

NOV. 1999

CALIFORNIA COASTAL COMMISSION

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October 11, 1999

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TO: COMMISSIONERS AND INTERESTED PERSONS

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

SUBJECT: STAFF RECOMMENDATION ON CITY OF DEL MAR LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN

SYNOPSIS

SUMMARY OF IMPLEMENTATION PLAN

The proposed City of Del Mar Local Coastal Program (LCP) Implementing Ordinances is a companion document to the City of Del Mar LCP Land Use Plan, which the Coastal Commission fully certified in 1993. The City's implementation plan is a stand-alone document, separate from the existing Del Mar Municipal Code. It includes ordinance language to implement each of the policy groups in the land use plan. Specifically, there is a Floodway Zone, and five overlay zones addressing beaches; coastal bluffs; floodplains; lagoons; and inland bluffs, slopes and canyons as a group. There is a zone governing shoreline protection and City-wide ordinances addressing public access and parking. Finally, there is an ordinance addressing the processing of coastal development permits by the City of Del Mar.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending rejection of the ordinances as submitted and approval with suggested modifications. The modifications are proposed to address the few areas where the ordinances do not fully implement the certified land use plan, and to reflect recent direction by the Coastal Commission on LCP Implementation Plans from other coastal jurisdictions. The majority of the suggested modifications are associated with the coastal development permit ordinance, to assure that the City's procedures are fully consistent with the requirements of the Coastal Act. Additionally, there are modifications which address water quality and require a polluted runoff control plan as part of the application submittal for a coastal development. The appropriate resolutions and motions begin on page 3. The suggested modifications begin on page 5. The findings for denial of the

Implementation Plan as submitted begin on page 20. The findings for approval of the plan, if modified, begin on page 29.

BACKGROUND

In May, 1991, the City of Del Mar first submitted its land use plan for formal Commission review. It was approved with suggested modifications in September, 1991. However, the City failed to accept the suggested modifications within six months and the Commission's certification expired. The City then resubmitted the same documents and the Commission again approved the land use plan with suggested modifications in June, 1992. The City Council did adopt the modifications within the prescribed time and the Commission effectively certified the land use plan in March, 1993.

Since that time, City staff has been preparing the implementation plan and taking it through a series of local reviews, including numerous public hearings. A draft of the implementation plan was informal submitted to Commission staff in 1996 for comment and direction. Many of those comments have been included in the final implementation plan currently before the Commission.

ADDITIONAL INFORMATION

Further information on the Del Mar LCP Implementation Plan may be obtained from Ellen Lirley, Coastal Planner, at (619) 521-8036.

PART I. OVERVIEW

A. LCP HISTORY

In April 1978, the City prepared a report entitled "City of Del Mar Local Coastal Program Issue Identification and Work Program" which identified coastal conservation and development issues specific to Del Mar. Progress on the LCP faltered somewhat after adoption of that document, since the City turned its efforts to developing its community plan, rather than an LCP land use plan, which is a separate document. After an extended delay, the City resumed its LCP planning effort and, in May 1991 submitted its LCP land use plan for Commission action. The Commission denied the land use plan as submitted, but approved it with suggested modifications in September, 1991. When the City did not accept the suggested modifications within six months, the Commission's certification expired. The City then resubmitted the same documents and the Commission again approved the land use plan with suggested modifications in June, 1992. This time the City Council did adopt the modifications within the prescribed time and the Commission effectively certified the land use plan in March, 1993.

Since that time, City staff has been preparing the implementation plan and taking it through a series of local reviews, including numerous public hearings. A draft of the implementation plan was informal submitted to Commission staff in 1996 for comment and direction. Many of those comments have been included in the final implementation plan, which was submitted for Commission action in May of this year. A one-year time extension from June 25, 1999 was granted in August, 1999.

B. STANDARD OF REVIEW

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.

C. PUBLIC PARTICIPATION

The City has held numerous Planning Commission and City Council meetings with regard to the subject implementation plan. All of those local hearings were duly noticed to the public. Notice of the subject implementation plan 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 resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- A. RESOLUTION I (Resolution to reject certification of the City of Del Mar LCP Implementation Plan, as submitted)

MOTION I

I move that the Commission reject the City of Del Mar Implementation Plan.

Staff Recommendation

Staff recommends a YES vote and 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 denies certification of the City of Del Mar Local Coastal Program Implementation Plan, on the grounds that the plan does not conform with, and is inadequate to carry out, the provisions of the certified land use plan. There are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the approval would have on the environment.

- B. RESOLUTION II (Resolution to approve certification of the City of Del Mar LCP Implementation Plan, if modified)

MOTION II

I move that the Commission approve the City of Del Mar Implementation Plan, if it is modified in conformity with the suggested modifications set forth in this report, except for those properties owned by the 22nd District Agricultural Association.

Staff Recommendation

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

Resolution II

The Commission hereby approves certification of the City of Del Mar Local Coastal Program Implementation Plan, if modified, except for those properties owned by the 22nd District Agricultural Association, on the grounds that the plan conforms 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. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted. The title of the specific ordinance being modified is listed in **bold type** prior to all modifications applying to that ordinance. Before beginning with a section by section listing of suggested modifications, the following modification would be common to the entire implementation plan and would be added to the final paragraph of each chapter as follows:

1. [This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances. Where there is a conflict between the language of this Chapter and other portions of the Del Mar Municipal Code, the language of this Chapter shall take precedence.]

FLOODWAY ZONE

2. ~~30.29.045 Structures. No structures are allowed in the Floodway Zone except fences which meet all of the following criteria:~~

~~—— A. The proposed fence is constructed in a manner that allows the free passage of water without diversion or displacement of flood waters, or a rise in flood elevations;~~

~~—— B. The proposed fence is anchored to prevent floatation or flood damage;~~

~~—— C. The proposed fence meets the applicable provisions of this Title and of the Certified City of Del Mar Local Coastal Program;~~

~~—— D. The proposed fence does not exceed six feet in height; and~~

~~—— E. The proposed fence receives all Design Review Permits required by this Code. [Ord. 670]~~

BLUFF, SLOPE AND CANYON OVERLAY ZONE

3. 30.52.060 Development Review. - Revise Section A.1.c.

A)1)c). For purposes of this Section, "encroachment" shall constitute any activity which involves grading, construction, placement of structures or materials, removal of native vegetation, paving, or other operation which would render the area incapable of supporting native vegetation or being used as wildlife habitat.

4. 30.52.060 Development Review - Revise Section A.2.

Projects located with the bluff, Slope and Canyon Overlay Zone shall be conditioned to ensure that runoff from constructed impervious surfaces shall be discharged directly into publicly-owned discharge and drainage systems. In the event that no public discharge or drainage systems are in the immediate vicinity, the Planning Commission may approve alternate systems upon the recommendation of the City Engineer, if it is found that the proposed alternate system will produce no significant erosion. "Significant erosion" shall mean the likelihood of removal of soil or the cutting, scarring, or rilling of slopes, canyons, or bluff faces, or the silting of lower slopes brought about by runoff from the impervious surfaces during irrigation or from rainfall of an intensity and duration less than or equal to that of the 100-year period design storm. New development shall minimize the discharge of pollutants from urban runoff into surface water drainage, and maintain post-development peak runoff rate and average volume, at levels that are similar to pre-development levels, by implementing structural and non-structural Best Management Practices (BMPs) through an approved polluted runoff control plan.

5. 30.52.070 Exemption from CUP and Coastal Development Permit Requirements.

A. The following projects and activities shall not be subject to the receipt of a Conditional Use Permit ~~or Coastal Development Permit~~ upon a determination by the Director of Planning and Community Development that the criteria specified in Section 30.52.060.A have been met:

1. Construction or grading which maintains a minimum setback of twenty feet of the top and ten feet of the bottom of substantial steep slopes exceeding 25 percent, or the construction of a structure which does not overhang such steep slope or steep slope setback in accordance with development criteria applicable to the property as described in 30.52.060.A1. Setback certification from the top and bottom of substantial steep slopes for all new construction and overhangs shall be performed by a licensed surveyor or engineer as part of the development review process for any project located within the Bluff, Slope, and Canyon Overlay Zone.
2. The installation of private drainage systems, provided that such systems are designed to discharge runoff from constructed impervious surfaces directly into publicly-owned discharge and drainage systems in accordance with development criteria applicable to the property as described in 30.52.060.A2. Such systems shall be subject to review by the City Engineer.

3. The construction of a fence or wall which meets applicable fence height requirements as measured pursuant to the provisions of this Code.

4. The grading of a fire break or the clearance of vegetation when required, pursuant to an order from the Del Mar Fire Department to protect structures on existing developed legal lots. The Fire Department's order shall require the grading or clearance of no more material than is minimally necessary to provide for protection of public health and safety. Unless specifically stated in the written order, the clearance of vegetation shall be limited to the selective removal of vegetative growth through normal pruning, thinning by hand, and/or cutting operations which do not involve grading, clear-cutting of vegetation to a uniform height, or disturbance of soil or root systems.

5. The replacement or removal of vegetative material when such activities are carried out in a manner which does not threaten the preservation of the sandstone bluffs, canyons, and related slopes that characterize properties within the Bluff, Slope and Canyon Overlay Zone and when such activities are carried out in a manner that involves appropriate erosion control measures, including replacement vegetation, to provide soil stability and when conducted so as to not create the potential for adverse erosion to adjacent properties or downstream resources. (Ord. 582)

6. 30.52.075 Exemption from Coastal Development Permit Requirements. (new section)

A. The following projects and activities shall not be subject to the receipt of a Coastal Development Permit upon a determination by the Director of Planning and Community Development that the criteria specified in Section 30.52.060.A have been met:

1. The grading of a fire break or the clearance of vegetation when required, pursuant to an order from the Del Mar Fire Department to protect structures on existing developed legal lots. The Fire Department's order shall require the grading or clearance of no more material than is minimally necessary to provide for protection of public health and safety. Unless specifically stated in the written order, the clearance of vegetation shall be limited to the selective removal of vegetative growth through normal pruning, thinning by hand, and/or cutting operations which do not involve grading, clear-cutting of vegetation to a uniform height, or disturbance of soil or root systems.

7. 30.52.110 Application Submittals – Add Section A.4.

4. A polluted runoff control plan which incorporates the use of structural and non-structural Best Management Practices (BMPs), to the extent necessary, to minimize the discharge of pollutants carried by runoff from urban development into surface water drainage, and to maintain post-development peak runoff rate and average volume at

levels similar to pre-development levels. The plan shall include, but not be limited to the following Best Management Practices (BMPs), as applicable: silt traps, catch basins, oil/grit separators, street sweeping and cleaning program, low-maintenance landscape and pesticide management plan, solid waste management and public education program. The plan shall include provisions for long-term maintenance of BMPs as relevant.

LAGOON OVERLAY ZONE

8. 30.53.020 Boundaries. Property within the Lagoon Overlay Zone shall be those areas designated by Ordinance to be depicted upon the City Zone Map. However, if wetlands are delineated on any lot not shown on the map of the Lagoon Overlay Zone, said lot shall be considered to be within the Lagoon Overlay Zone and subject to all regulations herein. The City shall update the City Zone Map to modify the boundaries of the Lagoon Overlay Zone from time to time to incorporate newly-discovered wetlands.

9. 30.53.030 Definitions. (Section 2 only)

2. "Wetland Buffer" shall mean lands which provide a buffer between human development activity and wetland areas and which serve to protect the environmental and functional habitat values of the wetland, and/or lands which are integrally important in supporting the full range of the wetland and adjacent upland biological community through their function as upland transitional habitat.

10. 30.53.100 Provision of Wetland Buffers. (Section B only)

B. A wetland buffer of less than 100 feet in width shall be allowed only with concurrence by the California Department of Fish and Game and when the Planning Commission makes the following findings:

1. That the physical characteristics of the site, such as the size and dimensions of the property are adequate to protect the resources of the adjacent wetlands, based on site-specific factors.

a. When making such a finding, the Planning Commission, in consultation with California Department of Fish and Game, shall consider site-specific factors such as the type and size of the development proposed; the mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials which may exist between the proposed development and wetland areas; the need for upland transitional habitat; or other similar factors which will serve to contribute to the purposes of a wetland buffer area.

b. When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall ~~consider any~~

defer to the recommendations provided by representatives of the California Department of Fish and Game.

11. 30.53.120 Application Submittals – Add Section B.4

4. A polluted runoff control plan which incorporates the use of structural and non-structural Best Management Practices (BMPs), to the extent necessary, to minimize the discharge of pollutants carried by runoff from urban development into surface water drainage, and to maintain post-development peak runoff rate and average volume at levels similar to pre-development levels. The plan shall include, but not be limited to the following Best Management Practices (BMPs), as applicable: silt traps, catch basins, oil/grit separators, street sweeping and cleaning program, low-maintenance landscape and pesticide management plan, solid waste management and public education program. The plan shall include provisions for long-term maintenance of BMPs as relevant.

12. 30.53.160 Retention of Native Vegetation.

A. New or redevelopment projects within the Lagoon Overlay Zone shall include the retention of the maximum amount of native vegetation on the site. Revegetation or landscaping of sites within the Lagoon Overlay Zone shall include the use of non-invasive, drought tolerant species native to the San Diego coastal region and which are compatible with adjacent wetland habitat species.

COASTAL BLUFF OVERLAY ZONE

13. 30.55.090 Application Submittals.- Revise Section B

B. All applications for projects involving new construction on properties containing coastal bluffs shall be accompanied by a geotechnical report addressing: 1) existing conditions; 2) the suitability of the site for the proposed construction; ~~and~~ 3) the potential of the proposed development to affect bluff stability over a 70-year life span of the project; 4) the potential future need for shoreline protection during the expected life span of the project; 5) an analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards; 6) an analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information; 7) an analysis of the potential effects of past and projected El Nino events on bluff stability; and 8) an analysis of whether this section of coastline is under a process of retreat. The report shall also include recommended mitigation measures as they relate to avoidance of risks and preservation of fragile bluff systems. In the event that a submitted report recommends a coastal bluff top setback of a greater distance than otherwise minimally required in this Chapter, the greater distance shall be provided.

14. 30.55.090 Application Submittals.- Add Section D

D. A polluted runoff control plan which incorporates the use of structural and non-structural Best Management Practices (BMPs), to the extent necessary, to minimize the discharge of pollutants carried by runoff from urban development into surface water drainage, and to maintain post-development peak runoff rate and average volume at levels similar to pre-development levels. The plan shall include, but not be limited to the following Best Management Practices (BMPs), as applicable: silt traps, catch basins, oil/grit separators, street sweeping and cleaning program, low-maintenance landscape and pesticide management plan, solid waste management and public education program. The plan shall include provisions for long-term maintenance of BMPs as relevant.

15. 30.55.130 Additional Development Standards for Subdivisions.

A. No subdivision shall be approved unless a finding is made by the Planning Commission that the proposed design of the subdivision and its improvements will be consistent with the criteria of this Chapter. Specifically, no subdivision shall be approved for creation of a lot(s) which would be incapable of either: 1) supporting the construction of a use allowed within the underlying zone; ~~or~~ 2) supporting such construction with provision of the applicable Coastal Bluff Top setbacks and other resource protection measures required pursuant to this Chapter; or 3) supporting such use without the installation or construction of a bluff or shoreline protective device. In reviewing the subdivision proposal, the Planning Commission shall take into consideration, the probable impacts that the project, including subsequent development on the lot(s), will have on preservation of coastal bluffs and the avoidance of hazards.

PUBLIC ACCESS

16. 30.61.100 Recordation and Legal Description of Access Easements. (Section I only)

I. Any offer to dedicate an access easement required pursuant to the provisions of this Chapter shall be subject to the review and written approval of the Coastal Commission's Executive Director or designee. Once recorded ~~pursuant to the requirements of this Chapter~~, a copy of the recorded Offer to Dedicate Public Access Easement shall be mailed to the closest regional office of the California Coastal Commission for filing with the Coastal Commission's Executive Director.

COASTAL DEVELOPMENT PERMITS

17. 30.75.030 Definitions. (Sections B1, T and X only and added definition, aa)

B. "Appealable Development" shall mean, in accordance with the Coastal Act, any of the following:

1. A development which is approved under a Coastal Development Permit issued by the City and which is appealable to the California Coastal Commission due to its location in the an appealable area under Section 30603 of the Coastal Act and as generally shown designated on the City Zone Post-

Certification Map as the Coastal Development Permit Appeals Area. The Coastal Development Permit Appeals Area is generally composed of properties located 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, and all areas within 100 feet of wetlands and streams.

T. "Original Jurisdiction" shall mean that area of the City of Del Mar that consists of tidelands, submerged lands and/or public trust lands, whether filled or unfilled, as generally depicted as indicated on the LCP Post-Certification Maps wherein the authority for review of Coastal Development Permit applications rests with the California Coastal Commission pursuant to the provisions of this Chapter and the Coastal Act. Areas of Original Jurisdiction are those areas within the City that comprise: tidelands, submerged lands, and/or public trust lands, whether filled or unfilled.

X. "Temporary Event" shall mean an activity or use that constitutes development as defined in this Chapter but which is an activity or function which is or will be of limited duration and involves the placement of non-permanent structures. Temporary Events, as defined herein, may involve the use of sandy beach, parkland, filled tidelands, water, streets, or parking areas which are otherwise open and available for general public use.

aa. "City Zone Map" shall mean, for purposes of the Local Coastal Program (LCP), all those maps shown as exhibits to the City of Del Mar LCP Implementing Ordinances, including both base zoning maps and overlay zoning maps.

18. 30.75.040 Permit Required. (Section B only)

B. Where required pursuant to this Chapter, a valid Coastal Development Permit shall be obtained prior to the commencement of development and shall be required in addition to any other permits or approvals required by the City. The review of a Coastal Development Permit application may be combined with and/or processed concurrently with the review of any other discretionary permit application required by this Title and the action of the decision-maker shall be considered one consolidated action. For decisions involving coastal development within the appealable area, the entire consolidated decision is appealable to the Coastal Commission.

19. 30.75.080 Coastal Development Permits Issued by the City-Issuing Authority, Public Hearing Required. (Sections E and F only)

E. The Director of Planning and Community Development shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for the following:

1. Projects which qualify for Administrative Design Review pursuant to the provisions of this Title, unless located in the Coastal Commission's appeals area as defined in Section 30.75.030.B.1. of this Chapter.

2. Applications for Lot Line Adjustments and/or Certificates of Compliance, unless located in the Coastal Commission's appeals area as defined in Section 30.75.030.B.1. of this Chapter.

F. A public hearing shall be required for all Coastal Development Permit applications except those for which the Director of Planning and Community Development is designated as the Issuing Authority. A public hearing shall be required for all Coastal Development Permit applications for projects located in the Coastal Commission's appeals area as defined in Section 30.75.030.B.1. of this Chapter.

20. 30.75.100 Notice of Action on Coastal Development Permit Applications. Upon final action on an application for a Coastal Development Permit, the City shall, within seven (7) days of the final action, mail notice to the Executive Director of the California Coastal Commission and to interested parties who have requested notice in writing describing the action taken by the City.

21. 30.75.110 Coastal Development Permits Reviewed by the City – Appeals to the Coastal Commission.

A. An action rendered by the City on an application for a Coastal Development Permit which constitutes an Appealable Development, as defined in this Chapter, may be appealed to the California Coastal Commission by an Aggrieved Person in accordance with the provisions of the Coastal Act and the ~~Coastal Commission's Administrative~~ California Code of Regulations.

B. The period for appeal to the Coastal Commission on an action rendered by the City on a Coastal Development Permit application shall be ten (10) calendar days, commencing on the day after written notice of the City's final action on the application is received at the staff offices of the Coastal Commission.

C. Prior to appealing a decision on a Coastal Development Permit rendered by the City to the California Coastal Commission, an Aggrieved Person shall exhaust all City of Del Mar appeals processes. There shall be no fee charged by the City of Del Mar for an appeal of a coastal development permit.

22. 30.75.120 Provision of Notice for Public Hearings. (Section D only)

D. Projects which are provided a Categorical Exclusion from the Coastal Development Permit requirements of this Chapter shall be exempt from the requirement for public notice except that a record of such Categorical Exclusion shall be posted at City Hall and kept on public file in the Planning and Community Development Department, and shall be ~~made available for review by representatives of~~ mailed to the Executive Director of the

California Coastal Commission and to interested parties who have requested notice in writing.

23. 30.75.140 Requirement for Findings.

A. Each determination granting a Coastal Development Permit shall be supported by written findings of fact showing that each of the following conditions exist:

1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.
2. That the proposal meets the criteria of the applicable chapters of this Title.
3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program.
4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the public access and public recreation policies of the Chapter 3 ~~Three Policies~~ of the California Coastal Act.
5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter 3 ~~Three Policies~~ of the California Coastal Act.
6. That the proposal is consistent with and implements the provisions of public view protection policies IV-22 through IV-27 of the City of Del Mar LCP Land Use Plan.
7. That for all development proposals on sites with delineated wetland resources, that the proposed development is consistent with and implements the provisions of the Lagoon Overlay Zone. These provisions apply equally to sites currently mapped within the Lagoon Overlay Zone and to sites where such resources are delineated in the future.

24. 30.75.150 Conditions on Coastal Development Permit Approvals. (Section A only)

A. Each Coastal Development Permit approval shall have attached to it, the conditions and safeguards deemed necessary by the Issuing Authority to ensure that the proposed use or activity fully meets and will continue to meet the provisions of this Title and of the City of Del Mar Local Coastal Program. The conditions may include provisions for public access, open space or conservation easements or the relocation or redesign of proposed site improvements. In any subdivision or other land division, such conditions

shall be imposed at the time of the subdivision or other land division, rather than through subsequent development permits.

25. 30.75.200 Exemptions (Sections C1; D1, 7 and 8; E2; K and L)

C. Improvements to existing single-family residences except as noted below. For purposes of this Section, the term "improvements to single family residences" includes those structures and improvements normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds, and landscaping but specifically not including guest houses or accessory residential units. The exemption provided in this Section shall not apply where:

1. The existing residence or proposed improvements are, or would be located on a beach, wetland, seaward of the mean high tide line, or within 50 feet of the edge of a coastal bluff.

D. Improvements to structures other than existing single-family residences and public works facilities except as noted below. For purposes of this section, the term "improvements to structures" includes all fixtures and structures attached to the structure and landscaping. The exemption provided in this Section shall not apply where:

1. The existing structure or proposed improvements are, or would be located on a beach, wetland, seaward of the mean high tide line, or within 50 feet of the edge of a coastal bluff.

7. ~~Any~~ The proposed improvement to a structure ~~which would~~ changes the intensity of use of the structure.

8. ~~Any~~ The proposed improvement ~~made pursuant to a~~ would consist of the 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.

E. Repair and maintenance activities to existing structures or facilities that do not result in an addition to, or enlargement or expansion of, the structures. The exemption provided in this section shall not apply where the proposed repair or maintenance involves:

2. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters, streams or wetlands where such repair or maintenance involves either:

~~K. The demolition of existing structures.~~

E.K. Temporary events for which all other permits and approvals required by the Municipal Code have been received and which meet all of the following criteria:

1. The event will not last more than three (3) (consecutive) days.
2. The event will not occupy a publicly or privately owned beach area.
3. The event will occupy a portion of a publicly or privately owned beach or park area but will not occur between Memorial Day weekend and Labor Day and a fee will not be charged for general public admission or seating where no fee is currently charged for use of the same area, and the event has been reviewed by the Director with a resulting finding that due to the proposed location and or timing of the event, there will be no adverse impact on opportunities for public use of the area.
4. The event has been reviewed by the Director with a resulting finding that the event does not have the potential to create adverse impacts on any environmentally sensitive area.

PARKING

26. 30.80.120 Shared-Use Parking Permit. (Section A.2. only)

2. Not more than ~~25~~ 15 percent of the number of off-street parking spaces required by this Chapter for a use or activity may be satisfied through the use of shared use parking spaces.

ZONE DESIGNATIONS/ALLOWED USES

27. This item is not an actual zone, but rather a list of all zones applied throughout the City of Del Mar and the uses allowed in each zone. The list is an exhibit to the implementation plan, and is thus part of the plan. The purpose of this suggested modification is to add development standards to the list for each zone to clarify the intensity of development allowed on individual sites within that particular zone.

Central Commercial

CC Zone: Retailing of goods and dispensing of services, (exclusive of drive-through).
Shops, Delis, Restaurants, Cafes, Florists, Hardware, Offices,
Financial institutions, Pharmacies, Gasoline service stations*,
Bars, Cocktail lounges, Theatres*, Vet clinics*, Motels/Motels*,
Cellular Telephone facilities*..

Development Standards:

Maximum Floor Area Ratio: 45 % or 2,000 sq. ft. whichever is greater

Maximum Lot Coverage: 60% or 2,500 sq. ft whichever is greater

Maximum Height: 26 feet**

Beach Commercial

BC Zone: Retailing, renting or dispensing of services, (exclusive of drive-through). Beach equipment rental, Outdoor recreational facilities, Cafes, Restaurants. Any principal use in CC Zone*.

Development Standards:

Maximum Floor Area Ratio: 10% with lot coverage up to 20% with Conditional Use

Permit

Maximum Height: 14 feet

North Commercial

NC Zone: Repair shops, Blueprinting, Manufacturing, Restaurants, Art and Technical studios, Offices, Warehouses, Gasoline service stations*, Bars* Cocktail lounges*, Theatres*, Hotel/Motel*, Vet Clinics*, Kennels*, Refuse recycling centers*.

Development Standards:

Maximum Floor Area Ratio: 30%

Maximum Lot Coverage: 40%

Maximum Height: 26 feet

Professional Commercial

PC Zone: Offices; professional, medical, dental; banks and financial institutions (exclusive of drive through); Parking lots, Parking garages.

Development Standards:

Maximum Floor Area Ratio: 60%

Maximum Lot Coverage: 75%

Maximum Height: 26 feet * *

* With receipt of a Conditional Use Permit

** Structures on west side of Camino del Mar shall not exceed 14 feet in height over elevation of curb level adjacent to the site on Camino del Mar.

Visitor Commercial

VC Zone: Hotels, Motels, Boarding Houses and lodging houses.

Development Standards:

Maximum Floor Area Ratio: 40%
Maximum Lot Coverage: 55%
Maximum Height: 26 feet * *

Fairgrounds/Racetrack

FR Zone: Regulated by 22nd Agricultural District.

Railroad

RR Zone: Railroad facilities, related structures*.

Development Standards:

Maximum Height: 26 feet

Floodway

FW Zone: (No permanent structures). Aviaries, Open crops, Aquaculture, Open recreational uses.

Public Parklands

PP Zone: Public parks, Beaches, Playgrounds, Ecological preserves.

Public Facilities

PF Zone: Public schools; City, County, State and Federal buildings; Utility structures.

Development Standards:

Maximum Height: 26 feet * *

HSP Uses as allowed per the Hotel Specific Plan

PSP Uses as allowed per the Plaza Specific Plan

* Provided a Conditional Use Permit has first been obtained and is in full force and effect.

** Structures on west side of Camino del Mar shall not exceed 14 feet in height over elevation of curb level adjacent to the site on Camino del Mar.

R1-40 Zone: Single Family Residences at a density of 1 dwelling unit/net ac.

Development Standards:

Maximum Floor Area Ratio: 12.5 % or 2,000 sq. ft. whichever is greater
Maximum Lot Coverage: 20% or 3,000 sq. ft whichever is greater
Maximum Height: 26 feet*

R1-14 Zone: Single Family Residences at a density of 3.1 dwelling unit/net ac.

Development Standards:

Maximum Floor Area Ratio: 25 % or 2,000 sq. ft. whichever is greater
Maximum Lot Coverage: 35% or 3,000 sq. ft whichever is greater
Maximum Height: 26 feet*

R1-10B Zone: Single Family Residences at a density of 4.3 dwelling unit/net ac.

Development Standards:

Maximum Floor Area Ratio: 30% or 2,000 sq. ft. whichever is greater
Maximum Lot Coverage: 45% or 3,000 sq. ft whichever is greater
Maximum Height: 26 feet*

R1-5 Zone: Single Family Residences at a density of 4.6 dwelling unit/net ac.

Development Standards:

Maximum Floor Area Ratio: 30% or 2,000 sq. ft. whichever is greater
Maximum Lot Coverage: 45% or 3,000 sq. ft whichever is greater
Maximum Height: 26 feet*

R1-5B Zone: Single Family Residences at a density of 8.7 dwelling unit/net ac.

Development Standards:

Maximum Floor Area Ratio: 55%
Maximum Lot Coverage: 80%
Maximum Height: 26 feet*

* Subject to additional height constraints of the Bluff, Slope and Canyon Overlay Zone
** Subject to the receipt of a Conditional Use Permit

RM-East Zone: Single Family, Duplex and Clustered Residences at a density up to 8.8-17.5* * d.u./net ac. Day Nurseries**, Care Centers**

Development Standards:

Maximum Floor Area Ratio: 40%
Maximum Lot Coverage: 55%
Maximum Height: 26 feet*

RM-West Zone: Single Family, Duplex and Clustered Residences at a density up to 8.8-17.5* * d.u./net ac. Day Nurseries**, Care Centers**

Development Standards:

Maximum Floor Area Ratio: 45%
Maximum Lot Coverage: 60%
Maximum Height: 26 feet*

RM-Central Zone: Single Family, Duplex and Clustered Residences at a density up to 6.3-12.5* * d.u./net ac. Day Nurseries**, Care Centers, Churches**

Development Standards:

Maximum Floor Area Ratio: 30%
Maximum Lot Coverage: 45%
Maximum Height: 26 feet*

RM-South Zone: Single Family, Duplex and Clustered Residences at a density up to 10.9-12.5** d.u./net ac. Day Nurseries**, Care Centers**, boarding and lodging houses.

Development Standards:

Maximum Floor Area Ratio: 35%
Maximum Lot Coverage: 50%
Maximum Height: 26 feet*

R2 Zone: Single Family, Duplex and Clustered Residences at a density up to 12.5 d.u./net ac., Day Nurseries**, Care Centers**, Churches** .

Development Standards:

Maximum Floor Area Ratio: 35%
Maximum Lot Coverage: 50%
Maximum Height: 26 feet*

* Subject to additional height constraints of the Bluff, Slope and Canyon Overlay Zone
** Subject to the receipt of a Conditional Use Permit

RC Zone: Single Family, Duplex and Clustered Residences at a density up to 12.5 d.u./net ac., also those uses allowed by right within the Central Commercial, provided that not more than 40% of the allowable floor area ratio is devoted to commercial uses.

Development Standards:

Maximum Floor Area Ratio: 30%
Maximum Lot Coverage: 55%
Maximum Height: 26 feet*

CVPP Zone: Single family residences and open space as designated within the Carmel Valley Precise Plan with floor area ratios and design constraints contained therein.

* Subject to additional height constraints of the Bluff, Slope and Canyon Overlay Zone

** Subject to receipt of a Conditional Use Permit

PART IV. DEFERRED CERTIFICATION AREA/22ND DISTRICT AGRICULTURAL ASSOCIATION

At the time the City of Del Mar LCP Land Use Plan was certified in June, 1992, the properties within the City of Del Mar owned by the 22nd District Agricultural Association (Del Mar Fairgrounds) were deferred from certification. Legal concerns regarding the relative positions of various planning and permitting authorities in this geographic area were raised, along with concerns about the state's ability to manage areas of continued public interest, such as tidelands, historic submerged lands and public trust lands. These issues have not been resolved to date, and the 22nd District Agricultural Association's property remains an area of deferred certification. Moreover, nearly all the property in question is located within the Coastal Commission's retained area of original permit jurisdiction. In such areas, coastal development permit authority is not delegated to a local government, and the policies of Chapter 3 of the Coastal Act remain controlling.

There is nothing in the submitted implementation plan that seeks to regulate development on these properties. In fact, the list of Zone Designations/Allowed Uses, which is attached as an exhibit to the implementation plan, merely identifies the property as FR (Fairgrounds Racetrack) and specifically states that the area is regulated by the 22nd District Agricultural Association. Therefore the deferred certification status of the Fairgrounds property is not changed in the subject implementation plan.

PART V. FINDINGS FOR DENIAL OF CERTIFICATION OF THE DEL MAR IMPLEMENTATION PLAN, AS SUBMITTED

A. IMPLEMENTATION PLAN DESCRIPTION

The proposed City of Del Mar Local Coastal Program (LCP) Implementing Ordinances is a companion document to the City of Del Mar LCP Land Use Plan, which the Coastal Commission fully certified in 1993. The City's implementation plan is a stand-alone document, separate from the existing Del Mar Municipal Code. It includes ordinance language addressing and implementing each of the policy groups in the land use plan. Specifically, there is a Floodway Zone, and five overlay zones addressing beaches;

coastal bluffs; floodplains; lagoons; and inland bluffs, slopes and canyons as a group. Development within any of the overlays requires a separate discretionary action on the part of the City, and the proposed ordinances establish the appropriate requirements and procedures for these approvals. In addition, there is a zone governing shoreline protection and City-wide ordinances addressing public access and parking. These ordinances address shoreline protective works, access dedications where appropriate in conjunction with new development, and parking requirements based on a property's use. Finally, there is an ordinance addressing the processing of coastal development permits by the City of Del Mar. This establishes application requirements and review procedures, including legal noticing, hearing and appeal processes, and includes a list of exempt activities/projects.

B. SUMMARY FINDINGS FOR REJECTION

It should be noted that the City of Del Mar is rather unique within San Diego County for two reasons. One, it is one of only two local jurisdictions located completely within the coastal zone, the other being the City of Coronado. Two, also like Coronado, Del Mar is a small, nearly built out community. There are no large undeveloped tracts of land, although there are a few large vacant (but already subdivided) properties in the hillside area. However, development in Del Mar primarily consists of infill construction on the few remaining vacant lots and redevelopment of existing, developed properties. Thus, many of the significant Coastal Act concerns that are raised in larger cities with large undeveloped areas (Carlsbad and the City of San Diego, for instance) are either not present at all in Del Mar, or exist on a significantly smaller scale.

The City of Del Mar has taken many years to develop their proposed implementation plan and a great deal of time and effort has gone into both the drafting of the ordinance language and the extensive public review process conducted by the City. For the most part, the City, in drafting the implementation plan, has taken the policy language of its certified land use plan and converted it into ordinance language. Thus, both documents say virtually the same thing but are differently phrased. In this way, except for a few very minor details, the implementation plan is fully consistent with the land use plan.

An implementation plan, however, must be more than consistent with the land use plan; it must be adequate to carry out that plan. Ordinances must interpret land use plan policies with a sufficient amount of detail to adequately effect their implementation. The City's implementation plan consists of ten ordinances and accompanying exhibits. Seven of the ten ordinances are not sufficiently detailed to carry out the land use plan, or contain minor inconsistencies with the certified land use plan policies. They will be described in detail below under the name of each ordinance, in the order they appear in the implementation plan. One of the exhibits will also be addressed, as a suggested modification is proposed for it as well – this is the list of Zone Designations/Allowed Uses. The other three ordinances, the Beach Overlay, Setback Seawall Permits and Floodplain Overlay Zones, are both consistent with the land use plan and adequate to carry it out. They will be further addressed in the findings for approval, which appear later in this document.

B. SPECIFIC FINDINGS FOR REJECTION

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.

FLOODWAY ZONE

a) Purpose and Intent of the Ordinance. This zone was designed to preserve areas subject to deep and high velocity floodwater, thus protecting the health and welfare of the City's residents.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- List of allowed uses;
- List of disallowed uses; and
- Design criteria for fences.

c) Adequacy of the Ordinance to Implement the Certified LUP. This ordinance, and those portions of the certified land use plan addressing this issue, were intended to preserve the floodway in its natural state to provide optimum protection to the City from flood damages. To achieve this goal, the land use plan has a blanket prohibition against all permanent structures in the floodway, with no exceptions. The ordinance is consistent with the land use plan except that it allows for the construction of fences in the floodway. The City maintains the fences are necessary for the security of persons owning property in the floodway, and has required that the fences be designed to allow the passage of water. The City also indicates a desire to modify the land use plan in the future to accommodate this use and the Commission will have an opportunity to review the matter at that time. However, it must be noted that even open fences can affect flood flows; materials carried downstream in flood situations can lodge against a fence, effectively creating a dam. Thus, the Commission may not find fences an acceptable use in the floodway whenever the City brings the matter forward, although the Commission decision will be based on the full body of evidence presented with any such request. At this time, however, the ordinance exception allowing fences is inconsistent with the currently certified land use plan, and therefore must be rejected.

BLUFF, SLOPE AND CANYON OVERLAY ZONE

a) Purpose and Intent of the Ordinance. This zone was designed to preserve scenic areas such as inland bluffs, steep slopes and canyons. It is also intended to protect downstream resources from erosion and sedimentation.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- Uses allowed by underlying zones;
- Development standards including setbacks and encroachment allowances;
- Permit review procedures and exceptions;
- Grading restrictions; and
- Open space conditions.

c) Adequacy of the Ordinance to Implement the Certified LUP. This ordinance is primarily consistent with the extensive policies in the certified land use plan addressing development in scenic and hazardous areas. The proposed ordinance includes all the same design parameters, encroachment allowances and grading provisions as the certified land use plan. However, the ordinance also includes a list of activities which are exempt from both a Conditional Use Permit and a Coastal Development Permit. While the City can establish whatever exemptions it chooses for its conditional use permit process, it cannot include coastal permit exemptions beyond those allowed in the Coastal Act. Four of the proposed exemptions, one which exempts certain grading projects, one exempting the installation of private drainage systems, one exempting fences and one exempting the removal of vegetation, address projects which are often not exempt under the Coastal Act. Although any of these potential projects could be exempt under certain circumstances, none of them would be exempt under all circumstances. Thus, the inclusion of exemptions beyond what is allowed in the Coastal Act, requires that this ordinance be rejected as submitted.

In accordance with the LUP policies designed to protect and enhance sensitive coastal resources, the LCP Implementation Plan should include additional measures specifically designed to address polluted runoff control. It has become clear that additional measures are required within both existing development and as part of new development to reduce the amount of pollutants contained in runoff leaving a development site and entering the storm drain system. Additionally, the volume and velocity of such runoff must be controlled. This overlay zone contains grading and erosion control policies designed to address sedimentation impacts, but the plan lacks any specific requirements for Best Management Practices (BMPs) to address polluted runoff. Without these provisions, the ordinance must be rejected as submitted.

LAGOON OVERLAY ZONE

a) Purpose and Intent of the Ordinance. This zone was designed to preserve the wetland resources of lagoons and their sensitive uplands.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- Definitions of “wetlands” and “wetland buffers;”
- Lists of allowed uses in wetlands and buffers;
- Permit review procedures;
- Grading and erosion control restrictions; and
- Open space conditions.

c) Adequacy of the Ordinance to Implement the Certified LUP. This proposed ordinance is also consistent with the certified land use plan, which includes extensive policies addressing development in or near sensitive habitat areas. The language of both documents prohibits most uses in wetlands and wetland buffers and establishes a minimum 100 foot buffer between any delineated wetland and permitted upland development. Moreover, the land use plan specifically requires consultation with the California Department of Fish and Game before such buffer widths can be reduced. Although the proposed ordinance indicates that input may be sought from that agency in determining appropriate buffer widths, it does not make consultation/concurrence a specific requirement, nor does it make clear that the recommendations of that agency are controlling. Moreover, the ordinance does nothing to accommodate any newly-delineated wetland resources in the City. Wetlands evolve over time and their boundaries can fluctuate. The ordinance should make it clear that its provisions are applicable to all wetland resources, not just to those depicted on the map attached as an exhibit to the implementation plan. Also, the definition of a wetland buffer does not adequately emphasize the function of a buffer to provide upland transitional habitat. Finally, the ordinance’s provisions addressing use of native and non-invasive species do not make clear that, in addition to revegetation, newly installed landscape materials should also be included. Thus, the ordinance is not adequate to carry out all the provisions of the certified land use plan and the Commission finds it must be rejected as submitted.

In accordance with the LUP policies designed to protect and enhance sensitive coastal resources, the LCP Implementation Plan should include additional measures specifically designed to address polluted runoff control. It has become clear that additional measures are required within both existing development and as part of new development to reduce the amount of pollutants contained in runoff leaving a development site and entering the storm drain system. Additionally, the volume and velocity of such runoff must be controlled. This overlay zone contains grading and erosion control policies designed to address sedimentation impacts, but the plan lacks any specific requirements for Best Management Practices (BMPs) to address polluted runoff. Without these provisions, the ordinance must be rejected as submitted.

COASTAL BLUFF OVERLAY ZONE

a) Purpose and Intent of the Ordinance. This zone was designed to protect the City's fragile coastal bluffs as a visual resource and avoid risks to life and property from bluff failure and shoreline erosion.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- Definitions of key terms;
- Uses allowed in underlying zones;
- Permit review procedures;
- Required blufftop setbacks;
- Grading and erosion control provisions;
- Open space conditions; and
- Specific subdivision criteria.

c) Adequacy of the Ordinance to Implement the Certified LUP. As in the immediately previous findings, this ordinance is also generally consistent with the certified land use plan and is adequate in most ways to carry out the land use plan policies. It includes an appropriate methodology for delineating the bluff edge and establishes a minimum forty-foot blufftop setback for all new development. The proposed ordinance establishes permit review procedures and criteria for the submittal of geotechnical reports. However, it fails to include that such reports must address all the factors which must be considered in determining the potential need for future bluff or shoreline protection, or that development cannot be approved unless the City can find that the development will not require bluff or shoreline protection. In this way, the ordinance fails to adequately implement the certified land use plan; thus the ordinance must be rejected as submitted.

In accordance with the LUP policies designed to protect and enhance sensitive coastal resources, the LCP Implementation Plan should include additional measures specifically designed to address polluted runoff control. It has become clear that additional measures are required within both existing development and as part of new development to reduce the amount of pollutants contained in runoff leaving a development site and entering the storm drain system. Additionally, the volume and velocity of such runoff must be controlled. This overlay zone contains grading and erosion control policies designed to address sedimentation impacts, but the plan lacks any specific requirements for Best Management Practices (BMPs) to address polluted runoff. Without these provisions, the ordinance must be rejected as submitted.

PUBLIC ACCESS

a) Purpose and Intent of the Ordinance. This ordinance was designed to assure that adequate and appropriate public access is provided to all public recreational areas.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- Definition of key terms;
- Requirement for access dedications where appropriate;
- Protection of historic accessways;
- Easement recordation procedures; and
- Required findings for permits with access provisions.

c) Adequacy of the Ordinance to Implement the Certified LUP. This ordinance documents the City's requirements for public access to its public recreational venues. The more popular beach areas in the northern part of the City are accessed via every streetend between 15th and 27th Streets and also via the rivermouth. In the southern part of the City (below 15th Street) direct beach access is more difficult, due to topography (sheer bluffs) and manmade improvements (the railroad tracks). The ordinance maintains existing accessways and provides for formal access dedication in conjunction with new development on sites that have historically been used for access. It addresses the protection of existing blufftop lateral access and the formalization of such access where public safety will allow, pursuant to the location of the railroad tracks. The ordinance is fully consistent with the certified land use plan, but includes one procedural error with respect to its access dedication process. Currently, the ordinance requires only that a copy of the recorded document be sent to the Executive Director for filing, whereas the California Code of Regulations requires that the Executive Director (or designee) review the document prior to recordation. With this procedural error, the Commission finds it must reject this ordinance as submitted.

COASTAL DEVELOPMENT PERMITS

a) Purpose and Intent of the Ordinance. This ordinance establishes the process for the review of new development to assure consistency with the certified Local Coastal Program and California Coastal Act.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- Definitions of key terms;

- Description of review authority (City's alone, appealable projects and Commission's original jurisdiction);
- Permit review procedures, including hearing and noticing requirements;
- Required findings for coastal development permits;
- Permit exemptions; and
- Emergency permit procedures.

c) Adequacy of the Ordinance to Implement the Certified LUP. This ordinance establishes the procedures under which the City of Del Mar will issue coastal development permits, once the authority to do so has been delegated to the City. This is the City's first attempt to devise such procedures and the process, for the most part, is well-drawn and clear. There are, however, several areas where the proposed regulations need to be corrected or augmented to be fully consistent with the requirements of the Coastal Act for coastal development permits. Specifically, the City's definitions addressing "appealable development," "original jurisdiction" and "temporary events" are not fully consistent with the Coastal Act policies establishing those terms. The City references its draft post-certification and zoning maps as the basis for determining appealability of a project, rather than relying on the definition of what type and location of development is appealable pursuant to Section 30603 of the Coastal Act. The same concern is raised with the definition of original jurisdiction, where the City again relies on its maps rather than the narrative description of jurisdiction. Several other definitions of terms also defined in the Coastal Act are worded slightly different than the Coastal Act definition, but result in an equal and correct understanding.

The Commission is also concerned with the City's proposed process of reviewing the coastal development permit in conjunction with other required permits; some other permits are part of the LCP (such as those required by the various overlay zones), but other local discretionary reviews are not part of the LCP (such as the Design Review Board permit). Also, the ordinance does not clearly state that all appealable development requires a public hearing, and cannot be completed through an administrative process. The ordinance does not identify that the notice of final action for appealable permits and notices of categorical exclusion must be mailed to any interested parties who have requested such in writing. Although the ordinance requires appellants to exhaust local appeals before bringing an appealable development to the Coastal Commission, it does not state whether a fee is charged for local appeals. Under the Coastal Act, if a local government charges a fee to appeal a project, an appellant may appeal directly to the Commission without exhausting local appeals. Also, in addressing conditions applied to coastal development permits, the ordinance is not clear that conditions are to be applied at the earliest review (i.e., at the subdivision stage for currently unsubdivided lots), rather than in conjunction with future permits.

Finally, the City has included a long list of permit exemptions. Most of these are consistent, with some minor clarifications, with the exemptions called out in the California Code of Regulations, but the City has also included an exemption on all demolitions. Under delegation of permit authority to a local government, the Commission is delegating its mandated coastal development permit process and the certified LCP procedures must conform to the same regulations. While it may be possible for a local government to be more restrictive, it cannot provide greater relief or broader exemptions than provided to the Commission itself. Therefore, as submitted, the Commission must reject the City's draft coastal development permit ordinance.

PARKING

a) Purpose and Intent of the Ordinance. This zone was designed to establish minimum parking standards for each specific land use within the City and to address the expansion of uses which are currently deficient in parking.

b) Major Provisions of the Ordinance. The ordinance includes the following provisions:

- List of required parking spaces by use;
- Design of parking areas and street accesses;
- Maintenance of commercial parking spaces;
- Shared use criteria; and
- Off-site parking criteria.

c) Adequacy of the Ordinance to Implement the Certified LUP. This ordinance, unlike most of the proposed implementation plan, does include much more specificity than the land use plan, particularly with respect to parking lot design and access, and the potential uses of shared and off-site parking. However, the basic list of parking requirements per use is the same as that found in the certified land use plan. Thus, with one exception, the ordinance is consistent with the certified land use plan and adequate to carry out its policies. The one direct inconsistency between the land use plan and implementing ordinance is that the land use plan specifies that a maximum of 15% of required parking spaces can be reduced in shared parking arrangements, while the proposed ordinance allows up to a 25% reduction. Because of this inconsistency, the proposed parking ordinance must be rejected as submitted.

ZONE DESIGNATIONS/ALLOWED USES

As the name would imply, this exhibit to the proposed implementation plan contains a complete listing of all land use zones applicable in the City of Del Mar, and the uses allowed within each zone, both those allowed by right and those which require additional

local discretionary review. The list does not include any development standards for the zones, as these, and much other detail, are found in the specific ordinances addressing each land use zone. However, the City has chosen not to include those zoning ordinances in its proposed implementation plan. Instead, the City has included a list titled Zone Designations/Allowed Uses to demonstrate what uses are allowed in each zone corresponding to the certified land use plan designations. This approach is acceptable; however, because the list does not include specific development standards for each zone, it is inadequate to carry out all the land use plan provisions, particularly those addressing visual resources, and must be rejected as submitted.

PART VI. FINDINGS FOR APPROVAL OF THE DEL MAR IMPLEMENTATION PLAN, IF MODIFIED

In its previous findings, the Commission has identified inconsistencies between the proposed ordinances and the certified land use plan. Preceding that discussion are several pages of suggested modifications which would be necessary to bring the proposed implementation plan into conformance with the certified land use plan. The first suggested modification is general in nature. It would add a note at the end of each ordinance clarifying that the LCP implementing ordinance language takes precedence if there is any conflict with other portions of the Del Mar Municipal Code. Following are the findings addressing the consistency of the specific ordinances of the proposed implementation plan, if modified, with the certified land use plan; they are arranged in the same order as the previous set of findings for denial. Immediately following that are brief descriptions of the three ordinances which are both consistent with the land use plan and adequate to carry it out. They are the Beach Overlay, Setback Seawall Permits and Floodplain Overlay Zones.

FLOODWAY ZONE

At the present time, the certified land use plan for Del Mar includes a prohibition on any permanent structures in the floodway. This prohibition is designed to allow the free passage of flood waters and not change flood flow patterns such that downstream properties could be endangered. The proposed ordinance would allow fences within the floodway, as long as they are of an open design that would not inhibit flood flows. The City has indicated that it would like to modify the land use plan to accommodate this use, but has not submitted a land use plan amendment to accomplish this. Since even open fences can become dams under flood conditions, it is not clear at this time whether the Commission would approve revisions to the land use plan relative to construction of fences in the floodway. In any event, until the Commission has an opportunity to review such a request for its consistency with Chapter 3 of the Coastal Act, it finds the currently proposed ordinance inconsistent with the certified land use plan. Suggested Modification #2 deletes the section of the proposed ordinance addressing the construction of fences in the floodway. With the modification, the Commission finds the Floodway Zone consistent with, and adequate to carry out, the certified land use plan policies.

BLUFF, SLOPE AND CANYON OVERLAY ZONE

As previously explained, most of this ordinance is already consistent with the certified land use plan. The inconsistency lies with proposed exemptions from the coastal development permit process, some of which provide broader relief than allowed under the Coastal Act. Suggested Modification #5 deletes the term "coastal development permit requirements" from the title of the code section, making the following language applicable to conditional use permits only. Then Suggested Modification #6 adds a new section, which applies only to coastal development permits, which would exempt brush management through selective clearance on existing developed lots, if ordered by the Fire Department; this activity would normally be exempt under the Coastal Act.

Additionally, Suggested Modification #4 and 7 would require submittal of a polluted runoff control plan as part of the coastal development permit application. The plan must be designed to minimize the discharge of pollutants from urban runoff into the drainage system and maintain post-development volume and velocity at pre-development levels through the use of Best Management Practices (BMPs). With such modifications, the Commission finds the Bluff, Slope and Canyon Overlay Zone consistent with, and adequate to carry out, the certified land use plan policies.

LAGOON OVERLAY ZONE

This ordinance is fully consistent with the certified land use plan with two exceptions; it fails to require concurrence by California Department of Fish and Game whenever an applicant proposes less than a 100-foot buffer around a delineated wetland and it makes no provision for newly discovered wetland resources to be covered by the ordinance's regulations. Although it is unlikely that many properties in Del Mar contain undiscovered wetlands, it is known from past permit actions that wetland resources do exist along several segments of the railroad tracks, and these are not currently mapped within the Lagoon Overlay Zone. There may be a few other sites in a similar situation. In addition, the wetland buffer definition does not identify upland transitional habitat as one function of a buffer and the ordinance language addressing revegetation with only non-invasive species does not also include the term "landscaping." This could lead to misunderstanding on the part of homeowners who might not apply the provisions of this regulation in their routine landscaping improvements.

Suggested Modifications #8,9,10 and 12 add the appropriate language to the ordinance to address these four separate concerns. The City should be aware that updating the Lagoon Overlay Zone mapped boundaries will require an LCP amendment. Such modifications need not be processed on a "case by case" basis, but can be consolidated from time to time. The Commission's main concern is that the ordinance requirements are applied to all sites with wetlands, whether or not they are depicted on the Lagoon Overlay Zone map.

Additionally, the Commission Suggested Modification #11 would require submittal of a polluted runoff control plan as part of the coastal development permit application. The

plan must be designed to minimize the discharge of pollutants from urban runoff into the drainage system and maintain post-development volume and velocity at pre-development levels through the use of Best Management Practices (BMPs). As modified, the Commission finds the Lagoon Overlay Zone consistent with, and adequate to carry out, the certified land use plan policies.

COASTAL BLUFF OVERLAY ZONE

The one concern identified by the Commission in this ordinance is the City's failure to adequately acknowledge its land use plan policies which stipulate that new development cannot require the construction of shoreline protective devices. Two suggested modifications address this issue: Suggested Modification #13 addresses the requirements of a geotechnical report, adding that such a report must address all criteria which may influence the need for future shoreline or bluff protective devices. In addition, Suggested Modification #15 requires a finding that the proposed development can be built without the support of a shoreline protective device.

Additionally, the Commission Suggested Modification #14 would require submittal of a polluted runoff control plan as part of the coastal development permit application. The plan must be designed to minimize the discharge of pollutants from urban runoff into the drainage system and maintain post-development volume and velocity at pre-development levels through the use of Best Management Practices (BMPs). As modified, the Commission finds the Coastal Bluff Overlay Zone consistent with, and adequate to carry out, the certified land use plan policies.

PUBLIC ACCESS

As noted previously, the only concern with this ordinance was a procedural error, in that the zone did not correctly identify that the Commission's Executive Director (or designee) is required to review access easement documents prior to their recordation. Suggested Modification #16 corrects this processing error. As modified, the Commission finds the Public Access Zone consistent with, and adequate to carry out, the certified land use plan policies and consistent with Coastal Act procedural requirements.

COASTAL DEVELOPMENT PERMIT ORDINANCE

The purpose of the coastal development permit ordinance is to successfully implement the City's LCP, consistent with the Coastal Act. In order to adequately carry out the land use plan, the Coastal Development Permit Ordinance must be consistent with Coastal Act requirements applicable to permits. For example, the permit exemptions specified in the Coastal Development Permit Ordinance must be consistent with the exemptions authorized under Section 30610 of the Coastal Act. As discussed in the findings for denial, there are several aspects of the Coastal Development Permit Ordinance that are inconsistent with the Coastal Act and therefore, the ordinance is inadequate to carry out the land use plan. There are nine suggested modifications which apply to this ordinance. They are relatively unrelated, and each will be described briefly below.

Suggested Modification #17 corrects three of the City's definitions, to make them fully consistent with the definitions found in the Coastal Act and, in the case of "temporary events" in the Commission's adopted guidelines addressing these. The modification clarifies that the narrative definitions of "appealable development" and "original jurisdiction" take precedence over the depiction of said areas on the City's post-certification maps. Finally, Suggested Modification #17 adds a new definition for "City Zone Map" to make clear that this term, which appears in the boundary descriptions of the various overlay zones, includes all the maps which are exhibits to the implementation plan. These include both the base zoning map and the overlays.

Another concern of the Commission is clarified in Suggested Modification #18, which clearly identifies that, for purposes of appeal, all local discretionary actions considered in conjunction with the coastal development permit are considered part of that one consolidated permit (i.e., the entire decision is appealable). Suggested Modification #19 clarifies that all appealable developments require a public hearing. Section 30624.9 of the Coastal Act sets forth the circumstances under which the City could waive the requirement for a public hearing on a coastal development permit. However, the submitted permit ordinance does not incorporate the provisions of that section. Instead, it simply exempts certain types of development from the hearing requirement. The suggested modifications address this concern by providing that the exemption does not apply to appealable development. The suggested modifications do not incorporate the provisions of Section 30624.9 because that did not seem to be the City's intent. Should the City seek to implement that section, it can do so through a future LCP amendment. Suggested Modifications #20, #21 and #22 address appealable projects and categorical exclusions; they clarify the appropriate process of notification of City action and appealing a development.

The Commission has included Suggested Modification #23 as a way to address what it sees as a serious deficiency in the proposed implementation plan's ability to carry out the land use plan. The certified land use plan addresses visual and biological resources in a very detailed manner. The ordinances, as proposed, do not specifically address these policies on a city-wide basis, although biological resources are adequately addressed in the various overlay zones. The issue then is twofold: 1) there are properties that do not fall within any delineated overlay, but which nevertheless raise biological concerns, and 2) there is little addressing visual amenities (i.e., design and siting criteria) in the implementation plan. However, the land use plan policies are so detailed, they themselves form an adequate basis for review in this regard.

Suggested Modification #23 supplements the findings which must be made in conjunction with the City's approval of a coastal development ordinance. As modified, the decision-maker must find a coastal development permit fully consistent with land use plan policies IV-22 through IV-27, which address visual resources among other things. These policies address installation of benches at existing scenic overlooks, requirements for conservation or open space easements to preserve public views in a number of

identified locations, application of a lower height limit along portions of the west side of Camino Del Mar, and preservation of community character through proper design.

With respect to biological resources, these are adequately addressed in the Lagoon Overlay Zone for those properties currently mapped within the zone. However, recent permit actions have demonstrated that wetland resources can exist outside the overlay zone (as with freshwater and saltwater marshes along the railroad right-of-way). By including all wetland resources, whether currently mapped or discovered in the future, in the overlay zone, adequate protection will be afforded all biological resources. Although this concern has been addressed in Suggested Modification #8, applied to the Lagoon Overlay Zone, it is also addressed in Suggested Modification #23, which requires the City, in approving a coastal development permit, to find the development consistent with the biological resource protection provisions of the Lagoon Overlay Zone.

Suggested Modification #29 clarifies what types of conditions may be imposed on coastal development permits and that open space and access dedications and siting concerns should be addressed at the subdivision stage, rather than in subsequent permits. Finally, Suggested Modification #25 addresses six provisions of the City's proposed exemptions. The modifications bring the exemptions into conformity with the Coastal Act provisions on additions to single-family homes, additions to structures other than single-family homes and repair and maintenance activities, along with the Commission's adopted guidelines addressing temporary events. With the inclusion of the nine previous suggested modifications, the Commission finds the Coastal Development Permit Ordinance consistent with, and adequate to carry out, the certified land use plan policies, and also consistent with the permit regulations found in the Coastal Act.

PARKING

There is only one provision of the Parking Ordinance that is inconsistent with the certified land use plan. In this instance, the land use plan specifies that, when applying shared use parking provisions, required parking cannot be reduced by more than 15% of the parking required for all uses sharing the parking. The implementation plan would allow up to a 25% reduction. Suggested Modification #26 corrects that number to 15% bringing the ordinance into full conformity with the certified land use plan. Thus, as modified, the Commission finds the Parking Ordinance consistent with, and adequate to carry out, the certified land use plan policies,

ZONE DESIGNATIONS/ALLOWED USES

The Commission had identified a concern that the proposed implementation plan did not include adequate design criteria to carry out the visual resource policies of the land use plan. In trying to determine where best to insert such criteria, the City suggested adding height and lot coverage standards to the list of zone designations and allowed uses. Suggested Modification #27 adds these standards (along with the FAR requirement) to each land use zone applied in the City. Coupled with the suggested modification in the Coastal Development Permit Ordinance which requires a visual finding in approving a

coastal development permit, the concern is adequately addressed. Therefore, the Commission finds the Zone Designations/Allowed Uses exhibit, as modified herein, consistent with, and adequate to carry out, the certified land use plan policies.

BEACH OVERLAY ZONE

The Beach Overlay Zone regulates the uses of the Del Mar beach area and established a Shoreline Protection Area, which, for the most part, separates public and private uses along Del Mar's shoreline. It appears in identical form in both the certified land use plan and draft implementation plan because it was adopted as an initiative on April 12, 1988. The language in this zone (and associated land use plan policies) cannot be modified without voter approval. Thus, the City adopted guidelines to implement the initiative. The guidelines were incorporated as an attachment to the certified land use plan and are further interpreted in the submitted Setback Seawall Permit Ordinance. Taken together, the Beach Overlay Zone and Setback Seawall Permit Ordinance are consistent with and adequately carry out all provisions of the land use plan with regard to the appropriate siting of shoreline structures, setbacks for beachfront residential development and similar matters.

SETBACK SEAWALL PERMITS

This ordinance regulates beach uses east of the Shoreline Protection Area line. It encourages seawalls and other types of protective devices, when needed, to be constructed east of the line, primarily on private property. The ordinance serves to further refine and implement the preceding Beach Overlay Zone, and is fully consistent with the certified land use plan.

FLOODPLAIN OVERLAY

This zone consists of those properties within the 100-year floodplain of the San Dieguito River and Los Penasquitos Lagoon. It addresses the appropriate design of permitted structures to assure that hazards will be reduced and flood flows will not be impeded. Much of the northwestern area of Del Mar is located within this overlay, even though the area is essentially built out. Thus, the floodplain overlay allows the uses of the underlying zones but requires special design to raise habitable areas, utilities, etc. above anticipated flood limits. These areas are discussed extensively in the certified land use plan, and the provisions of the overlay zone are fully consistent with, and adequate to carry out, the land use plan.

PART VII. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL 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 Resources 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 an LCP submittal, to find that the LCP does conform with CEQA provisions. In this particular case, the implementation plan raised concerns that it would not adequately carry out land use plan policies addressing hazards, biological resources, and visual resources. There were also concerns regarding the City's proposed coastal development permit process. All of these have been adequately addressed through suggested modifications. Therefore, with the modification suggested herein, the Commission finds the subject LCP implementation plan does conform with CEQA provisions.

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Del Mar Implementation ^{Th 6a} Plan

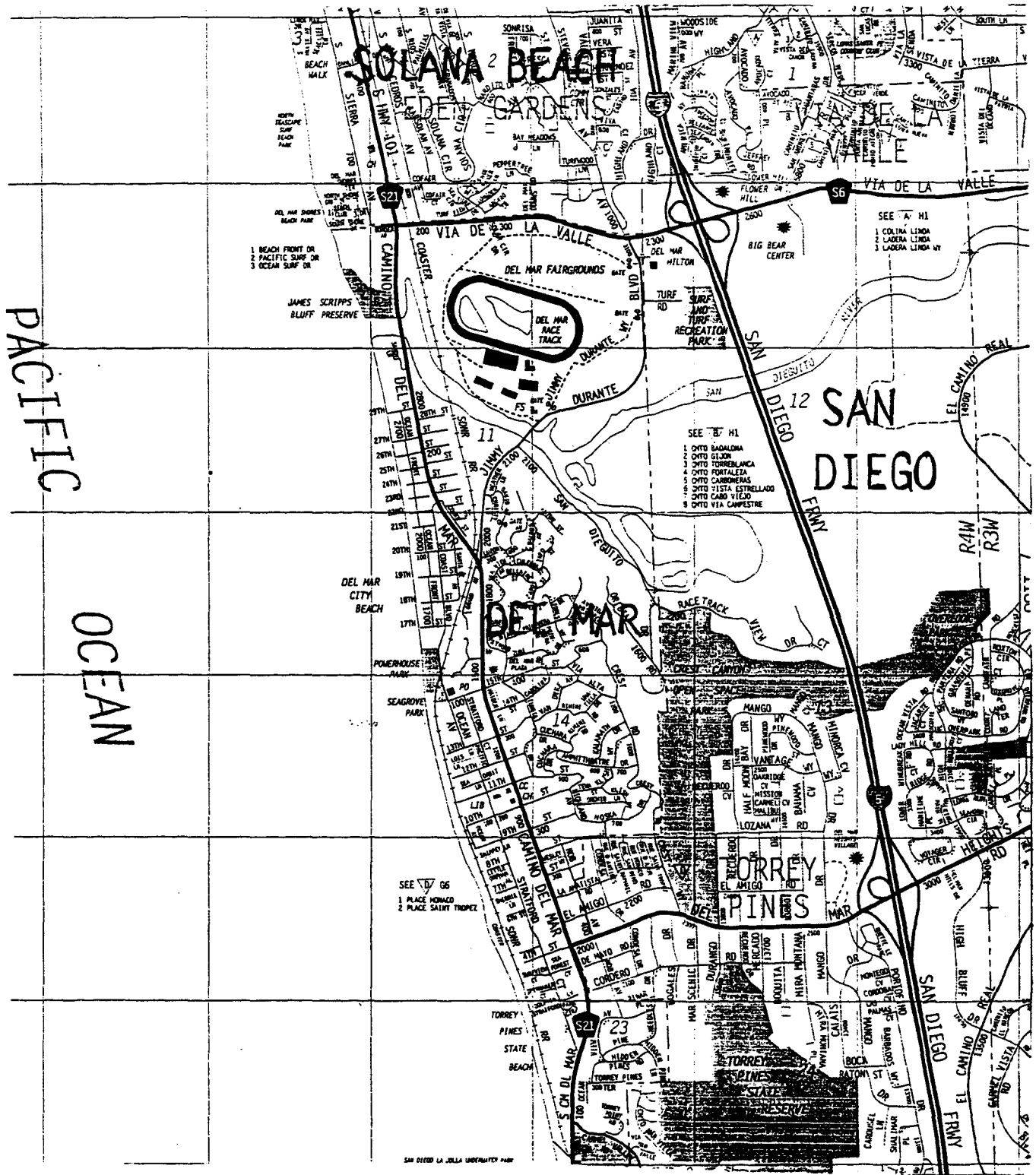


EXHIBIT NO. 1
APPLICATION NO.
Del Mar I. P.
Location Map

California Coastal Commission

Del Mar Implementation Plan

RESOLUTION NO. 98-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR AUTHORIZING SUBMITTAL OF THE PROPOSED DEL MAR LOCAL COASTAL PROGRAM IMPLEMENTING ORDINANCES TO THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

WHEREAS, the entirety of the corporate boundaries of the City of Del Mar is within the Coastal Zone, as determined under the California Coastal Act, California Public Resources Code, Division 20; and

WHEREAS, pursuant to Section 30500 et. seq. of Chapter 6 of Division 20 of the Public Resources Code, local jurisdictions are encouraged to prepare and submit local coastal programs for the purpose of local implementation of the California Coastal Act; and

WHEREAS, pursuant to Chapter 6, Division 20 of the Public Resources Code and Chapter 8, Division 5.5 of Title 14 of the California Code of Regulations, the City of Del Mar has prepared a Del Mar Local Coastal Program, consisting of a Land Use Plan and Implementing Ordinances, with the Land Use Plan integrated within the Del Mar General Plan; and

WHEREAS, said Local Coastal Program includes categories of development proposed to be excluded from coastal development permit requirements, pursuant to Chapter 7, Division 20 of the Public Resources Code; and

WHEREAS, public notice and distribution of the draft Local Coastal Program Implementing Ordinances for a six week public review period has been provided, per Section 13515 of Chapter 8, Title 14 of the California Code of Regulations; and

WHEREAS, during the preparation of the Del Mar Local Coastal Program, the City has coordinated with and been assisted by Coastal Commission staff, per Section 13516, Chapter 8, Title 14 of the California Code of Regulations; and

WHEREAS, the preparation and submittal of a local coastal program is statutorily exempt from environmental review under the California Environmental Quality Act, Section 21080.9 of the Public Resources Code; and

WHEREAS, the Planning Commission of the City of Del Mar conducted a duly noticed public hearing on the proposed submittal of the draft Local Coastal Program on June 10, 1997; the Planning Commission considered public testimony and correspondence, and staff reports dated June 10, 1997; at the

EXHIBIT NO. 2
APPLICATION
Del Mar I. P.
Resolution
3 pages California Coastal Commission

conclusion of said hearing the Planning Commission voted to recommend that the City Council approve submittal of the Local Coastal Program Implementing Ordinance package to the California Coastal Commission, and

WHEREAS, on January 20, 1998 the City Council conducted a duly noticed public hearing on the proposed submittal of the draft Local Coast Program Implementing Ordinances; the Council considered public testimony and correspondence, and the staff reports prepared for the various public hearings conducted by the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, as follows:

1. The City Council hereby certifies that it is intended that the Del Mar Local Coastal Program Implementing Ordinances be carried out in a manner fully in conformity with the California Coastal Act, Division 20 of the California Public Resources Code.
2. The Planning and Community Development Director of the City of Del Mar is hereby directed to submit copies of the proposed Del Mar Local Coastal Program Implementing Ordinances, maps of proposed Original jurisdiction and Appeals areas, and other material as required, to the California Coastal Commission for consideration of approval and certification, pursuant to Article 2, Chapter 6 and Article 1, Chapter 7 of Division 20 of the Public Resources Code; and Chapters 6 and 8, Division 5.5, Title 14 of the California Code of Regulations.

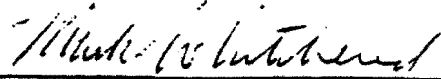
PASSED AND ADOPTED this 20th day of January, 1998.

AYES: Councilmembers Earnest, Schooler, Parks, Druker,
Mayor Whitehead

NAYS: None

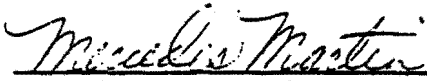
ABSENT: None

ABSTAIN: None



Mark Whitehead, Mayor,
City of Del Mar, California

ATTEST:



MERCEDES MARTIN, City Clerk
City of Del Mar

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City of Del Mar Local Coastal Program (LCP) Implementing Ordinances

The following Chapters of the City of Del Mar Zoning Code, (Title 30 of the Municipal Code) along with the attached maps, constitute the Del Mar Local Coastal Program Implementing Ordinances. The Implementing Ordinances are intended to carry out and implement the provisions of the City's Local Coastal Program Land Use Plan and the applicable sections of the California Coastal Act of 1976 (as amended).

As required by State law (Public Resources Code Division 20), the Implementing Ordinances have been certified by the California Coastal Commission. Amendments to these Implementing Ordinances are subject to review and certification by the California Coastal Commission as LCP amendments.

Consistent with the provisions and intent of the Coastal Act, the regulations found within these Implementing Ordinances are not subject to the type of "relief" available under the Variance process for other provisions of the City's Zoning Code. Therefore, exceptions to or relief from the requirements found within these Implementing Ordinances is limited to that which is specified within the language of the Implementing Ordinances themselves.

Additionally, the provisions of Chapter 30.50 of these Implementing Ordinances, the Beach Overlay Zone, are subject to the interpretations and process guidelines prescribed in the City of Del Mar Beach Preservation Initiative Guidelines as adopted by the City Council.



City of Del Mar Local Coastal Program (LCP) Implementing Ordinances

The following Chapters of the City of Del Mar Zoning Code, (Title 30 of the Municipal Code) along with the attached maps, constitute the Del Mar Local Coastal Program Implementing Ordinances. The Implementing Ordinances are intended to carry out and implement the provisions of the City's Local Coastal Program Land Use Plan and the applicable sections of the California Coastal Act of 1976 (as amended).

As required by State law (Public Resources Code Division 20), the Implementing Ordinances have been certified by the California Coastal Commission. Amendments to these Implementing Ordinances are subject to review and certification by the California Coastal Commission as LCP amendments.

Consistent with the provisions and intent of the Coastal Act, the regulations found within these Implementing Ordinances are not subject to the type of "relief" available under the Variance process for other provisions of the City's Zoning Code. Therefore, exceptions to or relief from the requirements found within these Implementing Ordinances is limited to that which is specified within the language of the Implementing Ordinances themselves.

Additionally, the provisions of Chapter 30.50 of these Implementing Ordinances, the Beach Overlay Zone, are subject to the interpretations and process guidelines prescribed in the City of Del Mar Beach Preservation Initiative Guidelines as adopted by the City Council.

Chapter 30.29

FLOODWAY ZONE (FW)

30.29.010 Zone Established. Real property subject to the provisions of this Chapter shall be designated by ordinance on the City zone map as being within the Floodway Zone ("FW"). (Ord. 516)

30.29.020 Purpose.

A. The purpose of the FW Zone is to preserve areas subject to relatively deep and high velocity floodwater by prohibiting uses which would constitute an unreasonable, unnecessary, undesirable or dangerous impediment to the flow of floodwaters, or cause a cumulative increase in the water surface elevation of the base flood of more than one foot at any point.

B. It is also the purpose of the FW Zone to reduce the need for construction of flood control facilities made necessary by inadequately controlled development in the floodplain.

C. It is also the purpose of the FW Zone to protect the health, safety, and general welfare of persons and of property located within and adjacent to the floodway by prohibiting the construction of permanent structures in the floodway and allowing only those uses which will not constitute an undesirable, unnecessary or dangerous impediment to the flow of floodwaters.

30.29.030 Allowed Uses. The following uses are allowed in the FW Zone provided that a floodplain development permit and a conditional use permit have first been obtained.

A. Field and seed crops (open field).

B. Aquaculture and mariculture operations.

C. Open recreational uses (such as public parks) in accordance with the San Dieguito Lagoon Enhancement Plan.

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Chapter 30.29 Floodway Zone

D. Any similar use which conforms to the description and purpose of the FW Zone.

30.29.040 Specified Disallowed Uses. The following uses are specifically disallowed, without limitation:

- A. Permanent Structures
- B. Placement of Mobile Homes
- C. Parking that does not serve one of the allowed uses
- D. Placement of fill

30.29.045 Structures. No structures are allowed in the Floodway Zone except fences which meet all of the following criteria:

- A. The proposed fence is constructed in a manner that allows the free passage of water without diversion or displacement of flood waters, or a rise in flood elevations;
- B. The proposed fence is anchored to prevent floatation or flood damage;
- C. The proposed fence meets the applicable provisions of this Title and of the Certified City of Del Mar Local Coastal Program;
- D. The proposed fence does not exceed six feet in height; and
- E. The proposed fence receives all Design Review Permits required by this Code. [Ord. 670]

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Chapter 30.29 Floodway Zone

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

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Chapter 30.50

BEACH OVERLAY ZONE

Adopted as an Initiative on April 12, 1988

30.50.010 Purpose. The Beach Overlay Zone created by this initiative is established to regulate the uses of the Del Mar beach area, a distinct and valuable natural resource, for the benefit of present and future generations. The regulations contained herein shall be administered so as to protect public access to and along the shoreline, while promoting public safety, health and welfare, and providing for the protection of private property.

30.50.020 Zone Boundaries. The boundaries of the Beach Overlay Zone are as described in Exhibit A, incorporated herein by reference.

30.50.030 Permitted Uses. Permitted uses within the Beach Overlay Zone shall be those allowed in the underlying zone, subject to the regulations contained in the Beach Overlay Zone which shall prevail in the event of conflict with any other provisions of the City Code.

30.50.040 Definitions.

A. "Shoreline Protection Area" shall mean that area which is within the Beach Overlay Zone and is located from south to north along the shoreline of the City being more particularly described as follows: All lands located westerly of the line as described in Exhibit B, incorporated herein by reference.

B. "Development" shall mean the placement or construction of any solid material or structure on land, to include without limitation, any human directed alteration of the land and the planting, cultivation or maintenance of any vegetation.

C. "Protective Structure" shall mean any privately or publicly owned development designed to protect property inland from such structure from ocean flooding or wave damage.

30.50.050 Development Within The Shoreline Protection Area. No development shall occur within the shoreline area except such privately owned protective structures, publicly owned protective structures, and publicly owned development authorized, constructed, and maintained in accordance with the regulations set forth in the City Code.

30.50.060 Authorized Protection Structures. The construction of a protective structure located within the Shoreline Protection Area may be authorized by the issuance of a Shoreline Protection Permit, if the City Council finds following notice and public hearing that the proposed protective structure:

A. Is required to serve coastal dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts to local shoreline sand supply;

B. Will minimize risks to life and property in areas of flood hazards;

C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs;

D. Is in conformity with the certified Coastal Program after certification of the Local Coastal Program;

E. Is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act;

F. Has material and design which are consistent with good engineering practices;

G. Will, if there is a vertical wall element in the proposed protective structure, have the seaward face of the vertical wall located within the Shoreline Protective Area only if there is no other feasible location for effectively protecting a principle structure; there is no feasible,

less environmentally damaging alternative; and feasible mitigation measures have been provided to minimize adverse environmental effects; but in no event have the seaward face of the vertical wall more than five feet westward of the Shoreline Protection Area line;

H. Will, if other than a vertical wall, meet all the conditions of Subsection G above;

I. Will, if there is a riprap element in the proposed structure:

1. Have the riprap extending no more than 20 feet westward from the Shoreline Protection Area line.

2. Have a westward slope beginning no higher than a 5.7 foot elevation (NGVD) at the Shoreline Protection Area Line, decreasing in height at a minimum rate of one vertical foot for every one and one-half feet of lateral distance, the riprap extends westerly of the SPA line.

30.50.070 Permit Application Procedure.

A. An application for a Shoreline Protection Permit shall be made to the City Manager on forms provided by the City. The applicant shall pay a fee determined by the City Manager to be sufficient to pay for the costs of notice and the processing of the application for City Council consideration to include prehearing CEQA processing and any consulting costs incurred by the City.

B. The application shall include the full description of the development and the applicant's proposal, together with supporting evidence on each issue raised by the application. Where deemed necessary by the City Manager, the application will include information as prepared by either a registered engineer or a land surveyor and an environmental consultant.

C. Following the required CEQA processing, the City Manager shall cause the application to be set for a noticed administrative hearing before the City Council. The City Manager shall cause to be published, at least ten days before the date set for the administrative hearing, a notice of application. The notice of application shall also be concurrently posted

on the site of the subject development and mailed to each person who has filed a written request for such notice, giving their name and mailing address. The notice of application shall contain:

1. A description of the subject development;
2. The purpose of the application;
3. The date and time of the meeting at which the administrative hearing will be conducted;
4. A statement that the hearing will be open to the public and to public discussion.

30.50.080 Issuance Shoreline Protection Permit.

A. It shall be unlawful to construct or maintain a privately owned protective structure or maintain privately owned development within the Shoreline Protection Area without first having obtained a Shoreline Protection Permit from the City Council.

B. The City Council may issue a Shoreline Protection Permit authorizing the following:

1. The construction and maintenance of a privately owned protective structure in accordance with the regulations of this ordinance.
2. The maintenance of a privately owned protective structure or privately owned development constructed prior to and in nonconformance with the Beach Overlay Zone regulations for the duration of the amortization term established for such privately owned protective structure or privately owned development.
3. The private financing, construction and/or maintenance of a publicly owned protective structure authorized by the Beach Overlay Zone regulations.

C. A Shoreline Protection Permit shall:

1. Contain waivers, indemnification and hold harmless provisions as required by the City Council at the time of approval.
2. Contain such conditions as the City Council determines to be necessary to accomplish the purposes of the Beach Overlay Zone.
3. Shall require a reasonable user fee to be determined by the City Council.
4. Be recorded in a manner to bind successors in interest.

30.50.090 Emergency Reinforcement.

A. Where property inland from a protective structure is being immediately threatened by ocean flooding or wave damage, a shoreline protection permittee may temporarily increase the height and bulk of the protective structure. The permittee shall, within fifteen days from the end of the emergency condition, remove the temporary protection from the Shoreline Protection Area. Said emergency reinforcement shall be subject to other requirements contained in the California Coastal Act.

B. In the event such added temporary protection remains beyond April 15 in any year, the City shall remove such added structure within ten days and shall charge the owner the cost of removal, placing a lien on the property for such cost.

30.50.100 Shoreline Protection Area: Removal of Noncomplying Development.

A. Privately owned development within the Shoreline Protection Area constructed before the effective date of and in nonconformity to the Beach Overlay Zone regulations shall be abated immediately by the person or persons who constructed, now use and/or maintain such development; unless a Shoreline Protection Permit has been obtained establishing an amortization period of such development.

B. The following privately owned development within the Shoreline Protection Area shall constitute a public nuisance. In addition to other remedies provided by law, all direct and indirect costs, including legal expenses, incurred by the City of Del Mar in abating such nuisance shall become a lien on the property and a personal obligation of the person or persons who constructed, now use and/or now maintain such development, and shall be a special assessment against said property to be collected as ordinary municipal taxes.

1. Privately owned development which was constructed before the effective date of and in noncompliance with the regulations of the Beach Overlay Zone and thereafter is maintained either without or contrary to the terms of a Shoreline Protection Permit.

2. Privately owned development which is constructed and maintained after the effective date of and in noncompliance with the regulations of the Beach Overlay Zone.

30.50.110 Shoreline Protection Area: Determination of Noncomplying Developments, Amortization Term.

A. The City Manager shall investigate and identify within a period of no later than six months following the date of the enactment of this ordinance the existence of any development within the Shoreline Protection Area that is not in compliance with the requirements of the Beach Overlay Zone.

B. The City Manager shall prepare a preliminary recommendation identifying the noncomplying development, and designating an abatement procedure to include an amortization period calculated as follows:

For every \$5,000.00 of initial construction costs on each individual lot, the noncomplying development may remain for one year following its initial construction, not to exceed ten years. The City Manager shall determine the initial cost of construction based upon the best information available.

C. The City Manager shall cause a Notice of Preliminary Recommendation to be sent by certified mail, return receipt request, and by first class postage prepaid mail to the address of record listed in the County Recorder's office, and to such other address of which the City Manager has actual knowledge of the person or persons who constructed, now use, and/or now maintain the privately owned development. In addition, the Notice of Preliminary Recommendation shall be concurrently posted in a conspicuous location at the development site and shall be mailed to persons who have registered their names and addresses with the City indicating an interest in obtaining such notice. Further, the notice shall be published in accordance with the provisions of this ordinance at least 15 days prior to the administrative hearing thereon.

30.50.120 Notice of Preliminary Recommendation. The Notice of Preliminary Recommendation shall contain the following:

- A. The preliminary recommendation.
- B. The date and time of the City Council meeting at which an administrative hearing will be conducted.
- C. A statement that the City Council, following the completion of the administrative hearing, will make a final determination of the foregoing matter and may record a Notice of Abatement against the property of persons found to be responsible for removing the development.
- D. A statement that the hearing will be open to the public and to public discussion.

30.50.130 Determination of Noncompliance and Abatement.

A. Following the administrative hearing, the City Council shall reach a final determination as to whether the development is noncomplying, whether it constitutes a nuisance, and the final determination of an abatement procedure consistent with the terms of this ordinance. The City Council shall base its determination on any information presented during the administrative hearing that may be constitutionally considered.

B. After such final determination, the City shall give the notice, provided for in Section 12, C, notifying the noncomplying owner, notifying such persons that they have thirty days from the date of the notice to remove the noncomplying development; that upon a showing of good cause, this period may be extended for a longer period but not to exceed ninety days.

C. If the owner of the noncomplying development does not remove it within the required period, the City Council shall direct the City Attorney to take immediate action to abate the nuisance created by the development, including the taking of any necessary legal action to abate the same. The City will recover the expense of such actions as provided in Section 10, B.

30.50.140 New Construction or Reconstruction. No reconstruction or remodeling of a structure when 50% or more of the lot's permitted floor area is involved and no new construction shall be located within 15 feet east of the Shoreline Protection Area line. Patio and landscaping improvements not to exceed six feet in height, and which provide adequate drainage of excess water resulting from storm and/or wave conditions shall be exempt from this section. Said drainage capabilities shall be reviewed and subject to approval of the City Engineer at the time of application.

30.50.150 Shoreline Protection Area: Publicly Owned Development. Within the Shoreline Protection Area, the City Council may authorize the construction and maintenance of lifeguard facilities.

30.50.160 Development of Shoreline Protective Structures Landward of the Shoreline Protection Area Line. Protective structures as defined in this Chapter may be developed on private property landward of the Shoreline Protection Area line, irrespective of any otherwise applicable setback requirements imposed by the Municipal Code. No variance shall be required for the same. (Ord. 543)

30.50.170 Application Procedure and Processing. The application procedure for such an application shall be the same as specified in this Chapter for shoreline protective structures on or seaward of the Shoreline Protection Area line, except that the application shall note that the project is to be constructed landward of said line, and such applications shall be

processed in the same manner, provided that such applications shall go to the Planning Commission rather than the City Council for final approval. The decision of the Planning Commission shall be subject to appeal to the City Council in conformance with 1.12 of the Del Mar Municipal Code. (Ord. 543)

30.50.180 Criteria for Approval. Property owners shall have a right to construct protective structures on their private property landward of the Shoreline Protection Area line provided that the Planning Commission makes the findings specified herein in Section 30.50.060, provided that no portion of the structure or riprap, if any, may extend beyond the Shoreline Protection Area line. Such permits shall be subject to such conditions as the Planning Commission may reasonably impose, including conditions C(1), (2), and (4) of Section 30.50.080 of this Chapter. (Ord. 543)

30.50.190 Emergency Reinforcement. Emergency protective structures may be installed landward of the Shoreline Protection Area line in conformance with the same procedures and criteria specified in Section 30.50.090 of this Chapter. (Ord. 543)

30.50.200 Shoreline Protection Area: Removal of Noncomplying Development. Protective structures approved landward of the Shoreline Protection Area line shall not be deemed to be nonconforming for any purpose under any other provision of the City's General Plan, Zoning Ordinance, or Design Review Ordinance. The provisions of this Chapter 30.50 with respect to such projects shall prevail and supercede any other provisions of the Municipal Code which would otherwise apply to such applications. (Ord. 543)

City of Del Mar
LCP Implementing Ordinances - Draft 10/15/98
Existing DMMC Chapter 30.50 - Beach Overlay Zone

EXHIBIT A

All land lying westerly of a line extending southerly from the northern City boundary along the westerly right-of-way line of Camino del Mar, then turning westerly along the northerly right-of-way line of 29th Street, then turning southerly along the westerly right-of-way line of Ocean Front, then turning easterly along the southerly right-of-way line of 17th Street, then turning southerly along the westerly right-of-way line of Coast Boulevard, and then following southerly along the easterly right-of-way line of the AT&SF Railway to the southern City boundary.

EXHIBIT B

FOLLOWING IS THE DESCRIPTION OF A LINE KNOWN AS THE "SHORELINE PROTECTION LINE" AS IS DEFINED IN THE CITY OF DEL MAR ZONING ORDINANCE, BEACH OVERLAY ZONE, D.M.M.C. CHAPTER 30; SAID LINE EXTENDING FROM THE NORTHERLY CORPORATE BOUNDARY TO THE SOUTHERLY CORPORATE BOUNDARY OF THE CITY OF DEL MAR IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1 OF MAP 6838, SAID POINT BEING LOCATED ON THE SOUTHERLY EXTENSION OF THE CENTERLINE OF SIERRA AVENUE AND ON THE NORTHERLY CORPORATE BOUNDARY LINE OF THE CITY OF DEL MAR:

1. THENCE WESTERLY ALONG SAID NORTHERLY BOUNDARY LINE NORTH 89 DEGREES 35'36" WEST, 458.98 FEET (RECORD - NORTH 89 DEGREES 49'32" EAST) TO THE "TRUE POINT OF BEGINNING;"
2. THENCE LEAVING SAID NORTHERLY CORPORATE BOUNDARY LINE DUE SOUTH A DISTANCE OF 362.08 FEET;
3. THENCE SOUTH 12 DEGREES 58'16.0" EAST, 182.66 FEET;
4. THENCE SOUTH 54 DEGREES 11'22.8" EAST, 60.01 FEET;
5. THENCE SOUTH 23 DEGREES 58'07.5" EAST, 90.00 FEET TO A POINT COINCIDENT WITH THE NORTHEASTERLY CORNER OF THE CITY OF DEL MAR SEA BLUFF PRESERVE;
6. THENCE SOUTHERLY ALONG THE EASTERLY BOUNDARY LINE OF SAID SEA BLUFF PRESERVE, SOUTH 23 DEGREES 58'07.5" EAST, 428.26 FEET;

City of Del Mar
LCP Implementing Ordinances - Draft 10/15/98
Existing DMMC Chapter 30.50 - Beach Overlay Zone

7. THENCE LEAVING SAID EASTERLY BOUNDARY LINE OF SAID SEA BLUFF PRESERVE, SOUTH 13 DEGREES 50'16.1" EAST, 987.41 FEET TO A POINT ON THE EAST FACE OF A SEAWALL AS IT EXISTED ON JANUARY 11, 1986, SAID SEAWALL LOCATED SOUTHERLY OF THE SAN DIEGUIUTO RIVER;

8. THENCE SOUTHERLY SOUTH 8 DEGREES 26'48.8" EAST, 273.20 FEET TO A POINT ON THE EASTERLY FACE OF SAID SEAWALL AS IT EXISTED ON JANUARY 11, 1986;

9. THENCE SOUTH 9 DEGREES 04'07.8" EAST, 269.57 FEET TO A POINT ON THE EASTERLY FACE OF SAID SEAWALL AS IT EXISTED ON JANUARY 11, 1986;

10. THENCE SOUTH 8 DEGREES 59'16.2" EAST, 449.91 FEET TO A POINT ON THE EASTERLY FACE OF SAID SEAWALL AS IT EXISTED ON JANUARY 11, 1986; SAID POINT BEING LOCATED ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 29TH STREET AS SHOWN ON RECORD OF SURVEY 679,9056 & 9551;

11. THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF 29TH STREET, SOUTH 81 DEGREES 01'01" WEST, 0.89 FEET (RECORD - SOUTH 80 DEGREES 48' WEST);

12. THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE OF 29TH STREET, FOLLOWING A LINE PARALLEL TO AND 120.00 FEET WESTERLY OF THE CENTERLINE OF THE ALLEY KNOWN AS OCEANFRONT AS SHOWN ON RECORD OF SURVEY 9551, SOUTH 8 DEGREES 59'56.2" EAST, 440.00 FEET (RECORD SOUTH 9 DEGREES 10' EAST) TO A POINT LOCATED ON THE NORTH RIGHT-OF-WAY LINE OF 27TH STREET AS SHOWN ON RECORD OF SURVEY 9551;

13. THENCE EASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF 27TH STREET NORTH 81 DEGREES 20'36.7" EAST, 10.21 FEET (RECORD - SOUTH 80 DEGREES 50' WEST);

14. THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE OF 27TH STREET AND CONTINUING ALONG A LINE COINCIDENT WITH THE EASTERLY RIGHT-OF-WAY LINE OF A 20.00 FOOT WIDE ALLEY

AS SHOWN ON MAP 1737, SOUTH 9 DEGREES 00'34.3" EAST, 480.02 FEET (RECORD - SOUTH 9 DEGREES 10' EAST) TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 25TH STREET, SAID POINT COINCIDENT WITH THE SOUTHWEST CORNER OF LOT 26, MAP 1737;

15. THENCE CONTINUING ALONG THE EASTERLY RIGHT-OF-WAY LINE OF A 15 FOOT WIDE PUBLIC SIDEWALK AS SHOWN ON MAP 1450, SOUTH 9 DEGREES 00'34.3" EAST, 140 FEET (RECORD - SOUTH 80 DEGREES 50' EAST) TO AN ANGLE POINT, SAID ANGLE POINT BEING THE SOUTHWEST CORNER OF LOT 7, BLOCK 127, MAP 1450;

16. THENCE CONTINUING ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID PUBLIC SIDEWALK AS SHOWN ON MAP 1450, SOUTH 7 DEGREES 15'27.3" EAST, 102.13 FEET (RECORD - SOUTH 7 DEGREES 07' EAST) TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 24TH STREET, SAID POINT COINCIDENT WITH THE SOUTHWEST CORNER OF LOT 13, BLOCK 127, MAP 1450;

17. THENCE CONTINUING ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID 15 FOOT PUBLIC SIDEWALK AS SHOWN ON MAP 1450, SOUTH 6 DEGREES 15'34.1" EAST, 690.00 FEET (RECORD - SOUTH 6 DEGREES 24' EAST) TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 21ST STREET, SAID POINT COINCIDENT WITH THE SOUTHWEST CORNER OF LOT 13, BLOCK 124, MAP 1450;

18. THENCE EASTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF 21ST STREET, NORTH 83 DEGREES, 39'25.5" EAST, 20.10 FEET (RECORD - SOUTH 83 DEGREES 36' WEST);

19. THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE OF 21ST STREET AND CONTINUING SOUTHERLY ALONG THE EASTERLY LINE OF LOT 22 AS SHOWN ON MAP 1277, SOUTH 6 DEGREES 15'32.2" EAST, 114.20 FEET (RECORD - SOUTH 56 DEGREES 24 FEET EAST) TO AN ANGLE POINT LOCATED ON THE WESTERLY LINE OF LOT 19, BLOCK 115, MAP 1277, A DISTANCE THEREON SOUTH 6 DEGREES 15'32.2" EAST, 19.00 FEET (RECORD -

SOUTH 6 Degrees 24" EAST) FROM THE NORTHWEST CORNER OF SAID LOT 19;

20. THENCE CONTINUING ALONG THE EASTERLY LINE OF LOT 22 AS SHOWN ON MAP 1277, SOUTH 3 DEGREES 20' 32.2" EAST, 293.20 FEET (RECORD - SOUTH 3 DEGREES 29' EAST) TO A POINT ON A NORTHERLY RIGHT-OF-WAY LINE OF 20TH STREET, SAID POINT COINCIDENT WITH THE SOUTHWEST CORNER OF LOT 11, BLOCK 115, MAP 1277;

21. THENCE ALONG THE EASTERLY LINE OF SAID LOT 22, SOUTH 3 DEGREES 20' 32.2 EAST, 820.25 FEET (RECORD - SOUTH 3 DEGREES 29' EAST) TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 18TH STREET, SAID POINT COINCIDENT WITH THE SOUTHWEST CORNER OF LOT 11, BLOCK 113, MAP 1277;

22. THENCE ALONG THE SOUTHERLY EXTENSION OF THE EASTERLY LINE OF SAID LOT 22, SOUTH 3 DEGREES 20' 32.2" EAST, 60.00 FEET (RECORD - SOUTH 3 DEGREES 29' EAST) TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 18TH STREET, SAID POINT COINCIDENT WITH THE NORTHWEST CORNER OF LOT 20, BLOCK 112, MAP 1277;

23 THENCE WESTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF 18TH STREET, SOUTH 86 DEGREES 39' 27.8" WEST, 7.00 FEET;

24. THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY OF 18TH STREET SOUTH 3 DEGREES 20' 32.2" EAST, 350.00 FEET, TO THE NORTHERLY RIGHT-OF-WAY LINE OF 17TH STREET;

25. THENCE WESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF 17TH STREET SOUTH 86 DEGREES 39' 27.8" WEST, 11.72 FEET;

26. THENCE SOUTH 3 DEGREES 20' 32.2" EAST, 267.46 FEET;

27. THENCE SOUTH 7 DEGREES, 59' 14.8" WEST, 100.73 FEET;

City of Del Mar
LCP Implementing Ordinances - Draft 10/15/98
Existing DMMC Chapter 30.50 - Beach Overlay Zone

28. THENCE SOUTH 6 DEGREES 02' 48.2" EAST, 1,133.67 FEET TO A POINT LOCATED ON THE APPROXIMATE CENTERLINE OF THE ATCHISON, TOPEKA, AND SANTA FE RAILWAY COMPANY TRACKS, SAID POINT BEING LOCATED ON AN APPROXIMATE 1,900 FOOT RADIUS CURVE, CONCAVE EASTERLY SAID POINT ALSO BEING ON THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF LOT 1 OF PARCEL MAP 10422, A DISTANCE THEREON, NORTH 72 DEGREES 34' 48.5" EAST, 256.59 FEET (RECORD - NORTH 72 DEGREES 33' 09" EAST) FROM THE NORTHEASTERLY CORNER OF SAID LOT 1;

THE FOLLOWING COURSES NUMBERED 29 THROUGH 35 ALL CONTINUE ALONG THE APPROXIMATE CENTERLINE OF THE ATCHISON, TOPEKA, AND SANTA FE RAILWAY COMPANY TRACKS AS IT EXISTED ON JANUARY 11, 1986;

29. THENCE CONTINUING ON THE APPROXIMATE CENTERLINE OF THE ATCHISON, TOPEKA, AND SANTA FE RAILWAY COMPANY TRACKS, THROUGH SAID 1,900 FOOT RADIUS CURVE, A CENTRAL ANGLE OF 6 DEGREES 44' 55.2", A DISTANCE OF 223.79 FEET;

30. THENCE SOUTH 11 DEGREES 34' 14.3 EAST, 947.56 FEET TO A POINT LOCATED AT THE BEGINNING OF A 5,500 FOOT RADIUS CURVE, CONCAVE EASTERLY;

31. THENCE THROUGH SAID CURVE A CENTRAL ANGLE OF 7 DEGREES 02' 53", A DISTANCE OF 676.56 FEET;

32. THENCE SOUTH 18 DEGREES 37' 10" EAST, 2,384.90 FEET TO A POINT LOCATED AT THE BEGINNING OF A 9,000 FOOT RADIUS CURVE, CONCAVE WESTERLY;

33. THENCE THROUGH SAID CURVE A CENTRAL ANGLE OF 6 DEGREES 20' 32", A DISTANCE OF 996.23 FEET;

34. THENCE SOUTH 12 DEGREES 16' 36.9" EAST, 1,767.95 FEET TO A POINT LOCATED AT THE BEGINNING OF A 2,400 FOOT RADIUS CURVE, CONCAVE EASTERLY;

35. THENCE THROUGH SAID 2,400 FOOT CURVE A CENTRAL ANGLE OF 8 DEGREES 46' 45.5", A DISTANCE OF 367.75 FEET MORE OR LESS TO A POINT LOCATED ON A LINE BEARING NORTH 46 DEGREES 32' 16" WEST, SAID LINE BEING THE NORTHEASTERLY LINE OF THE PUEBLO LANDS OF SAN DIEGO, AS SHOWN ON MAP THEREOF MADE BY JAMES PASCOE IN THE YEAR 1870, A CERTIFIED COPY OF SAID MAP BEING FILED IN SAN DIEGO COUNTY RECORDER'S OFFICE AS MISCELLANEOUS MAP NO. 36, SAID POINT OF INTERSECTION ALSO BEING STATION 813 AS SHOWN ON SHEET 18 OF THE CITY OF SAN DIEGO ENGINEERING DRAWING 47281 ON FILE IN THE CITY ENGINEER'S OFFICES OF SAID CITY; AND SAID LINE ALSO BEING THE SOUTHWESTERLY CORPORATE BOUNDARY LINE OF THE CITY OF DEL MAR.

THE BASIS OF BEARINGS FOR THE ABOVE DESCRIBED LINE WAS DEFINED BY ESTABLISHING A LINE BETWEEN UNITED STATES ARMY CORPS SURVEY BENCHMARK NUMBERS DM590 AND DM560, LOCATED IN THE CITY OF DEL MAR, SAID LINE BEARING NORTH 6 DEGREES 15' 54" WEST.

THE FOLLOWING RECORD MAPS INCLUDED IN THE DESCRIPTION OF THE ABOVE SURVEY LINE ARE RECORDED IN THE COUNTY RECORDER'S OFFICE OF SAN DIEGO COUNTY:

MAP 6838 DEL MAR BEACH CLUB
MAP 1737 NORTH STRAND MAP
MAP 1450 DEL MAR SUBDIVISION NO.3
MAP 1277 DEL MAR RESUBDIVISION NO.2
MAP 10422 DEL MAR SUBDIVISION 80-02
RECORD OF SURVEY 679
RECORD OF SURVEY 9056
RECORD OF SURVEY 9551

Chapter 30.51

SETBACK SEAWALL PERMITS

30.51.010 Purpose. The Setback Seawall Permit Ordinance is established to regulate beach uses east of the Shoreline Protection Area line. It is the intent to encourage seawalls and other types of protective devices when needed, to be constructed landward (east) of the Shoreline Protection Area (SPA) line.

30.51.020 Development of Shoreline Protective Structures Landward of the Shoreline Protection Area Line. Protective structures as defined in Chapter 30.50 may be developed on private property landward of the Shoreline Protection Area line, irrespective of any otherwise applicable setback requirements imposed by the Municipal Code. No variance shall be required for the same.

30.51.030 Application Procedure and Processing. The review procedure for such an application shall be the same as specified in Chapter 30.50 for shoreline protective structures on or seaward of the Shoreline Protection Area line, except that the application shall note that the project is to be constructed landward of said line, and such applications shall be processed in the same manner, provided that such applications shall be reviewed by the Planning Commission.

30.51.040 Criteria for Approval. Property owners shall have a right to construct protective structures on their private property landward of the Shoreline Protection Area line provided that the Planning Commission or City Council on appeal, finds that the proposed protective device:

A. Is required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts to local shoreline sand supply;

B. Will minimize risks to life and property in areas of flood hazards;

C. Will assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area, nor in any way substantially alter natural landforms along bluffs and cliffs;

City of Del Mar
LCP Implementing Ordinances - Draft 10/15/98
Modified DMMC Chapter 30.51 - Setback Seawall Permits

- D. Is in conformity with the certified Local Coastal Program;
- E. Is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act;
- F. Has material and design which are consistent with good engineering practices;

Such permits shall be subject to such conditions as the Planning Commission may reasonably impose, including the following:

1. Contain waivers, indemnification and hold harmless provisions as required at the time of approval.
2. Contain such conditions the Planning Commission determines to be necessary to accomplish the purposes of Setback Seawall Permits.
3. Be recorded in a manner to bind successors in interest.

30.51.050 Emergency Reinforcement. Emergency protective structures may be installed landward of the Shoreline Protection Area line in conformance with the same procedures and criteria specified in Section 30.50 of the Municipal Code.

30.51.060 Shoreline Protection Area: Removal of Noncomplying Development. Protective structures approved landward of the Shoreline Protection Area line shall not be deemed to be nonconforming for any purposes under any other provision of the City's Community Plan, Zoning Ordinance, or Design Review Ordinance. The provisions of Chapter 30.50 with respect to such projects shall prevail and supersede any other provisions of the Municipal Code which would otherwise apply to such application. (Ord. 571)

City of Del Mar
LCP Implementing Ordinances - Draft 10/15/98
Modified DMMC Chapter 30.51 - Setback Seawall Permits

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

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Chapter 30.52

BLUFF, SLOPE AND CANYON OVERLAY ZONE (BSC-OZ)

30.52.010 Purpose.

A. The BSC Overlay Zone is designed to protect the health, safety, and general welfare, and to control the development of properties within the designated zone in order to preserve the scenic sandstone bluffs and related canyons and steep slopes which characterize the area within the zone. The overlay zone is also intended to protect downstream resources from the adverse impacts of erosion and sedimentation. The unique landforms within the zone provide visual relief and diversity within the City, and they define and separate neighborhoods, enhance the overall quality of Del Mar's local coastal environment, and preserve the economic integrity of our visitor-oriented community.

B. Bluff, Slope and Canyon (BSC) Overlay Zone is further designed to carry out the applicable goals, objectives, and policies of the Community Plan including, but not limited to, the applicable element of the Del Mar Community Plan's Bluff, Slope and Canyon Precise Plan.

30.52.020 Boundaries. Property within the BSC Overlay Zone shall be designated by ordinance to be depicted upon the City Zone Map.

30.52.030 Allowable Uses. Unless specified herein, allowable uses in the BSC Overlay Zone shall be those uses and accessory uses allowed by the underlying zone, subject to the regulations and restrictions of the underlying zone and of this Chapter.

30.52.040 Accessory Uses. [See Underlying Zone.]

30.52.050 Parking Requirements. [See Chapter 30.80.]

30.52.060 Development Review.

A. Unless otherwise exempted by this Title no building, improvement, structure, or portion thereof shall be erected, constructed, converted, established, altered or enlarged; nor shall any subdivision occur; nor shall any lot or premises be excavated or graded for any purpose [including, but not limited to, in-ground structures such as swimming pools or spas]; nor shall any lot be cleared of vegetation until a Conditional Use Permit and Coastal Development Permit are first obtained in accordance with the procedures set forth in this Code. Said Conditional

Use Permit and Coastal Development Permit shall include, but not be limited to, provisions to ensure conformity with the development criteria applicable to the property as described in the Bluff, Slope and Canyon Element of the adopted Community Plan, as well as the following development criteria: [Ord. 582, 643, 685]

1. Construction, grading, or other encroachment of any kind on substantial steep slopes exceeding 25 percent grade, or within 20 feet of the top or 10 feet of the bottom of substantial steep slopes exceeding 25 percent grade, or the construction of structures which overhang such steep slopes or steep slope setbacks, shall be prohibited except where allowed in accordance with this Chapter.

a. Encroachments within the areas specified above shall be allowed only when the Planning Commission finds that there is no feasible alternative siting which eliminates or substantially reduces the need for such construction or grading, and it is found that the amount of encroachment into steep slope areas associated with the proposed development has been minimized to the greatest extent feasible commensurate with preserving the physical characteristics of the site.

b. For purposes of this Section, "substantial steep slopes" shall mean: any areas of slopes with a gradient of 25 percent or greater on a site where the total elevation differential within such slope areas themselves is 20 feet or more, or where such slopes on a site adjoin contiguous slopes of 25 percent grade or greater on adjoining property and together involve an elevation differential of 20 feet or more. "Substantial steep slopes" shall include smaller, isolated pockets of area with less than 25 percent grade when surrounded by contiguous "substantial steep slopes" located either entirely or partially on site.

c. For purposes of this Section, "encroachment" shall constitute any activity which involves grading, construction, placement of structures or materials, paving, or other operation which would render the area incapable of supporting native vegetation or being used as wildlife habitat.

d. Any and all encroachment into substantial steep slope areas which is permitted pursuant to these findings shall be limited in extent by the following steep slope encroachment standards. The maximum allowable encroachment into slope areas, as specified below, shall not be considered as a right but shall instead be allowed only when it has been determined, pursuant to these regulations, that there is no feasible alternative to slope encroachment.

Percentage of project site in substantial steep slope area	Maximum allowable encroachment into substantial steep slope area
100% to 96% -----	20%
95% to 91% -----	18%
90% to 86% -----	16%
85% to 81% -----	14%
80% to 76% -----	12%
75% or less -----	10%

"Substantial steep slope areas" are those areas composed of slopes of a gradient of 25 percent or greater, as determined through the slope identification process prescribed in this Chapter.

2. Projects located within the Bluff, Slope and Canyon Overlay Zone shall be conditioned to ensure that runoff from constructed impervious surfaces shall be discharged directly into publicly-owned discharge and drainage systems. In the event that no public discharge or drainage systems are in the immediate vicinity, the Planning Commission may approve alternate systems upon the recommendation of the City Engineer, if it is found that the proposed alternate system will produce no significant erosion. "Significant erosion" shall mean the likelihood of removal of soil or the cutting, scarring, or rilling of slopes, canyons, or bluff faces, or the silting of lower slopes brought about by runoff from the impervious surfaces during irrigation or from rainfall of an intensity and duration less than or equal to that of the 100-year period design storm.

3. In order to minimize the disturbance of natural landforms and habitat, projects involving more than one dwelling unit shall be clustered, if determined practicable and desirable by the Planning Commission. "Clustering" in this context shall mean the siting of dwelling units in proximity to each other to maximize the amount of undeveloped open space. A clustered project within this overlay zone may disregard existing interior lot lines and is not bound to comply with the minimum lot size, width, depth and setback provisions of the underlying zone. A suitable site plan showing the clustered proposal shall be submitted in this overlay zone.

4. Encroachment into substantial steep slope areas and slope setbacks shall be permitted for the construction of, or improvement to, public streets, alleys and public access paths upon a finding by the Planning Commission that such public improvement has been designed to preserve major trees,

follow the natural contours of hillsides, and minimize the amount of cut and fill grading necessary to construct such roadway or path.

5. Encroachment into substantial steep slope areas and steep slope setbacks shall be permitted for the construction of, or improvement to, public utility lines and lateral utility hookups upon a finding by the Planning Commission that such improvements have been designed a the minimum size necessary and that they have designed to follow the natural contours of hillsides so as to minimize the amount of soil disturbance commensurate with preserving the natural topography of the area.

30.52.070 Exemption From CUP and Coastal Development Permit Requirements.

A. The following projects and activities shall not be subject to the receipt of a Conditional Use Permit or Coastal Development Permit upon a determination by the Director of Planning and Community Development that the criteria specified in Section 30.52.060.A have been met:

1. Construction or grading which maintains a minimum setback of twenty feet of the top and ten feet of the bottom of substantial steep slopes exceeding 25 percent, or the construction of a structure which does not overhang such steep slope or steep slope setback in accordance with development criteria applicable to the property as described in 30.52.060.A.1. Setback certification from the top and bottom of substantial steep slopes for all new construction and overhangs shall be performed by a licensed surveyor or engineer as part of the development review process for any project located within the Bluff, Slope, and Canyon Overlay Zone.
2. The installation of private drainage systems, provided that such systems are designed to discharge runoff from constructed impervious surfaces directly into publicly-owned discharge and drainage systems in accordance with development criteria applicable to the property as described in 30.52.060.A.2. Such systems shall be subject to review by the City Engineer.
3. The construction of a fence or wall which meets applicable fence height requirements as measured pursuant to the provisions of this Code.
4. The grading of a fire break or the clearance of vegetation when required, pursuant to an order from the Del Mar Fire Department to protect structures on existing developed legal lots. The Fire Department's order shall require the grading or clearance of no more material than is minimally necessary to provide for protection of public health and safety. Unless specifically stated in

the written order, the clearance of vegetation shall be limited to the selective removal of vegetative growth through normal pruning, thinning by hand, and/or cutting operations which do not involve grading, clear-cutting of vegetation to a uniform height, or disturbance of soil or root systems.

5. The replacement or removal of vegetative material when such activities are carried out in a manner which does not threaten the preservation of the sandstone bluffs, canyons, and related slopes that characterize properties within the Bluff, Slope and Canyon Overlay Zone and when such activities are carried out in a manner that involves appropriate erosion control measures, including replacement vegetation, to provide soil stability and when conducted so as to not create the potential for adverse erosion to adjacent properties or downstream resources. (Ord. 582)

30.52.080 Design Review. Unless otherwise exempted by this Chapter, no building, improvement, structure, or portion thereof shall be erected, constructed, converted, established, altered, or enlarged; nor shall any lot or premises be excavated or graded for any purpose including, but not limited to, in-ground structures such as swimming pools or spas, or cleared of vegetation, until a Design Review Permit is first obtained in accordance with the procedures set forth in this Code. In addition to the standards of the Design Review Ordinance (DMMC Chapter 23.08) and of the underlying zone, said Design Review Permit shall be reviewed by the Design Review Board under the following standards:

A. In order to preserve viewsheds and the open space appearance of the area from a distance, structures shall be designed to be subservient to the natural landforms on the site. In addition, no structure shall exceed a height of 14 feet as measured pursuant to the provisions of this Code, unless the Design Review Board finds that scenic viewsheds and open space appearance will be less affected by higher structures.

B. Construction, irrigation, and landscaping shall be designed to ensure that they will harmonize with the natural as well as the man-made environment and to ensure that the protection of the natural landforms and vegetation takes precedence over architectural values.

C. No primary scenic views or scenic views from public streets, roads or pedestrian trails shall be obstructed, unless the Design Review Board finds that there is no feasible alternative siting which eliminates or significantly reduces the obstruction, and that the bulk and scale of the proposed structure have been minimized to the greatest extent feasible commensurate with preserving the physical characteristics of the site.

30.52.090 Development Standards. [Reserved.]

30.52.100 Special Regulations.

A. No subdivision of property improved or unimproved, including lot line adjustment, shall be approved unless a finding is made that the proposed design and improvements of the subdivision will be consistent with the criteria of this Code. Specifically, unless proposed as a dedicated open space lot, no subdivision shall be approved which creates a lot or lots that are composed entirely or nearly entirely of substantial steep slopes as defined in this Chapter. Further, no subdivision or boundary adjustment shall be approved for creation or realignment of a lot(s) that would be incapable of supporting construction which could provide the applicable steep slope setbacks required pursuant to this Chapter. In making the required finding for approval of the Conditional Use Permit associated with an application for subdivision, the Planning Commission shall take into consideration, the probable impact that the subdivision, including subsequent development on the lot(s), will have on substantial steep slopes.

30.52.110 Application Submittals.

A. In addition to the application submittal requirements for all other permits/authorizations required by this Code, applications for projects located within the Bluff, Slope and Canyon Overlay Zone shall include, at a minimum:

1. A slope analysis prepared by a licensed civil engineer which indicates the existing topography of the site shown in (minimum) two foot interval contours and an indication, through shading or other visible means, of the areas of the property comprised of slopes of 25 percent grade or greater. Said computation of slope gradient shall be calculated between individual contour lines, rather than by averaging across multiple contour lines.
2. A calculation of the areas, expressed in square feet, or acres as appropriate, of each contiguous area of slopes of 25 percent grade or greater and the total area in such slopes as determined through the requirements of the slope analysis per subsection A.1 above.
3. A geological reconnaissance survey and preliminary engineering geology report. Said report shall include the findings of a subsurface investigation of those areas of the site wherein development is proposed and shall be sufficient to identify the nature and magnitude of any unstable conditions in such areas. The report shall address projected soil stability over a 75-year life for proposed structures and shall include any

alternatives or mitigation measures necessary to offset unstable conditions or hazards.

B. Unless otherwise required by the Planning Director, these submittal requirements shall not apply to new or redevelopment projects which clearly do not involve any potential for new grading, construction, or expansion of the footprint of existing structures into substantial steep slope areas as defined in this Chapter or into the steep slope setback areas required pursuant to the provisions of this Chapter. When waived by the Planning Director, the requirement for provision of this information may be subsequently reinstated by the responsible discretionary agency reviewing the project, at the time of such review.

30.52.120 Grading Methodology and Practice.

A. In addition to the other provisions of the Del Mar Municipal Code, projects located within the Bluff, Slope and Canyon Overlay Zone shall be subject to the following provisions:

1. All projects involving grading shall be subject to the submittal of an erosion and sedimentation control plan. Said plan shall ensure that the project will not result in an increase in peak runoff from the site over the greatest discharge expected during a 10-year, 6-hour frequency storm. Runoff control shall be accomplished by a variety of measures including, but not limited to, on-site catchment basins, detention basins, siltation traps, energy dissipaters and the installation of landscape material. The required erosion and sedimentation control plan, and any proposals to increase flows, shall be subject to review and approval of the City Engineer.
2. All erosion control measures shall be subject to detailed maintenance arrangements. Said arrangements shall ensure the on-going repair and maintenance of approved erosion control measures to ensure continued and effective erosion control. The maintenance and repair of such measures shall be the responsibility of the applicant or their successors in interest. The maintenance agreements required herein shall be secured prior to the release of permits and shall be recorded against the deed for the property.
3. Cut and fill grading shall be designed to either limit runoff to a level which will be equal to or less than the natural flow expected prior to grading or construction activities, or to direct any increased flows to improved drainage facilities and/or natural drainage courses, provided such facilities

or drainage courses are of adequate design and capacity to handle and all discharge and anticipated flows.

4. For projects involving a total of more than 25 cubic yards of cut and/or fill grading operations, no grading shall occur November 15th to March 31st of any year.

30.52.130 Retained Open Space/Conditions of Development.

A. Areas to be retained in their natural state pursuant to the provisions of this Chapter shall be subject to conditions to ensure the protection of the designated area(s) from future encroachment, disturbance or degradation. Said conditions shall include the recordation of an open space deed restriction, conservation easement or open space easement to serve notice to the property owner, subsequent owners, or interested parties of the restrictions in effect on such property.

B. The protection of areas or vegetation designated for retention in their natural state shall be accomplished through the installation of protective temporary and/or permanent fencing around such designated areas prior to the commencement of grading and/or development activities on site. Fencing for protection of designated trees/vegetation required herein shall be placed so as to protect the root zones of the trees/vegetation to be protected.

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

Chapter 30.53

LAGOON OVERLAY ZONE

30.53.010 Purpose.

This overlay zone is composed of properties which are located directly in, or in proximity to, the Los Penasquitos and San Dieguito Lagoons. The purpose of this Lagoon Overlay Zone is to protect the wetland resources of these lagoon areas and their sensitive upland habitats by requiring that all development activities taking place in the zone are designed and implemented in a manner that is consistent with wetland habitat protection and enhancement.

30.53.020 Boundaries. Property within the Lagoon Overlay Zone shall be designated by Ordinance to be depicted upon the City Zone Map.

30.53.030 Definitions.

A. For purposes of this Chapter, the following definitions shall apply.

1. "Wetlands" shall mean all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or where the land is periodically covered by water. Wetlands include: saltwater marshes, freshwater marshes, open or closed brackish water, marshes, swamps, mudflats, and fens. All lands having one or more of the following attributes are "wetlands":

a. Lands which, at least periodically, support predominantly hydrophytes (plants whose habitat is water or very wet places);

b. Lands in which the substratum is predominantly undrained hydric soil; or

c. Lands in which the substratum is non-soil and is saturated with water or covered by water at some time during each year.

2. "Wetland Buffer" shall mean lands which provide a buffer between human development activity and wetland areas and which serve to protect the environmental and functional habitat values of the wetland, and/or lands which are integrally important in supporting the full range of the wetland and adjacent upland biological community.

30.53.040 Allowable Uses. Unless specified herein, allowable uses in the Lagoon Overlay Zone shall be those uses and accessory uses allowed by the underlying zone, subject to the regulations and restrictions of the underlying zone and of this Chapter.

30.53.050 Accessory Uses. [See underlying Zone.]

30.53.060 Parking Requirements. [See Chapter 30.80.]

30.53.070 Development Review. Unless otherwise exempted by this Title, no building, improvement, structure, or portion thereof shall be erected, constructed, converted, established, altered or enlarged; nor shall any lot or premises be subject to excavation, grading or clearance of vegetation; nor shall any subdivision occur until both a Conditional Use Permit and Coastal Development Permit are obtained from the Planning Commission. In reviewing the applications for Conditional Use Permits and Coastal Development Permits, the Planning Commission shall apply the standards of review contained in the underlying zone as well as those contained in this Chapter.

30.53.080 Permitted Uses in Wetlands.

A. Permitted uses in wetlands shall be limited to the uses and activities listed below. These uses shall be allowed only when they are designed and implemented in a manner that will not involve grading, filling, construction, or placement of structures within the boundaries of wetlands as determined pursuant to the provisions of this Chapter.

1. Aquaculture, provided that it is carried out in such a manner so as to avoid any adverse impacts to the water quality or the biological productivity of the wetlands.
2. Scientific research, passive recreation and/or educational uses, provided that they do not involve adverse impacts to the natural ecosystem.

3. Wetland restoration projects where the primary function is restoration of wetland habitat.

30.53.090 Permitted Uses in Wetland Buffer Areas.

A. Permitted uses and activities in wetland buffer areas shall be limited to the following:

1. Passive recreational access paths and viewpoints when designed to ensure no adverse impacts to adjacent wetland areas, and when designed in conformance with the provisions of the certified Local Coastal Program Land Use Plan.
2. The placement of improvements necessary to provide protection, preservation, or enhancement of adjacent wetland areas. Such improvements may include, but are not limited to, construction of fencing, creation of landscape berms, and placement of signage related to scientific, educational, or recreational uses.
3. All uses permitted in wetland areas.

30.53.100 Provision of Wetland Buffers.

A. To protect wetland areas, all new development projects which are located on property which includes or lies in proximity to wetland habitat, as defined in this Chapter, shall include the provision of a continuous wetland buffer. Unless otherwise specified herein, the wetland buffer shall be a minimum of 100 feet in width. The wetland buffer shall be measured landward from the boundary of wetlands as delineated on plans required pursuant to the application submittal requirements of this Chapter.

B. A wetland buffer of less than 100 feet in width shall be allowed only when the Planning Commission makes the following findings:

1. That the physical characteristics of the site, such as the size and dimensions of the property are adequate to protect the resources of the adjacent wetlands, based on site-specific factors.

a. When making such a finding, the Planning Commission shall consider site-specific factors such as the type and size of the development proposed; the mitigation measures provided (such as planting of vegetation or construction of fencing); elevation differentials which may exist between the proposed development and wetland areas; or other similar factors which will serve to contribute to the purposes of a wetland buffer area.

b. When making a finding regarding the use of a buffer of less than 100 feet in width, the Planning Commission shall consider any recommendations provided by representatives of the California Department of Fish and Game.

C. In no event shall a wetland buffer be reduced to a width of less than 50 feet.

D. Authorization which has been granted by the Planning Commission to provide a wetland buffer of less than 100 feet for one aspect of a development proposal, shall not be construed as an authorization to provide a buffer of less than 100 feet in width for other aspects of the proposal unless such authorization has been specifically enumerated in the findings required pursuant to this Section.

30.53.110 Limitation of Access to Wetland Areas.

A. In addition to the wetland buffers required pursuant to this Chapter, new projects shall be reviewed for the appropriateness of providing a physical barrier which will minimize access to wetland areas and immediate uplands by humans and domestic animals. The imposition of a condition requiring the installation of fencing, landscape berms or other suitable barriers shall be based on a finding that the uncontrolled access of humans and domestic animals would adversely affect the biological productivity of the wetlands.

30.53.120 Application Submittals.

A. Applications for development of property within the Lagoon Overlay Zone shall include topographic and vegetative maps, as necessary, to delineate the boundaries of all wetland areas located on-site or off-site in proximity to the development proposal. Maps required by this Section shall be of a scale not less than 1" equals 100' and shall delineate the topography of the site in two foot contour intervals. The

determination of the boundary of wetland areas shall be included as an overlay to the required topographic map and shall be prepared by a qualified professional(s) in the fields of biology and hydrology. The Director of Planning and Community Development shall have the discretion to contact representatives of the California Department of Fish and Game and the United States Fish and Wildlife Service to confirm the wetland boundary information and determination provided by an applicant(s).

B. Applications involving grading on property which includes, or lies in proximity to wetland areas as defined in this Chapter shall include a grading plan prepared by a registered civil engineer. The grading plan shall be designed to ensure that there will be no increase in the peak runoff rate from the fully developed site over the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during the six-hour, ten-year design storm. The grading and erosion control plan shall include:

1. Plans for all runoff and erosion control measures to be installed including: catchment basins, detention basins, and siltation traps along with energy dissipating measures at the terminus of storm drains, and other similar measures of equal or greater effectiveness.
2. A description of the erosion control procedures to be utilized during all phases of project development.
3. Plans prepared by a licensed landscape architect or other qualified professional for the installation of temporary and permanent landscaping for soil retention.

30.53.130 Retained Open Space/Conditions of Development.

A. Wetland areas and wetland buffer areas to be retained in, or restored to, their natural state pursuant to the application of these Lagoon Overlay Zone regulations shall be subject to conditions to ensure the future protection of the designated area(s) from encroachment, disturbance, or degradation. Said conditions shall include the recordation of an open space deed restriction, conservation easement, or open space easement over the protected wetland and/or wetland buffer area(s) to ensure their protection and to serve notice to the property owner, subsequent owners or interested parties of the restrictions in effect on such property.

B. The transfer of fee title of wetland areas to an appropriate public agency shall also serve to satisfy the requirements of this Section.

30.53.140 Grading Practices/Drainage and Erosion Control. In order to minimize and control runoff and the associated erosion and sedimentation of downstream wetland areas, all development activities on project sites within the Lagoon Overlay Zone shall comply with each the following grading methodology and erosion control practices:

A. Projects shall be conditioned to ensure that runoff from impervious surfaces shall either be directed towards existing publicly-owned discharge and drainage systems or retained on-site in settling ponds or other drainage/erosion control measures. Where, due to factors of topography, neither direction of runoff into storm drain systems nor retention on site is possible, runoff shall be appropriately discharged at non-erosive flows and velocities through the use of energy dissipation devices.

B. Temporary erosion control measures, shall include the use of berms, interceptor ditches, sandbagging, hay bales, filtered inlets, debris basins, silt traps, or other similar means of equal or greater effectiveness. All such erosion control measures shall be installed prior to the commencement of grading in the areas for which the erosion control measures are intended and shall be removed within 30 days of project completion.

C. For projects involving a total of more than 25 cubic yards of cut and/or fill grading, no grading shall occur during the rainy season, identified for purposes of this Chapter as the period from November 15th to March 31st.

D. In addition to other erosion control measures required pursuant to this Chapter, all graded slopes shall be stabilized prior to the November 15th onset of the rainy season through the provision of vegetative erosion control. Vegetative erosion control may be achieved through measures such as: landscape planting, seeding, mulching, fertilization, and irrigation. The installation of vegetative erosion control shall occur with sufficient time to achieve landscape coverage prior to the November 15th start of the rainy season.

E. All graded areas disturbed but not completed prior to November 15th, including graded pads and stockpiles, shall be suitably

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New Chapter 30.53 Lagoon Overlay Zone

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

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Chapter 30.55

COASTAL BLUFF OVERLAY ZONE

30.55.010 Purpose.

The purpose of the Coastal Bluff Overlay Zone is to protect Del Mar's fragile coastal bluffs as a visual resource and avoid the risks to life and property associated with bluff failure and shoreline erosion.

30.55.020 Boundaries. Property within the Lagoon Overlay Zone shall be designated by Ordinance to be depicted upon the City Zone Map.

30.55.030 Definitions.

A. For purposes of this Chapter, the following definitions shall apply:

1. "Coastal Bluff" shall mean a steep escarpment with a slope gradient equal to or greater than an average of one foot vertical to one foot horizontal and a vertical rise of 15 feet or more, and which is located in an area that is periodically subject to ocean wave action.
2. "Coastal Bluff Top" shall mean the top edge of a coastal bluff as delineated using the following criteria:
 - a. In cases where the coastal bluff involves a series of stepped vertical and horizontal planes, the bluff top shall be considered to start at the seaward edge of the topmost riser of the vertical plane of the coastal bluff.
 - b. In cases where the coastal bluff edge is composed of a continuous, rather than stepped, downward slope, the bluff top shall be considered to start at that point nearest the bluff, seaward of which the downward gradient of the land surface increases more or less continuously at an angle

which is more vertical than horizontal until it reaches the general gradient of the bluff.

3. "Top Edge of Coastal Bluff" shall mean the same as "Coastal Bluff Top."

4. "Principal Structure" shall mean a building or structure in which the primary use of the lot on which the building is located is conducted.

5. "Accessory Structure" shall mean structures accessory or incidental to the principal structures on lot including, but not limited to, pools, spas, storage sheds, gazebos, and above-grade decks or patios.

30.55.040 Allowable Uses. Unless specified herein, allowable uses in the Coastal Bluff Overlay Zone shall be those uses and accessory uses allowed by the underlying zone, subject to the regulations and restrictions of the underlying zone and of this Chapter.

30.55.050 Accessory Uses. [See underlying zone.]

30.55.060 Parking Requirements. [See Chapter 30.80.]

30.55.070 Development Review. Unless otherwise exempted by this Title, no building, improvement, structure, or portion thereof shall be erected, constructed, converted, established, altered or enlarged; nor shall any lot or premises be excavated or graded for any purpose including, but not limited to, in-ground structures such as swimming pools or spas; nor shall clearance of vegetation occur until both a Conditional Use Permit and a Coastal Development Permit are obtained from the Planning Commission. In reviewing such applications for Conditional Use Permits and Coastal Development Permits, the Planning Commission shall apply the standards of review contained in this Chapter, as well as the applicable provisions of Beach Overlay Zone and the underlying zone for the property.

30.55.080 Setbacks from Coastal Bluffs.

A. Unless otherwise specified herein, all new or redeveloped principal or accessory structures, including new supporting foundations or

supports for existing structures, shall be set back a minimum of 40 feet from the top edge of the coastal bluff as defined in this Chapter.

B. All new fences, windscreens, and benches shall be set back a minimum of ten feet from the top edge of the coastal bluff as defined in this Chapter. All such improvements, when providing less than the 40 foot coastal bluff top setback otherwise required in this Chapter, shall be constructed primarily above grade using light-weight materials and without the use of grading and/or continuous foundation components.

C. No grading shall be allowed within 40 feet of the top edge of a coastal bluff.

D. No grading or construction activities shall be allowed on the face of a coastal bluff unless approved as part of a Shoreline Protection Permit or Setback Seawall Permit issued in accordance with the provisions of this Title and when the Planning Commission or City Council, as the authorized review body for the project, makes a finding that the proposed grading has been minimized to the extent feasible to implement the authorized shoreline protection.

30.55.090 Application Submittals.

A. Applications for development of property which includes or lies in proximity to coastal bluffs as defined in this Chapter, shall include topographic maps, as necessary, to delineate the location of all coastal bluffs located on site or off site in proximity to the development proposal. Said maps shall indicate the alignment of the top edges of such coastal bluffs as defined in this Chapter. Maps required by this Section shall be of a scale not less than 1" equals 100' and shall delineate the topography of the site in two-foot contour intervals.

B. All applications for projects involving new construction on properties containing coastal bluffs shall be accompanied by a geotechnical report addressing: 1) existing conditions; 2) the suitability of the site for the proposed construction; and 3) the potential of the proposed development to affect bluff stability over a 70-year life span of the project. The report shall also include recommended mitigation measures as they relate to avoidance of risks and preservation of fragile bluff systems. In the event that a submitted report recommends a coastal bluff top setback of a greater distance than otherwise minimally required in this Chapter, the greater distance shall be provided.

C. At the discretion of the Planning Director, the applicant may be required to provide funding for an independent, third-party analysis of the information provided by the applicant pursuant to the application submittal requirements of this Section. The purpose of said third-party analysis is to ensure the project's consistency with the standards of review contained in this Chapter.

30.55.100 Grading Methodology and Practice.

A. In addition to the other provisions of the Del Mar Municipal Code, projects located within the Coastal Bluff Overlay Zone shall be subject to the following provisions:

1. All projects involving grading shall be subject to the submittal of an erosion and sedimentation control plan. Said plan shall ensure that all drainage from the impervious surfaces of the site will be collected and appropriately discharged in a manner which will prevent drainage and/or erosion related damage to the coastal bluff or any other properties or improvements in the vicinity. In addition, the plan shall include the provision of drainage facilities to convey all drainage away from any coastal bluff face and, where available, into existing developed storm drain systems capable of handling all anticipated drainage flows associated with the proposed project. Where an existing storm drain system is not available, the plan shall provide that drainage will be conveyed to a clearly defined, legal natural drainage course which can be shown to have adequate capacity to handle all required drainage flows without adverse impact to coastal bluffs. All designs and plans for drainage improvements shall be prepared by a licensed civil engineer and shall be subject to the review and approval of the City Engineer.

2. All projects requiring a Conditional Use Permit and a Coastal Development Permit pursuant to the provisions of this Chapter shall be subject to the submittal of detailed landscape plan. Said plan shall ensure that native and other drought-tolerant plant species will be utilized in a manner that will minimize irrigation requirements and reduce the potential of slide hazards due to over watering of the bluffs. Said plan will ensure that no new irrigation systems will be installed within 40 feet of the edge of the coastal bluff top and that any existing irrigation systems located within said 40 foot bluff top setback will be removed as part of project implementation.

3. All projects involving grading shall be subject to the submittal of an erosion and sedimentation control plan. Said plan shall ensure that the project will not result in an increase in peak runoff from the site over the greatest discharge expected during a 10-year, 6-hour frequency storm. Runoff control shall be accomplished by a variety of measures including, but not limited to, temporary and/or permanent on-site catchment basins, detention basins, siltation traps, energy dissipaters and the installation of landscape material. The required erosion and sedimentation control plan and any proposals to increase flows shall be subject to review and approval of the City Engineer.

4. All temporary erosion control measures proposed or required pursuant to the provisions of this Section including berms, interceptor ditches, sandbagging, hay bales, filtered inlets, debris basins, silt traps, or other similar measures shall be installed prior to the commencement of grading in the areas for which the erosion control measures are intended.

5. For projects involving a total of more than 25 cubic yards of cut and/or fill grading, no grading shall occur during the rainy season, identified for purposes of this Chapter as the period from November 15th to March 31st.

6. In addition to other erosion control measures required pursuant to this Chapter, all graded slopes shall be stabilized prior to the November 15th onset of the rainy season through the provision of vegetative erosion control. Vegetative erosion control may be achieved through measures such as: landscape planting, seeding, mulching, fertilization, and irrigation. The installation of vegetative erosion control shall occur with sufficient time to achieve landscape coverage prior to the November 15th start of the rainy season.

30.55.110 Maintenance of Drainage and Erosion Control Measures.

A. Where the installation of erosion and/or drainage control measures is required pursuant to the provisions of this Chapter, the responsibility for maintenance of such measures shall rest with the applicant unless such responsibility is assumed by another agency or party found acceptable by the Planning Director.

B. The responsibility for maintenance of drainage and erosion control measures and a detailed maintenance program shall be included in an agreement(s) recorded against the deed for the property. The arrangements shall provide for the on-going repair and maintenance of approved control measures to ensure continued effective erosion/drainage control.

30.55.120 Retained Open Space/Conditions of Development.

A. Areas to be retained in their natural state pursuant to the provisions of this Chapter shall be subject to conditions to ensure the protection of the designated area(s) from future encroachment, disturbance, or degradation. Said conditions shall include the recordation of an open space deed restriction, conservation easement, or open space easement to ensure protection of the designated area and to serve notice to the property owner, subsequent owners, or interested parties of the restrictions in effect on such property.

30.55.130 Additional Development Standards for Subdivisions.

A. No subdivision shall be approved unless a finding is made by the Planning Commission that the proposed design of the subdivision and its improvements will be consistent with the criteria of this Chapter. Specifically, no subdivision shall be approved for creation of a lot(s) which would be incapable of either: 1) supporting the construction of a use allowed within the underlying zone; or 2) supporting such construction with provision of the applicable Coastal Bluff Top setbacks and other resource protection measures required pursuant to this Chapter. In reviewing the subdivision proposal, the Planning Commission shall take into consideration, the probable impacts that the project, including subsequent development on the lot(s), will have on preservation of coastal bluffs and the avoidance of hazards.

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

Chapter 30.56

FLOODPLAIN OVERLAY ZONE

30.56.010 Purpose.

This overlay zone is composed of those properties located within the 100-year floodplains of the San Dieguito River and the Los Penasquitos Lagoon which have been identified by the Federal Insurance Administration as being subject to periodic inundation due to flooding. The purpose of the regulations of this Chapter is to promote the public health, safety and general welfare by ensuring that new development, as defined herein, is appropriately sited and constructed so as to avoid hazards to those who will occupy the development; and to avoid damage or hazards to the surrounding area. These regulations are also intended to ensure that development within the Floodplain Overlay Zone will not obstruct flood flow; will be designed to reduce the need for construction of flood control facilities that would be required if unregulated development were to occur; and to minimize the cost of flood insurance to Del Mar residents.

In order to accomplish its purposes, this Chapter includes regulations which prohibit development which would result in increases in erosion or flood levels through the inappropriate placement of either fill or barriers. The Chapter also includes regulations to prohibit or restrict uses which would otherwise be incompatible with flood prone areas.

30.56.020 Boundaries.

A. Property within the Floodplain Overlay Zone shall be designated by Ordinance to be depicted upon the City Zone Map.

B. Real Property within the Floodplain Overlay [FPO] Zone shall be further designated by ordinance on the City Zone Map as being within one or both of the following flood hazard sub-zones:

1. The Coastal High Hazard Sub-zone which shall include areas exposed to flood hazards from waves or tide action; and/or
2. The Riverine Sub-zone which shall include areas exposed to flood hazards from rivers or surface runoff, and which may be further divided into areas designated on the Flood Insurance Rate Map (FIRM) of the Federal Emergency Management Agency.

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

C. The designation of a property's location in a particular Zone or Sub-zone shall be based upon the FIRM and Floodway Maps provided by the Federal Emergency Management Agency or its successor.

30.56.030 Definitions. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

A. "Area of Shallow Flooding" shall mean an area designated as AO Zone on the Flood Insurance Rate Map. Areas of shallow flooding include one or more of the following characteristics:

1. the base flood depths range from one to three feet;
2. a clearly defined channel does not exist;
3. the path of flooding is unpredictable and indeterminate; and/or
4. a velocity flow may be evident.

B. "Area of Special Flood Hazard" shall mean an area having special flood or flood-related erosion hazards, and which are designated on an FHBM or FIRM as Zone A, AO, A 1-30, AE, A99, AH, V1-30, VE, or V.

C. "Base Flood" shall mean a flood having a one percent chance of being equaled or exceeded in any year. "Base Flood" shall mean the same as 100-year Flood".

D. "Basement" shall mean any area of a building or structure having a floor level which is located at an elevation which is below the level of the existing adjacent grade on each side.

E. "Breakaway Wall" shall mean any wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a design-safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

2. The elevated portion of the building shall not incur any structural damage due to the effects of winds and water loads acting simultaneously during a 100-year event.

F. "Coastal High Hazard Area" shall mean an area of special flood hazard extending from offshore to any area subject to high velocity wave action from storms or seismic forces. Such areas are subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area designated on a Flood Insurance Rate Map (FIRM) as Zone V1-30, VE or V.

G. "Development" shall mean any man-made change to real property including, without limitation, filling, grading, paving, excavation, drilling, mining, dredging, or storage of materials.

H. "Director" shall mean the Director of Planning and Community Development. The Director shall serve as the City's Floodplain Administrator to administer and enforce the Floodplain management regulations of this Chapter.

I. "FHBM" shall mean the Flood Hazards Boundary Map prepared for the City of Del Mar by the Federal Insurance Agency delineating the areas of flood hazards which has been adopted, along with amendments thereto, by resolution of the City Council.

J. "Flood Boundary and Floodway Map" shall mean the official map prepared for the City of Del Mar by the Federal Insurance Agency and adopted, along with amendments thereto, by resolution of the City Council, delineating the Areas of Special Flood Hazards and the Floodway.

K. "Flood Insurance Rate Map (FIRM)" shall mean the official map prepared for the City of Del Mar by the Federal Insurance Agency and adopted, along with amendments thereto, by resolution of the City Council, delineating the areas of special flood hazards and the risk premium zones applicable to the community.

L. "Flood Insurance Study" shall mean the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map (FIRM), and Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

M. "Floodplain" or Flood-prone area" shall mean any land susceptible to being inundated by water from any source.

N. "Floodproofing" shall mean any combination of structural and non-structural additions, changes or adjustments to nonresidential structures which reduce or eliminate

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

flood damage to real estate or improved property and are designed so that the area of the structure below the base flood level is watertight with walls substantially impermeable to the passage of water.

O. "Floodway" shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to accommodate the discharge of the base flood without cumulatively increasing the water surface elevation more than one foot. "Floodway" shall mean the same as "Regulatory Floodway".

P. "Hardship" shall mean the exceptional hardship that would result from a failure to grant the requested relief from the provisions of this Chapter. To qualify as a hardship, the proposal shall involve factors which are exceptional and unique to the property involved. The existence of economic or financial impacts alone shall not constitute a hardship. Inconveniences, aesthetic considerations, physical handicaps, personal preferences, or the disapproval or preference of neighbors likewise does not qualify as a hardship in that each of these factors could be resolved through other means, without the granting of relief from the provisions of this Chapter even if such alternatives are more expensive or would require the property owner to pursue a different project.

Q. "Hazard Mitigation Plan" shall mean a plan that incorporates a process whereby the potential of future loss due to flooding can be minimized by planning and implementing alternatives to floodplain management community-wide.

R. "Highest Adjacent Grade" shall mean the highest natural elevation of the ground surface adjacent to the wall(s) of a structure prior to construction.

S. "Lowest Floor" shall mean the lowest floor of the lowest enclosed area (including basement) of a structure. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

T. "Manufactured Home" shall mean a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days but does not include Recreational Vehicles as defined in this Chapter.

U. "Manufactured Home Park or Subdivision" shall mean a parcel (or contiguous parcels) of land divided into two or more lots to be used for manufactured homes.

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

V. "Mean Sea Level" shall mean the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the City's Flood Insurance Rate Map are referenced.

W. "New Construction" shall mean structures for which the "start of construction" commenced on or after the date of adoption of this ordinance.

X. "Obstruction" shall mean and shall include any dam, wall, wharf, embankment, levee, dike, pile abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material, along, across or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Y. "One-hundred Year Flood" (see "Base Flood")

Z. "Recreational Vehicle" shall mean a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less in size;
3. Designed to be self-propelled or permanently towable by a light vehicle
4. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping or travel.

AA. "Special Flood Hazard Area (SFHA)" shall mean an area having special flood, mudslide or flood related erosion hazards and which is shown on an FHMB or FIRM as Zone A, AO, A1-A30, A99, AH, AE, M, V1-V-30 or V.

BB. "Start of Construction" shall mean the date a valid the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

CC. "Structure" shall mean a walled and roofed building. The term "structure" shall also include, a manufactured home that is principally above ground and which contains a gas or liquid storage tank.

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

DD. "Substantial Improvement"

1 "Substantial Improvement" shall mean any repair, reconstruction or improvement to a structure, when, pursuant to a determination by the Planning and Community Development Director, the cost of the repair, reconstruction or improvement equals or exceeds fifty percent of the market value of the structure either:

- a. Before the improvement or repair is started, or
- b. If the structure has been damaged 50% or more and is being restored as it existed before the damage occurred.

2. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

3. The term "Substantial Improvement" does not however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

30.56.040 Allowed Uses. The following uses are allowed within the Floodplain Overlay Zone, subject to the receipt of a Floodplain Development Permit and all other permits required by this Title.

A. any use permitted in the underlying zone or zones, subject to the same conditions and restrictions applicable to such underlying zone or zones.

B. Any irrigation, drainage or flood control structure or facility, and/or any public facility or improvement necessary for maintaining a lagoon, waterway or floodway system.

30.56.045 Floodplain Development Permit Required

A. It shall be unlawful for any person to engage in the implementation of a project which involves new construction or the substantial improvement to an existing structure without first having obtained a Floodplain Development Permit, when such Permit is required pursuant to this Chapter.

B. No building permit or other development permits shall be issued relating to a structure for which a Floodplain Permit is required until the Floodplain Permit is obtained.

30.56.050 Floodplain Development Permit Procedure.

A. An application for a Floodplain Development Permit shall be submitted to the Director on forms provided by the City together with an application fee set by City Council resolution.

B. The application material shall include data and certifications prepared by a registered engineer as necessary to provide supporting calculations and studies for all information required on the application. The application material shall include, but not be limited to:

1. The elevation, expressed in relation to NGVD, of all floors (including basements) of all proposed and existing structures of the project site;
2. The proposed elevation, expressed in relation to NGVD, of all proposed floodproofing; and
3. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

C. Upon submission of a complete application and payment of the application fee, the Director shall provide notice of the filed application, with members of the public given the opportunity to review the application at City Hall, and the opportunity to submit written information to the Director. Notice shall be provided:

1. In accordance with the noticing requirements for public hearings proscribed in this Title, for discretionary permit applications;
2. Through notification to adjacent local agencies and the applicable State coordinating agencies, and through submitting evidence of such notification to the Federal Emergency Management Agency and the Federal Insurance Administration.

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

D. A determination on the application shall be made by the Issuing Authority as set forth below:

1. For applications which have been deemed to be in compliance with all of the applicable provisions of this Chapter, the Director of Planning and Community Development shall be the Issuing Authority for the Floodplain Development Permit.

2. For applications which do not meet one or more of the applicable provisions of this Chapter and for which relief from such provisions is requested by the applicant, the Planning Commission shall be the Issuing Authority for the Floodplain Development Permit.

E. The Issuing Authority for the Floodplain Development Permit shall review the application to ensure that all other required state and federal permits are obtained, and shall approve, conditionally approve, or deny the application based upon the regulations of this Chapter. The Issuing Authority may impose conditions in the permit as necessary and or authorized to ensure the project's continued compliance with the provisions of this Chapter.

F. For a period of at least three years following the date of submittal of a Floodplain Development Permit application, the Director shall maintain a record of all information submitted as part of the application, including the certifications of all proposed finished floor elevations and elevations of floodproofing required pursuant to this Chapter.

G. Upon a determination on the application by the Issuing Authority, the Director shall post a notice of determination at City Hall. Such Notice shall provide that the determination will be final in ten days unless an appeal is filed seeking City Council review.

30.56.060 General Grounds for Application Approval/Denial. The application for a Floodplain Development Permit shall be approved if the Issuing Authority makes a finding that the proposal meets and is consistent with each of the applicable findings shown below. The failure of the proposal to meet and be consistent with each of the applicable findings shown below shall be grounds for denial of the application. Such denial shall be supported by written findings of fact by the Issuing Authority as to how the application fails to meet one or more of the following findings: The proposed new construction or substantial improvement:

A. Will not violate the building or zoning regulations of the City.

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

B. Will be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. Will be constructed with materials and utility equipment resistant to flood damage.

D. Will use methods and practices that minimize flood damage.

E. Will involve a residential structure and will have the lowest floor (including basement) of such structure elevated to or above the base flood elevation.

F. Will involve a manufactured home which will be elevated on a permanent foundation such that the lowest floor is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system.

G. Will involve a nonresidential structure and will have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities will be floodproofed below the base flood level to the extent that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, as certified by a registered professional engineer or architect.

H. Will be in an area of shallow flooding (Zone AO on the community's FIRM) and will have the lowest floor (including basement) elevated to or above the depth number indicated on the most current FIRM; or if there is no depth number on the most current FIRM, the structure will be elevated at least two feet above the highest adjacent grade. As an alternative, nonresidential structures, together with attendant utility and sanitary facilities, may be floodproofed to that level as specified in this Chapter.

I. Will be in Zones AO and AH on the FIRM and will have adequate drainage paths around structures situated on sloping ground, to guide floodwaters around and away from said structures.

J. Will involve the floodproofing of a nonresidential structure using a design and/or methods of construction that are in accordance with accepted standards of practice for floodproofing or which will extend the floodproofing to an elevation which is required pursuant to the provisions of this Chapter.

K. Will have all new and replacement water supply and sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

L. Will have on-site waste disposal systems located to avoid impairment to them, or contamination from them, during flooding.

M. Will have all electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

N. Will have all fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters with designs certified by a registered professional engineer or architect; or will have at least two openings no more than one foot above grade with a total net area of at least one square inch per square foot of flooded area.

O. Will be located in an area which is reasonably safe from flooding.

P. Will not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been established. For purposes of this Section, "adversely affects" shall mean that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood elevation more than one foot at any point.

Q. Will not be sited and designed so as to require the construction or installation of flood protective works.

30.56.070 Additional Grounds for Application Approval/Denial (Coastal High Hazard). An application for a Floodplain Development Permit for a project located in an area designated as being within the Coastal High Hazard Sub-zone shall be approved if the Issuing Authority makes a finding that the proposal meets and is consistent with each of the applicable findings shown below. The failure of the proposal to meet and be consistent with each of the applicable findings shown below shall be grounds for denial of the application. Such finding for denial shall be supported by written findings of fact by the Issuing Authority as to how the application fails to meet one or more of the following findings:

A. The new construction or substantial improvement will not violate provisions of this or other sections of this Chapter, including those regarding General Grounds for Application Denial;

B. The new construction or substantial improvement will be located landward of the reach of mean high tide;

C. The new construction or substantial improvement will not use fill for structural support of buildings;

City of Del Mar
LCP Implementing Ordinances Draft - 10/15/98
Modified Chapter 30.56 - Floodplain Overlay Zone

D. The new construction or substantial improvement will be elevated on pilings or columns such that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is elevated to or above the base flood elevation; or
2. The pile or column foundation and the attached structure is anchored to resist flotation, collapse or lateral movement due to the effect of wind and water loads having a one percent chance of being equaled or exceeded in any given year, acting simultaneously on all building components.

E. The new construction or substantial improvement will have the space below the lowest floor free of obstruction or constructed with non-supporting breakaway walls, open wood lattice work or insect screening intended to collapse under wind and water load without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system; or such enclosed space is not useable for other than parking of vehicles, building access, or storage.

30.56.080 Relief from Regulations. An application for a Floodplain Development Permit may include a request for relief from one or more of the regulations contained in this Chapter. The Issuing Authority for the Permit may approve the request only upon making each of the following written findings of fact that:

A. The failure to grant the request would result in exceptional hardship to the applicant or to adjacent properties;

B. The granting of the request will not:

1. Result in increased flood heights either on the project site or on surrounding properties,
2. Result in additional threats to public safety,
3. Result in extraordinary public expense,
4. Create a public or private nuisance,
5. Cause fraud on or victimization of the public, or
6. Conflict with other City regulations; and.

C. The deviation from the requirements of the Chapter is the minimum necessary to afford relief, considering the flood hazard associated with the site.

30.56.082 Acknowledgment of Hazard/Waiver of Liability for Projects Approved with Relief from Chapter. The approval of a project which involves relief from the provisions of this code shall be conditioned to require that the applicant acknowledges that the

construction of the project in the manner proposed and approved may result in increased premium rates for flood insurance and that such construction increases risks to life and property. The acknowledgment shall be accompanied by a Waiver of Liability, holding the City harmless from damages which may result from project implementation.. The Acknowledgment and Waiver shall be provided in a covenant to be recorded against the deed for the property and to run with the land.

30.56.090 Additional Regulations Within the Area of Special Flood Hazard.

The following restrictions shall apply for properties located in areas designated as being located within a Special Flood Hazard Area pursuant to the provisions of this Chapter.

A. It shall be prohibited to store or process materials that, in a time of flooding, may become buoyant, flammable, explosive, or could be injurious to human, animal or plant life.

B. The storage of other material or equipment may be allowed if the storage area will not be subject to major damage by floods and if the stored material is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.

30.56.100. Warning and Disclaimer of Liability. The standards in this Chapter are reasonable for regulatory purposes and are based on scientific and engineering considerations largely determined by the Federal Emergency Management Agency. Floods may occur which result in damage. This Chapter is not intended to imply that development in accordance with these standards is immune from flood damage or that development on properties outside the areas designated as Special Flood Hazards, Areas of Mudslide (i.e., mudflow) will continually be free from flooding or flood damages. In including and enforcing the provisions of this Chapter, the City, including any officer or employee thereof, shall not assume liability for any flood damages that result from reliance on this Chapter or from any decision or action on a permit application lawfully made thereunder.

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

Chapter 30.61

PUBLIC ACCESS

30.61.010 Purpose. The purpose of the this Chapter is to ensure that physical access is provided to coastal recreation areas for the general public without creating a public safety concern, overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

30.61.020 Definitions. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

A. "Coastal Bluff Top Access" shall mean access provided for use by the general public along a coastal bluff top for the purpose of coastal viewing.

B. "Lateral Public Access" shall mean access provided for use by the general public along the water's edge of an ocean, lagoon, or rivercourse.

C. "New Development" shall mean the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; the division of a parcel of land into two or more parcels; and/or any excavation or placement of fill for which a permit is required pursuant to the provisions of the Del Mar Municipal Code.

D. "Vertical Public Access" shall mean access provided for use by the general public as a connection by which to travel from a public roadway, trail, or public use area to the water's edge of an ocean, lagoon, rivercourse or to an established lateral public access.

30.61.030 Provision of Public Access Required.

A. Unless otherwise specified herein, an application for a Coastal Development Permit in the areas identified below shall be subject to the dedication of a public access easement(s) in the manner and form prescribed in this Chapter:

1. New development on any parcel or location identified in the City of Del Mar Local Coastal Program Land Use Plan as containing an historically used or suitable informal public access pathway.

2. New development on any site where there is substantial evidence of a public right of access to the sea or public tidelands which has been acquired through use or by legislative authorization.

3. New development on any site where a trail, bluff top access, or other recreational access is necessary to mitigate the impact of the development on existing public access opportunities.

4. New development in locations where it has been determined that a trail access is required to link recreational areas to each other or to the sea.

B. Where the dedication of a public access easement(s) is required pursuant to the provisions of this Chapter, the required Coastal Development Permit shall also be conditioned for the provision of public access improvements within the easement area. Such improvements shall be designed and constructed in the manner prescribed by this Chapter.

C. Public access improvements constructed or installed within access easements (e.g., walkways, paved paths, boardwalks, etc.) shall be no wider than deemed necessary to accommodate the numbers and types of users that can reasonably be expected. The width of facilities may vary for ramps or paved walkways depending on site factors. The determination of the minimum width necessary for such access improvements shall rest with the Director of Planning and Community Development using the standards contained within this Chapter.

30.61.040 Exceptions to the Requirement for the Provision of Public Access.

A. The requirement for the provision of public access easements or improvements thereto shall not apply where the review of the Coastal Development Permit required by this Title establishes the fact that the development for which the application has been filed will not adversely affect or reduce, either individually or cumulatively, the ability of the public to reach and use public tidelands, coastal bluffs, or coastal resources.

B. The requirement for the provision of public access easements or improvements shall also not apply where:

1. The project does not qualify as "new development" pursuant to the provisions of this Chapter.

2. The review of the Coastal Development Permit required by this Title results in a written finding that:

- a. Public access would interfere with public safety or military security needs.
- b. Public access would be inconsistent with the protection of fragile coastal resources.
- c. Adequate opportunities for public access already exist at nearby facilities.

30.61.050 Lateral Public Access.

A. Where required pursuant to the provisions of this Chapter, the alignment of a lateral public access easement and the improvements required therein, shall be designed to ensure that the accessway, once implemented, will provide the public with the permanent right of lateral public access and passive recreational use along the shoreline or public tideland as applicable.

B. Active recreational use within a lateral public access easement may be appropriate in cases where the proposed development is determined to be especially burdensome on existing opportunities for lateral public access. Examples of cases involving especially burdensome impacts on opportunities for lateral public access include:

- 1. The proposed development severely impacts existing public recreational use of the shoreline.
- 2. The proposed development is not a visitor-serving recreational facility.
- 3. There is a history of active public use of the site.
- 4. Active recreational uses would be consistent with the use of the proposed project.
- 5. Such uses would not significantly interfere with the privacy of residential uses on or adjacent to the property.

C. Lateral access easements shall be legally conveyed and described as enumerated in this Chapter.

30.61.060 Vertical Public Access.

A. Minimum requirements. Where required pursuant to the provisions of this Chapter, the alignment of the vertical public access easement and the improvements required therein, shall be designed to ensure that the accessway, once implemented, will provide the public with the permanent right of vertical public access to the shoreline or public tidelands as applicable.

B. A requirement to provide vertical access as a condition of approval of a Coastal Development Permit (or other authorization to proceed with development) shall provide the public with the permanent right of vertical access which shall be limited to the public right of passive recreational use.

C. Each vertical accessway shall extend from the public road to the shoreline and shall be legally described as required in this Chapter.

D. Unless constrained due to factors beyond the applicant's control, as determined by the Issuing Authority for the Coastal Development Permit, vertical access easements shall be a minimum of ten feet in width, with the access easement sited and aligned so as to provide a minimum of ten feet between the accessway and the closest residence. Examples of factors which may be deemed "beyond the control of the applicant" shall include, but not be limited to, topographical constraints or the existence of a structure(s) which is non-conforming in regard to the property setbacks required by this Title.

E. Vertical access easements shall be legally conveyed and described as enumerated in this Chapter.

30.61.070 Coastal Bluff Top Access.

A. Minimum requirements. Where required pursuant to the provisions of this Chapter, the alignment of a coastal bluff top public access easement and the improvements required therein shall be designed to ensure that the accessway, once implemented, will provide the public with the permanent right of public access to and/or along the coastal bluff top.

B. Coastal bluff top accesses shall be limited to passive coastal viewing purposes only.

C. The design and alignment of required coastal bluff top accessways shall be as follows:

1. Unless constrained due to factors beyond the applicant's control, as determined by the Issuing Authority for a Coastal Development Permit,

access easements to and/or along a coastal bluff top shall be a minimum of ten feet in width, with the access easement sited and aligned so as to provide a minimum of ten feet between the accessway and the closest residence. Examples of factors which may be deemed "beyond the control of the applicant" shall include, but not be limited to, topographical constraints or the existence of a structure(s) which is non-conforming in regard to the property setbacks required by this Title.

2. Lateral Access easements shall extend landward in a parallel alignment along the coastal bluff top starting from a point five feet landward from the bluff top.

3. The improvements within the required access shall include measures necessary to prevent uncontrolled access to the adjacent coastal bluff face.

D. Coastal bluff top access easements shall be legally conveyed and described as enumerated in this Chapter.

30.61.080 Public Access Improvements - Design and Time-Use

Constraints. The design of any public access easement or improvement required pursuant to the provisions of this Chapter shall include a consideration of the characteristics of the area in which the access would be located, including the existence of sensitive habitat or fragile topographic features. Consideration shall also be given to the protection of the privacy of adjacent residential uses. These factors may, in some cases, warrant a limitation on the time, place, and manner of the public access to be provided.

30.61.090 Protection of Historic Public Use.

A. New 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. When it is found that site constraints are so severe that siting of the accessway in its historic location would significantly impair the proposed development, access may be provided in an alternative alignment and/or location on the development site. In such cases, the applicant shall provide, at a minimum, an equivalent area of public access or recreation to and along the same destination and accommodating the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with the provisions of this Chapter.

B. The requirement for provision of an access easement or improvements therein shall not serve to extinguish or waive public prescriptive rights.

C. Applications for Coastal Development Permits which involve sites where there is evidence of the existence of potential prescriptive rights shall be subject to conditions to ensure that the applicant acknowledges, in writing, that the approval of the permit or the conditions attached thereto shall not be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated easement area.

30.61.100 Recordation and Legal Description of Access Easements.

A. Access easements which are attached as conditions of approval pursuant to the provisions of this Chapter shall be described and recorded in a manner that provides the public, the property owner and the accepting agency the level of certainty as to the location of the accessway and of the allowed uses therein.

B. An easement which is required pursuant to the provisions of this Chapter shall be described as follows:

1. For lateral access:

a. Along the entire width of the property from the mean high tide line, or lagoon edge, to (as applicable) the toe of the bluff, the toe of the seawall, or other appropriate boundary.

2. For bluff top access or trail access:

a. Extending inland from the bluff edge or along the alignment of the access easement.

3. For vertical access:

a. Extending from the road to, as applicable, an intersecting lateral access, the shoreline or a coastal bluff top edge.

C. Where required pursuant to the provisions of this Chapter, an access easement shall be provided in the form of a recorded irrevocable offer to dedicate the easement area to a public agency or private association as approved by the Director of Planning and Community Development.

D. 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 past use which may have existed on the property.

E. The recorded document shall include legal descriptions, with metes and bounds as appropriate, of both the applicant's entire parcel and the easement area. The document shall also include a site plan, drawn to scale, showing the entire property and the easement area.

F. The recorded document shall include a description the type and character of the access as specified in the conditions of approval.

G. Any access easement required pursuant to this Chapter shall be offered and recorded free of prior liens and any other encumbrances which would adversely affect the interest being conveyed. To ensure compliance with this requirement, the applicant shall furnish a title report for the affected property. If review of the required title report reveals an encumbrance which would adversely affect the interest being conveyed, the required easement shall be accompanied by a written, recorded subordination agreement prepared to the satisfaction of the Director of Planning and Community Development.

H. Any offer to dedicate an easement shall run with the land in favor of the City of Del Mar. The easement shall be binding on all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recordation.

I. Once recorded pursuant to the requirements of this Chapter, a copy of the recorded Offer to Dedicate Public Access Easement shall be mailed to the closest regional office of the California Coastal Commission for filing with the Coastal Commission's Executive Director.

30.61.110 Access Management Plan.

A. Where determined appropriate in order to avoid and address potential conflicts between public access use and other uses on or immediately adjacent to the site, the requirement for provision and implementation of an Access Management Plan may be applied as a condition of approval of a Coastal Development Permit. Examples of "potential conflict" include: access in areas of sensitive habitats, agricultural resources, significant hazards, or adjoining residential neighborhoods, or military security areas.

B. An Access Management Plan required pursuant to the provisions of this Chapter shall be subject to review and approval by the accepting agency and

existing public access opportunities and the type, alignment, and design of any public access required as a condition of approval. The findings required by this Section shall include, at a minimum:

1. A statement of the individual and cumulative burdens which would be placed on public access opportunities by the proposed development based on applicable factors identified in this Chapter.
2. An analysis based on the applicable factors identified in this Chapter of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.
3. A description of the legitimate governmental interest furthered by any access condition required.
4. An explanation of how the imposition of a condition to provide public access alleviates the burdens and impacts on public access which would otherwise be created were the development to be approved and implemented without public access requirements.

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

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Chapter 30.75

COASTAL DEVELOPMENT PERMITS (CDPS)

30.75.010 Purpose.

The purpose of this Chapter is to establish a process for the review of new development within the City of Del Mar to ensure that it will be consistent with the provisions of the City of Del Mar Local Coastal Program and California Coastal Act.

30.75.020 Applicability. All properties within the City of Del Mar are located within the Coastal Zone as defined in the California Coastal Act and are subject to the provisions of this Chapter.

30.75.030 Definitions. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

A. "Aggrieved Person" shall mean any person who, in person or through a representative, appeared at a public hearing of the City of Del Mar or the California Coastal Commission in connection with the decision or action on a Coastal Development Permit application, or who, by other appropriate means prior to a hearing, informed the City of Del Mar or the California Coastal Commission of the nature of his/her concerns or who for good cause was unable to do either. "Aggrieved person" may include the applicant for a Coastal Development Permit.

B. "Appealable Development" shall mean, in accordance with the Coastal Act, any of the following:

1. A development which is approved under a Coastal Development Permit issued by the City and which is appealable to the California Coastal Commission due to its location in the area designated on the City Zone Map as the Coastal Development Permit Appeals Area. The Coastal Development Permit Appeals Area is generally composed of properties located 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.

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

2. Any development which constitutes a "major public works project" or a "major energy facility" as defined in this Chapter. The phrase "major public works" or a "major energy facility" as used in Public Resources Code Sec. 30603(a)(5) in these regulations shall mean: any proposed public works project or energy facility, as defined by Section 13012 of the Coastal Commission Regulations and the Coastal Act.

C. "California Coastal Act" or "Coastal Act" shall mean the California Coastal Act of 1976, Division 20 of the Public Resources Code, as amended.

D. "Chapter Three Policies" shall mean those policies of the Coastal Act contained in Chapter Three as amended, commencing with Section 30200, which constitute the standards by which the adequacy of Local Coastal Programs and the permissibility of proposed development subject to the provisions of the Coastal Act are determined.

E. "City " shall mean the City of Del Mar.

F. "Coastal Commission" shall mean the California Coastal Commission.

G. "Coastal Dependent Development or Use" shall mean any development or use which, in order to function at all, requires location on or adjacent to the sea.

H. "Coastal Development Permit" shall mean a permit for any development or use within the Coastal Zone that is required pursuant to the provisions of this Chapter and of subdivision (a) of California Coastal Act Section 30600.

I. "Development" shall mean on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water,

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

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. As used in this Section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. "Development" shall include the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

J. "Director" shall mean the Director of the City of Del Mar Planning and Community Development Department.

K. "Disaster" shall mean a situation in which the forces which destroyed a structure or improvement were beyond the control of its owners. The term "disaster" shall mean the same as "natural disaster."

L. "Emergency" shall mean a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

M. "Executive Director" shall mean the Executive Director of the California Coastal Commission.

N. "Energy Facility" shall mean any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

O. "Fill" shall mean any earth or material or substance, including pilings, placed for the purposes of erecting structures thereon, placed in a submerged or upland area.

P. "First Public Road Paralleling the Sea" or "First Public Road" shall mean that road nearest the sea, as defined in this Section, and which meets all of the following criteria:

1. The road is lawfully open and suitable for uninterrupted use by the public;
2. The road is maintained by a public agency;

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

3. The road contains an improved all-weather surface open to motor vehicle traffic in at least one direction;
4. The road is not subject to any restrictions on use by the public except during an emergency or for military purposes; and
5. The road connects 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.

Q. "Inland Extent of Beach" shall mean and shall be determined as follows:

1. By a distinct linear feature (e.g. a seawall, road, or bluff, etc.);
2. By the inland edge of the furthest inland beach berm as determined from historical surveys, aerial photographs and other records or geological evidence; or
3. Where a beach berm does not exist, by the furthest point separating the dynamic portion of the beach from the inland area as distinguished by vegetation, debris or other geological or historical evidence.

R. "Local Coastal Program" shall mean the City of Del Mar's Local Coastal Program (LCP), comprised of the LCP Land Use Plan and Implementing Ordinances, including the associated maps and exhibits, which have been certified by the California Coastal Commission as being consistent with and meeting the requirements of the Coastal Act.

S. "Major Public Works" shall mean a facility that costs more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of the Coastal Act.

T. "Original Jurisdiction" shall mean that area of the City of Del Mar as indicated on the LCP Post-Certification Maps wherein the authority for review of Coastal Development Permit applications rests with the California Coastal Commission pursuant to the provisions of this

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

Chapter and the Coastal Act. Areas of Original Jurisdiction are those areas within the City that comprise: tidelands, submerged lands, and/or public trust lands, whether filled or unfilled.

U. "Public Trust Lands" shall mean all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public trust lands include: tidelands, submerged lands, beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed, and which were subject to the Public Trust at any time.

V. "Public Works" shall mean and include the following:

1. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the California Public Utilities Commission, except for energy facilities.
2. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires and other related facilities.
3. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.
4. All community college facilities.

W. "Sea" shall mean the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to constant or periodic tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.

X. "Temporary Event" shall mean an activity or use that constitutes development as defined in this Chapter but which is an activity or function which is or will be of limited duration. Temporary Events, as defined herein, may involve the use of sandy beach, parkland, filled tidelands, water, streets, or parking areas which are otherwise open and available for general public use.

Y. "Submerged Lands" shall mean all lands which lie below the line of mean low tide.

Z. "Tidelands" shall mean all lands which are located between the line of mean high tide and mean low tide.

30.75.040 Permit Required

A. Unless otherwise provided in this Chapter, no development, as defined herein, shall occur unless and until a Coastal Development Permit has been granted in accordance with the provisions of this Chapter.

B. Where required pursuant to this Chapter, a valid Coastal Development Permit shall be obtained prior to the commencement of development and shall be required in addition to any other permits or approvals required by the City. The review of a Coastal Development Permit application may be combined with and/or processed concurrently with the review of any other discretionary permit application required by this Title.

C. Where the procedures described in this Chapter for review and issuance of Coastal Development Permits conflict with other procedures in this Title, the procedures described herein shall take precedence.

30.75.050 Determination of Permit Requirement, Exemption or Categorical Exclusion.

A. The Director of Planning and Community Development shall have the authority to make the following determinations regarding the requirement for receipt of a Coastal Development Permit, with such determinations to be based on the applicable components of the Local Coastal Program, including, but not limited to, the Post Certification Maps prepared by the Coastal Commission and filed with the City:

1. Whether a proposed project requires the receipt of a Coastal Development Permit or is exempt from or categorically excluded from the requirement for a Coastal Development Permit.
2. Whether the review of an application for a Coastal Development Permit, or amendment thereto, is to be processed and reviewed by the City or by the California Coastal Commission.

3. Whether the action taken by the City in its review of a Coastal Development Permit application is appealable to the Coastal Commission.

B. Where there is a challenge to a determination regarding the requirement for a Coastal Development Permit or the validity of a Coastal Development Permit exemption or Categorical Exclusion, or where the Director of Planning and Community Development wishes to have the Coastal Commission determine the appropriate designation, the following procedure shall be used:

1. The Director of Planning and Community Development shall notify the Executive Director of the Coastal Commission in writing of the challenge or request for determination and shall request an Executive Director's opinion.

2. The Executive Director shall, within two (2) working days of receipt of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable, or appealable.

3. Where the Executive Director's determination is not in accordance with the determination of the Director of Planning and Community Development, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The hearing before the Coastal Commission shall be scheduled within a reasonable period of time and shall be conducted in the appropriate geographic region of the State.

30.75.060 Permit Review Authority for Projects Crossing Jurisdictional Boundaries. Where a proposed project straddles the boundaries of the City of Del Mar and another local jurisdiction or where a proposed project straddles the boundaries of the City's Coastal Development Permit jurisdiction area and the Coastal Commission's Original Jurisdiction area, the following procedures shall apply:

A. The applicant shall obtain separate Coastal Development Permits from each jurisdiction for the corresponding portion of the proposed project within that jurisdiction area.

B. If the applicant is a public agency seeking approval for a public works project, that agency may obtain a single "Public Works Plan" approval from the Coastal Commission, in lieu of locally-issued Coastal Development Permits.

30.75.070 Coastal Development Permits Issued by the California Coastal Commission - Original Jurisdiction.

A. In addition to those City permits and approvals that are required pursuant to this Title, development located in areas of Original Jurisdiction, as shown on the Local Coastal Program Post-Certification Map shall also require the receipt of Coastal Development Permit or exemption issued by the California Coastal Commission.

B. Where the provisions of this Chapter require the receipt of a Coastal Development Permit issued by the Coastal Commission, no Coastal Development Permit issued by the City shall be required.

30.75.080 Coastal Development Permits Issued by the City - Issuing Authority, Public Hearing Required.

A. The City Council shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits, or other noted authorizations, which involve the following:

1. Applications for Local Coastal Program Amendments.
2. Appeals of decisions made by other City entities on Coastal Development Permit applications.

B. Unless otherwise specified in this Chapter, the Planning Commission shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for the following:

1. Projects located within the Bluff, Slope and Canyon Overlay Zone for which a Conditional Use Permit is also required.
2. Projects located within the Open Space Overlay Zone.
3. Projects located within the Coastal Bluff Overlay Zone.
4. Projects located within the Lagoon Overlay Zone.

5. Projects for which a Coastal Development Permit issued by the Planning Commission is also required.
6. Projects located within the Floodway Zone.
7. Applications for the subdivision of land.
8. Projects which require the receipt of a Conditional Use Permit or Variance pursuant to the provisions of this Title.
9. Applications for Interpretation of the Local Coastal Program.
10. Applications referred to the Planning Commission by the Director of Planning and Community Development pursuant to the provisions of this Chapter.

C. Unless otherwise specified, the Design Review Board shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for the following:

1. Projects which require the receipt of a Design Review Permit.
2. Projects which require the receipt of a Land Conservation Permit.
3. Applications referred to the Design Review Board by the Director pursuant to the provisions of this Chapter.

D. For projects which require the receipt of a permit or authorization from both the Planning Commission and the Design Review Board pursuant to the provisions of this Title, the Planning Commission shall serve as the Issuing Authority to review and render a determination on the corresponding Coastal Development Permit application.

E. The Director of Planning and Community Development shall serve as the Issuing Authority to render a determination on applications for Coastal Development Permits for the following:

1. Projects which qualify for Administrative Design Review pursuant to the provisions of this Title.
2. Applications for Lot Line Adjustments and/or Certificates of Compliance.

F. A public hearing shall be required for all Coastal Development Permit applications except those for which the Director of Planning and Community Development is designated as the Issuing Authority.

30.75.090 Appeal to City Council on Coastal Development Permits issued by Planning Commission, Design Review Board, and Director of Planning and Community Development. Actions on Coastal Development Permit applications rendered by the Planning Commission, Design Review Board, or Director of Planning and Community Development shall be appealable to the City Council in accordance with the provisions of the Del Mar Municipal Code.

30.75.100 Notice of Action on Coastal Development Permit Applications. Upon final action on an application for a Coastal Development Permit, the City shall, within seven (7) days of the final action, mail notice to the Executive Director of the California Coastal Commission describing the action taken by the City.

30.75.110 Coastal Development Permits Reviewed by the City - Appeals to the Coastal Commission.

A. An action rendered by the City on an application for a Coastal Development Permit which constitutes an Appealable Development, as defined in this Chapter, may be appealed to the California Coastal Commission by an Aggrieved Person in accordance with the provisions of the Coastal Act and the Coastal Commission's Administrative Regulations.

B. The period for appeal to the Coastal Commission on an action rendered by the City on a Coastal Development Permit application shall be ten (10) calendar days, commencing on the day after written notice of the City's final action on the application is received at the staff offices of the Coastal Commission.

C. Prior to appealing a decision on a Coastal Development Permit rendered by the City to the California Coastal Commission, an Aggrieved Person shall exhaust all City of Del Mar appeals processes.

30.75.120. Provision of Notice for Public Hearings.

A. Notice for Coastal Development Permit applications shall be provided in accordance with this Section.

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

B. Notice shall contain the date, place, and time set for the hearing, which shall be set for a date not less than ten (10) days nor more than forty (40) days from the date of notice. The required notice shall include all of the following:

1. A statement that the development is in the Coastal Zone.
2. The number assigned to the application.
3. A description of the proposed development and its location.
4. A brief description of the purpose of the hearing and of the public hearing process.
5. For Appealable Developments, a brief description of the appeal procedures for City of Del Mar and California Coastal Commission.

C. Notice shall be provided as follows:

1. Published once in a newspaper of general circulation within the City.
2. Mailed to all of the following:
 - a. All owners of real property within 300 feet of the exterior boundaries of the property which is the subject of the hearing with ownership as identified on County Tax Assessors' rolls;
 - b. All occupants of property within 100 feet of the exterior boundaries of the property which is the subject of the hearing; and
 - c. All parties requesting notice of the Coastal Development Permit application.
3. Posting at City Hall and on the site of the property which is the subject of the hearing.

D. Projects which are provided a Categorical Exclusion from the Coastal Development Permit requirements of this Chapter shall be exempt from the requirement for public notice except that a record of such Categorical Exclusion shall be posted at City Hall and kept on public file in

the Planning and Community Development Department, and shall be made available for review by representatives of the California Coastal Commission.

30.75.130 Application Requirements.

A. An application for a Coastal Development Permit shall be initiated by submitting an application on a form provided by the Department of Planning and Community Development. The application shall include all information and material as required in the submittal requirements for the application, including at a minimum: a location map of the project site and vicinity; a detailed description of the proposed development; proof of the applicant's legal interest in the development site; and the applicant's signature attesting to the truth, completeness, and accuracy of the submitted material. All submitted application material shall be in a form so as to allow reasonable reproduction and distribution to members of the public and interested public agencies.

B. In addition to the submittal requirements required by this Section, an application for a Coastal Development Permit shall also include any information deemed necessary and appropriate by the Director to render a determination on the application.

30.75.140 Requirement for Findings.

A. Each determination granting a Coastal Development Permit shall be supported by written findings of fact showing that each of the following conditions exist:

1. That the use for which the Coastal Development Permit is applied is permitted within the zone in which the property is located.
2. That the proposal meets the criteria of the applicable chapters of this Title.
3. That the granting of such Coastal Development Permit will be in conformity with the certified City of Del Mar Local Coastal Program.
4. That for all development proposals located seaward of the first public roadway, the proposed development is consistent with and implements the applicable requirements for provision of public access contained in this Title and in the Chapter Three Policies of Coastal Act.

5. That for all development proposals involving the construction or placement of a shoreline protection device, that the proposed development is consistent with and implements the applicable requirements of the Beach Overlay Zone and Setback Seawall Zone provisions contained in this Title and is consistent with and implements the provisions of the Chapter Three Policies of California Coastal Act.

30.75.150 Conditions on Coastal Development Permit Approvals.

A. Each Coastal Development Permit approval shall have attached to it, the conditions and safeguards deemed necessary by the Issuing Authority to ensure that the proposed use or activity fully meets and will continue to meet the provisions of this Title and of the City of Del Mar Local Coastal Program.

B. No Coastal Development Permit shall require, as a condition of approval, the dedication of land for any purpose not reasonably related to the use of property for which the Coastal Development is requested, or the posting of a bond to guarantee installation of public improvements not reasonably related to the use of property for which the Coastal Development Permit is requested.

30.74.160 Posting of Performance Bonds. Notwithstanding the provisions of this Chapter, whenever a Coastal Development Permit is granted upon any condition or limitation, the applicant(s) seeking such Coastal Development Permit may be required to furnish security in the form of cash deposit, bond, or other device in an amount deemed appropriate to ensure compliance with the conditions and limitations upon which such Coastal Development Permit is granted.

30.75.170 Expiration. Two years from the date of final approval of a Coastal Development Permit, the Permit shall expire, unless a building permit has been issued and substantial construction has been accomplished in reliance upon the Coastal Development Permit; or, where no construction is involved, where the holder of the Permit has commenced the use authorized by the Coastal Development Permit prior to its date of expiration.

30.75.180 Revocation of a Coastal Development Permit.

A. Following a public hearing held in the manner prescribed in this Chapter, the Issuing Authority for a Coastal Development Permit may revoke

or add additional restrictions or conditions to such permit if it is determined that:

1. The approval was obtained by fraud or erroneous information as presented during the review process and considered in the granting of said Coastal Development Permit.
2. That public notice of the application for the Coastal Development Permit was not provided in accordance with the requirements of this Chapter.
3. The use for which such approval is granted is not being exercised.
4. The use for which such approval was granted has ceased to exist or has been suspended for six months or more.
5. The Coastal Development Permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval or in violation of any statute, ordinance, law, or regulation.

30.75.190 Reapplications. At least one (1) year shall have elapsed since the effective date of denial of an application for or the revocation of a Coastal Development Permit before the filing of a new application seeking substantially the same Coastal Development Use Permit for any of the same property. However, the Issuing Authority for the Permit Application may, by the affirmative vote of a majority of its members, allow the processing of a denied application within one (1) year of the date of denial.

30.75.200 Exemptions. The types of development projects listed below are exempt from the requirement for receipt of a Coastal Development Permit provided such development is in conformance with all other provisions of the Municipal Code. The granting of an exemption from the requirement for a Coastal Development Permit shall not constitute or be construed as an exemption from any other permit or authorization required pursuant to the provisions of the Municipal Code.

A. The replacement of any structure, other than a public works facility, which is destroyed by disaster, provided that the replacement structure:

1. Conforms to all Zoning Code and Building Code requirements applicable at the time of replacement.

2. Is used for the same the purpose as the destroyed structure.
3. Does not exceed the floor area or height of the destroyed structure by more than 10 percent and is sited in essentially the same location on the site as the destroyed structure.

B. Categorically Excluded development projects pursuant to a certified Coastal Commission Categorical Exclusion Order.

C. Improvements to existing single-family residences except as noted below. For purposes of this Section, the term "improvements to single family residences" includes those structures and improvements normally associated with a single-family residence, such as garages, swimming pools, fences, storage sheds, and landscaping but specifically not including guest houses or accessory residential units. The exemption provided in this Section shall not apply where:

1. The proposed improvements would be located on a beach, wetland, seaward of the mean high tide line, or within 50 feet of the edge of a coastal bluff.
2. The proposed improvements would involve any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland or sand dune, or within 50 feet of the edge of a coastal bluff.
3. The proposed development would be located within the Lagoon Overlay Zone and within 50 feet of a wetland.
4. The proposed development would be located within the Bluff, Slope and Canyon Overlay Zone and would be located within 20 feet of the top or 10 feet of the bottom of a substantial steep slope.
5. The proposed improvements would be located on a property in the Coastal Development Permit Appeals Area as defined in this Chapter and as shown on the City Zoning Map and where the proposed improvement would result in an increase of 10 percent or more of floor area or an increase in height by more than 10 percent; or where the proposed development in the Coastal Development Permit Appeals area would involve any significant non-attached structure such as garages, fences, shoreline protective works, or docks.

6. The proposed improvement would involve a property for which a previously issued Coastal Development Permit indicated that any future additions on the property would require the receipt of a Coastal Development Permit.

D. Improvements to structures other than existing single-family residences and public works facilities except as noted below. For purposes of this section, the term "improvements to structures" includes all fixtures and structures attached to the structure and landscaping. The exemption provided in this Section shall not apply where:

1. The proposed improvements would be located on a beach, wetland, seaward of the mean high tide line, or within 50 feet of the edge of a coastal bluff.
2. The proposed improvements would involve any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland or sand dune, or within 100 feet of the edge of a coastal bluff.
3. The proposed development would be located within the Lagoon Overlay Zone and within 50 feet of a wetland.
4. The proposed development would be located within the Bluff, Slope and Canyon Overlay Zone and would be located within 20 feet of the top or 10 feet of the bottom of a substantial steep slope.
5. The proposed improvements would be located on a property in the Coastal Development Permit Appeals area as defined in this Chapter and as shown on the City Zoning Map and where the proposed improvement would result in an increase of 10 percent or more of internal floor area or an increase in height by more than 10 percent.
6. The proposed improvement would involve a property for which a previously issued Coastal Development Permit indicated that any future additions on the property would require the receipt of a Coastal Development Permit.
7. Any improvement to a structure which changes the intensity of use of the structure.

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

8. 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.

E. Repair and maintenance activities to existing structures or facilities that do not result in an addition to, or enlargement or expansion of, the structures. The exemption provided in this section shall not apply where the proposed repair or maintenance involves:

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

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

b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, or wetlands.

c. The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or

d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or within 50 feet of a coastal bluff or within 20 feet of coastal waters, wetlands, wetland buffer, or streams.

2. Any repair or maintenance to facilities or structures located within 50 feet of the edge of a coastal bluff or within 20 feet of coastal waters or wetlands where such repair or maintenance involves either:

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; or

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
New DMMC Chapter 30.75 Coastal Development Permits

b. The presence, whether temporary or permanent, of mechanized equipment.

F. The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development which has been granted a valid Coastal Development Permit or exemption.

G. Development excluded from Coastal Development Permit requirements as described in the Coastal Commission's Interpretive Guidelines on Exclusions from Permit Requirements as adopted pursuant to Subsections (c) and (e) of Section 30610 of the Coastal Act.

H. Interior remodeling of a building except where such remodeling is associated with a change or intensification of the use of such building.

I. The minor alteration of public facilities that are required to restore service where it is determined by the Director of Planning and Community Development that the alteration of such facilities is the minimal amount necessary to restore service to a level compatible with existing development in the area.

J. The testing, installation, or replacement of utility services and lines as follows, provided however that the exemptions specified in this Section shall not apply for major public works facilities/projects as regulated by the Coastal Act:

1. The installation, testing, or replacement of any utility connection between an existing service facility and any existing, permitted development.
2. The installation, maintenance, and repair of underground electrical facilities and the conversion of existing overhead facilities to underground facilities, provided the work is limited to public road or railroad rights-of-way or public utility easements and provided the site is restored as closely as is reasonably possible to its original condition.
3. The installation, maintenance, and minor alteration of utility improvements that do not increase the capacity of the service or which are required to restore service or prevent service outages.

K. The demolition of existing structures.

L. Temporary events for which all other permits and approvals required by the Municipal Code have been received and which meet all of the following criteria:

1. The event will not last more than three (3) (consecutive) days.
2. The event will not occupy a publicly or privately owned beach area.
3. The event will occupy a portion of a publicly or privately owned beach or park area but has been reviewed by the Director with a resulting finding that due to the proposed location and or timing of the event, there will be no adverse impact on opportunities for public use of the area.
4. The event has been reviewed by the Director with a resulting finding that the event does not have the potential to create adverse impacts on any environmentally sensitive area.

30.75.210 Listing of Permit Exemptions. Those developments which have been authorized as being exempt from the requirement for a Coastal Development Permit pursuant to this Chapter shall be recorded on a list which shall be made available for review by members of the public and representatives of the California Coastal Commission.

30.75.220 Coastal Development Permits Issued by the City for Emergency Work.

A. Projects normally requiring the prior receipt of a Coastal Development Permit from the City may be undertaken under an Emergency Permit without the prior receipt of such Coastal Development Permit. Such Emergency Permit shall be issued only when the work to be performed is undertaken in order to protect life and property from imminent danger, or to restore, repair or maintain public works, utilities or services destroyed, damaged or interrupted by natural disaster, serious accident, or in other cases of emergency where immediate action is required. Where such emergency work is undertaken, the Director shall be the Issuing Authority for an Emergency Permit.

B. An application for an Emergency Permit may be made to the Director by telephone or in person, if time does not allow a written application. Notification of the type and location of the work shall be provided within seven (7) calendar days of the disaster or emergency or discovery of the emergency, whichever occurs first. The information to be reported shall include the following:

1. The nature of the emergency.
2. The cause of the emergency, insofar as it can be established.
3. The location of the emergency.
4. The remedial protective, or preventive work required to deal with the emergency.
5. The circumstances during the emergency that appear to justify the course of action taken, including the probable consequences of failing to take such action.

C. Upon receipt of the required information, the Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows, and shall provide public notice of the emergency action to the maximum extent practical under the circumstances. In granting an Emergency Permit, the Director may attach reasonable terms and conditions which shall include, at a minimum, an expiration date for the work to be performed and a requirement for the post facto submittal of an application for a regular Coastal Development Permit within thirty (30) calendar days. The conditions may also include a requirement for the corresponding restoration of the site to its previous condition within 30 calendar days.

D. The issuance of an Emergency Permit shall be supported by findings of fact that:

1. An emergency exists and requires action more quickly than could be accommodated by the permitting process for a Coastal Development Permit prescribed in this Chapter and the development can and will be completed within thirty (30) days unless otherwise specified by the terms of the permit.
2. Public comment on the proposed emergency action has been reviewed to the extent that time allows.

3. The work proposed would be consistent with the provisions of the City of Del Mar Local Coastal Program.

E. Following the issuance of an Emergency Permit, the Director shall prepare an informational report to the City Council describing the issued Emergency Permit, with a description of the nature of the emergency and the work involved. Notice of emergency permits shall also be provided by phone or letter to the California Coastal Commission as soon as possible, but at a maximum, within three (3) working days, following issuance of the Emergency Permit.

30.75.230 Amendments to Coastal Development Permits. Unless otherwise specified herein, an application for amendment to a previously issued Coastal Development Permit shall be processed in accordance with the applicable provisions of this Chapter and the Local Coastal Program for review of Coastal Development Permit applications.

30.75.240 Applications for Coastal Development Permits Made Prior to Certification of Local Coastal Program.

A. Any Coastal Development Permit application which has been filed with the Coastal Commission before the effective certification of the Local Coastal Program, but which has not been deemed as being complete, shall be re-submitted to the City through an application for a Coastal Development Permit to be processed and reviewed pursuant to the provisions of this Chapter. Any application fee paid to the Commission shall be refunded to the applicant.

B. Any application for a Coastal Development Permit filed with the Coastal Commission which has been deemed complete may, at the request of the applicant, be continued to be processed by the Coastal Commission with application review based solely upon the requirements of the certified Local Coastal Program.

30.75.250 Severability. Nothing in this Chapter shall be construed to give any property owner a right to use any property in any manner which requires a Coastal Development Permit, unless a Coastal Development Permit for such development, activity, or use has first been granted and is in full force and effect, including all conditions attached thereto.

30.75.260 Special Regulations. In order to ensure compliance with the provisions of the Local Coastal Program, no Coastal Development Permit or exemption shall be issued or authorized for development which involves any of the following:

A. The construction of a new structure or portion thereof which exceeds twenty-six (26) feet in height, as measured pursuant to the provisions of the Municipal Code.

B. The construction of a new structure on a project site which does not conform to the lot coverage development standards for the property as specified in the underlying zone for the property.

C. The installation of a new roof top mounted sign or any new sign which exceeds eight (8) feet in height as measured pursuant to the provisions of the Municipal Code.

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

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Chapter 30.80

PARKING

30.80.010 Purpose.

A. It is the purpose of this Chapter to establish regulations pertaining to off-street parking spaces required by this Code to serve allowed and accessory uses on property within the City. (Ord. 509)

B. Every person conducting a use on property within the City shall provide permanently maintained off-street parking spaces for parking purposes only, as required by this Code.

C. When an existing use which does not provide all of the off-street parking spaces required by this Code is proposed to be enlarged such that a need for additional off-street parking spaces is generated, then there shall be required concurrently with such enlargement, the number of off-street parking spaces that is necessitated by such enlargement.

D. The parking of motor vehicles shall be without monetary charge when such parking is required in conjunction with a use permitted by this Chapter. This Section shall not prohibit confining such parking to the owners, proprietors, employees, and customers of such use.

30.80.020 [Repealed]

30.80.030 Number of Spaces: Specified Requirement. The number of off-street parking spaces required for each use shall be not less than those set forth in this Section. Mixed uses shall provide the sum of the parking spaces that would otherwise be required for each individual use, except where Shared Use of parking is permitted pursuant to this Chapter.

<u>Use</u>	<u>Parking Spaces Required</u>
Automobile sales, boat sales, retail nurseries, and other open sales and rental yards:	
(a) having less than 10,000 sq. ft. of open sales or rental area:	1 space for each 500 sq.ft. of gross floor area plus space for each 1,000 sq. ft. of open sales or rental area

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

(b) having 10,000 or more sq. ft. of open sales or rental area:	1 space for each 500 sq.ft. of gross floor area plus 10 spaces, plus 1 space for each 5,000 sq. ft. of open sales or rental space in excess of 10,000 sq. ft.
Automobile service stations and repair garages:	2 spaces for each service bay plus 1 space for each employee on the largest shift, plus 1 space for each vehicle operated or kept in connection with the use.
Banks, savings and loans, financial institutions:	1 space for each 300 sq.ft. of gross floor area
Bowling alley:	4 spaces for each alley
Childcare centers:	1 space for each 2 employees plus 1 space for each 5 children the facility is designed to accommodate
Church, theaters, auditoriums, other places of public assembly:	1 space for each 5 seats(18 lineal inches of bench-seating or 7 sq. ft. of seating floor area where there are no permanent seats)
Dance Halls and ballrooms:	1 space for each 30 sq. ft. dance floor area
Dwelling Units:	
(a) Single family	a. Two garage parking spaces for each dwelling unit b. For each dwelling with four or more bedrooms, garage parking for two automobiles with additional on-site parking for one automobile, or garage parking for three automobiles.
(b) Duplexes	
(1) For each studio or one bedroom unit:	a. Garage parking for one automobile

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

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| (2) For each two or three bedroom unit: | b. Garage parking for one automobile with additional on-site parking for one automobile, or garage parking for two automobiles. |
| (3) For each four or more bedroom unit: | c. Garage parking for two automobiles with additional on-site parking for one automobile. |
| (c) Multiple-family | |
| (1) For each studio or one bedroom unit: | a. Garage parking for one automobile |
| (2) For each two or three bedroom unit: | b. Garage parking for one automobile with on-site parking for one additional automobile, or garage parking for two automobiles. |
| (3) For each four or more bedroom unit: | c. Garage parking for two automobiles with additional on-site parking for one automobile, or garage parking for three automobiles. |
| Furniture and appliance sales: | 1 space for each 600 sq.ft. of gross floor area, plus 1 space for each vehicle operated in connection with use |
| Game courts, commercial tennis and handball: | 2-1/2 spaces for each court |
| Golf course (excludes miniature golf and driving ranges): | 10 spaces for each hole |
| Hospitals: | 1 space for each bed the facility is designed to accommodate |
| Hotels, motels, and auto courts: | |
| (a) without kitchen facilities: | 1 space for each sleeping or dwelling unit |

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

(b) with kitchen facilities:	2 spaces for each sleeping or dwelling unit
Library and museum:	1 space for each 250 sq. ft. of gross floor area
Manufacturing and industrial use and laboratories, creamery and bottling establishment, canneries, wholesale printing and engraving shops:	1 space for each 500 sq.ft. of gross floor area, plus 1 space for each space for each vehicle operated or kept in connection with the use
Miniature golf courses, golf driving ranges:	3 spaces for each hole or tee
Mobile home parks, trailer parks:	1-1/2 spaces for each mobile home or trailer site
Mortuaries, funeral homes, commercial chapels:	1 space for each 50 sq. ft. assembly room floor area
Office--medical, dental, clinical:	1 space for each 200 sq.ft. of gross floor area
Office--professional and business offices other than medical, dental or clinical:	1 space for each 300 sq.ft., of gross floor area
Office--real estate	1 space for each 200 sq. ft. of gross floor area
Post offices:	1 space for each 300 sq. ft. of gross floor area, plus 1 space for each vehicle operated or kept in connection with the use
Public utilities:	1 space for each 2 employees on the largest shift, plus 1 space for each vehicle operated or kept in connection with the use
Restaurants, bars, as well as other establishments	

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

whose primary business is the sale and on-site consumption of food and/or beverages:

(a) having less than 4,000 sq. ft. of gross floor area:

1 space for each 90 sq. ft. of gross floor area and all outdoor space, covered or uncovered, used for any restaurant purpose

(b) having 4,000 or more sq. ft. of gross floor area:

44 spaces plus 1 for each 45 sq. ft. of gross floor area in excess of 4,000 sq. ft. and all outdoor space, covered or uncovered, used for any restaurant purpose

Retail commercial, business and personal service:

(a) having not more than 5,000 sq. ft. of gross floor area:

1 space for each 300 sq.ft. of gross floor area

(b) having more than 5,000 but not more than 20,000 sq. ft. of gross floor area:

17 spaces plus 1 space for each 150 sq. ft. of gross floor area in excess of 5,000 sq. ft.

(c) having more than 20,000 sq.ft. of gross floor area:

117 spaces plus 1 space for each 100 sq. ft. of gross floor area in excess of 20,000 sq. ft.

Rest homes, children's homes, homes for the aged, nursing homes:

1 space for each 3 beds the facility is designed to accommodate

Rooming houses, lodging-houses, clubs and fraternity houses having sleeping rooms but not individual kitchen facilities:

1 space for each two sleeping rooms

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

Schools

- | | |
|---|---|
| (a) Elementary and junior high schools: | 1 space for each employee plus 5 additional spaces; playground area available for parking may be used to satisfy additional auditorium parking requirements |
| (b) High schools, vocational adult schools and adult extension schools: | 1 space for each 5 students plus auditorium parking as applicable |
| (c) Colleges and universities: | 1 space for each 3 students plus auditorium parking as applicable |
| Swimming pools for commercial or public use, ice/roller skating rinks: | 1 space for each 100 sq.ft. of swimming pool or skating rink surface area |
| Veterinarians: | 1 space for each 200 sq. ft. of gross floor area, excluding overnight animal holding areas |
| Warehouse and storage facilities: | 1 space for each 1,000 sq. ft. of gross floor area |

30.80.040 Number of Spaces: Determination of Requirement. Where ambiguity exists in the application of off-street parking requirements, or where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the Planning Commission and such determination shall be based upon the requirements for the most comparable use specified herein.

30.80.050 Computing Number of Spaces. When the provisions of this Chapter require a fractional part of an automobile parking space, a remaining fraction of one-half space or more shall be construed as one space; a remaining fraction of less than one-half space shall be disregarded.

30.80.060 Design of Spaces.

A. Size.

1. Each off-street standard parking space shall be a minimum of 8-1/2 feet by 18 feet, exclusive of area required to gain access to such space. Off-street parking spaces provided for commercial, office or industrial projects shall be double striped. (Refer to City of Del Mar standards for parking space design and layout.)
2. When a required parking space for a one-family structure is not to be provided in a covered garage or carport, each such space shall be not less than 200 square feet.
3. Each one-car garage required pursuant to the provisions of this Chapter (garage parking for one automobile) shall be a minimum of 200 square feet in size.
4. Each two-car garage required pursuant to the provisions of this Chapter (garage parking for two automobiles) shall be a minimum of 400 square feet in size.
5. Each three-car garage required pursuant to the provisions of this Chapter (garage parking for three automobiles) shall be a minimum of 600 square feet in size. (Ord. 580)

B. Location. Off-street parking required by this Chapter shall be located:

1. On the same site as the use necessitating such parking; or
2. Subject to an Off-Site Parking Permit.

C. Access from Street to Space. All parking spaces required by this Chapter shall be serviced by adequate ingress and egress as provided for herein:

1. Access to parking areas of six spaces or less and serving only residential uses shall have an unobstructed, permanently surfaced driveway not less than 10 feet in width, and said driveway shall not exceed a maximum width of 20 feet at the street line and at any point within the required front yard or required side yard abutting a street.
2. Access to parking areas serving other than residential uses, or serving seven or more parking spaces, shall have an unobstructed, permanently surfaced driveway not less than 10 feet in width for one-way driveways and 20 feet in width for two-way driveways, and shall have a maximum width of 25 feet required front yard or

required side yard abutting a street. A suitable turnaround area shall be provided for each such parking area to enable all vehicles using such parking area to enter the street in a forward manner.

D. Aisle dimensions for parking lots shall, at a minimum, conform to the dimensions shown on the "parking layout" on file in the Planning Department.

30.80.070 Conflict with Use of Street or Alley

A. Unless otherwise provided, no portion of a street or alley be counted as a part of a required parking space.

B. All parking spaces and driveways shall be so located and designed as to avoid undue interference with the public use of streets or alleys.

30.80.080 Standards. All parking and turnaround areas shall be subject to the same restrictions governing accessory buildings as defined in the zone in which such parking area is located; except that tandem parking may be permitted within the front yard setback area where there is no alley access.

30.80.090 Town and Country Parking. Town and country or angle parking, with access from Camino del Mar, shall be permitted within that portion of the Central Commercial Zone lying between 11th Street on the south and 13th Street on the north, provided, however, that:

1. The design of such parking, including location, parking angle, dimensions, walkways, landscaping and lighting, shall be subject to the approval of the Design Review Board, or City Council on appeal;
2. When town and country parking is permitted in conjunction with the construction of new buildings, such buildings shall be set back not less than 20 feet from the right-of-way of Camino del Mar. Side yard and rear yard requirements cited elsewhere in this Title shall not be modified as a result of these town and country parking requirements.
3. When town and country parking is permitted in conjunction with the construction of new buildings, at least 30 percent of the required parking shall be located within the rear 50 percent of the lot; except, however, that this provision shall not apply if the total number of required parking spaces can be provided by the town and country configuration;
4. The property owner shall execute and record with the Office of the County Recorder, a sidewalk and landscape easement not less than 10 feet in width, giving

the public rights of access over said private property. The language of such easement shall be approved by the Director of Planning and Community development prior to recordation. Maintenance of improvements constructed within the easement area shall be the responsibility of the property owner;

5. Parking provided partially on private and partially on public right-of-way as herein approved shall be credited against off-street parking required by this Chapter.

6. Landscape peninsulas into public rights-of-way shall be required at all street corners, and at minimum, between every 10 parking spaces. Such peninsulas will be provided with tree forms and indirect lighting.

7. To maintain acceptable safety standards, a "minimum dimensions" illustration shall be kept on file in the Planning Department. Parking angles and dimensions should be designed to align with the adjacent parking configuration insofar as possible.

30.80.100 Improvement and Maintenance of Commercial Parking Spaces. All commercial parking areas, including parking spaces, access aisles and driveways, shall be developed and maintained in the following manner:

A. Off-street parking areas shall be paved or otherwise surfaced and maintained so as to eliminate dust or mud, and shall be so graded and drained as to dispose of all surface water into public drainage systems. The design and improvement of parking areas shall prevent runoff water from draining across public sidewalks.

B. Automobile parking spaces and access aisles shall be designed and/or marked or otherwise made clearly identifiable to assure safe and convenient automobile circulation.

C. Walls, fences, and trees within or adjacent to parking areas shall be protected by permanently affixed curbing or wheel stops located not closer than four feet from such wall, fence, or tree to be protected.

D. Any lighting used to illuminate parking areas shall be decorative, low level lights of not more than fifteen feet in height. Such lights shall be arranged and designed so as to reflect away from any public street or from any property used for residential purposes.

E. Surface parking areas containing three or more parking spaces shall be separated from adjacent street or streets, except for driveways and access routes, by a wall or fence not less than two feet nor more than three feet and six inches in height located three or more feet within the property line(s) adjacent to such street or streets. Said three

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

foot or more setback area from the street property line shall be landscaped and maintained in accordance with the applicable provisions of this Section.

F. Where surface parking containing three or more parking spaces abuts property in an R1, RM, or R2 Zone, a solid wall, view obscuring fence, or compact evergreen hedge shall be erected and maintained. Such wall, fence, or hedge shall be six feet in height above the surface of the parking area; except, that within the area of the front yard setback, the maximum height shall not exceed three feet six inches. No such wall, fence or hedge need be provided where the elevation of that portion of the parking area immediately adjacent is six feet or more below the elevation of such R1, RM, or R2 Zone.

G. In addition to other required landscaping, a minimum of 10 percent of surface, off-street parking areas shall be landscaped with trees and shrubs in accordance with the following criteria:

1. Trees shall be used wherever suitable, and all trees shall be of a variety listed on the most current street tree list approved by the City Planning Commission.
2. Landscape areas shall be located throughout the parking area in such a manner as to reasonably interrupt the expanse of paving or the mass of parked automobiles.
3. All required landscaping shall be contained in planting areas with a minimum average width of three feet and a minimum area of sixteen square feet. Planting areas shall be separated from adjacent parking areas by curbing not less than six inches in height.
4. All required trees upon planting shall be at least fifteen gallon or comparable size, with a minimum height of five feet.
5. All trees shall be in good condition upon planting and shall be placed in holes of sufficient size and backfilled with appropriate organic matter/ topsoil mix to assure successful growth.
6. All trees shall be adequately staked or guyed.
7. All required planting shall be permanently maintained in good growing condition by the property owner and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required fences and walls shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.
8. All landscape areas shall be served by an adequate, permanently installed irrigation system.

H. Plans for proposed parking areas shall be submitted to the City prior to the issuance of any building permit for such parking area or building for which the parking is accessory. Such plans shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, drainage, and other features and appurtenances of the proposed parking area.

30.80.110 Common Parking Permit. Common parking facilities for two or more uses may be provided in lieu of individual requirements, provided that the construction of 12 or more such spaces shall be first approved by the Planning Commission, or City Council on appeal. Total parking requirements for common facilities shall be the sum of all uses computed separately, except where Shared Use parking is permitted pursuant to this Code.

30.80.120 Shared-Use Parking Permit. Where two or more non-residential uses will be operated in a manner where there will be no substantial overlap in the hours of operation of the uses, a portion of the off-street parking required for one or more of the uses(s) may be provided in shared use parking spaces.

A. Shared Use parking shall be subject to the receipt of a Shared Use Parking Permit from the Planning Commission. In reviewing an application for a Shared Use Parking Permit, the Planning Commission shall apply the following standards and requirements:

1. The applicants shall demonstrate that there will be no substantial overlap in the principal operating hours of the buildings or uses for which the shared use parking spaces are proposed. For purposes of this section, the term "no substantial overlap" shall mean that, on a daily basis, there will be at least one hour between the time of closing of one use or activity and the opening of the other use or activity for which shared parking is proposed. The requirement for separation of hours of use enumerated herein shall not apply to normal support services such as cleaning and maintenance operations
2. Not more than 25 percent of the number of off-street parking spaces required by this Chapter for a use or activity may be satisfied through the use of shared use parking spaces.
3. Parking spaces to be used for shared use parking shall be unencumbered for any uses or activities other than those for which the Shared Use Parking Permit is proposed.
4. All shared use parking spaces shall meet the location, design and layout requirements for off-street parking spaces specified in this Chapter.

B. Any proposal for Shared Use parking which is to be located off site, shall be also subject to the receipt of an Off-Site Parking Permit as required by this Chapter.

C. Shared Use Parking Permits approved pursuant to the provisions of this Chapter shall be subject to the recordation of a covenant against the deed for the property on which the shared use parking spaces are located. The purpose of the covenant shall be to memorialize the terms and conditions of the Shared Use Parking Permit and to inform subsequent property owners and business operators of the restrictions on use and parking which apply to the site. The recorded covenant shall specify the operating hours, as conditioned, of the businesses for which a Shared Use Parking Permit has been approved.

30.80.130 Off-Site Parking Permit. An application for an Off-Site Parking Permit shall be subject to approval by the City Council and shall be subject to the following requirements:

A. The proposed location of all required parking shall be within a 300-foot walking distance measured from the nearest point of the parking facility to the nearest point of the commercial building that such parking is required to serve

B. The proposed location of all required parking shall be within the same zone as commercial building that such parking is required to serve.

C. The property on which the off-site parking is to be located and the property containing the use for which off-site parking is to be provided shall be subject to one of the following requirements:

1. The property shall be owned by the same owner or owners of the lot or parcels containing the building or uses to be served by the off-site parking spaces and shall be recorded with the County Recorder's office to be an inseparable part of the lot or parcels containing such buildings or uses; or
2. The property shall be held in a 99-year lease by the same owner or owners of the lot or parcels containing the building to be served by the off-street parking or uses or by the owner of the business to be served by the off-street parking. Said 99-year lease shall remain in effect as long as the parking facilities are required and the owner or owners of the lot or parcels containing said parking records an agreement with the County Recorder's office as a covenant running with the land for the benefit of the City, guaranteeing that such owner or owners and their heirs, assigns, or successors in interest, will continue to maintain said parking facilities for the use necessitating the Off-Site Parking Permit for as long as the building or use the off-site parking spaces they are intended to serve is retained.

City of Del Mar
LCP Implementing Ordinances Draft 10/15/98
Modified DMMC Chapter 30.80 - Parking

D. The property containing the commercial building for which the of-site parking is to be provided shall be subject to the recordation of a covenant identifying the location of the off-site parking and the associated lease agreements which facilitate the continued use of the off-site parking.

[This Chapter of the Municipal Code forms a portion of the City of Del Mar Local Coastal Program Implementing Ordinances. The regulations found within this Chapter are not subject to "relief" through the Del Mar Variance process. Exceptions to, or relief from, the requirements found within this Chapter are limited to those specified within the language of this Chapter or found within other Chapters of the Implementing Ordinances.]

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City of Del Mar

Local Coastal Program Implementing Ordinances

Exhibits (Two pages each):

- **Zone Map of Underlying Zones**
- **Zone Designations/Allowed Uses**
- **Location of Bluff, Slope and Canyon Overlay Zone**
- **Location of Lagoon Overlay Zone**
- **Location of Coastal Bluff Overlay Zone**

RC
RM-CENTRAL

Pacific Ocean

RR
R1-5

- Residential Designations**
- R1-40 Very Low Density
 - R1-14 Modified Low Density
 - R1-10 Low Density
 - R1-10B Low Density-Beach
 - R1-5 Medium Density Single Family
 - R1-5B Medium Density Single Family-Beach
 - RM-East Medium Density Mixed-East
 - RM-West Medium Density Mixed-West
 - RM-Central Medium Density Mixed-Central
 - RM-South Medium Density Mixed-South
 - R-2 High Density
 - CVPP Carmel Valley Promise Plan

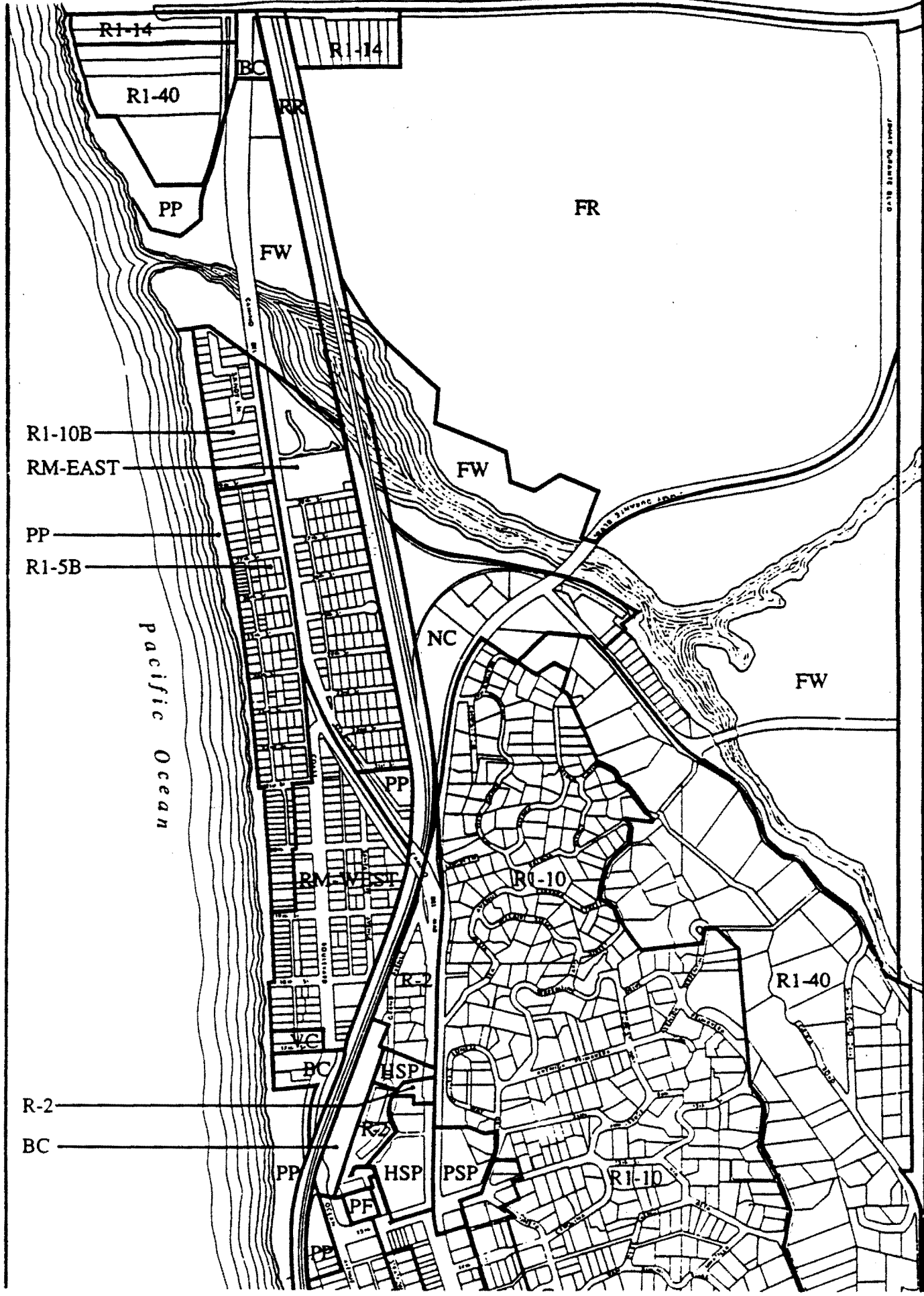
- Commercial Designations**
- RC Residential-Commercial
 - CC Central Commercial
 - BC Beach Commercial
 - PC Professional Commercial
 - NC North Commercial
 - VC Visitor Commercial

- Miscellaneous Designations**
- PSP Plaza Specific Plan
 - HSP Hotel Specific Plan
 - FR Fairgrounds-Racetrack
 - RR Railroad Right-of-Way
 - FW Freeway
 - PP Public Parkland
 - PF Public Facilities

**CITY OF DEL MAR
LOCAL COASTAL PROGRAM
IMPLEMENTING ORDINANCES
ZONE MAP**



R1-14



ZONE MAP (CONTD.)

**CITY OF DEL MAR
LOCAL COASTAL PROGRAM
IMPLEMENTING ORDINANCES**

ZONE DESIGNATIONS /ALLOWED USES

CC	Retailing of goods and dispensing of services, (exclusive of drive-through). Shops, Delis, Restaurants, Cafes, Florists, Hardware, Offices, Financial institutions, Pharmacies, Gasoline service stations*, Bars*, Cocktail lounges*, Theatres*, Vet clinics*, Hotels/Motels*.
BC	Retailing, renting or dispensing of services, (exclusive of drive-through). Beach equipment rental, Outdoor recreational facilities, Cafes, Restaurants. Any principal use in CC Zone*.
NC	Repair shops, Blueprinting, Manufacturing, Restaurants, Art and Technical studios, Offices, Warehouses. Gasoline service stations*, Bars*, Cocktail lounges*, Theatres*, Hotel/Motel*, Vet clinics*, Kennels*, Refuse recycling centers*.
PC	Offices; professional, medical, dental; banks and financial institutions (exclusive of drive through); Parking lots, Parking garages.
VC	Hotels, Motels, Boarding houses and Lodging houses.
FR	Regulated by 22nd Agricultural District.
RR	Railroad facilities, related structures*.
FW	(No permanent structures) Aviaries, open crops, Aquaculture, Open recreational uses.
PP	Public parks, beaches, Playgrounds, Ecological preserves.
PF	Public schools; City, County, State and Federal buildings; Utility structures.

* provided a Conditional Use Permit has first been obtained and is in full force and effect.

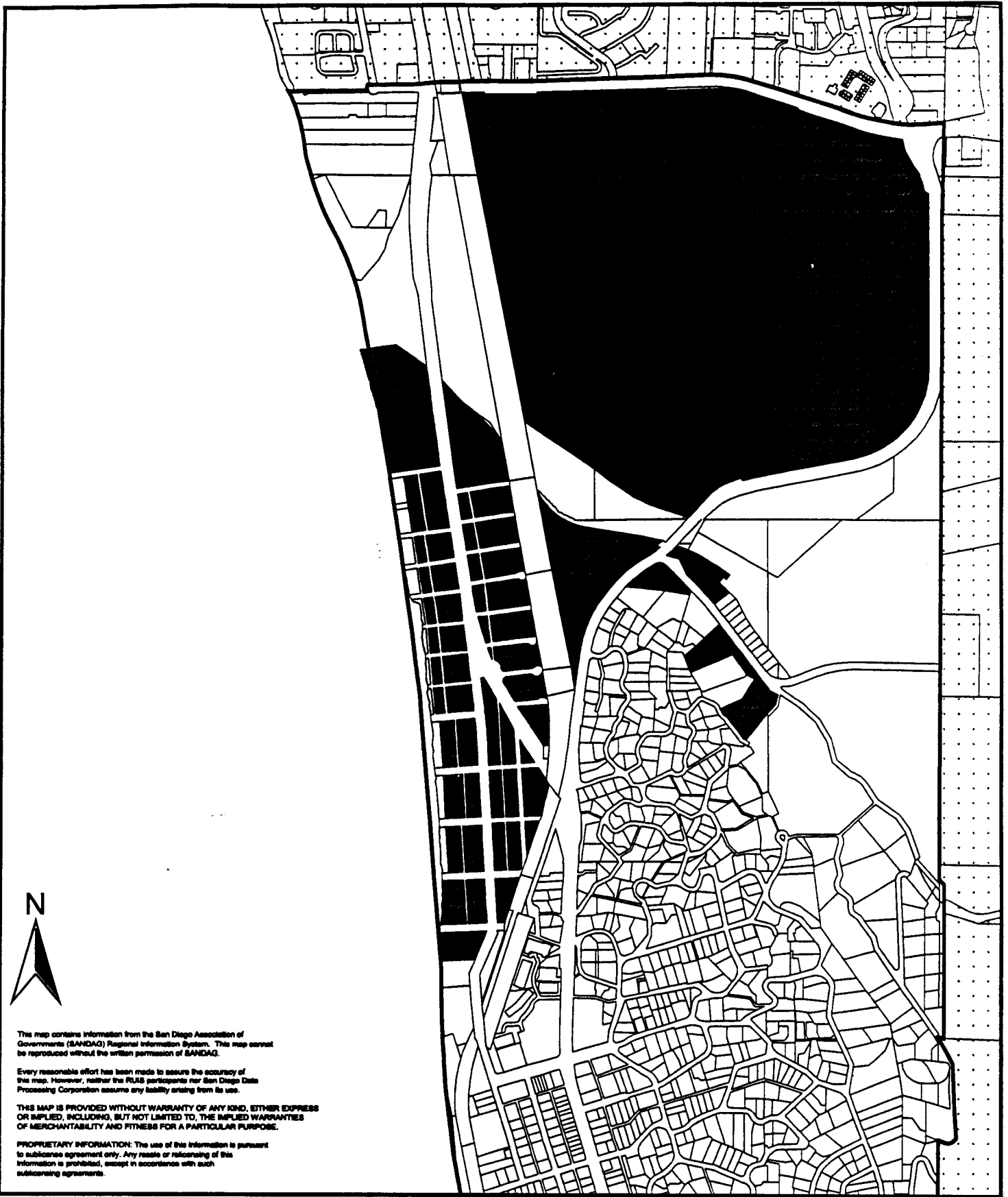
HSP **Uses as allowed per the Hotel Specific Plan**

PSP **Uses as allowed per the Plaza Specific Plan**

**CITY OF DEL MAR
LOCAL COASTAL PROGRAM
IMPLEMENTING ORDINANCES**

ZONE DESIGNATIONS /ALLOWED USES

R1-40	Single Family Residences at a density of 1 dwelling unit/net ac.
R1-14	Single Family Residences at a density up to 3.1 d.u./net ac.
R1-10	Single Family Residences at a density up to 4.3 d.u./net ac.
R1-10B	Single Family Residences at a density up to 4.3 d.u./net ac.
R1-5	Single Family Residences at a density up to 8.7 d.u./net ac.
R1-5B	Single Family Residences at a density up to 8.7 d.u./net ac.
RM-East	Single Family, Duplex and Clustered* Residences at a density up to 8.8-17.5* d.u./net ac. Day Nurseries*, Care Centers*
RM-West	Single Family, Duplex* and Clustered* Residences at a density up to 8.8-17.6* d.u./net ac. Day Nurseries*, Care Centers*
RM-Central	Single Family, Duplex* and Clustered* Residences at a density up to 6.3-12.5* d.u./net ac. Churches*, Day Nurseries*, Care Centers*
RM-South	Single Family, Duplex and Multiple Family Dwellings at a density of 10.9-12.5* d.u./net ac. Boarding houses, Resthomes, Fraternity houses.
R-2	Single Family, Duplex and Clustered* Residences at a density up to 8.8-12.5 d.u./net ac. Day Nurseries*, Care Centers*
RC	Allowed uses in R-2 Zone (at least 60% of floor area on site). Allowed uses in CC Zone (no more than 40% of floor area on site).
CVPP	Uses as allowed per Carmel Valley Precise Plan with floor area ratios and design constraints contained therein.



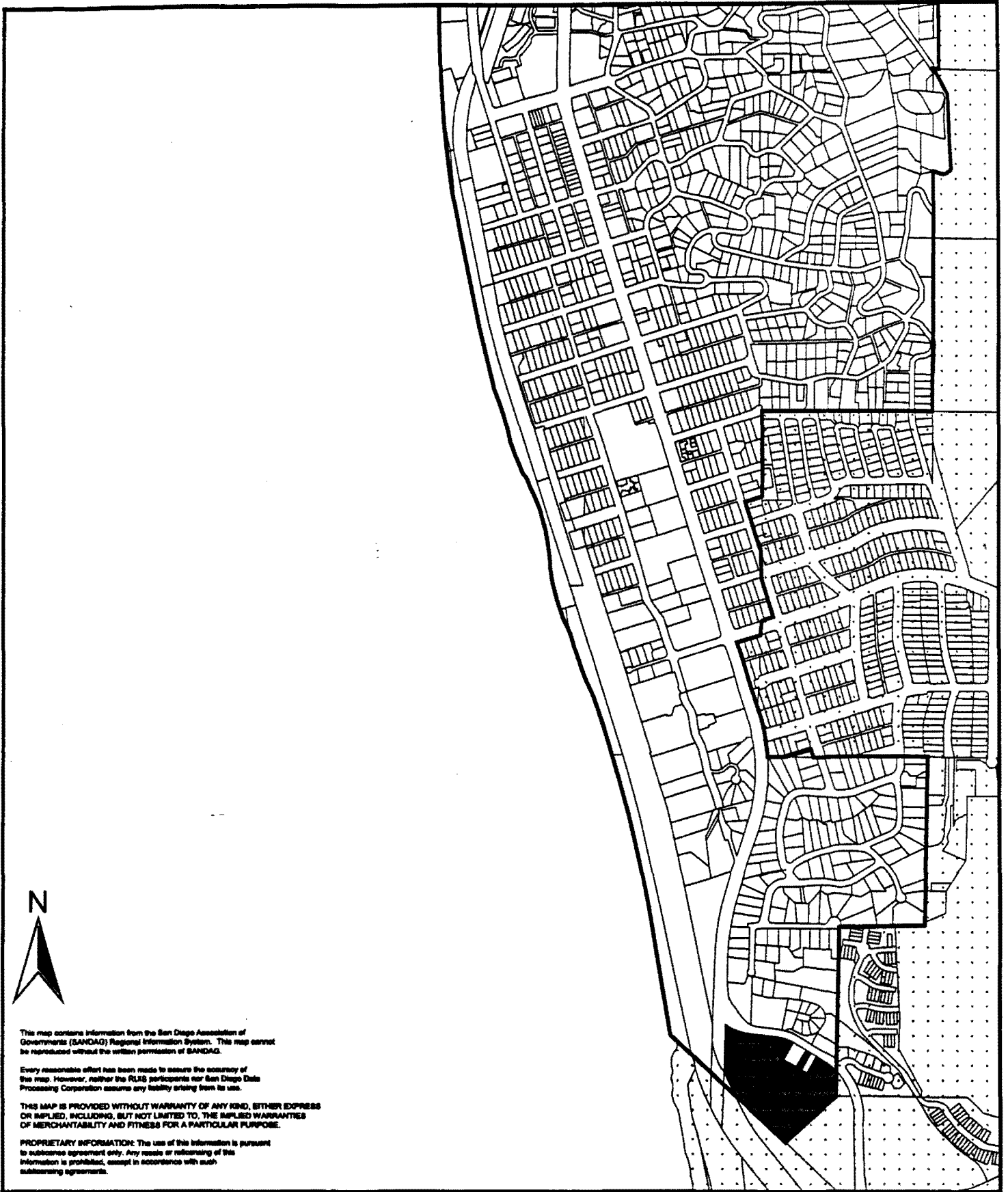
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City of Del Mar Local Coastal Program Implementing Ordinances Location of Floodplain Overlay Zone



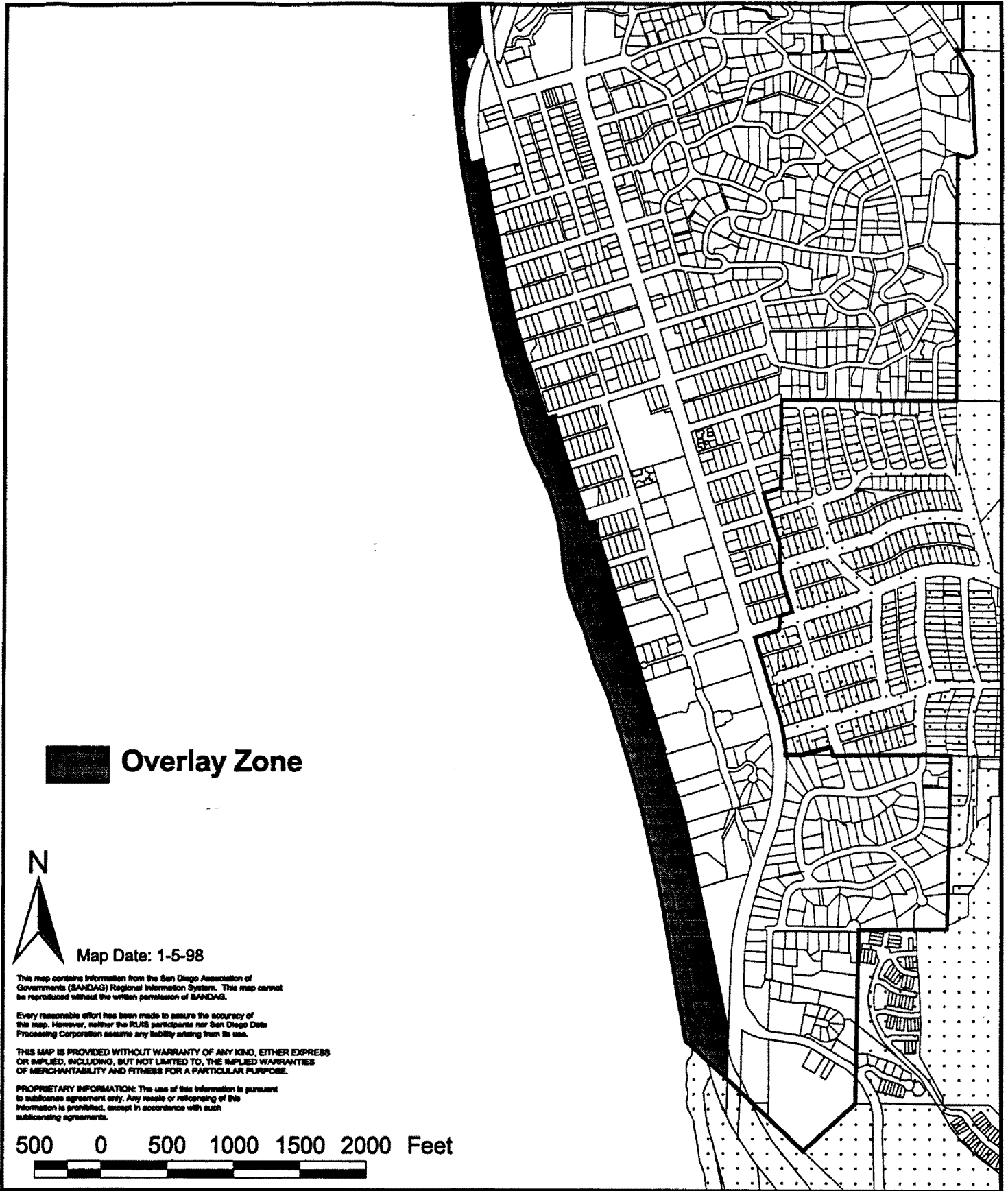
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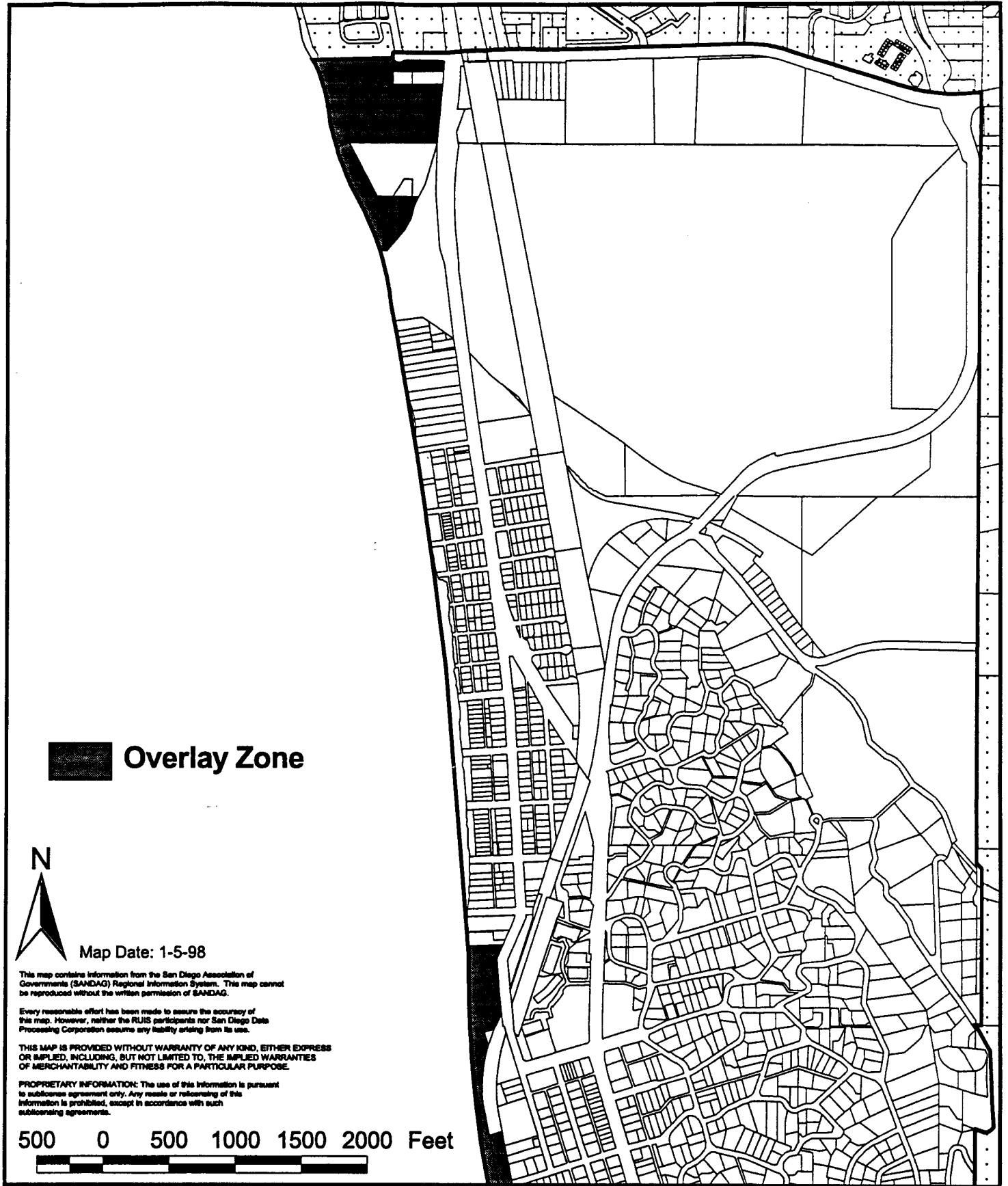
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City of Del Mar Local Coastal Program Implementing Ordinances Location of Floodplain Overlay Zone



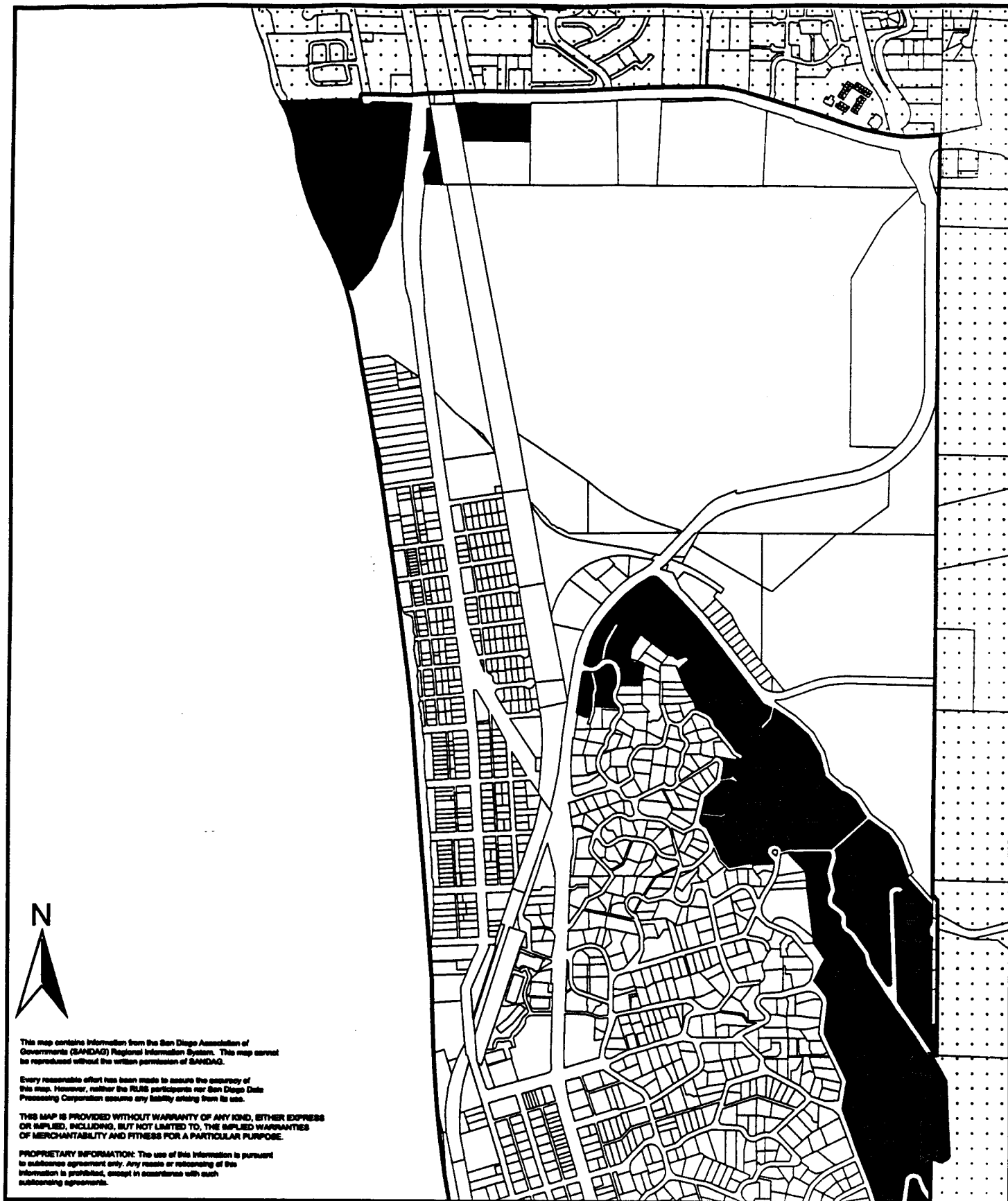
City of Del Mar Local Coastal Program Implementing Ordinances

Location of Coastal Bluff Overlay Zone



City of Del Mar Local Coastal Program Implementing Ordinances

Location of Coastal Bluff Overlay Zone



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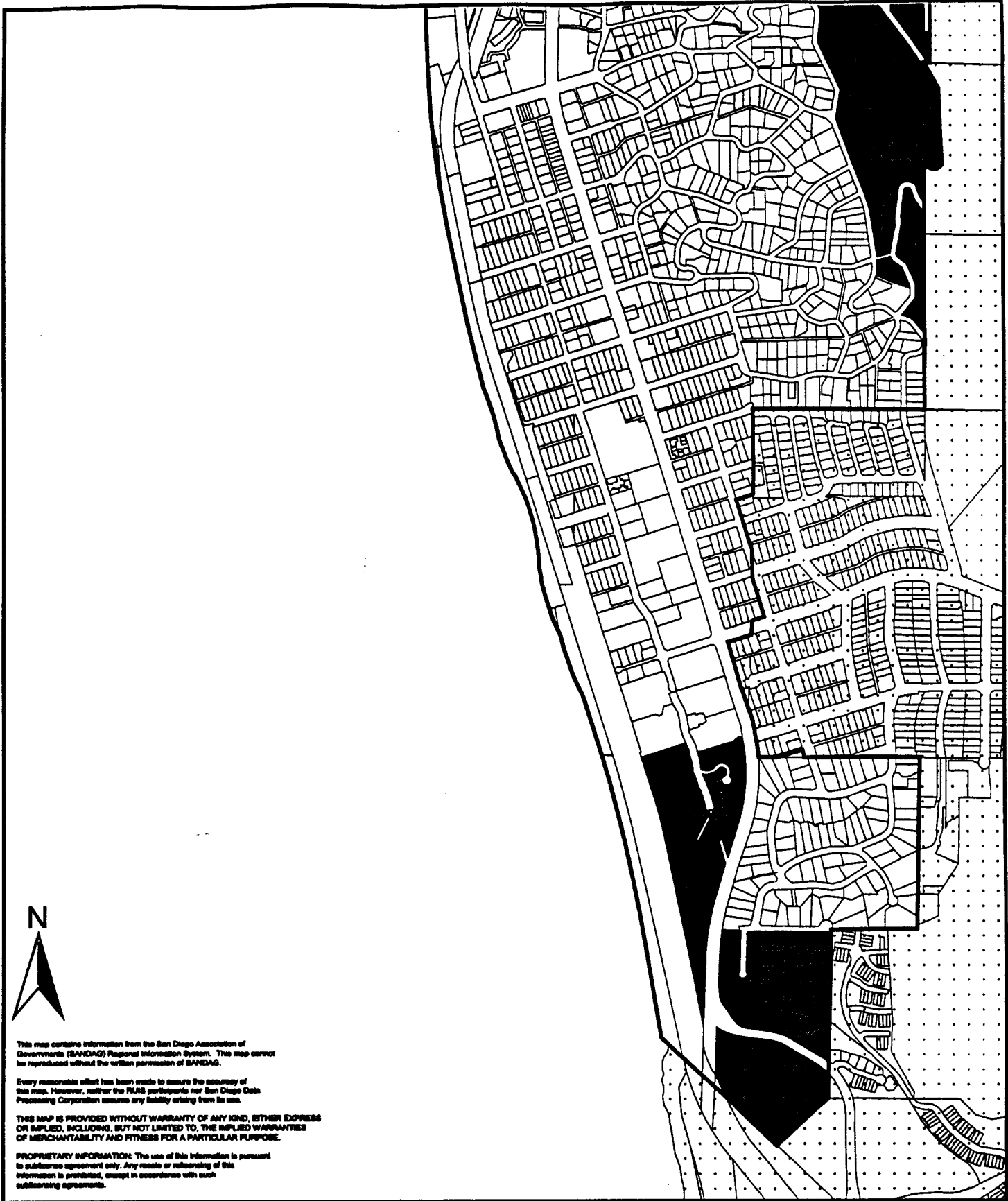
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City of Del Mar Local Coastal Program Implementing Ordinances

Location of Bluff, Slope and Canyon Overlay Zone



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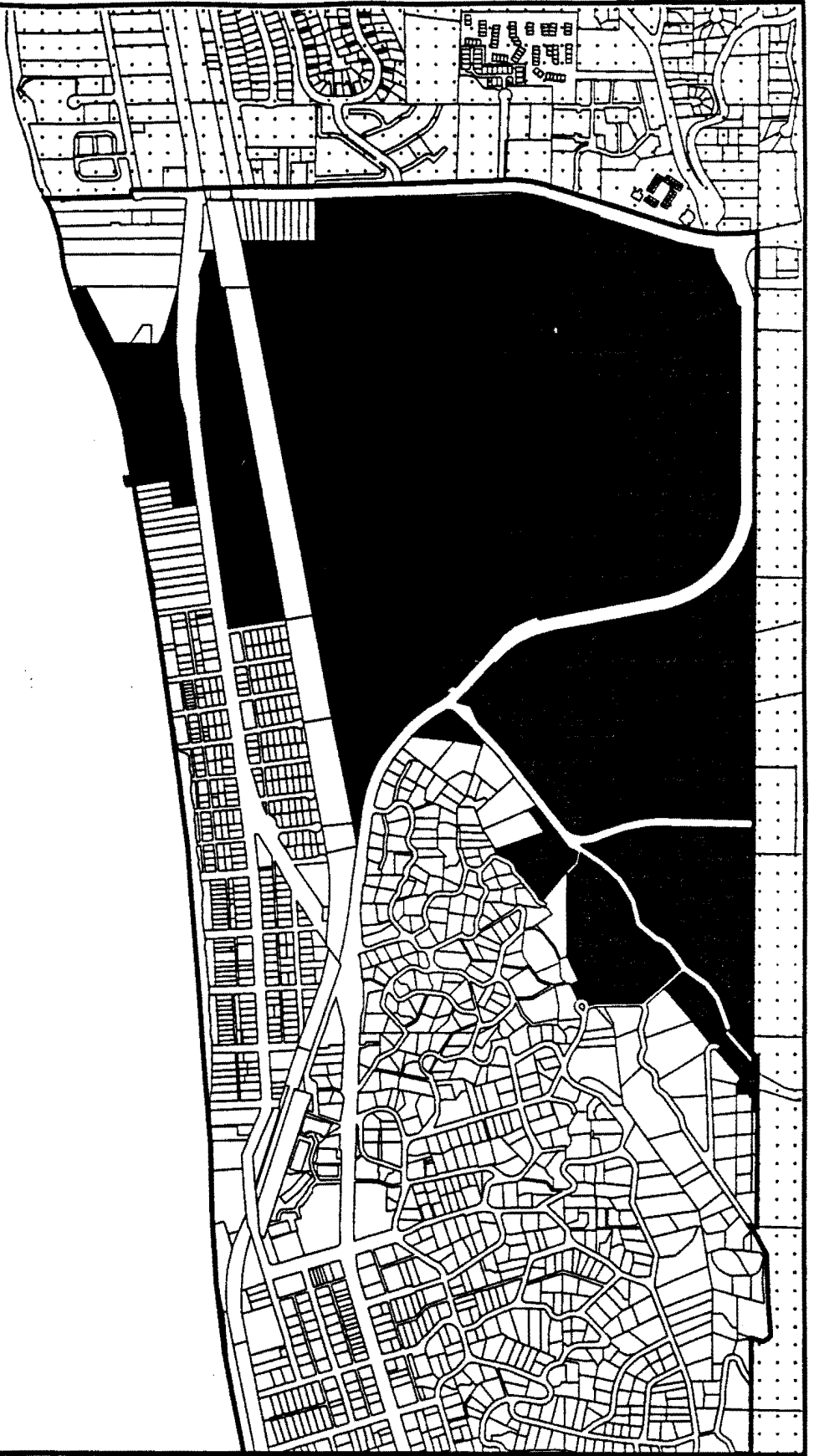
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City of Del Mar Local Coastal Program Implementing Ordinances

Location of Bluff, Slope and Canyon Overlay Zone



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City of Del Mar Local Coastal Program Implementing Ordinances

Location of Lagoon Overlay Zone



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City of Del Mar Local Coastal Program Implementing Ordinances

Location of Lagoon Overlay Zone