

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 444-8036

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September 23, 1999

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA
OFFICE
BILL PONDER COASTAL PROGRAM ANALYST, SAN DIEGO
AREA OFFICE**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MELLO II
LCP SEGMENT MAJOR AMENDMENT NO. 2-99C (For Public
Hearing and Possible Commission Action at the Meeting of October 12-
15, 1999)**

SYNOPSIS

SUMMARY OF AMENDMENT REQUEST

The subject amendment request revises the certified Mello II (LCP) segment. The request rezones a 33.4-acre parcel (De Jong) from Limited Control (L-C) to One-Family Residential (R-1-7,500-Q) and Open Space (O-S). At the August 1999 meeting a time extension was granted by the Commission at the request of Commission staff due to agenda workload.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed amendment as submitted. The De Jong rezone is consistent with the certified Mello II LUP in that the proposed combination R-1-7500 and Open Space rezone would not allow a greater density on the site than the certified Residential Low Medium (RLM 0-4 du/ac) land use designation would allow.

The appropriate resolutions and motions can be found on page 3. The findings for approval of the Implementation Plan Amendments begin on page 4.

BACKGROUND

The City's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiqitos Lagoon/Sammis Properties, East Batiqitos Lagoon/Hunt Properties and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively.

The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all of its segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment remains as a deferred certification area until an implementation plan is certified. The subject amendment request affects the Mello II segment of the LCP.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from **Bill Ponder** at the San Diego Area Office of the Coastal Commission at 3111 Camino Del Rio North, Suite 200, San Diego, CA 92108, (619) 521-8036.

PART I. OVERVIEW**A. STANDARD OF REVIEW**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

B. PUBLIC PARTICIPATION

The City has held both Planning Commission and City Council hearings with regard to the subject amendment request. Each of these local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

A. RESOLUTION I. (Resolution to approve certification of the City of Carlsbad Mello II Implementation Plan Amendment #2-99C [De Jong Subdivision and open space rezone], as submitted)**MOTION I**

I move that the Commission reject the City of Carlsbad Mello II Implementation Plan Amendment 2-99C (De Jong Subdivision), as submitted.

Staff Recommendation

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

Resolution I

The Commission hereby approves certification of the implementation amendment to the City of Carlsbad's Local Coastal Program on the grounds that the amendment does conform with, and is adequate to carry out, the provisions of the certified land use plan. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

PART III **FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD**
MELLO II IMPLEMENTATION PLAN AMENDMENT #2-99C, AS
SUBMITTED

1. AMENDMENT DESCRIPTION/ DE JONG REZONE

The amendment changes the LCP implementation plan by rezoning the 33.4-acre parcel (De Jong) from Limited Control (L-C) to One-Family Residential (R-1-7,500-Q) and Open Space. The amendment is associated with a specific project proposal currently under review by the City to subdivide the infill site into 28 single-family lots and 2 open space lots. The project site is located at the northeast corner of the intersection of Black Rail Road and Poinsettia Lane. To the south of the project site is Poinsettia Lane. North of the property is the Palomar Oaks industrial park, and west of the property is the previously approved Ocean Bluff residential project. A future City park site is adjacent to the east of the site.

The developable portion of the project site has been mostly cleared of native vegetation by previous agricultural operations. There is a large, relatively undisturbed native habitat area in the northeast portion of the site that includes the northern end of a riparian woodland and is designated as Open Space in the City's General Plan. The area is to be zoned Open Space and would be maintained by a future homeowner's association. No other changes to the implementation plan are proposed. The subject site is located within the non-appealable area of the City's coastal development permit jurisdiction.

The project complies with the requirements of the Coastal Resource Protection Overlay Zone as slopes over 25% grade containing coastal sage scrub and chaparral are being preserved. Approximately .29 acres of dual criteria slopes is proposed to be impacted for the construction of circulation element road, Poinsettia Lane, which is not subject to this limitation as specified in the overlay zone.

The project complies with the requirements of the Coastal Agriculture Overlay Zone as the project has been conditioned to pay the agricultural conversion mitigation fee to develop the property with other than agricultural uses.

The 33.4 acre site contains two open space lots comprising 22.68 acres which will be zoned Open Space, leaving 10.72 acres proposed as Residential R-1-7500. The Mello II LUP designates the site as RLM allowing up to 4 residential units per acre. As designated in the certified LUP, up to 134 residential units would be permitted on the 33.4 acre site. The portion of the property zoned Open Space is not used for purposes of calculating density. On the residentially-zoned portion, 62 units are possible under the proposed zoning. This is determined by multiplying 5.8 du/ac (43,560 sq.ft. / 7,500 sq.ft.) by the number of developable acres (10.72 acres). Therefore the Commission finds that the proposed combination of open space and residential zoning is acceptable as it would not allow any more units on the entire property than the certified LUP land use designation would allow.

a) Purpose and Intent of the Ordinance. The purpose and intent of the R-1-7500-

Q zone (One-Family Residential Zone) is to allow for single family detached homes and associated structures. The Limited Control (L-C) zone is currently applied to the site; it is a holding zone which only allows agricultural uses.

The purpose and intent of the open space zone is to provide for open space and recreational uses which have been deemed necessary for the aesthetically attractive and orderly growth of the community. It is used in conjunction with publicly owned property uses as parks, open space, recreation areas, civic centers and other public facilities of a similar nature. The zone also designates high priority resource areas at time of development that, when combined would create a logical open space system for the community.

b) Major Provisions of the Ordinance. The amendment provides for the change of zoning of the identified parcel from L-C to R-1. The R-1 zone allows single family detached homes and associated structures, sets a 35 foot height limit, and establishes development standards for setbacks, placement of building and minimum lot area. Additional development standards for this zone include provisions for the type of garage required (i.e. two-car) and that each residence has a permanent foundation. Other requirements pertain to the composition of exterior siding of residences, specifications regarding roof pitches and minimum width of residences.

The open space zone provides the following uses and structures: beaches and shoreline recreation, bicycle paths, horse trails, open space easements, public parks, City picnic areas and playgrounds, public access easements, scenic and slope easements, transportation rights-of-way, vista points, agricultural uses (field and seed crops, truck crops, horticultural crops, orchards and vineyards, pasture and rangeland, tree farms and fallow lands). Permitted accessory uses and structures include public restrooms, clubhouses, parking areas, barbecue and fire pits, playground equipment, stairways, patios, changing rooms, pool filtering equipment, fencing and other accessory uses required for the conduct of the permitted uses. Uses allowed by conditional use permit include group or organized camps, marinas, playfields and athletic fields, public facilities, recreational campgrounds, public stables and riding academies, golf courses, swimming pools, tennis courts, private playgrounds and picnic areas, other related cultural, entertainment and recreational activities and facilities and stands for the display and sale of aquaculture products grown on the premises. There is no minimum lot area established for the open space zone. No building or structure in the zone shall exceed thirty-five feet in height unless the Planning Commission approves a higher elevation as a conditional use permit.

c) Adequacy of Ordinance to Implement the Certified LUP. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). In the case of the subject LCP amendment, the City's Municipal Code serves as the Implementation Program for the Mello II segment of the LCP. The subject property is designated with the Residential Low Medium (RLM) land use designation in the certified LUP which permits up to 4 du/ac. The proposed combination of Open Space and R-1-7500 zoning is consistent with the certified LUP designation.

A significant portion of the property is being zoned Open Space in recognition of existing riparian resources. The resource protection policies of the certified LUPs provide that coastal resources should be protected through open space dedications. For example, Policy 3-7 of the certified Mello II LUP provides that riparian and wetland resources are protected as open space as a condition of development. The amendment would change the above parcel's LCP zoning designation to the appropriate Open Space designation to reflect the fact that the parcel is restricted by an open space easement to protect coastal resources.

Thus, the Commission finds the proposed implementation amendment consistent with the resource protection policies of the certified Mello II land use plan. In summary, since the proposed rezoning would implement the LUP designation cited above, the Commission finds that the subject amendment to the implementation plan is consistent with and adequate to carry out the policies of the certified LUP.

**V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENT
QUALITY ACT (CEQA)**

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resource's Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the LCP, or LCP, as amended, conforms to CEQA provisions. The proposed De Jong rezone will not result in an intensity of land use incompatible with the surrounding development or have adverse impacts on coastal resources. Therefore, the Commission finds that approval of the LCP amendment will not result in any significant adverse environmental impacts.

In addition, individual projects to which the new LCP zone would apply will require a coastal development permit, which would require review for compliance with development standards which address, in part, steep slope encroachment, preservation of native habitat (coastal sage scrub, etc.), visual resource protection, and parking and traffic circulation. Any specific impacts associated with individual development projects would be assessed through the environmental review process; and, an individual project's compliance with CEQA would be assured. The Commission finds that approval of the subject LCP amendment would not result in significant environmental impacts under the meaning of the California Environmental Quality Act and that the proposed changes can be made.

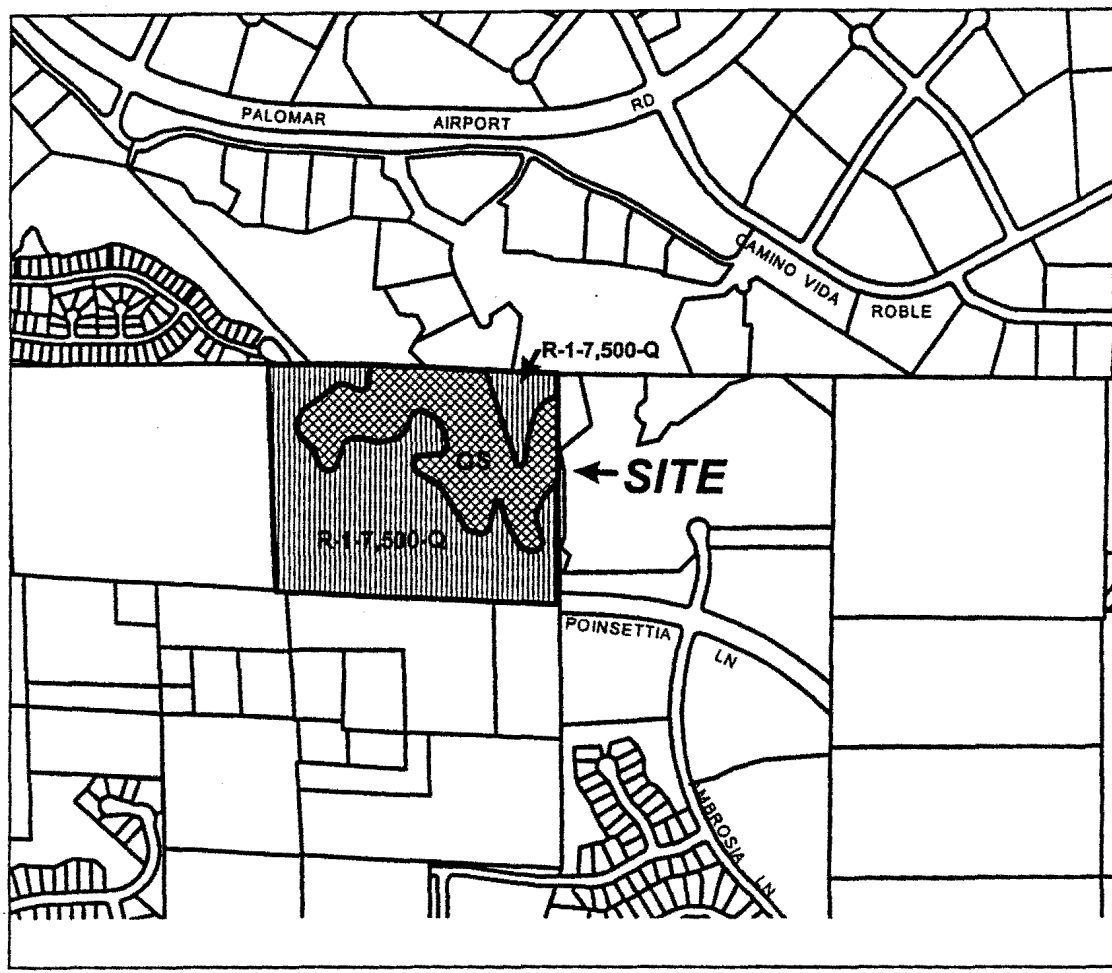
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LOCAL COASTAL PROGRAM

LCPA: 98-01

draft

final



Project Name: Dejong Residential Project		Related Case File No(s):	
Property/Legal Description(s): Being a portion of Lot 2 of Section 22, Township 12 South, Range 4 West, San Bernardino Base and Meridian, in the City of Carlsbad, County of San Diego, State of California according to the official plat thereof.		ZC 98-02/CT 98-05/HDP 98-	
LCPA Map Designation Change		Appro	
Property	From:	To:	Council Approval Date:
A. 215-080-31	L-C	R-1-7,500-Q & OS	Resolution No:
B.			Effective Date:
C.			Signature:
D.			
Attach additional pages if necessary			

EXHIBIT NO. 1
APPLICATION NO.
Carlsbad LCPA
#2-99C

Map of Site

California Coastal Commission

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, ZONE CHANGE, LOCAL COASTAL PROGRAM AMENDMENT, TENTATIVE TRACT MAP, HILLSIDE DEVELOPMENT PERMIT, COASTAL DEVELOPMENT PERMIT, AND VARIANCE TO CHANGE THE LAND USE DESIGNATION ON THE SITE FROM L-C TO R-1-7,500-Q AND OS, AND CREATE 28 RESIDENTIAL AND 2 OPEN SPACE LOTS ON 33.4 ACRES ON PROPERTY GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF BLACK RAIL ROAD AND FUTURE POINSETTIA LANE IN THE COASTAL ZONE AND LOCAL FACILITIES MANAGEMENT ZONE 20

CASE NAME: DEJONG RESIDENTIAL PROJECT
CASE NO.: ZC 98-02/LCPA 98-01/CT 98-05/HDP 98-03/CDP 98-26/V 98-04

The City Council of the City of Carlsbad, California, does hereby resolve as follows:

WHEREAS, on April 7, 1999, the Carlsbad Planning Commission held a duly noticed public hearing to consider a proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change, Local Coastal Program Amendment, Tentative Tract Map, Hillside Development Permit, Coastal Development Permit, and Variance to grade and subdivide 33.4 acres into 30 lots, and adopted Resolutions 4503, 4504, 4505, 4506, 4507, 4508, and 4509 recommending to the City Council that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change, Local Coastal Program Amendment, Tentative Tract Map, Hillside Development Permit, Coastal Development Permit, and Variance be approved; and

WHEREAS, the City Council of the City of Carlsbad _____, 1999, held a duly noticed public hearing to consider heard all persons interested in or opposed to the Mitigated Negative Monitoring and Reporting Program, Zone Change, Local Coastal Tentative Tract Map, Hillside Development Permit, Coastal Development Permit, and Variance be approved; and

EXHIBIT NO. 2
APPLICATION NO.
Carlsbad LCPA
#2-99A
Resolution and Ordinance for Proposed Zone Changes
1 of 5

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

1. That the above recitations are true and correct.

2. That the recommendation of the Planning Commission for the approval of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change 98-02, Local Coastal Program Amendment 98-01, Tentative Tract Map 98-05, Hillside Development Permit 98-03, Coastal Development Permit 98-26, and Variance 98-04 is approved and that the findings and conditions of the Planning Commission contained in Planning Commission Resolutions No. 4503, 4504, 4505, 4506, 4507, 4508, and 4509 on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.

3. This action is final the date this resolution is adopted by the City Council. The Provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review" shall apply:

"NOTICE TO APPLICANT"

"The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking judicial review must be filed in the appropriate court no later than the ninetieth day following the date on which this decision becomes final; however, if within ten days after the decision becomes final a request for the record of proceedings accompanied by the required deposit in an amount sufficient to cover the estimated cost of preparation of such record, the time within which such petition may be filed in court is extended to not latter than the thirtieth day following the date on which the record is either personally delivered or mailed to the party, or his attorney of record, if he has one. A written request for the preparation of the record of the proceedings shall be filed with the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, California 92008."

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of
Carlsbad on the ____ day of _____ 1999, by the following vote, to wit:

AYES:

NOES:

ABSENT:

CLAUDE A. LEWIS, Mayor

ATTEST:

ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING SECTION 21.05.030 OF THE CARLSBAD MUNICIPAL CODE BY AN AMENDMENT TO THE ZONING MAP TO GRANT A ZONE CHANGE, ZC 98-02 FROM L-C TO R-1-7,500-Q AND OS ON PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF BLACK RAIL ROAD AND FUTURE POINSETTIA LANE IN LOCAL FACILITIES MANAGEMENT ZONE 20.

CASE NAME: DE JONG RESIDENTIAL PROJECT
CASE NO.: ZC 98-02

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

SECTION I: That Section 21.050.30 of the Carlsbad Municipal Code, being the zoning map, is amended as shown on the map marked Exhibit "ZC 98-02" attached hereto and made a part hereof.

SECTION II: That the findings and conditions of the Planning Commission as set forth in Planning Commission Resolution No. ____ constitute the findings and conditions of the City Council.

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

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council held on the _____ day of _____, 1999, and thereafter

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PASSED AND ADOPTED at a regular meeting of said City Council held on the

_____ day of _____, 1999, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

CLAUDE A. LEWIS, Mayor

ATTEST:

ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)