as well as the setback line from which encroachments into a setback are measured, in accordance with Table 17.24 B, Maximum Encroachments into Setbacks and Height Limits, of this title, as follows:

    a. A decrease of not more than twenty percent (20%) of the required width of a side yard or the yard between buildings.

Item	Front Encroachments Into Front Yard Setback Area	Side Encroachments Into Side Yard Setback Area	Rear Encroachments Into Rear Yard Setback Area	Maximum Projection Above Height Limit	Other Limitations
Equipment for swimming pools, and hot tubs, and other bodies of water over 18 inches in depth	Not permitted	5 ft. from property line Exception[1]	5 ft. from property line Exception[2]		Filters, heating systems, and/or pumps shall be sound-proofed to the satisfaction of the City Building Official.

SECTION 9: Subsection D.6 of Section 17.28.205, Parking, of the San Clemente Municipal Code is hereby added to read in its entirety as follows:

6. Parking

a. Outdoor dining areas shall comply with the following parking requirements:

Table 17.28.205 B
Parking Requirements for Outdoor Dining Areas

Restaurant Size (Number of Indoor Seats)	Parking Requirements for Outdoor Dining Area	
	Number of Outdoor Seats	Parking Requirements
Restaurants with 0 - 31 indoor seats	0 to 8	0 parking spaces required
	More than 8	For more than 8 outdoor seats, refer to the parking requirements for indoor

[1] The five (5) ft. distance from the property line may be reduced when the equipment is soundproofed to the satisfaction of the City Building Official and the degree of soundproofing is demonstrated in an acoustical report approved by the City Building Official.

[2] The five (5) ft. distance from the property line may be reduced when the equipment is soundproofed to the satisfaction of the City Building Official and the degree of soundproofing is demonstrated in an acoustical report approved by the City Building Official.

Restaurant Size (Number of Indoor Seats)	Parking Requirements for Outdoor Dining Area	
	Number of Outdoor Seats	Parking Requirements
		restaurant seating or subsection 6b, below, regarding waivers.
Restaurants with 32 or more indoor seats	0 to 16	0 parking spaces required
	More than 16	For more than 16 outdoor seats, refer to the parking requirements for indoor restaurant seating or subsection 6b, below, regarding waivers.

b. The above parking requirements for outdoor dining facilities may be modified or waived by the approval body required to review other aspects of the outdoor dining facility, in accordance with Table 17.28.205A (private property) or 206A (public property), Review Requirements for Outdoor Dining Areas, if all of the following findings can be made in addition to the general findings required for the appropriate permits:

(i) Public parking is available in close proximity to the restaurant;

(ii) Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking; and

(iii) If the outdoor dining is located within the Downtown Parking Study Area, the findings required in Section 17.64.125.A.4, Findings (For Waivers of Parking Requirements for Outdoor Dining, Additions, and New Structures), of this title.

SECTION 10: Paragraph 2 of Section 17.28.300.E, Construction Offices, Security Quarters, Storage Yards, and Large Containers for Construction Projects, of the San Clemente Municipal Code is hereby added to read in its entirety as follows:

2. Review Requirements: Construction offices, security quarters, storage yards and large containers on the site of an active construction project shall require the approval of a Temporary Use Permit, in accordance with Section 17.16.150, Temporary Use Permits, of this title.

SECTION 11: The following row of Table 17.40.040 of the San Clemente Municipal Code, shall be amended to read as follows:

Parking	For parking requirements, please refer to Chapter 17.64, Parking and Access, of this title. The calculation for parking for the Downtown Parking Study Area shall be made as follows: 1. The number of off-street parking spaces which shall be provided for an alteration of use or addition of square footage shall be the net increase[3] in parking spaces required for the project as a result of the alteration or addition of square footage.[4] 2. Waivers of the parking requirements may be approved by the City, in accordance with 17.64.125,A (Waivers) within the Downtown Parking Study Area, of this title.

[3] This exception is made for the Downtown Parking Study Area because of the results of Downtown, North Beach, and Pier Bowl Parking Needs Assessment completed in 1995. The study found that there was an excess supply of parking spaces within the Study Area for the uses existing at the time of the study, even considering that a number of lots within the Study Area are nonconforming as to parking. When requests for alterations of use and additional square footage are considered by the City, only the net increase in parking requirements will be assessed, as opposed to requiring that projects make up for existing parking deficiencies within a site.

Alterations of use and/or additions of square footage shall not result in the physical elimination of parking spaces, unless a waiver is obtained for the spaces eliminated or the applicant has more parking than required by this title.

[4] Example: If an existing retail establishment currently requiring 4 parking spaces wishes to convert to a restaurant requiring 7 parking spaces, the net increase in parking requirements is 3 spaces. To be permitted by the City, the restaurant in this example would have to be able to cover the net increase of 3 parking spaces. The following table illustrates the additional parking spaces that the restaurant would need to provide to be approved:

Number of Spaces Currently Provided by the Retail Establishment	Number of Spaces which must be Added to Allow the Restaurant
0 - 4	3
5	2
6	1
7	0

These spaces would have to be provided on-site, off-site in accordance with Section 17.64.110, Off-site Parking, or Section 17.64.120, Shared Parking, or waivers would need to be obtained in accordance with Section 17.64.125.A, (Waivers) Within the Downtown Parking Study Area.

SECTION 12: Subsections 1, 4 and 6 of Section 17.64.050.A, Enforcement and Interpretation of Parking Requirements, of the San Clemente Municipal Code shall be amended to read in their entirety as follows:

1. Number of Off-Street Parking Spaces Required

The number of off-street parking spaces required for the land uses identified in the Permitted and Conditional Use Tables of this title are listed in Table 17.64 A, Number of Parking Spaces Required, except where parking requirements are established in Chapter 17.28, Special Uses, or exceptions to these requirements are granted in accordance with Section 17.64.125, Waivers of Parking Requirements, in this chapter.

4. Mixed-Use Sites

When several uses/businesses occupy a single structure or parcel, the total parking required shall be the sum of the requirements for each individual use, except as otherwise provided in subsection (A)(5), Mixed-Function Uses, below, and Section 17.64.120, Shared Parking, in this chapter.

6. Alterations of Use

a. Changes in use: Changes in use shall require compliance with the off-street parking requirements of this chapter for the entire project. **Exceptions:** Please refer to Table 17.40.040, Mixed-Use Zone Development Standards, Section 17.64.125, Waivers of the Parking Requirements, and Chapter 17.72, Nonconforming Uses and Structures, of this title.

b. Enlargement or intensification of an existing use: Enlargement or intensification of an existing use shall require compliance with the off-street parking requirement of this chapter for the existing uses within the project, as well as the enlargement or intensification. **Exceptions:** Please refer to Table 17.40.040, Mixed-Use Zone Development Standards, Section 17.64.125, Waivers of the Parking Requirements, and Chapter 17.72, Nonconforming Uses and Structures, of this title.

SECTION 13: Subsection 6 of Table 17.64.050 of the San Clemente Municipal Code, shall be amended so that the following row appears only once within the subsection:

Art/Dance Studio	1 space per employee; 1 space per 2 students, maximum capacity

SECTION 14: The following row of Subsection 7 of Table 17.64.050 of the San Clemente Municipal Code, shall be amended so that the following row appears only once within the subsection:

Senior Housing Projects	Please refer to Section 17.28.280, Senior Housing.

SECTION 15: The first paragraph of Section 17.64.060 of the San Clemente Municipal Code shall be amended to read in its entirety as follows:

Except as otherwise provided for in Section 17.64.125, Waivers of Parking Requirements, or Section 17.64.070, Disabled Accessible Parking Spaces, required parking spaces and areas shall be designed as specified by this section and the City of San Clemente Engineering Division's Technical Standards.

SECTION 16: Section 17.64.120 of the San Clemente Municipal Code shall be amended to read in its entirety as follows:

17.64.120 Shared Parking

In all non-residential and mixed-use zones, private parking facilities may be shared by multiple non-residential uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces. Shared parking may be granted through the approval of a conditional use permit, in accordance with Section 17.16.060, Conditional Use Permit, of this title, subject to the following requirements and findings:

A. Requirements

1. Satisfactory evidence, as verified through the conditional use permit process, shall be submitted by the parties seeking approval of the shared parking arrangement, demonstrating that substantial conflict will not exist in the principal hours or periods of peak demand for the uses for which the shared parking is proposed.

   If finding B.3.b, below, is to be made, then "satisfactory evidence" shall include a parking survey, which may be conducted by the applicant and which demonstrates that the number of spaces to be shared are physically available when the proposed use(s) is in operation. The survey must be conducted prior to approval of the conditional use permit, on an hourly basis during the proposed hours of operation of the use, for a minimum of eight weeks, and on a minimum of the Friday and Saturday of each week; and

2. Shared parking facilities shall not be located further than 300 feet from any structure or use served. Exception: In the case of the Downtown Parking Study Area, this distance may be increased to 500 feet.

B. Findings

1. Given the specific conditions of the site and the adjacent area, the shared parking arrangement will not result in inadequate parking; and

2. Prior to the use being initiated, a written agreement shall be reviewed by the City Attorney and executed by the property owner to assure the continued availability of the shared parking spaces for the life of the development; and

3. The number of parking spaces required for the site, in accordance with Section 17.64.050.B. Number of Parking Spaces Required, is provided through the shared parking arrangement, based on varied hours of operation and/or combinations of peak and off-peak uses. Exceptions: The following findings may be substituted for this finding in the specific situations described below:

   a. In the case of sites/projects that are already nonconforming as to the number of parking spaces provided, the following finding may be made:

      The shared parking arrangement does not <u>intensify</u> the nonconformity, and/or any intensification can be accommodated because of varied hours of operation and/or combinations of peak and off-peak uses.

   b. In the case of the Downtown Parking Study Area, the following finding may be made:

      The number of spaces to be shared has been demonstrated to be physically available (not occupied) for the proposed use(s), during the hours of operation of the proposed use(s).

SECTION 17: Subsection A of Section 17.64.125 of the San Clemente Municipal Code shall be added to read in its entirety as follows:

17.64.125 Waivers of Parking Requirements

A. The Downtown Parking Study Area

1. Purpose and Intent

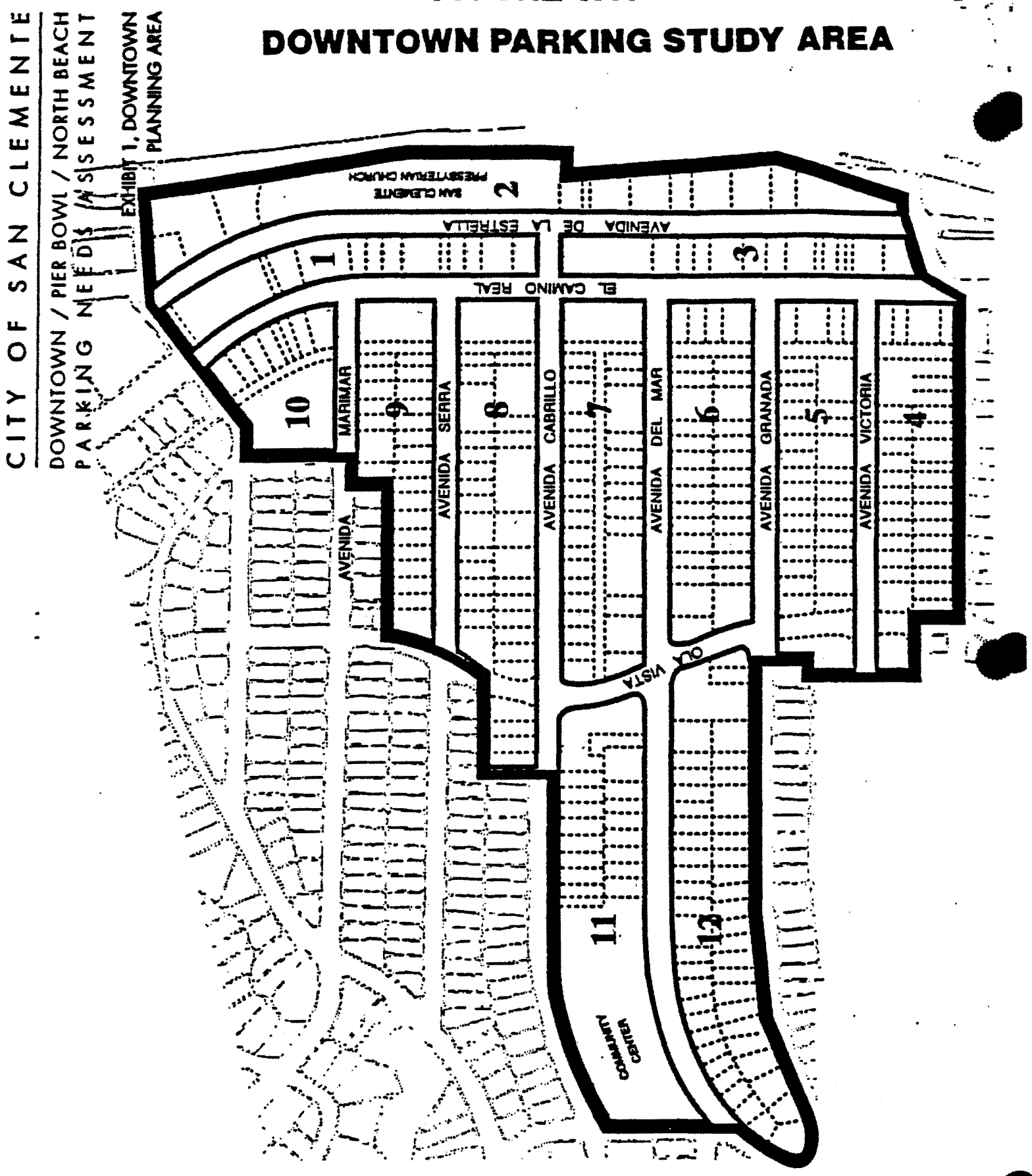
The Parking Waiver Program for the Downtown Parking Study Area is designed to serve the unique characteristics of this area which influence parking demand. The Parking Study Area contains a significant number of public parking spaces which absorbs the overflow parking from private parking lots and substitutes for private parking. In addition, the existing mix of land uses is varied, with retail and office uses, public services, service-oriented businesses, and some residential uses. The variety of land uses in the area, the varied peak parking demand periods that they create, their proximity to one another, and the pedestrian-orientation of the area result in a shared or joint-use of the available public parking. All of these factors reduce the parking demand from that experienced by many types of commercial areas. A parking study completed in 1995, on which this program is partially based, confirmed the unique parking circumstances in the Downtown Parking Study Area.

The Parking Waiver Program was developed to address the reduced parking demand experienced within the Study Area. The Program has been designed so that waivers are not automatic; rather, they require discretionary action on the part of the City. Waivers are to be granted based on the availability of public parking near the proposed project and on the project's contribution to the pedestrian atmosphere of the Downtown Parking Study Area. The availability of private parking near a project is not a basis for granting waivers. In the development of this program, the City recognizes that each block within the Parking Study Area is unique, with its own set of circumstances related to public parking availability, parking demand, pedestrian-orientation, and mix of uses. These individual circumstances shall be taken into consideration when waivers requests are evaluated.

Property owners in the Downtown Parking Study Area (see Figure 17.64.125) may request waivers of their off-street parking requirement for non-residential development in accordance with the provisions found in this section.

FIGURE 17.64.125

DOWNTOWN PARKING STUDY AREA



ATTACHMENT C

3A 38

2. Review Requirements

a. Waivers for Alterations of Use

Waivers of the parking requirements for alterations of use, except for outdoor dining, may be allowed by the following authorities, subject to the concurrent review provisions of Section 17.12.090, Consideration of Concurrent Applications, and the findings in subsection 3 of this section, through the indicated applications:

Table 17.64.125 A
Review Requirements for
Waivers for Alterations of Use

Threshold for Review	Community Development Director/ Administrative Approval	Zoning Administrator MCUP	Planning Commission CUP
Waiver of up to 3 parking spaces	✓		
Waiver of 4-6 parking spaces		✓	
Waiver of 7-10 parking spaces			✓

b. Waivers for Outdoor Dining, Additions and New Structures

The waiver of some or all parking requirements for outdoor dining, additions to existing structures, and new structures shall be reviewed by the approval body required to review other aspects of the outdoor dining facility, addition or new structure, in accordance with Chapter 17.16, Applications, of this title and subject to the findings of subsection 4 of this section. An application for a waiver shall be filed and processed in the following manner:

(i) When only ministerial, City Planner, or Community Development Director review of the project is required, the parking waiver shall be reviewed by the Community Development Director through the plan check process;

(ii) When Zoning Administrator review of the project is required, the applicant shall process and obtain a Minor Conditional Use Permit, in accordance with Section 17.16.070, Minor Conditional Use Permits, of this title, for the parking waiver request;

(iii) When Planning Commission review of the project is required, the applicant shall process and obtain a Conditional Use Permit, in accordance with Section 17.16.060, Conditional Use Permits, of this title, for the parking waiver request.

3. Limitations on Waiver Requests

a. For the Downtown Parking Study Area. The City may approve up to 90 parking waivers in the Downtown Parking Study Area. Parking waivers may be granted for alterations of use and new non-residential development. After 90 waivers have been granted, the City shall consider whether an additional parking study is necessary to assure that granting of an additional 90 waivers, for a total of 180, will not create inadequate parking in the Study Area.

b. For an individual project site. The City may approve parking waivers for an individual project site, subject to the following limitations:

(i) No project site may be granted more than 10 parking space waivers.

(ii) The limitation on the total number of waivers which the City may grant to an individual project site is cumulative, beginning with the effective date of this amendment to the City's Zoning Ordinance, date.

(iii) Should the use or addition for which the parking waiver is granted be terminated or demolished, the parking waivers shall revert back to the City and shall be available for granting by the City to other projects.

(iv) Prior to the granting of any waivers, the findings outlined in subsection A.3 shall be made.

4. Findings

Prior to the administrative approval by the Community Development Director or approval of a Minor Conditional Use Permit or Conditional Use Permit for a waiver of parking requirements, the following findings shall be made in addition to any general findings required for the appropriate permit:

a. No more than 180 parking space waivers have been granted in the Downtown Parking Study Area since the effective date of this amendment to the City's Zoning Ordinance, date;

b. There is currently adequate parking to support the change of use and/or development and provide adequate beach parking within the Study Area;

c. The City Council has approved an interim parking study for the Downtown Parking Study Area that shows the occupancy of the parking spaces in the Study Area is 90% or less during daylight hours, on summer weekends;

d. Public parking is available in close proximity to the project site; and

e. The project receiving waivers improves pedestrian access to and from alleys and streets within the Downtown Parking Study Area to the extent feasible and commensurate with the scale of the project

SECTION 18: Subsection B of Section 17.64.125 of the San Clemente Municipal Code shall be added to read in its entirety as follows:

B. Outside the Downtown Parking Study Area

Waivers of the parking requirements for the uses contained in the following table may be approved, subject to the approval of the indicated permits:

USE	REVIEW REQUIREMENTS	FINDINGS WAIVERS MAY BE GRANTED TO THE INDICATED USES IF THE INDICATED FINDINGS ARE MADE, IN ADDITION TO THE GENERAL FINDINGS FOR THE SPECIFIED PERMITS:
1. Hotels - Waivers for the number of parking spaces required.	CUP	1. The hotel provides for the transportation needs of its guests such that the hotel guest's use or storage of personal automobiles will not exceed the parking spaces provided for hotel guests; and 2. Either the hotel is in close proximity to existing or approved public transportation facilities or other criteria exist which would reduce the amount of parking which would otherwise be required by the hotel.
2. Historic Structures in RM and RH Zones - Waivers of the parking space and circulation requirements	MEP - ≤ 2 space reduction CUP - All others	1. The structure is listed on the City's Designated Historic Structures List; and 2. The parking required by the district within which the property is located cannot be provided without altering or modifying the historic structure in a manner which is incompatible with its original style and character; and 3. The modifications of the parking and circulation requirements will not be detrimental to the health, safety and general welfare of either the people residing in the area or the general public.
3. Historic Non-Residential and Mixed-Use Structures - Waivers of the parking space and circulation requirements	MEP - ≤ 2 space reduction CUP - All others	1. The structure is listed on the City's Designated Historic Structures List; and 2. Public parking is available in close proximity to the structure; and 3. The parking required by the zone and/or district within which the property is located cannot be provided without altering or modifying the historic structure in a manner which is incompatible with the historic structure's original architectural style and character; and 4. The modification of the parking requirements will not be detrimental to the health, safety and general welfare of either the people residing in the area or the general public.

USE	REVIEW REQUIREMENTS	FINDINGS WAIVERS MAY BE GRANTED TO THE INDICATED USES IF THE INDICATED FINDINGS ARE MADE, IN ADDITION TO THE GENERAL FINDINGS FOR THE SPECIFIED PERMITS:
Relocation of Historic Structures - Waivers of the parking space and circulation requirements	MCUP Please also refer to Section 17.24.160, Relocation of Structures	The structure is listed on the City's Designated Historic Structures List
4. Minor Additions to Non-Residential Structures and the Commercial Portion of Mixed-Use Structures - Waivers for the number of parking spaces required.	MEP	1. The proposed expansion will not result in a deficit of more than 2 parking spaces for the use; and 2. Public parking is available in close proximity to the structure; and 3. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.
5. Changes of Use - Waivers for the number of parking spaces required.	MEP	1. The change of use will not result in a deficit of more than 2 parking spaces for the use; and 2. Public parking is available in close proximity to the use; and 3. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.
6. Indoor Seating for Restaurants - Waivers for the number of parking spaces required for indoor seats.	MEP	1. The total indoor seating for the restaurant will not result in a deficit of more than 5 parking spaces; and 2. Other non-residential uses whose activities are not normally conducted during the same hours share parking spaces with the restaurant; and 3. Public parking is available in close proximity to the restaurant; and 4. Given the specific conditions of the site and the adjacent area, the waiver or modification of requirements will not result in inadequate parking.
8. Outdoor Dining Areas	Please refer to Section 17.28.205.D.6.b., Parking, for waivers of the parking requirements for outdoor dining areas.	

SECTION 19: Subsection D of Section 17.72.110 of the San Clemente Municipal Code shall be amended to read in its entirety as follows:

D. Other Changes of Use

Requests for a change of use which include a nonconforming use and/or structure and which do not meet the criteria in subsection A, Conforming Uses In Nonconforming Structures, B, Nonconforming Use to Conforming Use, or C, Nonconforming Use to Nonconforming Use, may be allowed through the approval of a conditional use permit, in accordance with Section 17.16.060, Conditional Use Permits, of this title, and shall only be approved if the following findings are made:

1. The proposed nonconforming use or structure has lesser impacts upon the neighborhood than the existing use, including, but not limited to, impacts upon parking, traffic, neighborhood aesthetics, noise levels, and residential density; and/or

   The proposed nonconforming use/structure more closely meets the intent of the Zoning Ordinance and/or the zone in which the nonconforming uses/structure is located than the existing use/structure; and/or

   In respect to parking, the proposed nonconforming use/structure has received a waiver of parking requirements in accordance with the provisions of Section 17.64.125, Waivers of Parking Requirements, of this title.

2. The substitute use is less detrimental than the existing use to the public welfare and to the property of persons located in the vicinity; and/or

   In respect to parking, the proposed nonconforming use/structure has received a waiver of parking requirements in accordance with the provisions of Section 17.64.125, Waivers of Parking Requirements, of this title.

SECTION 20: Section 17.88.030 of the San Clemente Municipal Code is hereby amended to add the following definition to existing definitions, in alphabetical order:

USE, ALTERATIONS OF: For the purpose of Section 17.64.125, an alteration of use shall mean any change of use, intensification of use, or any other situation where there is

an increase in the required parking caused by reasons other than the creation or addition of square feet of development.

SECTION 21: Subsection R of Appendix A of Title 17 of the San Clemente Municipal Code shall be amended to read in its entirety as follows:

R. RL - 18 (Tracts 8575, 11793, 14023)

Refer to the standards of the underlying RL Zone, except for the following:

Density:	Density shall be based on 1.5 dwelling units per acre within the individual tract boundary.
Setbacks:	Refer to the Seapointe Development Standards.
Height Limit:	30 ft.
	Building height within the Seapointe Estates Overlay District shall be calculated by measuring height from the top of the curb at the centerline of the lot. For corner lots, the height shall be calculated from the centerline of the frontage of the street included with the lot's address. For lots that are street-to-street, the height will be calculated from the curb at the street included within the lot's address.
	The skirt walls on the rear elevations of buildings on downhill lots shall not exceed 22 feet in height as measured from finished grade to the underside of the first finished floor of the structure, unless there exists a horizontal offset of at least 4 feet. In addition, when columns are utilized on the rear elevations below the underside of the finished floor, a standard of 1 inch square for every 1 foot vertical shall be required for such columns.
	Any deviation to this method shall require approval of a variance in accordance with Section 17.16.080, Variances, of this title.

SECTION 22: The Planning staff is directed to make numerous non-substantive changes to the proposed Ordinance which would include, but not be limited to, correction of the numbering of various tables and names of various subsections, additions to the table of contents for Title 17 and for individual chapters, and similar non-substantive changes.

SECTION 23: The City Clerk shall certify to passage of this ordinance, and the same shall take effect as provided by law, and shall be published as required by law.

APPROVED, ADOPTED and SIGNED this day of

Mayor of the City of
San Clemente, California

ATTEST:

CITY CLERK of the City of
San Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF SAN CLEMENTE)

I, MYRNA ERWAY, City Clerk of the City of San Clemente, California, do hereby certify that Ordinance No. _____ was regularly introduced at the meeting of , the reading in full thereof unanimously waived, and was adopted at a regular City Council meeting held on the day of , , by the following vote:

AYES:

NOES:

ABSENT:

Approved as to form:

CITY CLERK of the City of
San Clemente

City Attorney

CHAPTER 4
LAND USE/DEVELOPMENT STANDARDS

CHAPTER 4 SECTIONS:

401 General Development Standards
402 Pier Bowl Core Standards
403 Casa Romantica Standards
404 Alameda Lane Standards
405 Pier Bowl Municipal Parking Lot Standards
406 Beachcomber and Robison Properties Standards
407 Beaches and Parks Standards
408 Pier Bowl High Density Residential Standards
409 Pier Bowl Medium Density Residential Standards

401. GENERAL DEVELOPMENT STANDARDS

A. APPLICABILITY

General Development Standards apply to all sub-areas in the Pier Bowl (see Figure 6).

B. STANDARDS NOT LISTED

Whenever a standard or regulation is not set forth in this Specific Plan, the Coastal Zoning Ordinance, Zoning Ordinance, or applicable City codes shall regulate.

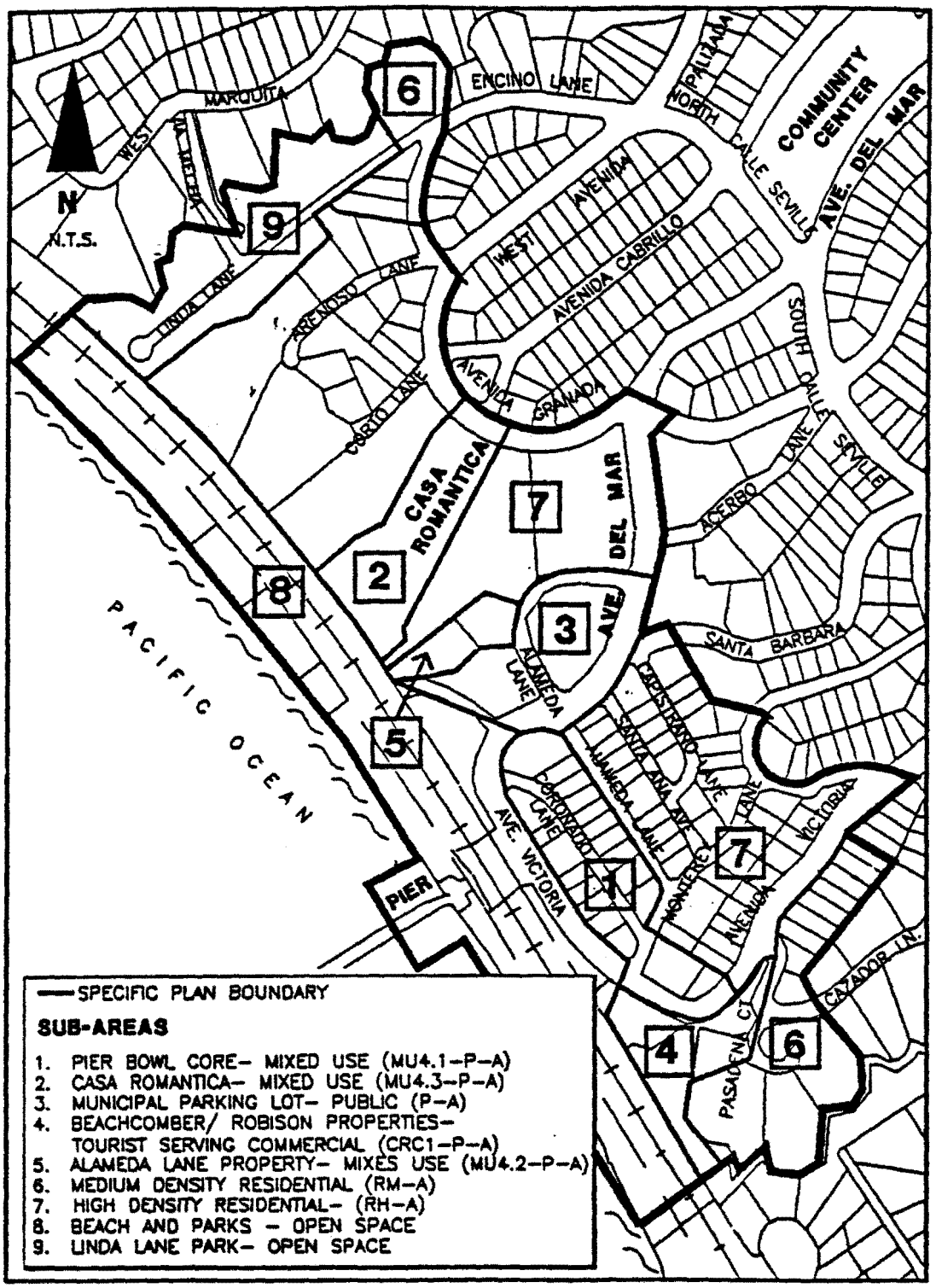
C. LAND USES NOT LISTED

In cases where it is unclear whether or not a proposed use is permitted under this section, the Planning Commission shall determine through the interpretation process if the use is consistent with the purpose set forth herein, and is either permitted as a principal, conditional, accessory, or temporary use, or is not permitted.

D. TERMS NOT LISTED

Terms used in these regulations shall have the same definitions as stated in the City Zoning Ordinance unless otherwise defined herein under Chapter 12, Definitions.

SAN CLEMENTE IP
ATTACHMENT # H
PIER BOWL S.P.
DEVEL. STANDARDS



CITY of SAN CLEMENTE CALIFORNIA

PIER BOWL SPECIFIC PLAN

LAND USE MAP

FIGURE 6

E. DESIGN GUIDELINES

All new development and any modifications, changes, or alterations to any structure under this section shall utilize Spanish Colonial Revival Architecture, shall be subject to the design guidelines set forth in Chapter 5, and shall also be subject to Architectural Design Review as prescribed in the City Zoning Ordinance.

F. SIGNS

Signs shall be in conformance with the City's Sign Ordinance (Chapter 28 of the City Municipal Code) and the Sign Design Guidelines in Chapter 5 of this Specific Plan. Signs shall be subject to Architectural Design Review as prescribed in the City Zoning Ordinance.

G. NONCONFORMING USES

Buildings and land uses existing legally in mixed-use zones as of the date of the adoption of the Pier Bowl Specific Plan, but which are inconsistent with Development Standards in the Specific Plan, can be rebuilt to the preexisting standard and/or continue the preexisting land use, even if damaged or destroyed by up to 100 percent by natural disaster or accidental cause, provided that the new structure does not exceed the preexisting building envelope or density, and provided that the project proponent applies for building permits within twelve (12) months of the existing structure being damaged or destroyed. If the existing structure is voluntarily demolished, or if after twelve (12) months of the existing structure being destroyed by natural disaster or accident, no building permits to rebuild have been applied for, the new structure and its use shall be required to conform to the Pier Bowl Specific Plan.

H. INCLUSIONARY HOUSING

Refer to the City's Housing Element for inclusionary housing for residential projects of ten (10) dwelling units or more and projects within the Coastal Zone. State law also requires fifteen percent (15%) to thirty percent (30%) of the new or rehabilitated dwelling units in the Pier Bowl Redevelopment Project Area to be affordable to households earning one hundred twenty percent (120%) of the median income. In addition, forty percent (40%) of the fifteen percent (15%) affordable units shall be affordable to the very-low-income households.

402 PIER BOWL CORE STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The Pier Bowl Core Development and Design Standards are established to accommodate a mixed-use district emphasizing pedestrian- and beach-oriented activity. This district promotes commercial uses at the street level; and office, lodging and multi-family residential uses on the upper stories of a project.

2. Applicability - This section applies to the Pier Bowl Core Sub-Area (Figure 6).

B. PRINCIPAL USES PERMITTED - Also refer to Section D, Land-Use Requirements for Mixed Use, to determine the floor level at/on which each use is permitted.

1. Pedestrian-oriented specialty retail uses designed to serve the shopping needs of tourists and beach-users, including apparel, art galleries, beach sundries, book stores, flowers, gifts, jewelry, newsstands, novelties, recreational, surf and sport, travel agencies, and tourist- or recreation-oriented businesses and shops, or similar uses.

2. Small-scale specialty food establishments, such as sandwich shops, candy stores, ice cream shops, frozen yogurt shops, bakeries, coffee houses, and similar businesses. For the purpose of this section, "small scale" shall be defined as an establishment with under 1,000 square feet of gross floor area. Establishments with 1,000 or more square feet of gross floor area shall be considered a "restaurant" and shall be permitted only under Paragraph C of this section upon approval of a Conditional Use Permit.

3. General and professional offices (excluding medical and dental offices), such as architecture, engineering, financial, consulting, law, real estate, and similar office uses.

4. Parks and open space, public and private.

C. CONDITIONAL USES PERMITTED - Also refer to Section D, Land Use Requirements for Mixed Use, to determine the floor level at/on which each use is permitted.

1. Bed-and-breakfast inns, hotels, motels, and time shares. Bed-and-breakfast inns shall be subject to the standards prescribed in the City Zoning Ordinance.

2. Drinking establishments, such as bars, pubs, or taverns, whose primary business is the sale of alcoholic beverages.

3. The sale of alcoholic beverages for consumption on the premises, but only if incidental to a permitted or conditional use.

4. Multi-family attached dwellings or condominiums, only when combined with one or more commercial uses.

5. Restaurants and other food establishments having greater than 1,000 square feet of gross floor area.

6. Outdoor food stands, newspaper stands, flower stands, ice cream or other vendors, push carts, permanent or temporary, on private property or within the Pier Bowl Core Park. Vendors on City-owned property shall be subject to a contract or agreement with the City.

D. LAND-USE REQUIREMENTS FOR MIXED USE

1. Ground Floor or Street Level

a. Commercial uses - The ground floor or street level of all developments shall be devoted to specialty retail, specialty food, restaurant, or similar types of uses.

b. Office uses - General and professional office (excluding medical or dental offices) uses shall be allowed on the ground floor only when located off-street or behind commercial uses with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance.

2. Upper Levels

a. Commercial uses - All permitted or conditional commercial uses set forth under this section that are a continuation of the same use on the first floor are allowed on the second floor. Commercial uses that are unrelated to the first floor use may be allowed on any of the upper floors with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance.

b. Office uses - General and professional office (excluding medical and dental offices) uses shall be allowed on the upper floors as a principally permitted use.

c. Bed-and-breakfast inns; hotel, motel, and time-share uses may be allowed on the upper floors with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance. Lobbies and entrances for these uses may extend onto the ground floor.

d. Residential uses - May be allowed on upper floors with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance.

E. TEMPORARY USES PERMITTED

1. Outdoor sales such as food, art displays or similar types of uses associated with special or promotional events are permitted with the approval of a Temporary Use Permit in accordance with the City Zoning Ordinance.

F. DEVELOPMENT STANDARDS

1. Maximum Floor Area Ratio - A maximum floor area ratio of 1.0 is allowed. Floor area ratios that exceed 1.0, but not to exceed 2.0, may be permitted if substantial public benefit that exceeds standards mandated by the Specific Plan and other City Codes and Ordinances is provided, subject to the approval of a Conditional Use Permit. Substantial public benefit might include: more than fifteen (15) percent of the net lot area as public open space, public parking, courtyards, arcades, conversion of an existing building into a Spanish Colonial Revival architectural design, the use of exemplary materials, public art, and other types of public amenities or exemplary design features.

2. Maximum Unit Density

Hotel/B-&-B Inn	1 unit/500 square feet lot area
Motel	1 unit/700 square feet lot area
Time Shares	1 unit/500 square feet lot area
Residential	1 unit/1,200 square feet lot area

Up to a ten (10) percent density increase may be permitted for hotels, motels, bed-and-breakfast inns and time shares if substantial public benefits that exceed standards mandated by the Specific Plan and other City Codes and Ordinances are provided.

These are the maximum unit densities allowable; lower densities may be required through Site Plan Review/Conditional Use Permit approval of a

project. Refer to Chapter 5, Design Guidelines, for further explanation on determining the appropriate size and scale of a project.

3. Maximum Height:

Projects with a floor area ratio of 1.0 or less - Thirty (30) feet; however, architectural features, not including habitable area, such as towers, may extend to a maximum height of thirty-five (35) feet if a Conditional Use Permit is approved in accordance with of the City Zoning Ordinance.

Projects with a floor area ratio between 1.0 and 2.0 that provide public benefit exceeding development standards mandated by the Specific Plan - The height may be extended to a level comparable to existing structures along the same street within the Pier Bowl Core Sub-Area. To determine the comparable height of existing structures, the applicant shall submit a height survey prepared by a registered engineer, land surveyor, or architect for determination of the maximum allowable height.

For purposes of this chapter, height shall be determined in accordance with the City Zoning Ordinance.

4. Minimum Lot Area and Width for New Subdivisions

- Lot area: 6,000 square feet
- Lot width: 60 feet

5. Maximum Building Coverage - Maximum building coverage of ninety (90) percent if Option A of the landscape standards is used; one hundred (100) percent maximum building coverage if Option B of the landscape standards is used.

6. Building Setbacks

- Front: 5 feet; however, for arcades and other "pedestrian elements," a setback of 0 feet
- Side, interior: 0 feet
- Side, exterior (abutting a street): 5 feet

- Rear: 5 feet
- Upper stories: Refer to Chapter 5, Design Guidelines, for the appropriate upper-story stepbacks.
- Light angle: A light angle setback of 80 degrees measured from the required setback for only those portions of the building above 20 feet in height.

7. Commercial Open Space - Open space conveniently accessible to the public shall be provided comprising a minimum of ten (10) percent of the net lot area. Open space shall be usable for recreational or open space activities. For example, outdoor seating areas, court yards, lawns, and plazas are considered public open space; however, parking areas shall not count toward the open space requirement.

8. Residential Open Space - A minimum of 80 square feet per unit of residential common and/or private open space, including patios, cabanas, arbors, swimming pools, decks, lawns, and similar open space, shall be provided for residential uses. The required square footage for residential open space may be combined with the required square footage for commercial open space to create larger open space areas. Areas greater than ten (10) percent excluded in computation of residential open space areas are: required setback areas, dwellings, other buildings, parking areas, streets, driveways, and slopes.

9. Landscaping

Option A - Landscape area provided at grade that is equal to ten (10) percent of the net lot area. A minimum of one 15-gallon tree, or equivalent as approved by the City Planner, per twenty-five (25) linear feet of street frontage shall be planted adjacent to the street. This requirement is in addition to the required streetscape planting in the City parkway.

Option B - Landscape area equal to twenty (20) percent of the net lot area. The landscape area may be provided on the upper-level balconies, decks, or roofs with permanently affixed planter boxes.

The landscaping meeting either of the two requirements shall be visible from the street or other public spaces. Hardscape improvements shall not be counted toward fulfilling the required landscape. Refer to Chapter 10,

Landscape and Streetscape Design Standards, for further landscape requirements.

10. Commercial Parking Standards - The following minimum off-street parking standards shall be provided and shall be kept accessible at all times:

• Professional Office	1/300 gross square feet
• Retail	1/250 gross square feet
• Food Stores, Take-Out Food	1/200 gross square feet
• Restaurants and Bars	1/4 seats
• Hotel/Motel/B-&-B Inn	1/unit, 2/managers unit and 1 employee space for every 10 rooms
• Time Shares	1.2/unit
• Residential	Parking shall be in accordance with the City Zoning Ordinance.

When parking is enclosed, residential and commercial/office parking facilities must be separated to ensure security. Exceptions to this requirement can be granted if adequate security measures are provided with the approval of a Conditional Use Permit in accordance with City Zoning Ordinance.

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit in accordance with City Zoning Ordinance. b) A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with the City Zoning Ordinance.

12. Off-Site Parking - Off-site parking on both public and private lots may be granted for commercial uses (residential projects shall provide all parking on-site) through the approval of a Conditional Use Permit provided that all the required parking for the project is in place at the time of development of the project. Off-site parking on a private lot shall be within five-hundred (500) feet of the project. City municipal parking lots located farther than five-hundred (500) feet from the project including satellite facilities designed to

provide centralized parking may be used to provide off-site parking for commercial uses in the Pier Bowl Core, subject to the approval of a Conditional Use Permit and a parking agreement with the City.

13. Joint-Use Parking - Joint-use parking for both public and private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple-use projects.

14. Modifications and Waivers of Requirements for Historic Buildings - Parking requirements may be modified or waived for historical structures in accordance with the City Zoning Ordinance.

15. Historic Preservation - Encourage the preservation and restoration of City-designated historic structures within the Pier Bowl Core Sub-Area.

    Remodel or demolition of any historically-designated structures shall be subject to the City Zoning Ordinance. In the event that it is demonstrated that the preservation, restoration, or relocation of any or all structures cannot be reasonably accomplished, replacement structures shall be of an authentic Spanish Colonial Revival design and character pursuant to the Architectural Design Review approval process.

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prescribed in the City Zoning Ordinance.

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ERMITTED FOR THE CASA ROMANTICA

n Section 403.B

en space, and parks.

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Forty-five (45) feet, or not to exceed the
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most restrictive.

The building height shall be no higher
than the adjacent roof ridge line of the
Casa Romantica.

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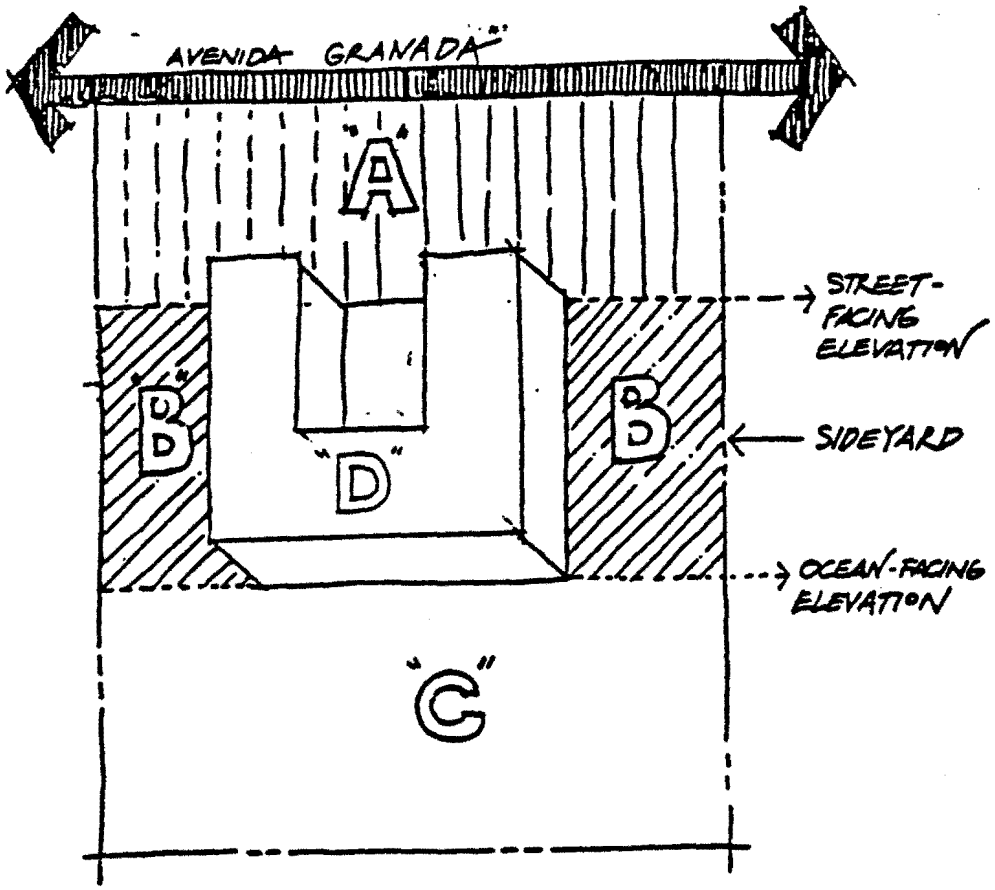

PIER BOWL SPECIFIC PLAN

CASA ROMANTICA DEVELOPMENT AREA

FIGURE 7

4. Minimum Lot Area and Width

- Lot area: 6,000 square feet
- Lot width: 60 feet

5. Maximum Building Coverage - Maximum building coverage of ninety (90) percent is allowed.

6. Building Setbacks

- Front: 10 feet
- Side 5 feet
- Rear: 25 feet from the bluff edge
- Upper stories: Refer to Chapter 5, Design Guidelines, for the appropriate upper-story stepbacks.

Note: These setbacks shall not preclude the development of public gardens and/or a pedestrian path/funicular in the area between the Casa Romantica and Alameda Lane property. Development shall be in conformance with Section 5 (Environmentally Sensitive Habitat Areas) of the City Coastal Element.

7. Commercial Open Space - Public open space shall be provided comprising a minimum of ten (10) percent of the net lot area. Areas counting for public open space shall be accessible to the public and usable for recreational or open-space activities. For example, outdoor setting areas, courtyards, lawns, plazas are considered public open space; however, parking areas shall not count toward the total space required.

8. Residential Open Space - A minimum of 80 square feet per unit of residential common and/or private open space, including patios, cabanas, arbors, swimming pools, decks, lawns and similar open space, shall be provided for residential uses. The required square footage for residential open space may be combined with the required square footage for commercial open space to create larger open space areas. Areas excluded in computation of residential open space areas are: required setback areas, dwellings, other buildings, parking areas, streets, driveways and slopes greater than ten (10) percent.

9. Landscaping - A minimum of ten (10) percent of the net lot area shall be private landscape area. Landscaping should be concentrated in areas that are

open or visible to public view adjacent to streets, courtyards or pedestrian corridors. A minimum of one 15-gallon tree, or equivalent as approved by the City Planner, per twenty-five (25) linear feet of street frontage shall be planted adjacent to the street within the landscape setback. This requirement is in addition to required streetscape planting in the City parkway. Hardscape improvements shall not be counted toward fulfilling the required landscape. Refer to Chapter 10, Landscaping/Streetscape Design Standards, for further landscape requirements.

Whenever feasible, preserve the mature landscaping on site.

10. Parking Standards - The following minimum off-street parking standards shall be provided and shall be kept accessible at all times:

• Retail	1/250 gross square feet
• Restaurants and Bars	1/4 seats
• Hotel/Motel/B-&-B Inn	1/unit, 2/managers unit, and 1 employee space for every ten (10) rooms
• Conference Facilities	1/5 fixed seats or 1/35 sq. ft. seating area
• Time Shares	1.2/unit
• Residential	Parking shall be in accordance with the City Zoning Ordinance.

When parking is enclosed, residential and commercial/office parking facilities must be separated. The intent of this requirement is to ensure security. Exceptions to this requirement can be granted if adequate security measures are provided with the approval of a Conditional Use Permit.

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit. b) A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with the City Zoning Ordinance.

12. Off-Site Parking - Off-site parking on both public and private lots may be granted for commercial uses (residential projects shall provide all parking on-site) through the approval of a Conditional Use Permit provided that all the

required parking for the project is in place with the development of the project. Parking on a private lot shall be within five-hundred (500) feet of the project. City municipal parking lots located farther than 500 feet from the project site (designed to provide centralized parking) may be used to provide off-site parking for commercial uses on the Casa Romantica site, subject to approval of a Conditional Use Permit and a parking agreement with the City.

13. Joint-Use Parking - Joint-use parking for both public and private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand for multiple-use projects.

14. Historic Preservation - Preserve and maintain the Casa Romantica (see Figure 7, Area D) in accordance with the Secretary of Interior's Standards for Historic Rehabilitation. Additional structures on the Casa Romantica property may be allowed if the design is well-integrated and compatible with the Casa Romantica's architecture, scale, and design, subject to the City Zoning Ordinance and the approval of a Conditional Use Permit.

15. View Preservation - Views of the Pier and the coast from the Casa Romantica and the views from the Pier of the Casa Romantica shall be maintained. A view analysis shall be required for any new development within this view corridor (see Figure 5 of Chapter 3, Goals, Objectives, and Policies).

16. Pedestrian Circulation - With the development of the Casa Romantica site, a pedestrian linkage between the Casa Romantica, the Alameda Lane property, and Parque Del Mar is required. The intent is to provide a pedestrian walkway that will connect the two sites. A funicular may also be considered for this connection.

404. ALAMEDA LANE STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The Alameda Lane Development and Design Standards are established to accommodate a mixed-use district emphasizing pedestrian- and beach-oriented activities. This district promotes commercial uses at the street level; and office, lodging and multi-family residential uses on the upper stories of a project. The design of any development in this sub-area should be well integrated with the Casa Romantica development plan, Parque Del Mar, and the Municipal Parking Lot.

2. Applicability - This section applies to the Alameda Lane Sub-Area (Figure 6).

B. PRINCIPAL USES PERMITTED - Also refer to Section D, Land Use Requirements for Mixed Use, to determine the floor level at/on which each use is permitted.

1. Pedestrian-oriented special retail uses designed to serve the shopping needs of tourists and beach-users, including apparel shops, art galleries, beach sundries, book stores, flowers, gifts, jewelry, newsstands, novelties, surf and sport, travel agencies, and similar tourist- or recreation-oriented businesses and shops, and other similar uses.

2. Small-scale specialty food establishments, such as bakeries, candy stores, coffee house, frozen yogurt shops, ice cream shops, sandwich shops, and similar businesses. For the purpose of this section, "small scale" shall be defined as an establishment with under 1,000 square feet of gross floor area. Establishments with 1,000 or more square feet of gross floor area shall be considered "restaurants" and shall be permitted only under Paragraph C of this section upon approval of a Conditional Use Permit.

3. General and professional offices (excluding medical and dental offices), such as architecture, engineering, financial, consulting, law, real estate, and similar office uses.

4. Open space and parks, public and private.

C. CONDITIONAL USES PERMITTED

1. Bed-and-breakfast inns, hotels, motels, and time shares. Bed-and-breakfast inns shall be subject to the standards prescribed in the City Zoning Ordinance.

2. Drinking establishments, such as bars, pubs, or taverns, whose primary business is the sale of alcoholic beverages.

3. The sale of alcoholic beverages for consumption on the premises, but only if incidental to a permitted or conditional use.

4. Multi-family attached dwellings or condominiums, only when combined with one or more commercial uses.

5. Restaurants and other food establishments having greater than 1,000 feet of gross floor area.

D. LAND-USE REQUIREMENTS FOR MIXED USE

1. Ground Floor or Street Level:

   a. Commercial uses - The ground floor or street level of all developments shall be devoted to specialty retail, specialty food, restaurant, or similar types of uses. Hotels and time shares may be allowed on the ground floor with the approval of a Conditional Use Permit.

   b. Office uses - General and professional office (excluding medical and dental offices) uses shall be allowed on the ground floor only when located off-street or behind commercial uses. Office uses adjacent to a City street or on the ground floor may be allowed with the approval of a Conditional Use Permit.

2. Upper Levels:

   a. Commercial uses - All permitted or conditional commercial uses set forth under this section that are a continuation of the same use on the first floor are allowed on the second floor. Commercial uses that are unrelated to the first floor use may be allowed on any of the upper floors with the approval of a Conditional Use Permit.

b. Office uses - General and professional office (excluding medical and dental) uses shall be allowed on the upper floors as a principally permitted use.

c. Bed-and-breakfast inns, hotels, motels, and time shares may be allowed on the upper floors with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance. Lobbies and entrances for these uses may extend onto the ground floor.

d. Residential uses - May be allowed on upper floors with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance.

E. ACCESSORY USES AND STRUCTURES

1. Dancing and/or live entertainment that is incidental to a permitted principal or conditional use with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance.

F. TEMPORARY USES PERMITTED

1. Outdoor sales such as food, art displays or similar types of uses associated with special or promotional events are permitted with the approval of a Temporary Use Permit in accordance with the City Zoning Ordinance.

G. DEVELOPMENT STANDARDS

1. Maximum Floor Area Ratio - A maximum floor area ratio of 1.0 is allowed.

2. Maximum Unit Density

Hotel/B-&-B Inn	1 unit/500 square feet lot area
Motel	1 unit/700 square feet lot area
Time share	1 unit/500 square feet lot area
Residential	1 unit/1,200 square feet lot area

These are the maximum unit densities allowable; lower densities may be required through Site Plan Review/Conditional Use Permit approval of a project. Refer to Chapter 5, Design Guidelines, for further explanation on determining the appropriate size and scale of a project.

3. Maximum Height - Thirty (30) feet and not to exceed the adjacent natural bluff's highest elevation, whichever is most restrictive.

   For purposes of this chapter, height shall be determined in accordance with the City Zoning Ordinance.

4. Minimum Lot Area and Width for New Subdivisions

   - Lot area: 6,000 square feet
   - Lot width: 60 feet

5. Maximum Building Coverage - Maximum building coverage of ninety (90) percent if Option A of the landscape standards is used; One hundred (100) percent maximum building coverage if Option B of the landscape standards is used.

6. Building Setbacks

   - Front: 10 feet
   - Side 5 feet
   - Rear 0 feet
   - Upper stories: Refer to Chapter 5, Design Guidelines, for the appropriate upper-story stepbacks.

   Note: These setbacks shall not preclude the development of public gardens, a pedestrian path, and/or a funicular in the area between the Casa Romantica and Alameda Lane property.

7. Commercial Open Space - Public open space shall be provided comprising a minimum of ten (10) percent of the net lot area. Areas counting for public open space shall be accessible to the public and usable for recreational or open space activities. For example, outdoor seating areas, courtyards, lawns, and plazas are considered public open space; however, parking areas shall not count toward the total space required.

8. Residential Open Space - A minimum of 80 square feet per unit of residential common and/or private open space, including patios, cabanas, arbors, swimming pools, decks, lawns and similar open space, shall be provided for

residential uses. The required square footage for residential open space may be combined with the required square footage for commercial open space to create larger open space areas. Areas excluded in computation of residential open space areas are: required setback areas, dwellings, other buildings, parking areas, streets, driveways and slope greater than ten (10) percent.

9. Landscaping

Option A - Landscape area provided at grade that is equal to ten (10) percent of the net lot area. A minimum of one 15-gallon tree, or equivalent as approved by the City Planner, per twenty-five (25) linear feet of street frontage shall be planted adjacent to the street. This requirement is in addition to the required streetscape planting in the City parkway.

Option B - Landscape area equal to twenty (20) percent of the net lot area. The landscape area may be provided on the upper-level balconies, decks, or roofs with permanently-affixed planter boxes.

The landscaping meeting either of the two requirements shall be visible from the street or other public spaces. Hardscape improvements shall not be counted toward fulfilling the required landscape. Refer to Chapter 10, Landscape and Streetscape Design standards, for further landscape requirements.

10. Parking Standards - The following minimum off-street parking standards shall be provided and shall be kept accessible at all times:

• Professional Office	1/300 gross square feet
• Retail	1/250 gross square feet
• Restaurants and Bars	1/4 seats
• Hotel/Motel/B-&-B Inn	1/unit, 2/managers unit, and 1 employee space for every 10 rooms
• Time Shares	1.2/unit
• Residential	Parking shall be in accordance with the City Zoning Ordinance.

When parking is enclosed, residential and commercial/office parking facilities must be separated to ensure security. Exceptions to this requirement can be

granted if adequate security measures are provided with the approval of a Conditional Use Permit in accordance with City Zoning Ordinance.

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit in accordance with City Zoning Ordinance. b) A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with the City Zoning Ordinance.

12. Off-Site Parking - Off-site parking on both public and private lots may be granted for commercial uses (residential projects shall provide all parking on-site) through the approval of a Conditional Use Permit provided that all the required parking for the project is in place at the time of the development of the project. Parking on a private lot shall be within five-hundred (500) feet of the project. City municipal parking lots (including satellite facilities designed to provide centralized parking) may be used to provide off-site parking for commercial uses on Alameda Lane site, subject to approval of a Conditional Use Permit and a parking agreement with the City.

13. Joint-Use Parking - Joint-use parking for both public and private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple uses/projects.

14. View Preservation - Views of the Pier and the coast from the Casa Romantica and the views from the Pier to the Casa Romantica shall be maintained. A view analysis shall be required for any development within this view corridor. (See Figure 5 of Chapter 3, Goals, Objectives, and Policies.)

15. Pedestrian Circulation - With development of the Alameda Lane site, a pedestrian linkage between the Casa Romantica, the Alameda Lane property and Parque Del Mar is required. Refer to Section 902.E for specifications.

405. PIER BOWL MUNICIPAL PARKING LOT STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The purpose of the Pier Bowl Municipal Parking Lot Development and Design Standards is to provide parking to accommodate the present and future commercial tourist and recreational needs in the Pier Bowl. The standards also require the parking-lot design to consist of surface or subterranean parking to preserve the public view corridor to the ocean. Development of coastal-oriented retail at the base of the parking lot, fronting Parque Del Mar, is allowed, provided that the view corridor is not obstructed.

2. Applicability - This section applies to the Pier Bowl Municipal Parking Lot Sub-Area (Figure 6).

B. PRINCIPAL USES PERMITTED

1. Surface parking lot.

2. Parks, plazas, and open space.

C. CONDITIONAL COMMERCIAL USES PERMITTED

1. At the base of the parking structure adjacent to the shoreline, all pedestrian-oriented specialty retail uses allowed in the Alameda Lane Sub-Area.

2. At the base of the parking structure fronting Parque Del Mar, all small-scale specialty food establishments allowed in the Pier Bowl Core Sub-Area

3. Restaurants.

4. The sale of alcoholic beverages for consumption on the premises, but only if incidental to a permitted principal or conditional use.

F. ACCESSORY USES AND STRUCTURES

1. Parking attendant kiosk, bathrooms, and other similar structures/uses.

G. TEMPORARY USES PERMITTED

1. Outdoor sales, such as food, art displays, or similar types of uses associated with special or promotional events, are permitted with the approval of a Temporary Use Permit in accordance with the City Zoning Ordinance.

H. DEVELOPMENT STANDARDS

1. Maximum Height - If a parking structure is developed, the height shall be no higher than the existing grade of the present surface parking lot. Structural elements of the parking structure may exceed the height of existing grade if existing public views from Avenida Del Mar are maintained as determined to the satisfaction of the City Planner.

   The height of any accessory structure shall be limited to one story and shall not block public views from Avenida Del Mar.

2. Building Setbacks

   - Front: 0 feet
   - Side: 0 feet
   - Rear: 0 feet

3. Maximum Building Coverage - Maximum building coverage of one hundred (100) percent.

4. Landscaping - A minimum of ten (10) percent of the net lot area shall be for landscaping. Landscaping should be concentrated in areas that are open or visible to public view, such as adjacent to streets, courtyards, or pedestrian corridors. The parking structure design shall allow for the primary streetscape plan identified in Chapter 10 (see Chapter 10, Section 1003). Hardscape improvements shall not be counted toward fulfilling the required landscape. Refer to Chapter 10, Landscaping/Streetscape Design Standards, for further landscape requirements.

5. Joint-Use Parking - Joint-use parking for both public and private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced demand to the satisfaction of the Community Development Director for multiple uses/projects.

6. Off-Site Parking - Off-site parking may be granted for commercial uses in the Pier Bowl Core, Casa Romantica, Alameda Lane, and Beach Frontage Sub Areas through the approval of a Conditional Use Permit.

7. View Preservation - The public view corridor of the Pier and the coast from Avenida Del Mar shall be maintained. A view analysis shall be required for any development within this view corridor. (See Figure 5 of Chapter 3, Goals, Objectives, and Policies.)

8. Pedestrian Circulation - A pedestrian link shall be provided to the Casa Romantica, Parque Del Mar, and Alameda Lane sites. The intent is to provide a pedestrian walkway that will connect the sites. A funicular may also be considered for this connection.

406. BEACHCOMBER AND ROBISON PROPERTIES STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The Beachcomber and Robison Property Development and Design Standards are intended to provide for revenue-generating commercial uses and the highest quality Spanish Colonial Revival design and architecture.

2. Applicability - This section applies to the Beachcomber and Robison Sub-Area (Figure 6).

B. PERMITTED USES FOR THE BEACHCOMBER AND FOR THE ROBISON PROPERTIES IF COMBINED WITH THE BEACHCOMBER SITE

1. Cultural facilities, such as museums, interpretative centers, art galleries, and other similar uses.

2. Parks and open space.

3. Pedestrian-oriented specialty shop uses designed to supplement other primary uses such as gifts, jewelry, novelties, bookstores, and similar tourist- or recreation-oriented businesses and shops.

C. CONDITIONAL USES FOR THE BEACHCOMBER, AND FOR THE ROBISON PROPERTY IF COMBINED WITH THE BEACHCOMBER SITE

1. Restaurants and fine-dining food establishments.

2. Conference facilities, special events, weddings, and similar uses.

3. Bed-and-breakfast inns, hotels, and motels. Bed-and- breakfast inns shall be subject to the City Zoning Ordinance.

4. The sale of alcoholic beverages for consumption on the premises, but only if incidental to a permitted or conditional use.

5. Live entertainment that is incidental to a principal or conditional use.

6. Time shares combined with a restaurant. The City shall determine if time shares will generate ample revenue to insure the project does not create an unmitigated impact on City resources.

D. PERMITTED USES FOR THE ROBISON PROPERTY IF NOT COMBINED WITH THE BEACHCOMBER SITE

1. Multi-family residential of four (4) or fewer units.

E. CONDITIONAL USES FOR THE ROBISON PROPERTY IF NOT COMBINED WITH THE BEACHCOMBER SITE

1. Multi-family residential of five (5) or more units.

2. Bed-and-breakfast inn subject to the standards prescribed in the City Zoning Ordinance.

F. TEMPORARY USES PERMITTED

1. Outdoor sales, such as food, art displays, or similar types of uses associated with special or promotional events, are permitted with the approval of a Temporary Use Permit in accordance with the City Zoning Ordinance.

G. DEVELOPMENT STANDARDS

1. Maximum Floor Area Ratio - A maximum floor area ratio of 1.0. Floor area ratios that exceed 1.0, but not to exceed 1.5, may be permitted if substantial public benefits are provided exceeding those development standards mandated by the Specific Plan and other City Codes and Ordinances, subject to the approval of a Conditional Use Permit. Substantial public benefit might include fifteen (15) percent of the net lot area in public open space, courtyards, arcades, pedestrian-oriented uses, preservation of historic buildings or features, the use of exemplary materials, fountains, public art, use of arches, and other types of public amenities or exemplary design features.

2. Maximum Unit Density

Hotel/B-&-B Inn	1 unit/500 square feet lot area
Motel	1 unit/700 square feet lot area
Time share	1 unit/500 square feet lot area
Residential	1 unit/1,200 square feet lot area

These densities are the maximum per unit allowable; lower densities may be required during the Site Plan Review/Conditional Use Permit approval of a project. Refer to Chapter 5, Design Guidelines, for further explanation on determining the appropriate size and scale of a project.

3. Maximum Height:

A maximum of forty-five (45) feet, not to exceed five (5) levels above grade at any one location and provided that the fifth story element does not exceed twenty-five (25) percent of the total roof-plan area. Individual building elements may extend up to fifty-five (55) feet with the approval of a Conditional Use Permit.

For the Robison Property if developed residential - A maximum of forty five (45) feet.

For purposes of this chapter, height shall be determined in accordance with the City Zoning Ordinance.

4. Minimum Lot Area and Width for New Subdivisions

- Lot area: 6,000 square feet
- Lot width: 60 feet

5. Maximum Building Coverage - Maximum building coverage of ninety (90) percent if Option A of the landscape standards is used; one hundred (100) percent maximum building coverage if Option B of the landscape standards is used.

6. Building Setbacks

Beachcomber Site:

- Front: 0 feet
- Side 5 feet
- Rear: 25 feet from the bluff edge in accordance with the provisions of the City Zoning Ordinance
- Upper stories: Refer to Chapter 5, Design Guidelines, for the appropriate upper-story stepbacks.

Note: These setbacks shall not preclude the development of a pedestrian bluff-top walk that connects Parque Del Mar with the park at T-Street.

Robison Site:

- Front: (Cazador Lane and Pasadena Court) — 10 feet commercial/residential use
- Interior side: (Cazador Lane and Pasadena Court) — 5 feet
- Street side: (Avenida Victoria) — 10 feet (residential land use); 0 feet (commercial land use)
- Rear: — 5 feet
- Upper stories: — Refer to Chapter 5, Design Guidelines, for the appropriate upper-story stepbacks.

7. Commercial Open Space - Public open space shall be provided comprising a minimum of ten (10) percent of the net lot area. Areas counting for public open space shall be accessible to the public and usable for recreational or open space activities. For example, outdoor seating areas, court yards, lawns, plazas are considered public open space; however, parking areas shall not count toward the total space required.

8. Residential Open Space - A minimum of eighty (80) square feet per unit of residential common and/or private open space, including patios, cabanas, arbors, swimming pools, decks, lawns and similar open spaces, shall be provided for residential uses. The required square footage for residential open space may be combined with the required square footage for commercial open space to create larger open space areas. Areas excluded in computation of residential open space areas are: required setback areas, dwellings, other buildings, parking areas, streets, driveways and slopes greater than ten (10) percent.

9. Landscaping

Option A - Landscape area provided at grade that is equal to ten (10) percent of the net lot area. A minimum of one 15-gallon tree, or equivalent as approved by the City Planner, per twenty-five (25) linear feet of street

frontage shall be planted adjacent to the street. This requirement is in addition to the required streetscape planting in the City parkway.

Option B - Landscape area equal to twenty (20) percent of the net lot area. The Landscape area may be provided on the upper level balconies, decks, or roofs with permanently-affixed planter boxes.

The landscaping meeting either of the two requirements shall be visible from the street or other public spaces. Hardscape improvements shall not be counted toward fulfilling the required landscape. If feasible, preserve the mature landscaping on site. Preserve and/or enhance native coastal vegetation on the coastal bluff.

10. Parking Standards - The following minimum off-street parking standards shall be provided and shall be kept accessible at all times:

• Retail	1/250 square feet
• Restaurants and Bars	1/4 seats
• Hotel/Motel/B-&-B Inn	1/unit, 2/managers unit, 1 employee space for every ten units
• Conference Facilities	1/5 fixed seats or 1/35 square feet seating area
• Time share	1.2/unit
• Residential	Parking shall be in accordance with the City Zoning Ordinance

When parking is enclosed, residential and commercial/office parking facilities must be separated to ensure security. Exceptions to this requirement may be granted if adequate security measures are provided with the approval of a Conditional Use Permit.

11. Special Parking Provisions for Restaurants - a) Stacked or tandem parking may be allowed for restaurants when valet service is provided with the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance. b) A portion of a restaurant's off-street parking requirements attributable to the restaurant's outdoor seating area may be modified or waived in accordance with City Zoning Ordinance.

12. Joint-Use Parking - Joint-use parking for both public and private lots may be granted through the approval of a Conditional Use Permit in accordance with the City Zoning Ordinance. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand for multiple-use projects.

13. Historic Preservation - Preservation and restoration of the Beachcomber and Robison buildings and the Robison Gardens are encouraged. Remodel or demolition of any of these structures shall be subject to historic preservation requirements of the City Zoning Ordinance. In the event that it is demonstrated that the preservation, restoration, or relocation of any or all of these structures can not be reasonably accomplished, replacement structures shall be of an authentic Spanish Colonial Revival design and character pursuant to the Architectural Design Review approval process.

14. View Preservation - Public views of the ocean from Avenida Victoria shall be maintained. A view analysis shall be required for any new development within this view corridor. (See Figure 5 of Chapter 3, Goals, Objectives, and Policies.)

15. Pedestrian Circulation - With development of the Beachcomber site, pedestrian access to the beach and a pedestrian linkage between Parque Del Mar and T-Street is encouraged. (See Chapter 9, Public Improvements, for a more detailed discussion on the bluff-top walk connecting to T-Street.)

407. BEACH AND PARKS STANDARDS

A. PURPOSE AND APPLICABILITY

1. Purpose - The purpose of the Beaches and Parks Development and Design Standards is to ensure the continuation and enhancement of recreational opportunities in the Pier Bowl.

2. Applicability - This section applies to the Beach and Parks Sub-Area (Figure 6).

B. PRINCIPAL USES PERMITTED

1. Parking.

2. Public parks, open space, and recreational uses.

3. Marine safety and other similar public services.

C. CONDITIONAL USES PERMITTED

Beach

1. Beach concession stands for sale of food, soft drinks, beach rentals, and beach sundries.

Parque Del Mar

1. Train depot, bus stop, lockers and showers, bicycle facilities, information center, or museum (see Chapter 9, Section B, for a description of this facility).

2. Outdoor food stands, newspaper stands, flower stands, vendors, push carts, etc., may be allowed within Parque Del Mar. No vendors shall be allowed on the beach or Municipal Pier.

Municipal Pier

1. Restaurant, oyster bar, coffee house, and other similar types of uses.

2. Concession stand, ice cream parlor, bait and tackle, beach retail, beach sundries, and other similar types of uses.

3. Retail shops.

Accessory Uses and Structures

1. The sale of alcoholic beverages for consumption on the premises, but only if incidental to restaurant uses; and in no case shall the sale or consumption of alcoholic beverages be permissible on public beaches or parks.

2. Recreational, restaurant concessions, transportation, public, and other similar types of facilities.

F. TEMPORARY USES PERMITTED

1. Special cultural, sports, and community events, such as the "Ocean Festival," "Chowder Cook-Off," surf contest, beach runs, ocean swims, volleyball tournaments, art shows, music festivals, and other similar types of events, if a Special Events Permit is approved in accordance with the City Zoning Ordinance.

G. DEVELOPMENT STANDARDS

1. General - The development standards, including a structure's size and setbacks, shall be determined through the Site Plan Review and/or Conditional Use Permit process. The height of a structure shall be limited to one story and shall not block any of the public view corridors identified in this Specific Plan. Refer to Chapter 9, Public Improvements, for more specific design criteria for public improvements in the Beach and Parks Sub-Area.

2. Municipal Pier - No additional commercial structure shall be allowed on the Pier. Refer to Chapter 9, Public Improvements, for design criteria for recreational structures on the Municipal Pier.

3. Joint-Use Parking - Joint-use parking for both public and private lots may be granted through the approval of a Conditional Use Permit. Standard parking ratios required for individual-use projects may be reduced when a parking study, prepared by a professional traffic engineer, shows a reduced parking demand to the satisfaction of the Community Development Director for multiple-use projects.

4. Off-Site Parking - Parking shall be provided on-street, at Linda Lane Park, at the Municipal Parking Lot, and at satellite parking lots.

5. View Preservation - The public view corridor of the Pier and the coast from Avenida Del Mar shall be maintained. A view analysis shall be required for any development within this view corridor. (See Figure 5.)

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Please keep for reference

new part of Reg. 13253

REPAIR, MAINTENANCE AND UTILITY HOOK-UP EXCLUSIONS FROM PERMIT REQUIREMENTS

(Adopted by the California Coastal Commission on September 5, 1978)

NOTE: This guideline applies only to exclusions established in subsections (c) and (e) of Section 30610. For other exceptions to the permit requirements, see Section 13250 of the Commission Regulations (additions to existing single-family houses), Sections 13200 through 13210 (vested rights), Sections 13211-13213 (permits granted under the 1972 Coastal Act), Sections 13215-13235 (urban land), Sections 13240-13249 (categories of development), Sections 13136-13144 (emergency permits) and Sections 13145-13154.5 (administrative permits).

I. General Provisions.

Section 30610 of the Coastal Act states in part:

> ...no coastal development permit shall be required for...(c) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the Commission determines that certain extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained under this chapter. (e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, that the Commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

This guideline is intended to detail the types of development activities the Commission considers repair, maintenance or utility hook-ups related to the on-going work of various types of public and private agencies. Such lists obviously cannot be exhaustive and the exclusions also apply to activities comparable to those listed. Where a proposed activity is not included in this guideline, the Regional Commission Executive Director, after consultation with the State Commission Esecutive Director, if necessary, will determine whether a permit is required.

The standards for these exclusions are stated in Section 30610 of the Coastal Act: they do not relate to the environmental impact of the proposed activity. The repair and maintenance exclusion is intended to allow continuation of existing developments and activities which began before the effective date of the Coastal Act. The utility hook-up exclusion exempts utilities from obtaining permits for work to serve developments because Commission review of such work is included in the review of the development itself.

II. Description of Activities Excluded.

The following construction activities comparable to those listed do not require a coastal development permit except as specified below:

A. Roads. No permit is required for repair and maintenance of existing public roads including landscaping, signalization, lighting, sig

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ATTACHMENT # I

CCC UTILITY GUIDELINES

and/or steam service to the customer's piping system.

(4) When necessary, install gas, chilled water and/or steam pressure regulation equipment and related components, to control pressure where the source of the supply is at a higher pressure than the pressure in the district distribution main system. Construction includes necessary excavation, installation of piping, valves, regulators, below ground vaults and related components.

(5) Install necessary cathodic protection facilities for main and service extensions to new and existing customers.

b. Distribution and Transmission Facilities.

(1) Operate, inspect and maintain distribution and transmission mains, services, meter set assemblies and district regulator stations. Conduct leakage surveys, repair leaks, handle emergency or hazardous incidents, maintain supply pressure, inspect and adjust pressure regulators, operate valves, locate and mark facilities to help prevent damage to them and to provide for public safety.

(2) Install, replace, alter, relocate or remove piping and cathodic protection facilities as necessary due to corrosion, interference with other underground or surface construction, franchise requirements, mechanical damage, reinforcement to existing distribution systems to provide for increased usage (provided such usage is to provide service to development either exempted or approved under the Coastal Act). Isolation of piping segments or systems to provide emergency control and the restoration of service to a customer.

c. Production and Storage Facilities. Perform necessary maintenance, replacement, repair, relocation, abandonment and removal work to gas storage facilities, chilled water and/or steam plant facilities, mechanical equipment including prime movers and pumping equipment, chilled water and/or steam production facilities, gas and oil processing facilities, pollution control facilities, cooling towers, electric equipment, controls, gas injection and withdrawal wells, and other miscellaneous plant and pipeline structures. Installation of any required new safety devices and pollution control facilities within existing structures or equipment or where land coverage, height, or bulk of existing structures will not be increased.

d. Miscellaneous. Perform necessary maintenance, repair, replacement, relocation, abandonment and removal work to pipeline roads, rights-of-way, fences and gates, sprinkler systems, landscaping, odorizing stations, telemetry equipment, lighting facilities, mechanical and electrical equipment, cathodic protection facilities and environmental control equipment.

e. Grading and Clearing. Maintenance activities shall not extend to the construction of any new roads to the site of the work. A permit is required for grading an undisturbed area of greater than 500 sq. ft., removal of trees exceeding 12 inches dbh or clearing more than 500 sq. ft. of brush or other vegetation unless the Executive Director of the Regional Commission determines the activity does not involve the removal of major vegetation.

2. Electric Utilities.

a. Generation Stations, Substations, Fuel Handling, Transportation

and Storage Facilities and Equivalent Facilities. A coastal permit is not requi for repairs, maintenance, and minor alterations which do not increase the capacity of the facility or work required to supply increased demand of existing customer's facilities in order to maintain the existing standard of service. A coastal permit is not required for installation of any required new safety devices and pollution control facilities within existing structures of equipment or where land coverage, height or bulk of existing structures will not be increased.

b. Transmission and Distribution and Communication Facilities. A coastal permit is not required to maintain, replace, or modify existing overhead facilities, including the addition of equipment and wires to existing poles or other structures, right-of-way maintenance, and minor pole and equipment relocations. A coastal permit is not required to install, test and place in service power line extension facilities and supply points specifically required to provide service to development permitted or exempted under the Coastal Act, or work required to supply increased demand of existing customers' facilities in order to maintain the existing standard of service.

A coastal permit is not required to install, test, place in service, maintain, replace, modify or relocate underground facilities or to convert existing overhead facilities to underground facilities provided that work is limited to public road or railroad rights-of-way or public utility easements (P.U.E.).

c. Services. Electrical service and metering facilities may be installed and placed in service to any development permitted or exempted under the Coastal Act. A coastal permit is not required to mantain, replace, or relocate service or metering facilities for developments permitted or exempted under the Coastal Act.

d. Grading, Clearing and Removal of Vegetation. Excluded activities shal not extend to the construction of any new road to the site of the work. In cases involving removal of trees exceeding 12 inches dbh, grading of any undisturbed area of greater than 500 sq. ft. or clearing of more than 500 sq. ft. of brush or other vegetation, the utility shall consult with the Executive Director of the Regional Commission to determine whether the project involves removal of major vegetation such that a permit is required. A coastal permit is not required for removal of minor vegetation for maintenance purposes (tree trimming, etc.) for safety clearances.

e. Definitions.

(1) Line Extension. All facilities for permanent service excluding transformers, services and meters, required to extend electric service from the utility's existing permanent facilities to one or more supply points.

(2) Service. A single set of conductors and related facilities required to deliver electric energy from a supply point to the customer's facilities.

(3) Supply Point. Any transformer, pole, manhole, pull box or other such facilities at which the utility connects one or more sets of service conductors to the utility's permanent electric facilities.

3. Telephone. No permit or conditions are required for the activities of a telephone company that come within the following areas:

a. Repair and maintenance of existing damaged or faulty poles, wires, cables, terminals, load cases, guys and conduits, including the necessary related facilities, to restore service or prevent service outages.

b. Placement of existing telephone facilities underground, provided such undergrounding shall be limited to public road or railroad rights-of-way or public utility easements (P.U.E.) and provided there is no removal of major vegetation and the site is restored as close as reasonably possible to its original condition.

c. Placement of additional aerial facilities on existing poles.

d. Removal of existing poles and facilities thereon, where new, replacing facilities have been placed underground.

e. Performance of work in connection with or placement of facilities to expand service to existing customers or to serve new customers, including placement of underground service connections or aerial service connections from existing poles with any necessary clearance poles.

f. Removal of minor vegetation for maintenance purposes (tree trimming, etc.).

g. Maintenance activities shall not extend to the construction of any new roads to the site of the work. A permit is required for grading an undisturbed area of greater than 500 sq. ft., removal of trees exceeding 12 inches dbh or clearing more than 500 sq. ft. of brush or other vegetation unless the Executive Director of the Regional Commission determines the activity does not involve the removal of major vegetation.

4. Others, including Water, Sewer, Flood Control, City and County Public Works, Cable T.V. No permit is required for repair or maintenance of existing facilities that do not alter the service capacity, installation of new or increased service to development permitted or exempted under the Coastal Act, placement of additional facilities on existing poles, or placement of existing facilities underground, provided such undergrounding shall be limited to public road or railroad rights-of-way or public utility easements (P.U.E.) and provided there is no removal of major vegetation and the site is restored as close as reasonably possible to its original condition. A permit is required for installation of service to vacant parcels or installation of capacity beyond that needed to serve developments permitted or exempted under the Coastal Act.

Maintenance activities shall not extend to the construction of any new roads to the site of the work. A permit is required for grading an undisturbed area of greater than 500 sq. ft., removal of trees exceeding 12 inches dbh or clearing more than 500 sq. ft. of brush or other vegetation unless the Executive Director of the Regional Commission determines the activity does not involve the removal of major vegetation. No permit is required for removal of minor vegetation (e.g., tree trimming) where it interferes with service pipes or lines.

C. Parks. No permit is required for routine maintenance of existing public parks including repair or modification of existing public facilities where the level or type of public use or the size of structures will not be altered.

D. Industrial Facilities. No permit is required for routine repair, maintenance and minor alterations to existing facilities, necessary for on-going production that do not expand the area or operation of the existing plant. No permit is required for minor modifications of existing structures required by governmental safety and environmental regulations, where necessary to maintain existing production capacity, where located within existing structures, and where height or bulk of existing structures will not be altered.

E. Other Structures. For routine repair and maintenance of existing structures or facilities not specifically enumerated above, no permit is required provided that the level or type of use or size of the structure is not altered. (NOTE: See Section 13250 of the Commission Regulations for exclusions or additions to existing single-family houses.)

F. Dredging and Beach Alteration. (NOTE: Maintenance dredging of navigation channels is exempted by Section 30610 (b). Other dredging and sand movement projects where part of an established program may be exempt from the permit requirements of the Coastal Act by reason of vested rights, where such rights have been reviewed and acknowledged by the Regional Commission. Contact the Regional Commission office for information and application forms.)

APPENDIX I

Detailed description of activities included in road maintenance programs for which no coastal development permit is required.

1. Flexible Roadbed Program. This program covers the restoration and repair of both surface and base within the previously paved portion of the roadway. This includes previously paved asphalt concrete shoulders two feet or greater in width where the shoulder is designated by traffic marking, pavement delineation or traffic use. Paved shoulders less than two feet in width will be considered as included in the traveled way lanes.

2. Roadbed, Rigid. The Rigid Roadbed Program covers the restoration and repair of both surface and base within that paved portion of the roadway used for the movement of vehicles. This includes asphaltic concrete or oiled shoulders two feet or greater in width. Paved shoulders less than two feet in width will be considered as included in the traveled way lanes. This program does not include roadbed widening projects.

3. Roadside Maintenance Program. This program includes the repair, replacement, and cleaning of ditches, culverts, underdrains, horizontal drains and miscellaneous headwalls and debris racks. Also included are fence repairs, roadside section restoration (e.g., drift removal, bench cleaning, slide removal, and fill slope replacement). In addition, repairs or replacement of retaining walls, installation of slope protection devices, minor drainage facilities, sidewalks and curbs, bins, cattle guards and other such structures where there is no increase in size (or adding to what exists) is included in this program. This program shall not include seawalls or other shoreline protective works, activities subject to review under Section 1601 of the Fish and Game Code, or excavation or disposal of fill outside of the roadway prism.

4. Roadway Litter and Debris Program. This program includes all work concerning roadbed and roadside cleanup operations to insure that the highway presents a neat, clean and attractive appearance.

5. Vegetation Control Program. Vegetation control refers to the maintenance treatment of all vegetative material growing native within the highway rights-of-way. Included is cutting and trimming by hand and mechanical means.

6. Pavement Delineation Program. The pavement delineation program involves all work necessary to place and maintain distinctive roadway markings on the tr[illegible]l-ed way. This includes layout, removal of old stripe, painting of new or existi[illegible] stripe including striping for bike lanes, installation and/or removal of raised pave-ment markers including cleaning of such markers and the use of thermoplastic, tape c[illegible] raised bars for pavement markings. Changing of striping for more lanes is not inclu-ed in this program.

7. Sign Program. The sign program includes all work performed on existing signs for the purpose of warning, regulating or guiding traffic including bicycle traffic using bike lanes. The work consists of manufacture, assembly and installa-tion of new signs to replace existing signs and the repair, cleaning and painting of signs.

8. Electrical Program. This program includes all work performed on in-place highway electrical facilities used to control traffic with signal systems, provide safety and sign lighting, illuminate maintenance building and grounds, generate standby power, operate bridges, pumps and automatic watering systems. Certain navigational lighting installed on bridges and bridge fenders or piling are included in this program.

9. Traffic Safety Devices Program. Work performed under this program includes replacement of guide posts, markers, skid resistant grooves, and also replacement, cleaning and/or painting of guard rails. The repair of median barrier cable chain link fence and portland cement concrete walls; the repair and maintenance of energy dissipators such as water type bumpers, sand traps or other devices installed for the purpose of absorbing vehicle energy are included in this program.

10. Public Service Facility Program. Public Service Facilities consist of roadside rests, vista points, map stops, historical monuments, roadside fountain areas and vehicle inspection stops. Work to be performed under this program consists of a wide variety of custodial maintenance in connection with existing restrooms, fountains and picnic areas.

11. Landscape Program. This program refers to the treatment maintenance and replacement of all vegetative material planted within the State Highway right-of-way. Work includes watering, fertilizing, plant replacement, weed control by hand and mechanical means and tree trimming.

12. Bridge and Pump Maintenance Program. The Bridge and Pump Maintenance Program includes work performed on all structures which provide for passage of highway traffic over, through or under obstacles and/or qualify for bridge numbers as assigned by the Division of Structures.

13. Tubes, Tunnel and Ferry Maintenance Program. The Tubes, Tunnel and Ferry Maintenance Program includes maintenance and repair of tunnels, tubes, ferries and docks or slips. Tunnel or tube maintenance includes washing, cleaning, tile re-pair and the maintenance of electro-mechanical equipment. Tunnel structural repairs will be performed under this program when covered by approved Division of Structures reports of work needed.

14. Bridge Painting Program. This program involves bridge maintenance painting performed in conformance with the requirements of air pollution control and water quality control agencies having jurisdiction.

15. Miscellaneous Safety Projects. Elimination of hazards within the operating areas or the operating right-of-way or projects modifying existing features such as curbs, dikes, headwalls, slopes, ditches, drop inlets, signals and lighting, etc., within the right-of-way to improve roadside safety.

16. Major Damage Maintenance, Repair and Restoration. Provides temporary road openings and related maintenance and returns highway facilities to serviceable states as rapidly as possible following major damage from storms; earthquakes; tidal waves; ship, train or vehicle collisions; gasoline truck fires; aircraft crashes, and all other kinds of physical violence. (NOTE: These items may be developments rather than repair or maintenance activities, but would be subject to the emergency permit provisions of the Coastal Act. Inquiries should be directed to the Regional Commission staff if at all possible, prior to commencement of construction.)

17. Miscellaneous Alterations.

a. Installation, modification or removal of regulatory, warning or informational signs, according to the standards of the State Department of Transportation Uniform Sign Chart.

b. Traffic channelization - improvements to local service and safety by delineation of traffic routes through the use of curbs, dikes, striping, etc., including turn pockets, where construction is performed by State Department of Transportation Maintenance Department or equivalent activities by local road departments.

c. Maintenance of existing bicycle facilities.

d. Modification of traffic control systems and devices including addition of new elements such as signs, signals, controllers, and lighting.

e. Devices such as glare screen, median barrier, fencing, guard rail safety barriers, energy attenuators, guide posts, markers, safety cable, ladders, lighting, hoists, paving grooving.

f. Alteration or widening of existing grade separation structure where the primary function and utility remains unaltered.

g. Minor operational improvements such as median and side ditch drainage facilities, where not subject to review under Section 1601 of the Fish and Game Code or involving excavation or disposal of fill outside of the roadway prism.

h. Modification, upgrading, alteration, relocation, or removal of railroad grade crossings, railroad grade crossing protection, and the construction of bus and truck stop lanes at railroad grade crossings.