STATE OF CALIFORNIA – THE RESOURCES AGENCY PETE WILSON, *Governor*

CALIFORNIA COASTAL COMMISSION
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Th14b

Date: May 14, 1999

TO: COMMISSIONERS AND INTERESTED PERSONS

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

SUBJECT: REVISED FINDINGS ON CITY OF SAN DIEGO MAJOR LCP AMENDMENT #1-98B (LAND DEVELOPMENT CODE) (For Public Hearing and Possible Commission Action at the Meeting of June 8-11, 1999)

SYNOPSIS

SUMMARY OF COMMISSION ACTION

The portion of the City of San Diego LCP amendment submittal which is the subject of this report includes the Land Development Code and support documents. The Land Development Code (LDC) is a complete rewrite of all the City development regulations contained in the Municipal Code. The LDC and support documents would replace or amend City zoning ordinances and implementing actions which have been previously certified by the Commission as part of the certified City of San Diego Local Coastal Program (LCP). The LDC has been developed as part of a multi-year public planning process and is also principally designed to implement the Multiple Species Conservation Program (MSCP) within the entire City of San Diego. The entire Land Development Code has not been submitted by the City for incorporation into the LCP.

The City Council also directed the submittal of the following support documents which will be in a document entitled the Land Development Manual. The guidelines have been submitted for certification by the Commission as consistent with the Coastal Act and include the following: Coastal Bluffs and Beaches Guidelines; Steep Hillside Guidelines; Biology Guidelines; Landscape Standards; and, Historical Guidelines.

On December 24, 1997, the City of San Diego submitted the subject amendment package. However, the amendment request was not formally filed until May 8, 1998. At the Commission's July 1998 hearings, a time extension of up to one year was granted for the amendment package. The amendment submittal and a preliminary staff recommendation were presented to the Commission in October, 1998. The public hearing was opened and testimony was taken from the City and interested members of the public. The Commission then continued the matter to the February, 1999 hearing with the intent that all parties would work together to try and narrow the areas of disagreement.

Between the October 1998 and February 1999 meeting, Commission staff met on numerous occasions with City staff and the public, to reduce the number of issues needing resolution. For the October 1998 hearing, staff was suggesting a modification that would establish a separate set of ESL regulations that are applicable within the coastal zone and include the standards of review provided in the certified land use plans. In this way, the remainder of the LDC would have been unmodified and applicable to development in the areas of the City outside the coastal zone. The City opposed this method, preferring that staff's suggested modifications

be melded into the City's ordinance rather than creating a separate document; staff has used this method with the suggested modifications enclosed herein.

The significant issues which remained unresolved between the City and Commission staff at the February 1999 hearing related to permitted uses within wetlands, encroachment limitations on steep hillsides containing environmentally sensitive lands, the development permit process, the application of the environmentally sensitive lands regulations and affordable housing. The Commission made several significant changes to the suggested modifications being recommended by staff which are reflected in these revised findings.

Specifically, the Commission modified the section of the Development Regulations for Steep Hillsides which would be applicable in the Coastal Overlay Zone. The changes to the regulations would eliminate the "sliding scale" approach to limiting encroachment onto steep hillsides that are sensitive either for habitat value, scenic amenities or potential geologic hazard, and replace it with the approach proposed by the City in the Land Development Code. The LDC proposes a maximum allowable development area which, depending on the method of application, could allow for less encroachment into steep hillsides on sites containing less than 91% steep hillsides than the "sliding scale" would allow. Therefore, the Commission accepted the City 's approach with additional limitations on more highly constrained parcels, i.e. those sites containing 91% or more steep hillsides, and with clear direction that any permitted encroachment into steep hillsides is discretionary and not permitted by right. Also, the Commission did not certify the Steep Hillside Guidelines and, instead, required that the guidelines be revised to more clearly identify the criteria for determining under what circumstances discretionary encroachment into steep hillsides may be permitted. The Steep Hillside Guidelines must be resubmitted for Commission review and approval prior to effective certification of the Land Development Code.

Additionally, the Commission modified the section of the Environmentally Sensitive Lands Regulations (ESL) addressing the deviation process. The suggested modifications include an application process and findings to assure that deviations from the ESL regulations may be granted only to the extent necessary to avoid denial of all economically viable use of a premises. Staff had previously recommended limiting the application of the deviation process to only those instances when the applicant asserts that the limited uses permitted within wetlands (Section 143.0130) would not allow an economically viable use. The Commission action broadened the potential application of the deviation process to all provisions of the ESL, not just permitted uses in wetlands. The change made by the Commission required revisions in several places, both within the LDC and the guidelines, to assure the approved language is consistent with the Commission action. Those revisions have been incorporated into the suggested modifications contained in this report. The findings required to approve a deviation have been modified to eliminate the reference to Section 143.0130 and conform to the Commission action.

Other concerns addressed by the suggested modifications include the adequacy of parking and curb cut restrictions within the Beach Impact Area of the City, permitted uses in Commercial Visitor zones, the kinds of temporary events that require a Coastal Development Permit, and the adequacy of the proposed Coastal Development Permit Ordinance, which significantly revises the current coastal development permit process that the City presently administers. The majority of the remaining modifications are intended to clarify which regulations are not applicable in the Coastal Overlay Zone or to make simple technical corrections. The suggested modifications to the ESL regulations within the coastal zone do not result in any conflicts with the Multiple Species Conservation Program Subarea Plan as it is adopted by the City Council.

It is not staff practice to reattach the City's LCPA submittal to staff reports for Revised Findings. And, in this particular case, the Land Development Code and the Land Development Manual constitute a large submittal package. However, if there are any Commissioners who wish to obtain a copy of the submittal package, please contact Commission staff.

COMMISSION VOTES

San Diego LCPA 1-98B, reject implementation amendment, as submitted:

Commissioners Voting "Yes": Chairman Areias, Vice Chairman Wan, Commissioners Herron, Dettloff, Flemming, Kehoe, Reilly and Tuttle.

Commissioners Voting "no": none

San Diego LCPA 1-98B, approve implementation amendment, with suggested modifications:

Commissioners Voting "Yes": Chairman Areias, Vice Chairman Wan, Commissioners Herron, Brothers, Dettloff, Flemming, Kehoe, Nava, Potter, Reilly and Tuttle.

Commissioners Voting "no": none

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment #1-98B may be obtained from Sherilyn Sarb, District Manager, at (619) 521-8036.

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OVERVIEW

A. CONTENT OF CITY OF SAN DIEGO LCP AMENDMENT

The portion of the City of San Diego LCP amendment submittal which is the subject of this report includes the Land Development Code and support documents. The Land Development Code (LDC) is a complete rewrite of all the City development regulations contained in the Municipal Code. The LDC and support documents would replace or amend City zoning ordinances and implementing actions which have been previously certified by the Commission as part of the certified City of San Diego Local Coastal Program (LCP).

The entire Land Development Code has not been submitted by the City for incorporation into the LCP. The City Council also directed the submittal of the following support documents for certification by the Commission as consistent with the Coastal Act. They are:

1. Coastal Bluffs and Beaches Guidelines;
2. Steep Hillside Guidelines;
3. Biology Guidelines;
4. Landscape Standards; and,
5. Historical Guidelines.

The City intends to include the above guidelines in a document entitled the Land Development Manual. Additionally, the Land Development Manual will contain the application instructions for deviations from the Environmentally Sensitive Lands Regulations. The Steep Hillside Guidelines have not yet been certified by the Coastal Commission. The Steep Hillside Guidelines must be reviewed and approved by the Commission prior to effective certification of the Land Development Code.

B. ORGANIZATION OF THE REPORT

This report constitutes revised findings in support of the Commission's February 4, 1999 action on City of San Diego LCPA #1-98B Land Development Code. This report is divided into five main parts. First, the introductory section which includes a historical perspective of the City's local coastal program development, a brief description of the City's coastal zone, an identification of the current submittal's contents, the standards for Commission review of the implementation program, and a section on public participation. The second part consists of the resolutions for rejection of the implementation program, as submitted, and subsequent approval with suggested modifications. For the ease of the reader, the suggested modifications as approved by the Commission are also included in this section. The third section consists of the findings to support rejection of the implementation program, as submitted. The fourth section contains the findings to support approval of the implementation plan, if modified pursuant to the suggested revisions. The fifth section addresses conformance with CEQA.

C. ACKNOWLEDGEMENT OF CITY EFFORTS

While the LCP process by nature concentrates on unresolved issues, the Commission and its staff do wish to acknowledge the City's dedication and on-going efforts to administer the local coastal program. The current Implementation Plan resubmittal is a substantial effort that has involved a great deal of cooperation between agencies and members of the public. Considering the complexity of the issues dealt with in the LCP, the geographic diversity and size of the City and the various social, economic and political forces

affecting the planning process, the progress is commendable. The time and efforts expended by the City to fulfill the mandates of the Coastal Act are truly appreciated.

Due to the size of the submittal and workload constraints, the staff has had to focus on the unresolved issues and the purpose of the recommended suggested modifications. As a result, the staff report does not include adequate mention of the significant amount of resource protection provisions which have been incorporated in the City's code in response to the Multiple Species Conservation Program (MSCP). The submittal is a result of significant effort on the part of the City to work with the resource agencies to reach agreement on the implementation of the MSCP and to develop the Multi-Habitat Planning Area. The Coastal Commission review is the final step toward a local coastal program that meets the requirements of the Coastal Act, as well as the MSCP and the California Environmental Quality Act.

PART I. INTRODUCTION

A. BACKGROUND/LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve (12) parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments; the status of those submittals is as follows:

1.	North City	- certified as resubmitted January 13, 1988; Torrey Pines LUP Update certifed on February 8, 1996
2.	La Jolla/La Jolla Shores	- certified as submitted on April 26, 1983
3.	Pacific Beach	- certified as Update resubmitted on May 11, 1995
4.	Mission Beach	- certified as submitted on July 13, 1988
5.	Mission Bay	- certified with suggested modifications on November 15, 1996
6.	Ocean Beach	- certified as resubmitted on August 27, 1985
7.	Peninsula	- certified as resubmitted on August 27, 1985
8.	Centre City/ Pacific Highway Corridor	- certified with suggested modifications on January 13, 1988
9.	Barrio Logan/ Harbor 101	- certified as submitted on February 23, 1983
10.	Otay Mesa/Nestor	- certified as submitted on March 11, 1986

11.	Tia Juana River Valley	- certified as submitted on July 13, 1988
12.	Border Highlands	- certified as submitted on July 13, 1988

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would involve a single unifying submittal. This was achieved in January, 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future.

B. GEOGRAPHIC DESCRIPTION OF CITY'S COASTAL ZONE JURISDICTION

The City of San Diego represents one of the largest metropolitan centers in the State of California and includes one of the larger coastal zone areas in the State in terms of geography and population. The City's coastal zone stretches from the City of Del Mar, the recently incorporated City of Solana Beach, and the unincorporated County areas in the north to the international border with Mexico on the south. The demographics are such that the northernmost and southernmost communities within the City's coastal zone are relatively undeveloped while the portions of the City near San Diego Bay and Mission Bay are highly urbanized.

In terms of coastal zone resources, the City is indeed fortunate; of these resources, the most significant ones are:

- the intensely used sandy beach areas in Ocean Beach, Mission Beach, Pacific Beach and La Jolla;

- the wetland areas of statewide and national importance including: portions of San Dieguito Lagoon, Los Penasquitos Lagoon, Mission Bay and the Tia Juana National Estuarine Sanctuary;

- the major inland canyon systems in the North City communities, with their environmentally sensitive habitats and scenic qualities; and,

- the major visitor-serving destination areas within and surrounding Mission Bay and the La Jolla community itself.

However, it is these very resources, along with related public access opportunities and constraints, which make the balancing of the demands to develop in the coastal zone versus demands to preserve its resources so difficult. The competing demands are most evident in the Mission Bay, La Jolla and North City areas. It is in these areas where the Commission has reviewed major residential subdivisions, industrial parks and commercial developments that pose the greatest impact to the above identified resources.

C. CONTENTS OF CURRENT LCP IMPLEMENTATION PLAN RESUBMITTAL

The City of San Diego has resubmitted the implementation program for its LCP. Section 30513 of the Coastal Act requires the Implementation Plan to include the zoning ordinances, zoning district maps and all other implementing measures necessary to carry-out the provisions of the various certified land use plan segments. Numerous rezonings, modifications to existing City ordinances and the creation of several new ordinances are proposed by the City to implement the policies of its land use plans. It should be noted that the Commission does not have before it the entire City Planning and Zoning Regulations portion of the Municipal Code. Furthermore, the City has not submitted all sections of the Land Development Code as part of the Local Coastal Program.

The City's submittal includes, but is not limited to, the following documents:

Chapter 11, titled "Land Development Procedures"

Chapter 12, Article 2, titled "Land Use Plans"

Chapter 12, Article 3, titled "Zoning"

Chapter 12, Article 6, titled "Development Permits"

Chapter 12, Article 7, titled "Previously Conforming Premises and Uses"

Chapter 13, Article 1, titled "Base Zones"

Chapter 13, Article 2, Division 1, titled "General Rules for Overlay Zones"

Chapter 13, Article 2, Division 2, titled "Airport Approach Overlay Zone"

Chapter 13, Article 2, Division 4, titled "Coastal Overlay Zone"

Chapter 13, Article 2, Division 5, titled "Coastal Height Limit Overlay Zone"

Chapter 13, Article 2, Division 6, titled "Sensitive Coastal Overlay Zone"

Chapter 13, Article 2, Division 7, titled "Mobilehome Park Overlay Zone"

Chapter 13, Article 2, Division 8, titled "Parking Impact Overlay Zone"

Chapter 13, Article 2, Division 9, titled "Residential Tandem Parking Overlay Zone"

Chapter 13, Article 2, Division 10, titled "Transit Area Overlay Zone"

Chapter 13, Article 2, Division 11, titled "Urban Village Overlay Zone"

Chapter 13, Article 2, Division 14, titled "Community Plan Implementation Overlay Zone"

Chapter 14, Article 1, titled "Separately Regulated Use Regulations"

Chapter 14, Article 2, titled "General Development Regulations"

Chapter 14, Article 3, titled "Supplemental Development Regulations"

The proposed rezonings are addressed in Ordinance No. 18446 which establishes new single unit zones in the Urbanized, Planned Urbanizing and Future Urbanizing areas. The rezonings do not involve any changes to the type of development or density permitted on a property; they only

change the name of the zones. In the urbanized areas, some additional development regulations will be applicable. Any changes to the type of development permitted on a property or changes to open space zones to implement the MSCP will require a separate LCP amendment.

D. STANDARDS FOR COMMISSION REVIEW

The standard for Commission review of the Implementation Plan is found in Section 30513 of the Coastal Act. It states:

> Section 30513
>
> The local government shall submit to the commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions, which are required pursuant to this chapter.
>
> If within 60 days after receipt of the zoning ordinances, zoning district maps, and other implementing actions, the commission, after public hearing, has not rejected the zoning ordinances, zoning district maps, or other implementing actions, they shall be deemed approved. The commission may only reject zoning ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform or which it finds will not be adequately carried out together with its reasons for the action taken.

The implementation program must therefore be consistent with and adequately detailed and structured to carry out the provisions of the certified land use plan segments.

E. PUBLIC PARTICIPATION

The City has held numerous community planning group meetings, workshops, Planning Commission hearings and City Council meetings with regard to the City's Land Development Code preparation. On this amendment alone, there have been many such public forums. Consistently, the most widely discussed issues pertaining to the coastal zone have involved wetlands preservation, protection of steep hillsides, critical public views protection, the adequacy of the proposed coastal development permit process to carry out the provisions of the certified land use plans, the ministerial and lessened discretionary nature of the proposed development review process and concerns about reduced opportunities for public involvement.

PART II RESOLUTIONS AND SUGGESTED MODIFICATIONS

The Commission rejected the City's implementation program as submitted and then approved the plan with suggested modifications. For the ease of the reader, all of the relevant resolutions for these two actions are cited here. Furthermore, the suggested modifications are also detailed here.

The Commission adopted the following resolutions following the public hearing:

A. RESOLUTION FOR REJECTION OF THE CITY'S IMPLEMENTATION PLAN

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

B. RESOLUTION FOR CERTIFICATION OF THE IMPLEMENTATION PLAN, IF MODIFIED

The Commission hereby approves certification, except for those geographic areas defined in PART III. B., of the Implementation Plan of the City of San Diego LCP based on the modifications and findings set forth below on the grounds that the zoning ordinance, zoning map, and other implementing measures conform with and are adequate to carry out the provisions of the Land Use Plan as certified. There are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the approval of the Implementation Plan if modified, would have on the environment.

SUGGESTED MODIFICATIONS FOR LAND DEVELOPMENT CODE AS CERTIFIED BY THE COASTAL COMMISSION ON FEBRUARY 4, 1999

Chapter 11/Article 1/Division 1: General Rules for Land Development Code

1. **Section 111.0101(c), Title,** shall be revised to read:

   Chapter X, Article 3 of the Municipal Code contains regulations pertaining to Planned Districts as adopted by the City and shall constitute a part of the Land Development Code.

2. **Section 111.0104, Retention of Existing Ordinances, Rules, or Regulations**, shall be revised to read:

   Where the Land Development Code imposes a greater restriction upon development than is imposed or required by other ordinances, rules, or regulations, the provisions of the Land Development Code ~~control~~ supercede those other ordinances, rules, or regulations unless otherwise specifically stated.

Chapter 11/Article 2/Division 1: Applications

3. **Section 112.0103, Consolidation of Process,** shall be revised to read:

   When an *applicant* applies for more than one permit, map, or other approval for a single *development*, the applications shall be consolidated for processing and shall be reviewed by a single decision maker. The decision maker shall act on the consolidated application at the highest level of authority for that *development* as set forth in Section 111.0105. The *findings* required for approval of each permit shall be considered individually consistent with Section 126.0105.

Chapter 11/Article 2/Division 3: Notice

4. **Section 112.0301(b)(1)(G), Types of Notice**, shall be revised to read:

(b) Notice of Future Decision. A Notice of Future Decision shall be provided for an application for a permit or other matter acted upon in accordance with Process Two.

(1) Content. The Notice of Future Decision shall include the following information:

(G) An explanation that the decision to approve, conditionally approve, or deny the proposed *development* will be made by City staff, without a public hearing, and that the *decision date* will not be less than 11 *business days* after the date of mailing the Notice of Future Decision to allow for a sufficient time for public comment.

5. Section 112.0301(c)(1)(H), Types of Notice, shall be revised to read:

Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, or Process Five, or on an appeal of a Process Two, Process Three, or Process Four decision.

(1) Content. The Notice of Public Hearing shall include the following information:

(H) A brief description of the general procedures concerning the conduct of hearing and local actions and [t]he procedure and requirement for filing an appeal. For Process Three or Process Four public hearings, the definition of an *interested person* for purposes of appeal.

6. Section 112.0302(a), Notice by Mail, shall be revised to read:

(a) General Provisions. When the Land Development Code requires a Notice of Application, Notice of Future Decision, Notice of Public Hearing, or other mailed notice, the notice shall be postage prepaid and addressed to the persons identified in Section 112.0302(b). Notice by mail shall be considered complete at the time of deposit in the United States Mail. ~~Notice by hand delivery may be substituted for notice by mail at the discretion of the City.~~

7. Section 112.0302 (b)(2), (c) and **(d)(3), Notice by Mail**, shall be revised to read:

(b) Persons Entitled to Notice. Except as provided in Section 112.0302(c), the Notice of Application, Notice of Future Decision, and Notice of Public Hearing shall be mailed to the following:

(2) All ~~tenant~~ addresses located within 300 feet of the boundary of the real property that is the subject of the application, including each address within a condominium or apartment complex;.... [and]

(c) Alternative to Mailed Notice. If the number of tenants and owners to whom notice would be mailed in accordance with Section 112.03029B) is greater than 1,000, notice may be given by placing a display advertisement of at least one-eighth page in a newspaper of general daily circulation within the City in lieu of mailing, unless the noticing is required for a coastal development permit.

(d) Notice Address

(3) A notice mailed to a tenant address shall be addressed ~~"Resident"~~ "Tenant".

8. Section 112.0306, Notice for Coastal Development Permits, shall be revised to read:

All notices for a coastal development permit shall include a statement that the development is within the Coastal Overlay Zone, the date of filing of the application and the number assigned to the application. When a coastal development permit is to be considered under Process Two or at a public hearing, the City Manager shall mail a Notice of Future Decision or Notice of Public Hearing to the California Coastal Commission and all persons requesting notice on Coastal Development Permits. This notice shall be provided in addition to the other notices required by this division. Notices for appealable Coastal Development Permits shall include provisions for appeals to the California Coastal Commission.

Chapter 11/Article 2/Division 5: Decision Process

9. Section 112.0503(b), Process Two, shall be revised to read:

(b) Decision Process. The designated staff person may approve, conditionally approve, or deny the application without a public hearing. The decision shall be made no less than 11 *business days* after the date on which the Notice of Future Decision is mailed to allow for a sufficient time for public comment. This 11 *business days* minimum time frame for a staff decision will be extended by a period not to exceed an additional 20 *business days* to allow time for a recommendation by a recognized community planning group, if requested by the group's chair, or the chair's designee [....]

Chapter 11/Article 3/Division 1: Definitions

10. Section 113.0103, Definitions, shall be revised to read:

Appealable Area means the area, as defined by California Public Resources Code Section 30603, within the coastal zone that constitutes the appeal jurisdiction of the Coastal Commission. This area includes lands 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 tideline of the sea where there is no beach, whichever is the greater distance; or within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff. The appealable area is shown on Map Drawing No C-730, on file in the office of the City Clerk as Document No. 00-17067-1; however, this map may be updated as appropriate and may not include all lands involving post-LCP certification appeal jurisdiction.

Channelization means the filling or substantial alteration of the floodplain and any artificial *flood* control works designed and constructed to contain all of a specified *flood* event.

Coastal bluff means an escarpment or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, ~~or~~ folding, or excavation of the land mass that has a vertical relief of 10 feet or more and is in the coastal zone.

Coastal bluff edge means the ~~seaward-most~~ termination of the top of a coastal bluff where the downward gradient of the land surface begins to increase more or less continuously until it reaches the general gradient of the *coastal bluff face*. See Section 113.0219 for additional information on determining the *coastal bluff edge*.

Coastal development means "development" as defined in the California Coastal Act of 1976, Section 30106 in the Coastal Overlay Zone, which states "development" means, 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, 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 and kelp harvesting. 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.

Fill means any soil, excavated or dredged material, riprap, rock, concrete, construction debris, pilings, sand or other material or substance that is added to any location on a premises.

Local Coastal Program has the same meaning as stated in the California Coastal Act of 1976, Section 30108.6, which states: "*Local Coastal Program* means a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resource areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level."

Open fence means a fence that has at least 35 percent of the vertical surface area of each 6-foot section open to light. Within the Coastal Overlay Zone, open fence means a fence designed to permit public views and that has at least 75 percent of its surface area open to light.

Temporary event means an activity or use of limited duration that involves the placement of non-permanent structures and/or involves exclusive use of sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use. For purposes of this definition, limited duration means a period of time which does not exceed a two week period on a continual basis, or does not exceed a consecutive four month period on an intermittent basis.

Chapter 11/Article 3/Division 2: Rules for Calculation and Measurement

11. Section 113.0228, Determining Existing Grade, shall be revised to read:

(a) *Existing grade* is the ground elevation of the surface of a *premises* that has never been *graded* or, for a premises that has been *graded*, outside the Coastal Overlay zone, the ground elevation that existed on March 4, 1972. Within the Coastal Overlay Zone, existing grade on *premises* that has been graded shall be determined pursuant to Section 113.0228 (b) and (c). This is illustrated in Diagram 113-02F.

Chapter 12/Article 6/Division 1: General Development Permit Procedures

12. Section 126.0105, Findings for Development Permit Approval, shall be revised to read:

An application for a *development permit* may be approved only if the decision maker determines `that the *development*, as proposed or as conditioned, meets all *findings* for all required that permits as provided in Chapter 12, Article 6, Divisions 2 through ~~6~~8. If the decision-maker determines that any of the *findings* are not met, the application shall be denied. The decision-maker shall record the decision in writing and shall specify the evidence or statements presented that support the *findings*.

13. Section 126.0111 Revise (e) and (f) and change g to h, Add new (g) Extension of Time of a Development Permit, to read:

(e) *Findings* for Approval. An extension of time, except for a Coastal Development Permit, may be approved without new conditions, if the decision-maker makes both of the following findings:.....

(f) *Findings* for Conditional Approval. An extension of time, except for a Coastal Development Permit, may be approved with new conditions is the decision-maker makes one of the following findings:.....

(g) *Findings* for Approval for Extension of Time for a Coastal Development Permit. An extension of time for a Coastal Development Permit may only be approved if the decision maker makes all of the following findings:

(1) The project as originally approved would not place the occupants or the proposed development or the immediate community in a condition dangerous to their health and safety;

(2) There are no changed circumstances which would affect the project's consistency with the Local Coastal Program; and,

(3) No new condition is required to comply with state or federal law.

14. Section 126.0112, Minor Modifications to a Development Permit, shall be revised to read:

A proposed minor modification to an approved *development permit* may be submitted to the City Manager to determine if the revision is in *substantial conformance* with the approved permit. If the revision is determined to be in *substantial conformance* with the approved permit, the revision shall not require an amendment to the *development permit*. Within the Coastal Overlay Zone, any substantial conformance determination shall be reached through a Process Two review.

15. Section 126.0113(b), Amendments to a Development Permit, shall be revised to read:

(b) A proposed change in use from one use category to another or the change, addition, or deletion of a use within the same use category may require an amendment to a Neighborhood Use Permit or a Conditional Use Permit, depending on the uses allowed by the permit

(e) Within the Coastal Overlay Zone, a proposed change in use which will result in a change in intensity of use requires an amendment or a new Coastal Development Permit.

Chapter 12/Article 6/Division 7: Coastal Development Permit Procedures

16. Section 126.0702(b), When a Coastal Development Permit Is Required, shall be revised to read:

(b) Permits Issued by the Coastal Commission. A Coastal Development Permit or exemption ~~requirements~~ for all ~~proposed~~ *coastal development* on a project site located ~~partially or~~ completely within the Coastal Commission Permit Jurisdiction or in the Deferred Certification Area must be obtained from the Coastal Commission. The Coastal Commission Permit Jurisdiction and the Deferred Certification Area are shown on Map No. C-730.1 on file in the Development Services Department, the San Diego office of the Coastal Commission, and in the office of the City Clerk as Document No. 00-17067-1.

(c) Permits Issued by the City and the Coastal Commission. A Coastal Development Permit or exemption issued by the City and the Coastal Commission are required for all *coastal*

development on a *premises* located partially within the Coastal Commission Permit jurisdiction. A Coastal Development Permit from each agency is required for the portion of the project within the agency's jurisdiction.

17. Section 126.0704(a),Exemptions from a Coastal Development Permit, shall be revised to read:

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit.

(a) Improvements to existing *structures* are exempt, except if the improvements involve any of the following:

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

(2) Improvements to any *structure* that would result in an increase of 10 percent or more of interior *floor* area or an additional improvement of 10 percent or less where an improvement to the structure had previously been exempted; an increase in building height by more than 10 percent where the *structure* is located between the sea and first public roadway paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater distance. The first public roadway is shown on Map No. C-730.1 filed in the office of the County Recorder as Document No. 00-17069.

(3) Improvements that result in an intensification of use. For purposes of ~~this s~~Section 126.0704, intensification of use means a change in the use of a *lot* or *premises* which, based upon the provisions of the applicable zone, requires more off-street parking than the most recent legal use on the property ~~did any legal use of the *lot* within the 12 months immediately preceding the date of application for a construction permit.~~

(4) 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.

(5) The demolition or removal of 50% or more of the exterior walls of the existing structure.

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

(7) Any significant non-attached structures such as garages, fences, shoreline protective works or docks on property 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 of the sea where there is no beach, whichever is the greater distance.

(8) Any improvement to a structure where the *coastal development permit* issued for the original structure indicated that any future improvements would require a development permit.

18. Section 126.0704(b), Exemptions from a Coastal Development Permit, shall be revised to read:

(b) Repair or maintenance activities are exempt except if the repairs or maintenance involve any of the following:

(1) Repair or maintenance of a seawall, revetment, bluff *retaining wall*, breakwater, groin, culvert, outfall, or similar shoreline work that involves: substantial alteration to the foundation of the protective work ~~*structure*~~ including pilings and other surface or sub-surface structures; the placement, whether temporary or permanent, of riprap, artificial berms of sand or other beach materials, or any other forms of solid materials on a beach or in coastal waters, streams, *wetlands*, estuaries or on a shoreline protective work ~~wall,~~ unless destroyed by natural disaster; the replacement of 20 percent or more of the materials of an existing *structure* with materials of a different kind; the placement, whether temporary or permanent, of mechanized construction equipment on any sand area, *coastal bluff*, or within 20 feet of coastal waters or streams, except that the use of such equipment solely for routine beach and park maintenance shall not require a Coastal Development Permit.

(2) Any repair or maintenance to facilities or *structures* or any work located within a *wetland*, any sandy beach area, within 50 feet of a *coastal bluff edge* or *wetland*, or within 20 feet of any coastal waters or streams that include: the placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials or the presence, whether temporary or permanent, of mechanized equipment or construction materials. ~~except that *public utility* repair and maintenance, as provided under Section 126.0704(c), below, shall not require a Coastal Development Permit.~~

(c) Any development that has been categorically excluded pursuant to Categorical Exclusion Order No. X.

(d) A *temporary event* which does not meet all of the following criteria:

(1) The event is held between Memorial Day weekend and Labor Day; and,

(2) The event will occupy all or a portion of a sandy beach or public parking area; and,

(3) The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

However, a *temporary event* which does not meet all of the above criteria may require a Coastal Development Permt if the City Manager determines the event has the potential to adversely affect public access to the shoreline and/or environmentally sensitive lands, and the event involves any of the following circumstances:

(4) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive lands;

(5) The event is scheduled between Memorial Day weekend and Labor Day and would restrict or close to the public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;

(6) The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

19. Section 126.0707(c),~~(b)~~, Decision Process for a Coastal Development Permit, shall be revised to read:

(c) Conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision 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. When conditions pertaining to public access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

(d) When more than one permit, map or other approval is required for a single development, the applications shall be consolidated and the action of the decision-maker shall be considered one consolidated action. In the Coastal Overlay Zone, findings shall be consolidated and shall constitute the findings of the coastal development permit. For decisions involving *coastal development* within the *appealable area,* the entire consolidated decision is appealable to the Coastal Commission.

(e) Any coastal development involving a subdivision pursuant to the Subdivision Map Act and any other division of land requires a *Coastal Development Permit.* The land division shall be processed as part of the *Coastal Development Permit* in accordance with the Subdivision Regulations (Chapter 14, Article 4) and Subdivision Procedures (Chapter 12, Article 5). Any tentative map, lot line adjustment, merger, public right-of-way vacation or public easement abandonment may be approved or conditionally approved only if the decision maker makes the findings pursuant to Section 126.0708.

20. Section 126.0708(a), (b) (c) and (d), Findings for Coastal Development Permit Approval, shall be revised to read:

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes the following *findings*:

(a) The proposed *coastal development* will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program land use plan*; and the proposed *coastal development* will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the ~~nor will it significantly obstruct identified views to and along the ocean and other scenic coastal areas from *public vantage points* as identified in a~~ *Local Coastal Program land use plan*;

(b) The proposed *coastal development* will not adversely affect environmentally sensitive lands ~~sensitive coastal resource areas; and~~

(c) The proposed *coastal development* ~~will conform with the *Local Coastal Program*~~ is in conformity with the certified Land Use Plan and complies with all regulations of the certified Implementation Program.

(d) For every *coastal development permit* issued for any *coastal development* between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the *coastal development* is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

21. Section 126.0708 (e) shall be added as follows:

(e). Supplemental Findings Environmentally Sensitive Lands Within the Coastal Overlay Zone

When a deviation is requested from the environmentally sensitive lands regulations because the applicant contends that application of the regulations would result in denial of all economically viable use, the coastal development permit shall include a determination of economically viable use.

A Coastal Development Permit, or a Site Development Permit in the Coastal Overlay Zone, required in accordance with Section 143.0110 because of potential impacts to environmentally sensitive lands where a deviation is requested in accordance with Section 143.0150 may be approved, or conditionally approved, only if the decision-maker makes the following supplemental findings, in addition to the findings in Section 126.0708 Subsections (a), (b), (c) and (d), and the supplemental findings in Section 126.0504 Subsection (b).

The decision-maker shall hold a public hearing on any application on a Coastal Development Permit that includes a deviation from the Environmentally Sensitive Lands Regulations in the Coastal Overlay Zone. Such hearing shall address the economically viable use determination. Prior to approving a Coastal Development Permit for development within the Coastal Overlay Zone that requires a Deviation from the Environmentally Sensitive Lands Regulations, the decision maker shall make all of the following findings:

(1) Based on the economic information provided by the applicant as well as any other relevant evidence, each use provided for in the environmentally sensitive lands regulations would not provide any economically viable use of the applicant's property.

(2) Application of the environmentally sensitive lands regulations would interfere with the applicant's reasonable investment-backed expectations.

(3) The use proposed by the applicant is consistent with the applicable zoning.

(4) The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of his or her property.

(5) The project is the least environmentally damaging alternative and is consistent with all provisions of the LCP with the exception of the provision for which the deviation is requested.

The findings adopted by the decision-making authority shall identify the evidence supporting the findings.

22. The City shall adopt "application instructions" for Deviations from Environmentally Sensitive Lands regulations. The "application instructions" shall be included in either Section 126.0708, or as part of separate application requirements which shall be approved as part of the City's LCP Implementation Program. The "application instructions" shall consist of all of the following provisions:

Deviations from Environmentally Sensitive Lands Regulations within the Coastal Overlay Zone

Where a deviation is requested from the Environmentally Sensitive Lands Regulations because the applicant contends that application of the regulations would result in denial of all economically viable use, the coastal development permit shall include a determination of economically viable use, subject to the following process:

1. Application for economically viable use determination.

Any applicant that requests a deviation from the Environmentally Sensitive Lands regulations, based on the contention that the uses permitted by the regulations will not provide an economically viable use of his or her property, shall apply for an economic viability determination in conjunction with the Coastal Development Permit application. The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a coastal development permit and economic viability determination is accepted for processing, the applicant shall provide the following information:

(A) The date the applicant purchased or otherwise acquired the property and from whom.

(B) The purchase price and the documentary transfer tax paid by the applicant for the property.

(C) The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.

(D) The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.

(E) Any development restrictions or other restrictions on use, other than government regulatory restrictions described in (d) above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.

(F) Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.

(G) A discussion of whether the applicant has sold, leased, or donated a portion of or interest in, the property since the time of purchase indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.

(H) Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.

(I) Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.

(J) The applicant's costs associated with the ownership of the property annualized to the extent feasible, for each of the years the applicant has owned the property, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.

(K) Apart from any rent received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the years of ownership of the property. If there is any such income to report, it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

(L) Topographic, vegetative, hydrologic and soils information prepared by a qualified professional, which identifies the extent of the wetlands on the property.

(M) An analysis of alternatives to the proposed project and an assessment of how the proposed project is the least environmentally damaging alternative. The analysis of alternatives shall include an assessment of how the proposed project will impact all adjacent wetlands and environmentally sensitive habitat areas including those within the overall development plan area.

The above "application instructions", are part of the City's LCP Implementation Program, and any modifications to these instructions require Coastal Commission approval.

23. Section 126.0710(b), (c), (d) and (e)(1), Appeals to the Coastal Commission, shall be revised to read:

(b) A Coastal Development Permit that has been approved or denied for a major public works project or a major energy facility as these are defined by California Public Resources Code Sections 30114 and 30107, respectively, and Section 13012, California Code of Regulations, Title 14, Division 5.5 may be appealed to the Coastal Commission if the *development* authorized by the permit is located anywhere within the Coastal Overlay Zone.

~~(c) A Coastal Development Permit within the *appealable area* that has been denied may be appealed to the Coastal Commission only if the permit is for a major public works project or a major energy facility or if the decision maker approves all other required *development permits* or maps but does not make the *findings* for the Coastal Development Permit.~~

(~~d~~c) Exhaustion of City Appeal. A decision on a Coastal Development Permit may be appealed to the Coastal Commission only after all appeal remedies of the City have been exhausted, except that exhaustion of all local appeals shall not be required if any of the following occur: an appellant is required to appeal to more local appellate bodies than have been certified as appellate bodies for *coastal development permits*; an appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision; an appellant was denied the right of local appeal because local notice and hearing procedures for the development were inadequate or an appeal fee is required for the filing or processing of appeals.

(~~e~~d) Coastal Commission Responsibility

(1) If the Coastal Commission determines that a substantial issue exists in an appeal of a City Coastal Development Permit, the Coastal Development Permit ~~*coastal development* authorized by that permit~~ becomes the responsibility of the Coastal Commission. All future responsibility pertaining to the ~~*coastal development* authorized by that~~ Coastal Development Permit lies with the Coastal Commission, including any future amendment to, extension to, or enforcement of the conditions of approval of the permit.

24. Section 126.0717, Permits Issued by the Coastal Commission, shall be revised to read:

Any person who has a valid Coastal Development Permit issued by the Coastal Commission is not required to obtain a Coastal Development Permit for that same *coastal development* from the City. The Coastal Commission is exclusively responsible for the issuance of an amendment to a Coastal Development Permit that has been approved by the Coastal Commission, regardless of the jurisdictional boundaries governing applications for Coastal Development Permits. The City may not grant a Coastal Development Permit for the same *coastal development* on a site that has a previously approved Coastal Development Permit issued by the Coastal Commission unless the previously approved permit has expired or been forfeited to the Coastal Commission. Following a final decision on a coastal development permit, no applicant or the applicant's successor in interest may reapply for a development permit for substantially the same development for a period of six months from the date of the prior final decision.

25. Section 126.0718(b), (c)(f)(1) and (h), Procedures for Emergency Coastal Development Permits, shall be revised to read:

(b) Application. When a coastal emergency exists, an *applicant* may use the procedures of this section instead of the standard application and decision procedures for a Coastal Development Permit. However, all emergency Coastal Development Permits shall authorize only the minimum necessary to stabilize the emergency. In addition, emergency development requires the subsequent processing of a standard Coastal Development Permit application for any work authorized on an emergency basis by these procedures. The *applicant* may apply for an emergency Coastal Development Permit in person, by letter to the City Manager, or by telephone.

(c) Contents of Application. The application shall include the following information:

(1) The nature of the coastal emergency;

(2) The cause of the coastal emergency;

(3) The location of the coastal emergency;

(4) The remedial, protective, or preventive work required to deal with the coastal emergency; ~~and~~

(5) The circumstances during the coastal emergency that justify the course of action taken or to be taken, including the probable consequences of failing to take emergency action, and

(6) Identification of options for addressing the coastal emergency, including the least environmentally-damaging alternative.

(f) *Findings.* An emergency Coastal Development Permit may be approved or conditionally approved only if the City Manager makes the following *findings*:

(1) A coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Coastal Development Permit and the development can and will be completed within 30 days unless otherwise specified in the permit;

(h) Notice. The City Manager shall provide public notice of the emergency work, with the extent and type of notice determined by the nature and time constraints of the coastal emergency. Notice of the issuance of an emergency coastal development permit shall always be provided to the Coastal Commission.

26. Section 126.0722, Beach Sand Mitigation Fee, shall be added to read:

(a) An applicant for a Coastal Development Permit for a coastal development proposal involving a bluff or shoreline protective device may be required, as a condition of development approval, to pay a fee to the City of San Diego Beach Sand Mitigation Fund held at the San Diego Association of Governments to be used for beach replenishment and/or public access improvements within the City of San Diego.

(b) The fee shall be to mitigate impacts to local shoreline sand supply and/or to compensate for direct encroachment by the protective device onto State tidelands or public beach. The amount of the fee shall be roughly proportional to the value of the beach area and sand supply lost as a result of the approved protective device. The information necessary to quantify potential impacts and to calculate a mitigation fee, as discussed within the Beach and Bluff Guidelines in the Land Development Manual, shall be included with the permit application.

27. Section 126.0725, Revocation of Coastal Development Permits, shall be added to read:

The provisions of this section shall govern proceedings for revocation of a Coastal Development Permit. The revocation of a Coastal Development Permit issued by the City shall be considered and acted upon in accordance with Sections 121.0313, 121.0314, 121.0315 and 121.0316 of this code. However, the Coastal Development Permit may be revoked if the Hearing Officer makes any of the *findings* stated in Section 121.0314 or the following:

(a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the decision maker finds that accurate and complete information would have caused the decision maker to require additional or different conditions on a Coastal Development Permit or deny an application; or

(b) Failure to comply with the notice provisions of Section 112.0306 where the views of the person(s) not notified were not otherwise made known to the decision maker and could have caused the decision maker to require additional or different conditions on a Coastal Development Permit or deny an application.

28. Section 126.0722(EXISTING), shall be re-codified as Section 126.0724, Violations of a Coastal Development Permit, and shall be revised to read:

It is unlawful for any person to maintain, use, or undertake *coastal development* on ~~or develop~~ any lot or *premises* without a Coastal Development Permit if such a permit is required for the use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Coastal Development Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this division shall be treated as strict liability offenses regardless of intent.

29. Section 126.0805(d), Findings for Variance Approval, shall be revised to read:

The decision maker may approve or conditionally approve an application for a variance only if the decision maker makes the following *findings*:

(d) The granting of the variance will not adversely affect the applicable *land use plan*. If the variance is being sought in conjunction with any proposed *coastal development*, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.

Chapter 12/Article 7/Division 1: General Review Procedures for Previously Conforming Premises and Uses

30. Section 127.0106(d) should be added to , Expansion or Enlargement of Previously Conforming Structures,

(d) Within the Coastal Overlay Zone, if the proposal involves the demolition or removal of 50% or more of the exterior walls of an existing structure, the previously conforming rights are not retained for the new structure.

31. Section 127.0107(a), Change in Use of a Previously Conforming Use, shall be revised to read:

(a) A change in use from a *previously conforming* use to another use within the same use category of the Use Regulations Tables of Chapter 13, Article 1, outside the Coastal Overlay Zone, is considered a change of use of equal intensity and retains the *previously conforming* rights for the new use. A change of use from a *previously conforming* use to a use in another use category or to a separately regulated use category of the Use Regulations Tables of Chapter 13, Article 1, is not allowed.

(b) Within the Coastal Overlay Zone, if a change in use from a previously conforming use to another use within the same use category of the Use Regulation Tables of Chapter 13, Article 1 involves any intensification of use, the previously conforming rights are not retained for the new use.

Chapter 13/Article 1/Division 1: General Rules for Base Zones

32. Section 131.0112(a)(6)(K), Descriptions of Use Categories and Subcategories, shall be revised to read:

(K) Visitor Accommodations – Uses that provide lodging, or a combination of lodging, food, and entertainment, primarily to visitors and tourists. (Outside the Coastal Overlay Zone, [i]ncludes single room occupancy hotels.)

Chapter 13/Article 1/Division 2: Open Space Base Zones

33. Section 131.0222, Table 131-02B, Use Regulations Table of Open Space Zones, shall be revised as follows:

1) Under Commercial Services Use Categories/Subcategories, footnote (7) shall be added to Camping Parks, Fairgrounds and Swap Meets in the OF-1-1 zone;

2) Under Commercial Services Use Categories/Subcategories, a new footnote (11) shall be added to Golf Course, Driving Ranges, Helicopter Landing Facilities and Pitch & Putt Courses in the OF-1-1 zone;

3) Under Industrial Use Categories/Subcategories, footnote (7) shall be added to Mining and Extractive Industries in the OF-1-1 zone;

4) Under the Open Space – Floodplain (OF) Zone category, Footnote 12 shall be added to read: Within the Coastal Overlay Zone, no structures are permitted within a floodway;

5) Footnote (11) shall be added to read: No fill or permanent structures shall be authorized for such development in the Coastal Overlay Zone.

34. Section 131.0250(a) and (b), Allowable Development Area in OR Zones, shall be revised to read:

(a) Within the OR-1-1 zone, up to 25 percent of the *premises* may be developed subject to the following: [...]

(3) Within the Coastal Overlay Zone, only uses identified in Section 143.0130 (d) and (e) shall be permitted within *wetlands* subject to the provisions of Section 143.0141 (a) and (b).

(4) Within the Coastal Overlay Zone, *coastal development* on premises with *steep hillsides* containing *sensitive biological resources*, or mapped as Viewshed or Geologic Hazard on Map C-720, is subject to the encroachment limitations set forth in Section 143.0142 (a) .

(b) A *premises* within the OR-1-2 zone, ~~and~~ within or partially within the MHPA is subject to the following regulations: [....]

(10) Within the Coastal Overlay Zone, only uses identified in Section 143.0130 (d) and (e) shall be permitted within *wetlands* subject to the provisions of Section 143.0141 (a) and (b).

(11) Within the Coastal Overlay Zone, *coastal development* on premises with *steep hillsides* containing *sensitive biological resources* or mapped as Viewshed or Geologic Hazard on map C-720 is subject to the encroachment limitations set forth in Section 143.0142 (a) .

Chapter 13/Article 1/Division 3: Agricultural Base Zones

35. Section 131.0322, Table 131-03B, Use Regulations Table for Agricultural Zones, shall be revised as follows:

1) Under Commercial Services Use Categories/Subcategories, a new footnote (9) shall be added to all Child Care Facilities and Recycling Facilities/Large Collection Facility for the AR-1-1 and AR-1-2 zones;

2) Under Industrial Use Categories/Subcategories, a new footnote (9) shall be added to Hazardous Waste Research Facility and Hazardous Waste Treatment Facility in the AR-1-1 and AR-1-2 zones; and

3) Footnote (9) shall be added to read: These uses are not allowed within the Coastal Overlay Zone.

Chapter 13/Article 1/Division 4: Residential Base Zones

36. Section 131.0461(a) and (c), Architectural Projections and Encroachments in Residential Zones, shall be revised to read:

a) The following are permitted *architectural projections* and *encroachments* into required *yards* for RS and RX zones and the RM-1-1, RM-1-2, and RM-1-3 zones. These projections and encroachments are not permitted in the required ~~front and street side~~ *yards* within view corridors that are designated by *land use plans* in the Coastal Overlay Zone and may not be located in a required *visibility area* or a required turning radius or vehicle back-up area except where development regulations may allow. [...]

(c) In the RM-2-4, RM-2-5, RM-2-6, RM-3-7, RM-3-8, RM-3-9, RM-4-10, RM-4-11, and RM-5-12 zones, architectural *encroachments* listed in Section 131.0461(a) are permitted with the following limitations. No permitted projection or *encroachment* may be located in required *yards* within view corridors that are designated by land use plans in the Coastal Overlay Zone or in a required *visibility area* or a required turning radius or vehicle back-up area except where development regulations may allow.

Chapter 13/Article 1/Division 5: Commercial Base Zones

37. Section 131.0522, Use Regulations Table of Commercial Zones, Table 131-05B, shall be revised as follows:

1) Under the Residential Use Categories/Subcategories, a revised footnote (2) shall be added to Boarder & Lodger Accommodations; Fraternities, Sororities and Student Dormitories, Residential Care Facilities and Transitional Housing and Housing for Senior Citizens in the CN and CV zones;

2) Under the Institutional Use Categories/Subcategories, a new footnote (10) shall be added to Airports; Cemeteries, Mausoleums, Crematories; Churches; Major Telecommunication Facilities; Correctional Placement Centers; Educational Facilities; Energy Generation & Distribution Facilities; Historical Buildings Used for Purposes Not Otherwise Allowed; Homeless Facilities; Hospitals, Intermediate Care Facilities & Nursing Facilities; Major Transmission, Relay, or Communications Switching; and Social Service Institutions in the CN and CV zones;

3) Under the Retail Sales Use Categories/Subcategories, a new footnote (10) shall be added to Swap Meets & Other Large Outdoor Retail Facilities in the CV zone;

4) Under the Retail Sales Use Categories/Subcategories, Wearing Apparel & Accessories shall be added as a permitted use (P) in the CV zone;

5) Under the Commercial Services Use Categories/Subcategories, a new footnote (10) shall be added to all Boarding Kennels; Child Care Centers and Large Family Day Care Homes; Helicopter Landing Facilities; Outpatient Medical Clinics; Recycling Facilities, except for a Drop-off Facility and Reverse Vending Machines in the CV zone;

6) Under the Commercial Services Use Categories/Subcategories, a revised footnote (2) shall be added to Instructional Studios in the CV zone;

7) Under the Offices Use Categories/Subcategories, a new footnote (10) shall be added to Medical, Dental & Health Practitioner; and Sex Offender Treatment & Counseling in the CV zone;

8) Under the Industrial Use Categories/Subcategories, a new footnote (10) shall be added to Newspaper Publishing Plants in the CV zone;

9) Footnote (2) shall be revised to read: Residential Use and residential parking are permitted only as part of a mixed-use (commercial/residential) project. Non-owner occupants must reside on the premises for a minimum of 7 consecutive calendar days. Within the Coastal Overlay Zone, residential uses and instructional studios are not permitted on the ground floor;

10) Footnote (10) shall be added to read: These uses are not allowed within the Coastal Overlay Zone; and

38. Section 131.0540(c), Maximum Permitted Residential Density and Other Residential Regulations, shall be revised to read:

The following regulations apply to all residential *development* within commercial zones:

(c) Ground *Floor* Restriction. Residential use and residential parking are prohibited on the ground *floor* in the front half of the *lot*, except in the CC-3-4, CC-3-5, CC-4-4, CC-4-5, CC-5-4, CC-5-5, and CV-1-2 zones, where these uses are prohibited on the ground *floor* in the front 30 feet of the *lot* as shown in Diagram 131-05A. Within the Coastal Overlay Zone, required parking cannot occupy more than 50% of the ground floor in the CV-1-1 or CV-1-2 zones.

Chapter 13/Article 2/Division 4: Coastal Overlay Zone

39. Section 132.0402(b), Where the Coastal Overlay Zone Applies, shall be revised to read:

(b) Table 132-04A shows the sections that contain the supplemental regulations and the type of permit required by this division, if any, for specific types of *development* proposals in this overlay zone. Coastal Development Permit procedures are provided in Chapter 12, Article 6, Division 7.

Table 132-04A
Coastal Overlay Zone Applicability

Type of *Development* Proposal		**Supplemental Development Regulations**	**Required Permit Type/ Decision Process**
(1)	*Coastal development* that is categorically excluded pursuant to order of the Coastal commission or that is exempted by Section 126.0704	None	No permit required by this division
(2)	Any *coastal development* within this overlay zone that is partially or completely within the Coastal Commission Permit Jurisdiction or the Deferred Certification Area	See use and development regulations of the base zone	Coastal Development Permit(s) are issued by the Coastal Commission and the City for their respective jurisdictions

(3)	*Coastal development* in this overlay zone that is not exempt under (1) of this table or that is not in the area described in (2) of this table	See use and development regulations of the base zone	Coastal Development Permit/ProcessTwo or Three

40. Section 132.0403 Add to Supplemental Use Regulations of the Coastal Overlay Zone

(a) If there is an existing or potential public view and the site is designated in the applicable *land use plan* as a public view to be protected,

(1) The applicant shall design and site the coastal development in such a manner as to preserve, enhance or restore the designated public view, and

(2) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.

(b) A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the premises, shall be preserved as a deed restriction as a condition of Coastal Development Permit approval whenever the following conditions exist:

(A) The proposed development is located on premises that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731,; and

(B) The requirement for a visual corridor is feasible and will serve to preserve, enhance or restore public views of the ocean or identified in the applicable land use plan.

(c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled effect from authorized development.

(d) Where remodeling is proposed and existing legally established development is to be retained that precludes establishment of the desired visual access as delineated above, preservation of any existing public view on the site will be accepted, provided that the existing public view is not reduced through the proposed remodeling.

(e) Open fencing and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.

Chapter 13/Article 2/Division 8: Parking Impact Overlay Zone

41. Section 132.0802(b), Where the Parking Impact Overlay Zone Applies, shall be revised to read:

(b) Table 132-08A shows the sections that contain the supplemental regulations and the type of permit required by this division, if any, for specific types of *development* proposals in this overlay zone.

Table 132-08A

Parking Impact Overlay Zone Applicability

Type of *Development* Proposal		**Supplemental Development Regulations**	**Required Permit Type/ Decision Process**
(1)	Any *single dwelling unit development* located within the campus impact area	See the parking regulations in Section 142.0520	No permit required by this division
(2)	Any development located within the beach impact area and any *multiple dwelling unit development* located within the ~~beach impact area or~~ campus impact area	See the parking regulations in Sections 142.0520, 142.0525, 142.0530, 142.0535, 142.0540 and 142.0560	No permit required by this division
(3)	Any eating and drinking establishment that is located in the ~~coastal~~ beach impact area and in the CC-5-2, CC-5-4, or CC-3-5 zones	See the parking regulations in Section 142.0530(b)	No permit required by this division

Chapter 13/Article 2/Division 14: Community Plan Implementation Overlay Zone

42. Section 132.1402(b), Where the Community Plan Implementation Overlay Zone Applies, shall be revised to read:

(b) Table 132-14B shows the location of the supplemental regulations and the type of permit required by this division, if any, for specific types of *development* proposals in this overlay zone.

Table 132-14B

Community Plan Implementation Overlay Zone Applicability

Type of *Development* Proposal		**Supplemental Development Regulations**	**Required Permit Type/ Decision Process**
(1)	Interior building improvements that do not involve a change in use or provide additional *floor* area, or improvements that do not require a *construction permit*	None--Exempt from this division	No permit required by this division
(2)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the	Refer to the applicable community plan	No permit required by this division

Type of *Development* Proposal		Supplemental Development Regulations	Required Permit Type/ Decision Process
	map shows "Type A" and the proposed development complies with the development standards or criteria in the applicable community plan		
(3)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the map shows "Type A" and the proposed *development* does not comply with the *development* standards or criteria in the applicable community plan	Refer to the applicable community plan	Site Development Permit/ Process Three
(4)	Any *development* within the boundaries shown on a map identified in Section 132.1402, where the map shows "Type B"	Refer to the applicable community plan	Site Development Permit/ Process Three

Chapter 14/Article 1/Division 2: Agriculture Use Category—Separately Regulated Uses

43. Section 141.0202(a), Commercial Stables, shall be revised to read:

Commercial stables are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0202(a). Commercial stables may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0202(b).

(a) Limited Use Regulations

(1) Commercial stables require a lot area of at least 5 acres.

(2) No *structures* other than portable *structures* are permitted within a *floodway*. Within the Coastal Overlay Zone, no *structures*, including portable *structures*, are permitted within a *floodway*.

Chapter 14/Article 1/Division 3: Residential Use Category—Separately Regulated Uses

44. Section 141.0301(d), Boarder and Lodger Accommodations, shall be revised to read:

Boarder and *lodger* accommodations are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. [...]

(d) Off-street parking shall be provided at a rate of 1 space for each 2 boarders or lodgers. Within the Beach Impact Area of the Parking Overlay Zone, off-street parking shall be provided at a rate of 1 space for each boarder or lodger.

Chapter 14/Article 1/Division 4: Institutional Use Category—Separately Regulated Uses

45. Section 141.0404(a)(1) and (b)(1), Churches and Places of Religious Assembly, shall be revised to read:

Churches and places of religious assembly are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0404(a). *Churches* and places of religious assembly that do not comply with Section 141.0404(a) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0404(b). *Churches* and places of religious assembly may also be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0404(b).

(a) Limited Use Regulations

(1) *Churches* and places of religious assembly are not permitted within the *MHPA* or in floodplains located in ~~agriculturally zoned areas of~~ the Coastal Overlay Zone. [...]

(b) Conditional Use Permit Regulations

(1) *Churches* and places of religious assembly are not permitted within the *MHPA* or in floodplains located in ~~agriculturally zoned areas of~~ the Coastal Overlay Zone. [....]

46. Section 141.0405(d)(1), Communication Antennas – Major Telecommunication Facilities, shall be revised to read:

(d) Major Telecommunication Facilities

Major telecommunication facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) Major telecommunication facilities are not permitted in the following locations:

[...]

(D) Within the Coastal Overlay Zone, on premises within the MHPA and/or containing steep hillsides with sensitive biological resources, or premises within public view corridors or view sheds identified in applicable land use plans.

47. Section 141.0407(a), Educational Facilities—Schools for Kindergarten to Grade 12 and Colleges/Universities, shall be revised to read:

Educational facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Permanent *development* associated with educational facilities is not permitted in agricultural zones in the future urbanizing area or within floodplains located in ~~agriculturally zoned areas of~~ the Coastal Overlay Zone.

48. Section 141.0413(a), Hospitals, Intermediate Care Facilities, and Nursing Facilities, shall be revised to read:

Hospitals, intermediate care facilities, and nursing facilities may be permitted with a Process Four Conditional Use Permit in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) These facilities are not permitted in agricultural zones in the future urbanizing area or within floodplains located in ~~agriculturally zoned areas of~~ the Coastal Overlay Zone.

Chapter 14/Article 1/Division 6: Commercial Services Use Category—Separately Regulated Uses

49. Section 141.0610(a), Helicopter Landing Facilities, shall be revised to read:

Helicopter landing facilities may be permitted with a Conditional Use Permit decided in accordance with Process Five in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Helicopter landing facilities are not permitted in floodplains located ~~in agriculturally zoned areas of~~ the Coastal Overlay Zone.

50. Section 141.0614(a), Nightclubs and Bars over 5,000 Square Feet in Size, shall be revised to read:

Nightclubs and bars over 5,000 square feet in size may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the Beach Impact Area of the Parking Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every 200 sq.ft. of gross floor area, including any outdoor eating or drinking areas.

51. Section 141.0615(b)(4), Outpatient Medical Clinics, shall be revised to read:

Outpatient medical clinics are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0615(a). Outpatient medical clinics may be permitted with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0615(b). [...]

(b) Neighborhood Use Permit Regulations [...]

(4) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the Beach Impact Area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every 250 sq.ft. of gross floor area.

52. Section 141.0617(a), Private Clubs, Lodges, and Fraternal Organizations, shall be revised to read:

Private clubs, lodges, and fraternal organizations are associations of persons, whether incorporated or unincorporated, for the promotion of some common social, cultural, educational, religious, or recreational objective. This use does not include *churches* or any group whose primary objective is a business customarily carried on for a profit.

Private clubs, lodges, and fraternal organizations may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the Beach Impact Area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every 200 sq.ft. of gross floor area. [....]

53. Section 141.0621(o), Sidewalk Cafes, shall be added to read:

Sidewalk cafes may be permitted with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the provisions of this section. : Within the Beach Impact Area of the Parking Impact Overlay Zone, sidewalk cafes shall not exceed 200 sq.ft. in area without providing parking. Required parking shall be provided at a ratio not less than one parking space for every additional 200 sq.ft. (or portion thereof) above the first 200 sq.ft.

54. Section 141.0623(a), Theaters That Are Outdoor or over 5,000 Square Feet in Size, shall be revised to read:

Theaters that are outdoor or over 5,000 square feet in size may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property. Within the Beach Impact Area of the Parking Impact Overlay Zone, off-street parking shall be provided at a ratio not less than one parking space for every three fixed seats or one space for every 21 sq.ft. of gross floor area where there are no fixed seats.

55. Section 141.0624(a), Veterinary Clinics and Animal Hospitals, shall be revised to read:

Veterinary clinics and hospitals may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Veterinary clinics and hospitals are not permitted in agricultural zones in the future urbanizing area, except as an accessory use within a zoological park, or within floodplains located in ~~agriculturally zoned areas of~~ the Coastal Overlay Zone.

Chapter 14/Article 1/Division 9: Wholesale, Distribution and Storage Use Category—Separately Regulated Uses

56. Section 141.0902(a), Junk Yards, shall be revised to read:

Junk yards may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Junk yards are not permitted in agricultural zones in the future urbanizing area or within floodplains located in ~~agriculturally zoned areas of~~ the Coastal Overlay Zone.

Chapter 14/Article 2/Division 3: Fence Regulations

57. Section 142.0305(b), When Fence Regulations Apply, shall be revised to read:

(b) Table 142-03A shows the applicable regulations and the type of permit required by this division, if any, for specific types of *fences*.

Table 142-03A
Fence Regulations Applicability

TYPE OF *DEVELOPMENT* PROPOSAL	APPLICABLE REGULATIONS	REQUIRED PERMIT TYPE/ DECISION PROCESS
Any *fence* with a height less than 6 feet	Sections 142.0310-142.0330, 142.0360-142.0380	No permit required by this division
Any *fence* with a height of 6 feet Or greater	Sections 142.0310-142.0330, 142.0360-142.0380	Building Permit/Process One
Any *retaining wall* with a height Less than 3 feet	Sections 142.0340, 142.0370, 142.0380	No permit required by this division
Any *retaining wall* with a height of 3 feet or greater	Sections 142.0340, 142.0370, 142.0380	Building Permit/ Process One
Any *fence* or *retaining wall* exceeding the height permitted in Section 142.0310, 142.0320, 142.0330, and 142.0340.	Section 142.0350	Neighborhood Development Permit/Process Two
Any *fence* or *retaining wall located on premises that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731).*	Section 142.0310-142.0380	Coastal Development Permit/Process Three – Appealable

Chapter 14/Article 2/Division 4: Landscape Regulations

58. Section 142.0412, Brush Management, shall be revised to read:

(a) Brush management is required in all base zones for the types of development listed below when they are adjacent to any highly flammable area of native or naturalized vegetation that is greater than 10 acres as mapped by the City of San Diego, or adjacent to any area of native or naturalized vegetation that is greater than 50 acres, as shown in Table 142-04A; however, within the Coastal Overlay Zone, brush management is required for all *coastal development* within the MHPA and/or adjacent to *steep hillsides* containing sensitive biological resources.

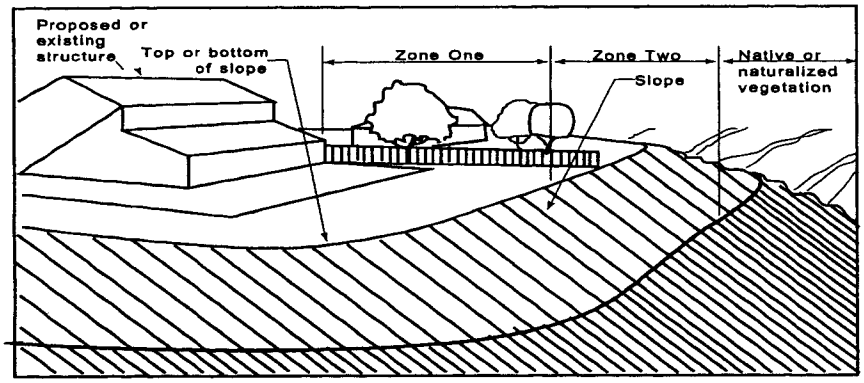
(1) New structures
(2) Additions to structures
(3) Subdivisions that create lots where new structures could be located

(4) Existing structures

(b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of flammable vegetation. This fire break shall consist of two distinct brush management areas called "Zone One" and "Zone Two" as shown in Diagram 142-04D.

Diagram 142-04D

Brush Management Zones



(1) Brush management Zone One is the area adjacent to the *structure*, shall be least flammable, and shall consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with a gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property that received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the encroachment limitations set forth in Section 143.0142(a)(4) of the environmentally sensitive lands regulations.

(2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall consist of thinned, native or naturalized vegetation.

(c) Where brush management is required by this Section, the width of Zone One and Zone Two shall meet or exceed that shown in Table 142-04H. Where *development* is adjacent to slopes or vegetation that meets the criteria shown in the table, the required Zone One and Zone Two width shall be increased by the dimension shown. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

Table 142-04H
Brush Management Zone Width Requirements

Criteria	Property Location	
	West of Interstate 805 and El Camino Real	East of Interstate 805 and El Camino Real

Criteria	Property Location	
	West of Interstate 805 and El Camino Real	**East of Interstate 805 and El Camino Real**
Minimum Zone One Width (See Section 142.0412[d])	20 ft.	30 ft.
Additional Zone One Width (See Section 142.0412[e]) Required when *development* is adjacent to slopes greater than 4:1 gradient that are 50 feet or greater in vertical height; or adjacent to vegetation greater than 24 inches in height; or adjacent to the *MHPA*	5 ft.	5 ft.
Zone One Width Within the Coastal Overlay Zone for subdivisions of land containing *steep hillsides* with *sensitive biological resources*	30 ft.min	
Minimum Zone Two Width (See Section 142.0412[f])	20 ft.	40 ft.
Additional Zone Two Width Required when Zone Two is on slopes greater than 4:1 gradient that are 50 feet or greater in vertical height, or the vegetation in Zone Two is greater than 48 inches in height. This additional width is not required for Zone Two located within the *MHPA*	10 ft.	10 ft.

(d) The width of brush management Zone One shall be increased by 10 feet for *structures* that do not meet all of the following requirements:

(1) Roof material shall be fire retardant. Wood shake shingles, whether fire retardant treated or untreated, are not permitted.

(2) Walls, eaves, and overhangs shall be one-hour, fire-resistive.

(3) Eave vents shall be covered with wire screen not to exceed 1/4-inch mesh.

(e) Where additional Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:

(1) The required front *yard setback* of the base zone may be reduced by 5 feet,

(2) A sidewalk may be eliminated from one side of the *public right-of-way* and the minimum required *public right-of-way* width may be reduced by 5 feet, or

(3) The overall minimum pavement and *public right-of-way* width may be reduced in accordance with the Street Design Standards of the Land Development Manual.

(f) The minimum Zone Two width may be decreased by 2 feet for each 1 foot of increase in Zone One width over the minimum shown in Table 142-04H;

(g) no change

(h) Zone Two Requirements

(1) The required Zone Two width shall be provided between Zone One and the undisturbed, flammable vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.

(2) No *structures* shall be constructed in Zone Two.

(3) Within Zone Two, 50 percent of the plants over 18 inches in height shall be cut and cleared to a height of 6 inches;

(4) Within Zone Two, all plants remaining after 50 percent are cut and cleared shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual.

(5) The following standards shall be used where Zone Two area is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:

(A) All new plant material for Zone Two shall be native or naturalized, low-fuel, and fire-resistive. Inside the *MHPA* and adjacent to areas containing *sensitive biological resources*, no non-native plant material may be planted in Zone Two.

(B - D) no change

(6) no change

(i - l) no change

Chapter 14/Article 2/Division 5: Parking Regulations

59. Section 142.0505, When Parking Regulations Apply, shall be revised to read:

These regulations apply in all base zones and planned districts, with the exception of those areas specifically identified as being exempt from the regulations, whether or not permit or other approval is required.

Table 142-05A identifies the applicable regulations and the type of permit required by this division, if any, for the type of development shown.

Table 142-05A
Parking Regulations Applicability

Type of *Development* Proposal	**Applicable Regulations**	**Required Permit Type/ Decision Process**
Any *single dwelling unit* residential *development*	Sections 142.0510 , 142.0520 and 142.0560	No permit required by this division
Any *multiple dwelling unit* residential *development*	Sections 142.0510, 142.0525 and	No permit required by this division

Type of *Development* Proposal	Applicable Regulations	Required Permit Type/ Decision Process
	142.0560	
Any nonresidential *development*	Sections 142.0510, 142.0530, and 142.0560	No permit required by this division
Multiple dwelling unit projects in planned urbanizing communities that are processing a planned development permit.	Section 142.0525(c)	No permit required by this division
Off-premises parking for *development* in urbanized communities	Section 142.0535	No permit required by this division
Commercial uses on small *lots*	Section 142.0540(a)	No permit required by this division
Nonresidential *developments* that exceed maximum permitted parking	Section 142.0540(b)	Neighborhood Development Permit /Process Two
Nonresidential developments that vary from minimum parking requirements with a TDM Plan	Section 142.0540(c)	Site Development Permit/Process Three
Shared parking for specified uses	Section 142.0545	No permit required by this division
Shared parking for nonspecified uses	Section 142.0545(b)(7)	Neighborhood Development Permit/ Process Two
Tandem Parking for commercial uses	Section 142.0555(b)	Neighborhood Development Permit/ Process Two

60. Section 142.0510(d)(1), General Parking Regulations, shall be revised to read:

(d) Previously Conforming Premises. Enlargement or change in use, or resumption of a discontinued use, for a *premises* that is *previously conforming* for the reason that it does not provide the number of *off-street parking spaces* required by this division shall be required to provide parking as follows:

(1) When the use is proposed to be enlarged, the additional *off-street parking spaces* required are the number required by this division for the enlargement. Within the Beach Impact Area of the Parking Impact Overlay Zone, additional parking shall be provided at two times the number required for the enlargement but not exceeding the amount required for the entire development.

61. Section 142.0525(b), Multiple Dwelling Unit Residential Uses—Required Parking Ratios, shall be revised to read:

(b) Eligibility for *Shared Parking*. Up to 25 percent of the parking spaces required by this section may be unassigned and eligible for *shared parking* in accordance with Section 142.0545 except that at least one space shall be assigned to each dwelling unit. Within the Beach Impact Area of the Parking Impact Overlay Zone, off-premises parking shall not be permitted for residential uses.

62. Section 142.0530(a), Nonresidential Uses—Parking Ratios

1) Delete Footnote 6 from being applicable within La Jolla Shores, Outside a Transit Area;

2) Revise Footnote 6 as follows:

(6) *Alley* Access. For properties with *alley* access, one parking space per 10 linear feet of *alley* frontage may be provided instead of the parking ratio shown in Table 142-05D. Within the Beach Impact Area of the Parking Impact Overlay Zone, application of this policy shall not result in a reduction of required on-site parking.

63. Section 142.0530(b), Parking Ratios for Eating and Drinking Establishments

1) Delete Footnote 6 from being applicable within La Jolla Shores, Outside a Transit Area;

Footnotes For Table 142-05E

2) Revise Footnote 3 as follows:

(3)Eating and Drinking Establishments. The minimum parking ratios apply to eating and drinking establishments that do not have a common parking area with any other uses. There is no minimum parking requirement or maximum permitted parking for outdoor dining. Within the Coastal Overlay Zone, outdoor dining areas, such as decks, patios, terraces, etc., are considered part of the establishment 's gross floor area and included in calculating parking requirements.
[...]

3) Revise Footnote 6 as follows:

(6) *Alley* Access. For properties with *alley* access, one parking space per 10 linear feet of *alley* frontage may be provided instead of the parking ratio shown in Table 142-05E. Within the Beach Impact Area of the Parking Impact Overlay Zone, application of this policy shall not result in a reduction of required on-site parking.

64. Section 142.0530(c), Nonresidential Uses—Parking Ratios, shall be revised as follows:

Add footnote 7 to Table 142-05F as follows:

Private clubs, lodges, fraternal organizations (except fraternities and sororities)	1 per *guest room*, or 2.5, whichever is greater [7]	85% of Minimum	N/A	N/A	2% of Auto Minimum

Footnotes For Table 142-05F

Revise Footnote 4 as follows:

(4) *Alley* Access. For properties with *alley* access, one parking space per 10 linear feet of *alley* frontage may be provided instead of the parking ratio shown in Table 142-05F. Within the Beach Impact Area of the Parking Impact Overlay Zone, application of this policy shall not result in a reduction of required on-site parking.

Add Footnote 7 as follows:

(7) In the Beach Impact Area, one parking space per guest room or 5.0, whichever is greater.

65. Section 142.0535(a-c), Off-Premises Parking Regulations In Urbanized Communities, shall be revised to read:

Required *off-street parking spaces* for uses in urbanized communities as identified in the Progress Guide and General Plan may be located off-premises, subject to the following regulations.

(a) Residential Uses. Some portion of the off-premises parking shall be within a 25-foot horizontal distance of the *premises* on which the use requiring *off-street parking spaces* is located, and the site of the off-premises parking shall be identified with appropriate signs. Within the Beach Impact Area of the Parking Overlay Zone, off-premises parking shall not be permitted for residential uses.

(b) Nonresidential Uses. Some portion of the off-premises parking shall be within a non-residential zone and within a 600-foot horizontal distance of the *premises* on which the use requiring *off-street parking spaces* is located, and the site of the off-premises parking and the site of the use shall be identified with appropriate signs.

(c) Control of Parking Spaces. The off-premises parking, which shall be identified with appropriate directional signs, shall be owned or controlled by the owner of the use requiring the *off-street parking spaces*. When off-premises parking is to be provided, the owner or lessee of record of the *premises* shall furnish evidence that is satisfactory to the City Manager that they own or have a sufficient interest in the property to provide the minimum *off-street parking spaces* required by the Land Development Code. Whether *off-street parking spaces* are to be provided on property that is owned by the *applicant* or another owner, the *applicant* shall provide to the County Recorder for recordation, ~~a~~covenants that ha~~s~~ve been executed by the owners of the property on which the off-premises parking is proposed and the owners of the use requiring the off-street parking spaces.. The covenant shall be for the benefit of the City, in a form approved by the City Attorney, to the effect that the owners will continue to maintain the parking spaces as long as the use it serves exists. The covenant shall also recite that the title to, and right to, use the *lots* upon which the parking is to be provided will be subservient to the title to the *premises* where the *primary use* it serves is situated and shall warrant that the *lots* are not and will not be made subject to any other covenant or contract for use without prior written consent of the City. If the owners of the use should thereafter provide parking equal in area within the same distance and under the same conditions as the ownership upon another *lot* than the *premises* made subservient in a previous covenant, the City will, upon written application accompanied by the filing of a similar covenant, release the original subservient *premises* from the previous covenant. The owners shall furnish at their own expense title reports or other evidence the City may require to insure compliance with the provisions of this section.

66. Section 142.0540(a), Exceptions to Parking Regulations for Nonresidential Uses, shall be revised to read:

(a) Commercial Uses on Small Lots. Outside the Beach Impact Area of the Parking Impact Overlay Zone, [f]or *lots* that are 7,000 square feet or less, that existed before [ordinance adoption date], including abutting *lots* under common ownership, the parking requirements set forth in Table 142-05G may be applied to all commercial uses at the option of the *applicant* as an alternative to the requirements set forth in Section 142.0530. The type of access listed in Table 142-05G determines the minimum number of required *off-street parking spaces*.

Table 142-05G
Alternative Parking Requirement for Commercial Uses on Small Lots

Type of Access	Minimum Number of Parking Spaces
With *Alley* Access [1]	1 space per 10 feet of *alley* frontage, minus one space
Without *Alley* Access	none required

Footnote to Table 142-05G

[1] The City Engineer will determine whether a *lot* has adequate *alley* access according to accepted engineering practices.

67. Section 142.0555(b), Tandem Parking Regulations, shall be revised to read:

(b) Tandem Parking for Commercial Uses. Tandem parking for commercial uses may be approved through a Neighborhood Development Permit provided the tandem parking is limited to the following purposes:

(1) Assigned employee parking spaces;

(2) Valet parking associated with restaurant use; and

(3) Bed and breakfast establishments.

68. Section 142.0560(j), Development and Design Regulations for Parking Facilities, shall be revised to read:

(j) Driveway and Access Regulations

(1) For the uses described in Table 142-05L, the driveway width shall comply with the minimum and maximum widths shown.

Table 142-05L
Driveway Width

Use	Minimum Width		Maximum Width	
	One-Way	Two-Way	One-Way	Two-Way
Detached *single dwelling unit* (other than RX Zones)	12 feet		25 feet, except within the Beach Impact Area, where the maximum is 12 feet	
Dwelling unit in the RX Zone	12 feet		20 feet	
Multiple dwelling unit	14 feet	20 feet	20 feet	25 feet, except within the Beach Impact Area, where the maximum is 20 feet

Use	Minimum Width		Maximum Width	
	One-Way	Two-Way	One-Way	Two-Way
Nonresidential	14 feet	24 feet	20 feet	30 feet, except within the Beach Impact Area, where the maximum is 25 feet

69. Section 142.0740, Outdoor Lighting Regulations, shall be revised to read:

(a – d) No Change.

(e) On properties which are adjacent to or contain sensitive biological resources, any exterior lighting shall be limited to low-level lights and shields to minimize the amount of light entering any identified sensitive resource areas.

70. Section 142.1290, La Jolla Commercial and Industrial Sign Control District, shall be revised to read:

No Change to Sections (a) – (c)

(d) On-Premise *Sign* Regulations for Subdistrict A

(1) No Change to (1) through (2)

(3) Freestanding *Ground Signs*

Where the face of the building sets back from the *property line* more than 20 feet, one-single faced or double-faced freestanding *ground sign* is permitted, in addition to those on the building, in accordance with the following.

(A) No part of the *sign* shall extend over public property or have a height exceeding 20 feet measured from the base at ground level to the apex of the *sign.* In the Coastal Overlay Zone, however, no part of the *sign* shall exceed 8 feet in height.

(B) The total area of the *signs* shall not exceed 0.5 square feet per foot of *street frontage* or 40 square feet, whichever is smaller.

(e) On-Premise *Sign* Regulations

No Change to 1(A) and 1(B)

(C) Height Limit. 20 feet measured vertically from the *sign* base at ground level to the apex of the *sign.* Coastal Overlay Zone Height Limit. 8 feet measured vertically from the sign base at ground level to the apex of the sign.

No Change to (e)(1)(D) through (e)(1)(G)

No Change to (2) Through (3)

(4) Identification *Signs*

(A) One single-faced or double-faced freestanding *sign* located adjacent to each entrance or exit driveway to a parking *lot* is permitted. Such *signs* shall not exceed 12 square feet in area or a height of 12 feet measured from the base at ground level to the apex of the *sign*, except that in the Coastal Overlay Zone, the height of the sign shall not exceed 8 feet.

No Change to (5)

Chapter 14/Article 3/Division 1: Environmentally Sensitive Lands Regulations

Article 3: Supplemental Development Regulations

Division 1: Environmentally Sensitive Lands Regulations

71. Section 143.0101
Purpose of Environmentally Sensitive Lands Regulations

The purpose of these regulations is to protect, preserve and, where damaged restore, the *environmentally sensitive lands* of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that *development*, including, but not limited to, *coastal development* in San Diego's Coastal Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of *development*, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to *flooding* in specific areas while minimizing the need for construction of flood control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Environmentally Sensitive Lands ~~Biological Resources~~ and accompanying Biology, Steep Hillside, and Coastal Bluffs and Beaches Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act and the California Coastal Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multiple Habitat Planning Area, as identified in the City of San Diego Subarea Plan. The habitat-based level of protection which will result through implementation of the Multiple Habitat Planning Area is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the Multiple Species Conservation Program but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.

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72. Section 143.0110
When Environmentally Sensitive Lands Regulations Apply

This division applies to all proposed *development* when *environmentally sensitive lands* are present on the *premises*.

(a) Where any portion of the *premises* contains any of the following *environmentally sensitive lands*, this division shall apply to the entire *premises*, unless otherwise provided in this division:

(1) *Sensitive biological resources*;

(2) *Steep hillsides*;

(3) *Coastal beaches*;

(4) *Sensitive coastal bluffs*; and

(5) *100- year floodplains.*

(b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of *development* proposals that propose to encroach into *environmentally sensitive lands* or that do not qualify for an exemption pursuant to Section 143.0110(c).

(1) A Neighborhood Development Permit or Site Development Permit is required for all types of *development* proposals listed, in accordance with the indicated decision process. If *coastal development* is proposed in the Coastal Overlay Zone, a Coastal Development Permit is required in accordance with Section 126.0702.

(2) All types of *development* proposals are subject to Section 143.0140.

(3) Any *development* proposal that proposes to encroach into more than one type of *environmentally sensitive lands* is subject to all of the development regulations sections for each type of *environmentally sensitive lands* present. The applicable decision process is the higher process number indicated.

(4) Any *development* proposal on a site containing *environmentally sensitive lands* may be exempt from the permit requirements of this division if no *encroachment* into the *environmentally sensitive lands* is proposed and the *development* complies with Section 143.0110(c) ~~(1).~~ Within the Coastal Overlay Zone, a coastal development permit is required for all *coastal development* and the regulations of this division shall apply ~~as noted~~.

(5) Limited exceptions to the applicable development regulations for specific types of *development* are listed in Section 143.0111.

Table 143-01A
Applicability of Environmentally Sensitive Lands Regulations

	***Environmentally Sensitive Lands* Potentially Impacted by Project**				
Type of § 143.0110 Cont'd *Development* Proposal	***Wetlands*, listed non-covered species habitat[1]**	**Other *Sensitive Biological Resources* other than *Wetlands* and listed noncovered species habitat**	***Steep Hillsides***	***Sensitive Coastal Bluffs* and *Coastal Beaches***	**Floodplains**
1. *Single dwelling units* on individual *lots* equal to or less than 15,000 square feet[2] R	143.0141(a), **(b)**	143.0141	143.0142 except (a)[5]	143.0143, 143.0144	143.0145

		***Environmentally Sensitive Lands* Potentially Impacted by Project**				
Type of § 143.0110 Cont'd *Development* Proposal		***Wetlands*, listed non-covered species habitat[1]**	**Other *Sensitive Biological Resources* other than *Wetlands* and listed noncovered species habitat**	***Steep Hillsides***	***Sensitive Coastal Bluffs* and *Coastal Beaches***	**Floodplains**
	P	NDP/ Process Two	NDP/ Process Two	NDP/ Process Two	SDP/ Process Three	NDP/ Process Two
	U	**143.0130(d), (e)**	--	--	143.0130(a), (b)	143.0130(c)
2. *Single dwelling units* on *lots* or multiple *lots* totaling more than 15,000 square feet	R	143.0141(a), **(b)**	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	**143.0130(d), (e)**	--	--	143.0130(a), (b)	143.0130(c)
3. *Multiple dwelling unit* and non-residential *development* and public works projects	R	143.0141(a), **(b)**	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP Process Three
	U	**143.0130(d), (e)**		--	143.0130(a), (b)	143.0130(c)
4. Any *subdivision* of a *premises*	R	143.0141(a), **(b)**	143.0141	143.0142[3]	143.0143, 143.0144	143.0145
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	**143.0130(d), (e)**	--	--	143.0130 (a), (b)	143.0130 (c)
5. Project-specific *land use plans*	R	143.0141(a), **(b)** 143.0115	143.0141, 143.0115	143.0142, 143.0115	143.0143, 143.0144, 143.0115	143.0145, 143.0115
	P	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five
	U	**143.0130(d), (e)**	--	--	143.0130(a), (b)	143.0130(c)
6. Any *development* that proposes deviations from any portion of the *Environment*	R	143.0141(a), **(b)** 143.0150	143.0141, 143.0150	143.0142, 143.0150[4]	143.0143, 143.0144, 143.0150	143.0145, 143.0150

***Environmentally Sensitive Lands* Potentially Impacted by Project**						
Type of § 143.0110 Cont'd *Development* Proposal		***Wetlands*, listed non-covered species habitat[1]**	**Other *Sensitive Biological Resources* other than *Wetlands* and listed noncovered species habitat**	***Steep Hillsides***	***Sensitive Coastal Bluffs* and *Coastal Beaches***	**Floodplains**
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	**143.0130(d), (e)**	--	--	143.0130(a), (b)	143.0130(c)
7. *Development* other than *single dwelling units* on individual *lots*, that proposes alternative compliance for *development* area in *steep hillsides*.	R	--	--	143.0142 except (a), 143.0151	--	--
	P	--	--	SDP/ Process Three	--	--
	U	--	--	--	--	--

Legend to Table 143-01A	
R	Development regulation sections (in addition to Section 143.0140) applicable to the *environmentally sensitive lands* present.
P	Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)
U	Regulations that identify permitted uses when they are different than the applicable zone due to the *environmentally sensitive lands* present.

Footnotes to Table 143-01A

(1) This includes listed species and their habitat not covered by the Take Authorizations issued to the City by the State and Federal governments under the Multiple Species Conservation Program.

(2) This includes the *development* of one or more *lots* as long as the total area of the *lots* does not exceed 15,000 feet and the *lots* were not joined in ownership to any contiguous *lot* or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet.

(3) Outside the Coastal Overlay Zone, ~~S~~*subdivision* of a *premises* less than 15,000 square feet (for *single dwelling unit development*) is not subject to Section 143.0142(a).

(4) *Development* other than a *single dwelling unit* on an individual *lot* may use alternative compliance for development area in *steep hillsides* that does not comply with Section 143.0142(a).

(5) Inside the Coastal Overlay Zone, single dwelling units on individual lots equal to or less than 15,000 square feet are subject to Section 143.0142(a).

(c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:

(1) Outside of the Coastal Overlay Zone, ~~D~~*development* on a *premises* containing *environmentally sensitive lands* when the *development* will not encroach into the *environmentally sensitive lands* during or after construction, if the property owner signs an acknowledgment that further *development* on the property is not permitted unless the *development* is reviewed and approved pursuant to this division and if the *development* proposal provides for the following:

(A) A 100-foot *setback* from *sensitive biological resources*;

(B) A 40-foot *setback* from the top of slope of *steep hillsides*; and

(C) ~~A 100-foot setback from coastal beaches;~~

~~(D) A 100-foot setback from bluff edge of sensitive coastal bluff;~~

~~(E)~~ A 100-foot *setback* from floodplains.

(2) *Development* that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or *accessory structure* and will not encroach into the *environmentally sensitive lands* during or after construction. For a *premises* containing a *sensitive coastal bluff,* any addition ~~above the first floor~~ shall observe a minimum 40-foot *setback* from the *coastal bluff edge*.

(3) Outside the Coastal Overlay Zone, ~~M~~minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:

(A) *Clearing* and *grubbing* shall not exceed 100 square feet per acre.

(B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.

(C) The proposed improvements do not *encroach* into *sensitive biological resources.*

(D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor* area of the building or *structure*.

(E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any point.

(4) *Development* activity that is limited to permissible *grading* for the preparation of a site for cultivation of crops and where *grading* for agriculture purposes has occurred in compliance with all legal requirements within the previous 3 years.

(5) Outside the Coastal Overlay Zone, ~~C~~city public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.

(6) Outside the Coastal Overlay Zone, ~~R~~restoration projects where the sole purpose is enhancement or restoration of native habitats.

(7) Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

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73. Section 143.0111
Limited Exceptions from Environmentally Sensitive Lands Regulations

The following *development* activities require a Neighborhood Development Permit or Site Development Permit in accordance with Table 143-01A, but the applicable development regulations are modified as indicated:

(a) Outside the *MHPA* and the Coastal Overlay Zone, mining and extractive industries may exceed the maximum allowable *steep hillside* development area described in Section 143.0142(a). Both inside and outside the *MHPA*, a Conditional Use Permit is required in accordance with Section 141.1001 and restoration of the on-site landform to a natural-appearing condition is required.

(b) Brush management activity is exempt from all *steep hillside* development regulations in Section 143.0142 if the brush management is the minimum necessary to comply with City fire codes and no *grading* occurs in the brush management area. Within the Coastal Overlay Zone, all brush management within 30 feet of a primary structure shall be subject to the steep hillside regulations for development within the Coastal Overlay Zone pursuant to Section 143.0142(a)(4).

(c) Erosion control measures are exempt from the *steep hillside* development area regulations in Section 143.0142(a) if they are determined to be the only feasible means of erosion control necessary to protect the existing ~~principal~~primary *structures* or *public improvements*.

(d) Outside the Coastal Overlay Zone, City linear utility projects are exempt from the development area regulations of the OR-1-2 zone in Section 131.0250(b) and the development area regulations for *steep hillsides* in Section 143.0142(a) and for *sensitive biological resources* in Section 143.0141(d).

(e) *Development* in the OF zone or within any *100-year floodplain* (formerly the FW, FC, and FPF zones) in the Mission Valley Community Plan area, is subject only to the Federal Emergency Management Agency Special Regulations in Section 143.0145(c).

(f) *Development* in the Calle Cristobal Assessment District area and outside the Coastal Overlay Zone is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (h).

(g) *Development* in the Miramar Ranch North Community Plan area and the 70 acre high *school* project in Scripps Ranch is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (h).

(h) *Development* of the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986, is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (g).

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74. Section 143.0112

Requirement to Submit Required Documentation and Obtain Permit Prior to Development on Environmentally Sensitive Lands

It is unlawful to begin *development* on a *premises* that contains *environmentally sensitive lands* without submitting required documentation and obtaining ~~a Neighborhood~~ the applicable Development Permit~~, a Site Development Permit~~, or an exemption as required pursuant to this division. If unlawful *development* occurs on property containing *environmentally sensitive lands* and an enforcement action has been commenced by the City pursuant to Section 143.0160, no ~~Neighborhood~~ Development Permit~~, or Site Development Permit~~ application may be processed until the enforcement action has been concluded.

43.0113 **Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process**

(a) In connection with any permit application for *development* on a parcel, the *applicant* shall provide the information used to determine the existence and location of *environmentally sensitive lands* in accordance with Section 112.0102(b).

(b) Based on a project-specific analysis and the best scientific information available, the City Manager shall determine the existence and precise location of *environmentally sensitive lands* on the *premises*.

75. Section 143.0115
Procedures and Regulations for Project-Specific Land Use Plans

(a) Project-specific *land use plans*, including specific plans, precise plans, privately initiated *land use plan* amendments, and future urbanizing area subarea plans, proposed for sites where *environmentally sensitive lands* are present, are subject to the regulations in this section to ensure adequate analysis of the constraints and opportunities of the planning area relative to *environmentally sensitive lands*. The analysis of *environmentally sensitive lands* for project-specific *land use plans* will be conducted in accordance with either Section 143.0115(b) or (c) based on whether or not a Site Development Permit is processed concurrently with the project-specific *land use plan*. Within the Coastal Overlay Zone, a project specific land use plan is subject to the local coastal program amendment process.

(b) Where a Site Development Permit is requested concurrently with the processing of a project-specific *land use plan*, the proposed *development* is subject to the following regulations. However, where a Coastal Development Permit is required, the project must conform to the local coastal program, as certified by the Coastal Commission.

(1) The boundaries of the Site Development Permit will be the boundaries of the project-specific *land use plan*, including all individual interior *lots* within the plan area.

(2) A decision on a Site Development Permit processed concurrently with a project-specific *land use plan* will be made in accordance with Process Five.

(3) The *environmentally sensitive lands* regulations applicable to the Site Development Permit will be determined in accordance with Table 143-01A. Sufficient information must be submitted for the entire plan area in order to evaluate potential impacts to *environmentally sensitive lands*. Any deviations proposed, other than as permitted in Section 143.0115(b)(4), are subject to Section 143.0150.

(4) For individual *lots* outside the *MHPA*, the development area regulations for *steep hillsides* in Section 143.0142(a) may be varied provided the regulations are complied with comprehensively for the entire plan area.

(5) The *applicant* shall prepare a *development* suitability analysis to evaluate the proposed *development* of the entire plan area and its relationship to the *environmentally sensitive*

lands regulations as well as other factors such as *historical resources*, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for *development* and those that should be preserved as open space. Overall *development* within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to *environmentally sensitive lands*, in accordance with this division and the associated guidelines in the Land Development Manual.

(6) The project-specific *land use plan* shall include a summary of the allowable development area and any required mitigation for each parcel. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the city boundaries and preferably within the same plan area.

(7) Subsequent *development* proposals within the Site Development Permit area will be reviewed in accordance with the *substantial conformance* procedures. If the *development* is determined to be in conformance with the Site Development Permit and any required mitigation is provided, an amendment to the Site Development Permit will not be required. If the proposed *development* is not in conformance with the approved project-specific *land use plan*, an amendment to the Site Development Permit will be required for the *development* in addition to an amendment to the approved project-specific *land use plan*.

(8) Any *coastal development* proposals requiring a Coastal Development Permit must conform to the regulations contained in the certified local coastal program. In case of conflict with the above stated regulations, the coastal development regulations shall apply.

(c) Where a Site Development Permit is not requested concurrently with the processing of a project-specific *land use plan*, the proposed plan and subsequent Site Development Permits and/or Coastal Development Permits are subject to the following regulations.

(1) The *applicant* shall prepare a *development* suitability analysis that evaluates the proposed *development* of the entire plan area and its relationship to the *environmentally sensitive lands* regulations as well as other factors such as *historical resources*, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for *development* and those that should be preserved as open space. Overall *development* within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to *environmentally sensitive lands*, in accordance with this division and the associated guidelines in the Land Development Manual.

(2) The project-specific *land use plan* shall indicate how subsequent *developments* within the plan area will comply with the *environmentally sensitive lands* regulations and the associated guidelines in the Land Development Manual. Where any deviation from this division is proposed for the plan area or on a *premises*, a description of the deviation shall be provided along with a statement of how the deviation benefits the overall design of the entire plan area. Deviations may be approved only under the following conditions:

(A) When there are no feasible measures that can further minimize the potential adverse effects on *environmentally sensitive lands* and when the deviation is the minimum necessary to afford relief and accommodate the *development*; and

(B) When there are special circumstances or conditions applying to the plan area that are peculiar to the land and not of the applicant's making, whereby strict

application of the provisions of the *environmentally sensitive lands* regulations would deprive a property owner of reasonable use of his or her land and would result in a less desirable project-specific *land use plan*.

(3) The development area regulations for *steep hillsides* in Section 143.0142(a) may be varied for individual *lots* outside the *MHPA* provided the intent of these regulations is complied with comprehensively for the entire plan area.

(4) The project-specific *land use plan* shall acknowledge that any privately owned property that is designated entirely as open space could be proposed for *development* in accordance with the base zone. This possibility shall be taken into consideration when analyzing the total potential development area within the plan area.

(5) The project-specific *land use plan* shall include an implementation strategy for acquisition of those parcels designated as open space. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the City boundaries and preferably within the same plan area.

(6) After approval of the project-specific *land use plan*, a Site Development Permit shall be required for all proposed individual *developments* within the plan area and shall be reviewed in accordance with Process Four. Additional information pertaining to *environmentally sensitive lands* may be required in order to conduct a detailed analysis s of the specific *development* proposal. Approval of the individual Site Development Permits will require conformance with the approved project-specific *land use plan* and any required mitigation shall be provided. Deviation *findings* will not be required if the proposed *development* is consistent with the approved project-specific *land use plan*. If a proposed *development* is not in conformance with the approved project-specific *land use plan*, approval of a Site Development Permit requires compliance with all of the *environmentally sensitive lands* regulations.

(7) Conformance with the *environmentally sensitive lands* regulations and associated guidelines in the Land Development Manual is required for all *environmentally sensitive lands* impacts not addressed by the approved project-specific *land use plan*.

(8) Any *coastal development* proposals requiring a Coastal Development Permit must conform to the regulations contained in the certified local coastal program. In case of conflict with the above stated regulations, the coastal development regulations shall apply.

76. Section 143.0126
Emergency Authorization to Impact Environmentally Sensitive Lands

Whenever *development* activity within *environmentally sensitive lands* is deemed necessary by order of the City Manager to protect the public health or safety, the City Manager may authorize, without a public hearing, the minimum amount of impact necessary to protect the public health or safety, subject to the following:

(a) If the emergency work involves only temporary impacts to *environmentally sensitive lands*, a Neighborhood Development Permit or Site Development Permit is not required provided the *environmentally sensitive lands* are restored to their natural state, in accordance with a restoration plan approved by the City Manager. The restoration plan shall be submitted to the City Manager within 60 days of completion of the emergency work.

(b) If the emergency work results in permanent impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is required in accordance with all regulations of this division. The application for the Neighborhood

Development Permit or Site Development Permit shall be submitted within 60 days of completion of the emergency work.

(c) Within the Coastal Overlay Zone, a coastal development permit is required for any emergency *coastal development* in accordance with Section 126.0718.

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77. Section 143.0130
Uses Allowed Within Environmentally Sensitive Lands

Allowed uses within *environmentally sensitive lands* are those allowed in the applicable zone, except where limited by this section.

(a) *Sensitive Coastal Bluff* Areas. Permitted uses and activities in *sensitive coastal bluff* areas, as indicated on Map Drawing No. C-713, are limited to the following:

(1) *Single Dwelling Units* together with *accessory structures* and landscape features incidental to residential uses;

(2) Bicycle storage facilities;

(3) Public comfort stations;

(4) Public pergolas and gazebos;

(5) Public parking lots;

(6) Public seating benches;

(7) *Open ~~F~~fences* and walls for public safety, provided they do not interfere with existing or designated public or visual access ways;

(8) Safety and public information *signs*;

(9) Public stairways, ramps, and other physical beach access facilities, as identified within an applicable land use plan;

(10) Essential public walkways leading to permitted beach access facilities;

(11) Essential public drainage facilities; and

(12) Bluff repair and erosion control measures when necessary to protect existing primary structures and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

(b) *Coastal Beach* Areas. Permitted uses and activities in *coastal beach* areas, as identified on Map Drawing No. C-713, are limited to the following:

(1) Lifeguard towers and stations and associated life and security facilities;

(2) Public comfort stations;

(3) Public piers;

(4) Safety and public information *signs*;

(5) Shoreline protective works when necessary to prevent bluff and beach erosion ~~or where necessary~~ and to protect coastal dependent uses, public beach roadways, or existing

~~principal~~ primary *structures* in danger from wave ~~and wind~~ action and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply;

(6) Public s~~S~~tairways, ramps, and other physical access *structures*, as proposed within an applicable land use plan; and

(7) Public recreational equipment.

(c) *Floodways*. Uses permitted within the *floodway* portion of a *100-year floodplain* are those allowed by the OF zone, as indicated in Table 131-02B.

(d) Wetlands in the Coastal Overlay Zone. Uses permitted in wetlands shall be limited to the following:

(1) Aquaculture, wetlands-related scientific research and wetlands-related educational uses;

(2) Wetland restoration projects where the primary purpose is restoration of the habitat;

(3) Incidental public service projects, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

(e) Wetland Buffer Areas in the Coastal Overlay Zone. Permitted uses in wetland buffer areas shall be limited to the following:

(1) Public Access paths;

(2) Fences;

(3) Restoration and enhancement activities; and

(4) Other improvements necessary to protect wetlands.

3.0140 General Development Regulations for all Environmentally Sensitive Lands

Development that proposes *encroachment* into *environmentally sensitive lands* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations.

Environmentally sensitive lands that are outside of the allowable development area on a *premises* shall be left in a natural state and used only for those passive activities allowed as a condition of permit approval. The landowner may elect to offer to dedicate in fee the undeveloped remainder portion of the *premises* to the City to relieve the landowner of management and liability obligations associated with that portion of the *premises*. Otherwise, the passive activities allowed on the undeveloped remainder of the *premises* and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0151.

(b) The allowable development area for all proposed *subdivisions* is based on the existing *lot* or *premises* to be subdivided. If no *development* is proposed on any newly created *lot*, the future development area of the *lot* shall be indicated on the required *grading* plan and included in the maximum allowable development area calculation for the *subdivision*.

(c) No building *lot* shall be created that provides such a small development area that future reasonable *development* of the *lot* will require additional *encroachment* into *environmentally sensitive lands* beyond the maximum allowable development area of the original,

unsubdivided *premises*. If additional development area is proposed for a *lot* that would exceed the maximum allowable development area of the original, unsubdivided *premises*, a deviation in accordance with Section 143.0150 is required, regardless of the *lot* size and the existing development area of the individual *lot*.

(d) No temporary disturbance or storage of material or equipment is permitted in *environmentally sensitive lands*, unless the disturbance or storage occurs within an area approved for *development* by a Site Development Permit or unless it can be demonstrated that the disturbance or storage will not alter the landform or cause permanent habitat loss and the land will be revegetated and restored in accordance with the Biology Guidelines in the Land Development Manual.

78. Section 143.0141
Development Regulations for Sensitive Biological Resources

Development that proposes *encroachment* into *sensitive biological resources* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

(a) State and federal law precludes adverse impacts to *wetlands* or listed non-covered species habitat. The *applicant* shall confer with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game before any public hearing for the *development* proposal. The applicant shall solicit input from the Resource Agencies on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat. The applicant will, to the maximum extent feasible, incorporate the Resource Agencies' recommendations prior to the first public hearing. *Grading* or *construction permits* shall not be issued for any project that ~~adversely~~ impacts *Wetlands* or Listed non-covered species habitat until all necessary federal and state permits have been obtained.

(b) Outside and inside the *MHPA*, impacts to *wetlands*, including vernal pools in naturally occurring complexes, shall be avoided. A *wetland buffer* shall be maintained around all *wetlands* ~~when necessary and~~ as appropriate to protect the functions and values of the *wetland*. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in 143.0141(a). Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values.

(c) Inside the *MHPA*, *development* shall avoid impacts to narrow endemic species. Outside the *MHPA*, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

(d) Inside the *MHPA*, *development* is permitted only if necessary to achieve the allowable development area in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b), unless exempted from the development area regulations pursuant to Section 143.0111.

(e) Inside and adjacent to the *MHPA*, all *development* proposals shall be consistent with the City of San Diego *MSCP Subarea Plan*.

(f) Inside the *MHPA*, any change of an agricultural use to a non-agricultural use is subject to the development area regulations of Section 143.0141(d). Existing agricultural operations that exceed the allowable development area may remain as agricultural use only and do not count as part of the allowable development area.

(g) Outside the *MHPA*, *development* of lands that are designated as open space in the applicable *land use plan* and zoned OR-1-1 is permitted only if necessary to achieve the allowable development area, in accordance with Section 131.0250(a).

(h) Outside the *MHPA*, *encroachment* into *sensitive biological resources* is not limited, except as set forth in Section 143.0141(a), (b) and (g).

(i) All *development* occurring in *sensitive biological resources* ~~both inside and outside the MHPA~~ is subject to a site-specific impact analysis conducted by the City Manager, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to *sensitive biological resources* and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. Mitigation may include any of the following, as appropriate to the nature and extent of the impact.

(1) Acquisition or *dedication* of another site that can serve to mitigate the project impacts, with limited right of entry for habitat management, as necessary, if the site is not dedicated. This site must have long-term viability and the biological values must be equal to or greater than the impacted site.

(2) Preservation or *dedication* of on-site *sensitive biological resources*, creation of new habitat, or enhancement of existing degraded habitat, with limited right of entry for habitat management, as necessary, if the site is not dedicated. The site must have long-term viability and the biological values must be equal to or greater than the impacted site.

(3) In circumstances where the area of impact is small, monetary payment of compensation into a fund in lieu of other forms of mitigation. The City shall use the fund to acquire, maintain and administer habitat areas pursuant to City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Manager is authorized to enter into agreements with public agencies or private non-profit-conservancies or foundations to administer the funds and acquire or maintain habitat preservation areas.

(j) *Grading* during wildlife breeding seasons shall be consistent with the requirements of the City of San Diego *MSCP Subarea Plan*.

(k) *Sensitive biological resources* that are outside of the allowable development area on a *premises*, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval. If the land is not dedicated in fee to the City, identification of permissible passive activities and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.

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79. Section 143.0142
Development Regulations for Steep Hillsides

Development that proposes *encroachment* into *steep hillsides* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

(a) Allowable Development Area

(1) Inside of the *MHPA*, the allowable development area is determined in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b). However, within the Coastal Overlay Zone, development is permitted only if in conformance with Section 143.0142 (a)(4) and the certified local coastal program.

(2) Outside of the *MHPA*, the allowable development area includes all portions of the *premises* without *steep hillsides*. *Steep hillsides* shall be preserved in their natural state, except that *development* is permitted in *steep hillsides* if necessary to achieve a maximum development area of 25 percent of the premises. However, within the Coastal Overlay Zone, *coastal development* on steep hillsides shall be minimized to the maximum extent possible and permitted only when in conformance with Section 143.0142 (a)(4).

(3) Outside of the *MHPA* *and outside the Coastal Overlay Zone*, up to an additional 15 percent development area is permitted only as follows and as long as the total development area does not exceed 40 percent of the *premises*, pursuant to the Steep Hillside Guidelines in the Land Development Manual:

(A) For projects where the following major public facilities are required: publicly owned parks and recreation facilities, fire and police stations, publicly owned libraries, public *schools*, major *streets* and primary arterials, and *public utility* systems;

(B) For projects where the existing development area is not contiguous, and access to the entirety of the development area is not otherwise available; and

(C) For projects where the existing development area does not have direct access to a *public right-of-way*.

(4) Within the Coastal Overlay Zone, steep hillsides shall be preserved in their natural state and *coastal development* on *steep hillsides* containing *sensitive biological resources*, or mapped as Viewshed or Geologic Hazard on Map C-720 shall avoid encroachment into those areas to the maximum extent possible.

(A) When encroachment onto such steep hillsides is unavoidable, encroachment shall be minimized; except that encroachment is permitted in such steep hillsides to provide for a development area of up to a maximum of 25% of the premises, on *premises* containing less than 91% of such steep hillsides. On *premises* containing 91% or greater of such steep hillsides, the maximum allowable development area is 20% of the premises; however, an additional 5% encroachment into such steep hillsides may be permitted if necessary to allow an economically viable use, pursuant to the Steep Hillside Guidelines.

B) For purposes of this section, the development area shall include Zone 1 Brush management pursuant to the Landscape Regulations in Chapter 14, Article 2, Division 4.

(C) Up to an additional 15% of encroachment onto steep hillsides is permitted for the following:

(1) Major public roads and collector streets identified in the Circulation Element of an adopted community plan or Land Use Plan;

(2) Public utility systems;

(3) In the North City Local Coastal Program Land Use Plan areas only:

Local public streets or private roads and driveways which are necessary for access to the more developable portions of a site containing slopes of less than twenty-five percent (25%) grade, provided no less environmentally damaging alternative exists. The determination of whether or not a proposed road or driveway qualifies for an exemption, in whole or in part, shall be made by the City Manager based upon an analysis of the project site;

(D) For the purposes of this section, encroachment shall be defined as any area of twenty-five percent (25%) or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to the displacement required for the building, accessory structures, or paving, or is cleared of vegetation (including Zone 1 brush management.

(E) In approval of any Coastal Development Permit for the subdivision of land pursuant to the Subdivision Map Act, and any other division of land, including lot splits, no encroachment into *steep hillsides* containing *sensitive biological resources,* or mapped as Viewshed or Geologic Hazard on Map C-720 shall be permitted, and the decision maker shall require a minimum 30 foot setback for Zone 1 brush management for *coastal development* from such *steep hillsides.*

(b) All *development* occurring in *steep hillsides* shall comply with the design standards identified in the Steep Hillside Guidelines in the Land Development Manual for the type of *development* proposed.

(c) Newly created slopes shall not exceed the slope gradient permitted in Section 142.0133.

(d) Disturbed portions of the site in 25 percent (4 horizontal feet to 1 vertical foot) or greater slopes shall be revegetated or restored in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations).

(e) Before approval of any Neighborhood Development Permit or Site Development Permit, the *applicant* shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved *development*, as necessary and appropriate.

(f) Any increase in runoff resulting from the *development* of the site shall be directed away from any *steep hillside* areas and either into an existing or newly improved public storm drain system or onto a *street* developed with a gutter system or *public right-of-way* designated to carry surface drainage run-off.

(g) Erosion Control Measures

(1) Outside the Coastal Overlay Zone, ~~E~~erosion control measures are not subject to the 25 percent development area regulations in Section 143.0142(a), but are subject to the landscape regulations in Chapter 14, Article 2, Division 4 and the Steep Hillside Guidelines in the Land Development Manual. Within the Coastal Overlay Zone, erosion control measures are subject to Section 142.0142(a)(4).

(2) Air-placed concrete, including gunite or shotcrete, *retaining walls*, buttress *fills*, and other similar erosion control measures may be allowed only if determined to be the only feasible means of erosion control to protect the existing ~~principal~~primary *structures* or *public improvements.*

(A) These measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(B) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the permittee shall provide written permission from the City Manager before approval of the Site Development Permit. Documentation of this approval shall be recorded with the conditions of permit approval.

(h) All development on steep hillsides located in La Jolla or La Jolla Shores Community Plan areas, shall, in addition to meeting all other requirements of this section, be found consistent with the Hillside Development Guidelines set forth in the La Jolla - La Jolla Shores Local Coastal Program Land Use Plan.

80. Section 143.0143
Development Regulations for Sensitive Coastal Bluffs

Coastal d~~D~~evelopment ~~that proposes to encroach into~~ on premises containing sensitive *coastal bluffs*, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062 or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(a) No *development* is permitted on the face of a *sensitive coastal bluff*, except as permitted in Section 143.0143(g) and (h), and the *coastal bluff face* shall be preserved as a condition of permit approval.

(b) On the portion of a *premises* where *development* is permitted, the proposed *grading* shall minimize the alteration of natural landforms and graded areas shall topographically resemble natural landforms of the surrounding area.

(c) Only native or other drought-tolerant plant species shall be used in landscaped areas in order to minimize irrigation requirements and to reduce potential slide hazards due to overwatering of the *coastal bluffs*.

(d) All drainage from the improvements on the *premises* shall be directed away from any *coastal bluff* and either into an existing or newly improved public storm drain system or onto a *street* developed with a gutter system or *public right-of-way* designated to carry surface drainage run-off. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the *coastal bluff*.

(e) Before approval of any ~~Site~~ Development Permit, the *applicant* shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved *development*, as necessary and appropriate.

(f) All *development* including buildings, *accessory structures*, and any additions to existing *structures* shall be set back at least 40 feet from the *coastal bluff edge*, except as follows:

(1) The City Manager may permit *structures* to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the *development* at the proposed distance from the *coastal bluff edge* and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the ~~principal~~ primary *structures*, and no shoreline protection is required. Reductions from the 40 foot setback shall be approved only if the geology report concludes the structure will not be subject to significant geologic stability, and not require construction of shoreline protection measures throughout the economic lifespan of the structure. In addition, the applicants shall accept a deed restriction that waives all rights to protective devices associated with the subject property. The geology report shall contain:

(A) An analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards;

(B) An analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information;

(C) An analysis of the potential effects of past and projected El Nino events on bluff stability;

(D) An analysis of whether this section of the coast line is under a process of retreat.

(2) *Accessory structures* and landscape features customary and incidental to residential uses shall not be closer than 5 feet to ~~observe a minimum 5-foot distance from~~ the *coastal bluff edge* provided, however, that these shall be located at *grade*. *Accessory structures* and features may be landscaping, walkways, unenclosed patios, open shade *structures*, decks that are less than 3 feet above grade, lighting standards, *fences* and walls, seating benches, *signs*, or similar *structures* and features, excluding garages, carports, buildings, pools, spas, and upper *floor* decks with load-bearing support *structures*.

(3) ~~*Fences* within the required distance from the *coastal bluff edge* shall be *open fences*. *Fences* located at the side *property lines* may extend to the *coastal bluff edge*, provided that within 5 feet of the *coastal bluff edge*, the *fence* is no more than 5 feet high and is an *open fence*. Other~~ *Open fences* may be permitted ~~at the~~ closer than 5 feet to the *coastal bluff edge* only if necessary to provide for public safety and to protect resource areas accessible from public right-of-ways or on public parkland.

(4) Essential public drainage facilities and public walkways leading to permitted beach access facilities may be installed within the 5-foot coastal bluff edge setback provided they are designed to minimize impacts to the *coastal bluff face* and *coastal beach* areas.

(g) *Coastal bluff* repair and erosion control measures may occur on the bluff face only if they comply with the following:

(1) *Coastal bluff* repair and erosion control measures may be allowed on the *coastal bluff face* only if determined to be the only feasible means of erosion control and when necessary, to protect the existing ~~principal~~ primary *structures* or to protect *public improvements* that cannot feasibly be relocated.

(2) *Coastal bluff* repair and erosion control measures shall not cause significant alteration of the natural character of the bluff face.

(3) The *applicant* shall submit a *geotechnical report* that documents the need for an erosion control measure to the City Manager. The *geotechnical report* shall identify the type and design of the erosion control measure necessary for protection of the existing ~~principal~~primary *structures*, based upon site-specific conditions and analysis of alternatives. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.

(4) Air-placed concrete, including gunite or shotcrete, *retaining walls*, *fills* or other similar erosion control measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(5) Where erosion control measure are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the *applicant* shall provide written permission

from the City Manager before approval of any permit. Documentation of this approval shall be recorded with the conditions of permit approval.

(h) Essential public facilities including drainage facilities, ~~and public~~ stairways, ramps, and other physical beach access facilities may be permitted on a coastal bluff face if identified in an approved *land use plan* or if located in an area historically used by the public. These facilities shall be designed to minimize impacts to the bluff face and beach area.

(i) All *development* occurring on *sensitive coastal bluffs* shall be in conformance with the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(j) Public views ~~A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the *premises*~~, shall be preserved pursuant to Section 132.0403.

(k) A vertical public access easement of not less than 10 feet in width, and running the full depth of the *premises* shall be offered, as a public easement as a condition of Coastal Development Permit approval, for *dedication* whenever all of the following conditions exist:

(1) The proposed *development* is located on a *premises* that lies between the shoreline and the ~~nearest through vehicular public access route paralleling the shoreline~~ first public roadway paralleling the sea, as defined within the California Coastal Commission Regulations.

(2) The need for the accessway has been identified in the applicable *land use plan* or no other easement exists within a lateral distance of 500 feet of the subject *premises*; and

(3) Impacts caused by the proposed *development* ~~otherwise~~, including, but not limited to, direct encroachment into an accessway identified in the applicable land use plan, justify the requirement for a vertical accessway.

81. Section 143.0144
Development Regulations for Coastal Beaches

The following development regulations apply to *development* proposed on a *premises* containing a *coastal beach*, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062, and *coastal development* is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(a) No *development* is permitted on the portion of the site containing the *coastal beach*, except as permitted in Section 143.0130(b).

(b) All *development* occurring on a site containing *coastal beaches* must conform with the Coastal Beaches and Bluffs Guidelines in the Land Development Manual.

(c) Public views ~~A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the *premises*,~~ shall be preserved pursuant to Section 132.0403.

(d) A vertical public access easement of not less than 10 feet in width, and running the full depth of the *premises*, shall be offered for *dedication* as a public easement as a condition of Coastal Development Permit approval whenever both of the following conditions exist:

(1) The need for the accessway has been identified in the applicable *land use plan*, or no other easement exists within a lateral distance of 500 feet of the subject *premises*; and

(2) Impacts caused by the proposed *development*, including, but not limited to, direct encroachment into an accessway identified in the applicable land use plan, justify the requirement for a vertical accessway.

(~~e~~) An easement for public access and passive recreational uses located along the shoreline paralleling the water's edge shall be offered for *dedication* as a public easement as a condition of ~~Coastal~~ Development Permit approval. The easement shall have a minimum width of 25 feet measured from the toe of an existing *bluff*, the first line of terrestrial vegetation where there is no *coastal bluff*, or an existing or proposed seawall or other protective device seaward to the mean high tide line whenever both of the following conditions exist:

(1) The proposed *development* is located on property that contains a sandy or cobble beach or passable headland; and

(2) The proposed development will fix the location of the back of the beach, encroach onto the shoreline or cause other ~~The~~ impacts which ~~caused by the proposed *development*~~ justify the requirement for the easement.

(f) For applications involving a shoreline protective work, the applicant shall submit a geotechnical report that documents the need for the erosion control measure to the City Manager. If the geotechnical report documents an existing primary structure is in danger from erosion, the geotechnical report shall identify the type and design of the protective device necessary to protect the existing primary structure, and other feasible alternatives to reduce the risk and address site-specific hazardous conditions. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.

(g) Air-placed concrete, including gunite or shotecrete, retaining walls, seawalls, fills or other similar erosion control measures shall only be permitted when necessary to protect an existing primary structure and when determined to be the least environmentally damaging feasible alternative pursuant to the California Environmental Quality Act. Mitigation for impacts to local shoreline sand supply shall be required.

(h) Any approved shoreline protective device shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(i) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by the City of San Diego or other public agency, or on lands subject to the public trust, the applicant shall provide written permission from the City Manager or public property owner before approval of any permit. Documentation of this approval shall be recorded with the conditions of permit approval. When an erosion control device encroaches directly on or otherwise affects State tidelands or publicly-owned property, the property owner shall be required to compensate for the use of public property and to mitigate the impacts of the protective device on the public beach.

(j) Mitigation for impacts on State tidelands or public beach may include, but not be limited to, a mitigation fee to be used for beach sand replenishment within the littoral cell of the project. The fee shall be roughly-proportional to the value of the beach area lost as a result of the protective device and shall be deposited in the City of San Diego Beach Sand Mitigation Fund held by the San Diego Association of Governments.

82. Section 143.0145
Development Regulations for Floodplains

The degree of *flood* protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger *floods* can and will occur on rare occasions. It is possible that increased *flood* heights may result from man-made or natural causes. This section does not imply that land outside the areas of *special flood hazards* or uses permitted within such areas will be free from *flooding* or *flood* damages. This section shall not create liability on the part of the City, any officer or employee thereof, or the Federal Emergency Management Agency (FEMA), for any *flood* damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

The following development regulations apply to all *development* proposing to encroach into *100-year floodplains*, including both the *floodway* and *floodplain fringe* areas or that does not qualify for an exemption pursuant to Section 143.0110(c):

(a) *Floodways*

(1) Within the *floodway* portion of a *premises* containing a *100-year floodplain*, development regulations are as set forth for the OF zone, pursuant to Section 131.0231.

(2) *Structures* associated with any allowed use shall comply with the following requirements:

(A) *Structures* shall not be attached to a foundation, in order to readily move them in case of *flood*; and

(B) *Structures* shall be removed upon imminence of *flooding*, as predicted by the National Weather Service or local public weather broadcast. If a *structure* is not removed and *flooding* occurs, the retrieval or salvage of the *structure* and repair of any damage caused by the *structure* shall be the responsibility of the owner.

(3) *Channelization* or other substantial alteration of rivers or streams shall be limited to that necessary for the following:

(A) Essential public service projects, where no other feasible construction method or alternative project location exists; and

(B) *Flood* control projects, where no other feasible method for protecting existing public or private *development* exists and where such protection is necessary for public safety.

(C) Projects where the primary function is the improvement of fish and wildlife habitat.

(4) *Development* in *floodways* shall be offset by improvements or modifications to enable the passage of a *100-year frequency flood*, in accordance with the FEMA standards and regulations provided in Section 143.0145(c).

(5) *Development* that involves *channelization* or other substantial alteration of rivers or streams is subject to the following requirements.

(A) All requirements and relevant recommendations of hydrological studies for the watershed of the affected stream, as approved by the City Engineer, shall be incorporated into the project design and mitigation measures. These requirements include erosional characteristics, flow velocities, volume, sediment transport, and maintenance of hydrology.

(B) The channel shall be designed to ensure that the following occur:

(i) Stream scour is minimized;

(ii) Erosion protection is provided;

(iii) Water flow velocities are maintained as specified by the City Engineer;

(iv) There are neither significant increases nor contributions to downstream bank erosion and sedimentation of *sensitive biological resources*; acceptable techniques to control stream sediment include planting riparian vegetation in and near the stream and detention or retention basins;

(v) Wildlife habitat and corridors are maintained;

(vi) Resource management criteria are implemented consistent with applicable *land use plans*; and

(vii) Groundwater recharge capability is maintained or improved.

(C) Channels that accommodate a *100-year frequency flood* shall do so without increasing the water surface elevation more than one foot at any point from the level of a nonconfined *100-year frequency flood* in the natural undeveloped floodplain. Channels may accommodate less than a *100-year frequency flood* (low-flow channels), but shall be designed and constructed in accordance with FEMA regulations.

(D) All artificial channels shall consist of natural bottoms and sides and shall be designed and sized to accommodate existing and proposed riparian vegetation and other natural or proposed constraints. Where maintenance is proposed or required to keep vegetation at existing levels compatible with the design capacity of the channel, a responsible party shall be identified and a maintenance and monitoring process shall be established to the satisfaction of the City Manager.

(6) *Development* shall not significantly adversely affect existing *sensitive biological resources* on-site or off-site.

(7) Within the Coastal Overlay Zone, no structure or portion thereof shall be erected, constructed, converted, established, altered or enlarged, or no landform alteration, grading, placement or removal of vegetation, except that related to a historic and ongoing agricultural operation, or land division shall be permitted, provided:

(A) Parking lots, new roadways and roadway expansions shall be allowed only where indicated on an adopted local coastal program land use plan.

(B) Floodway encroachments for utility and transportation crossings shall be offset by improvements or modifications to enable the passage of the one hundred (100) year frequency flood, in accordance with the FEMA standards and regulations provided in Section 143.0145(c).

(b) *Floodplain Fringe*. The applicable development regulations are those in the underlying zone, subject to the following supplemental regulations:

(1) Within the *floodplain fringe* of a *100-year floodplain*, permanent *structures* and *fill* for permanent *structures*, roads, and other *development* are allowed only if the following conditions are met:

(A) The *development* or *fill* will not significantly adversely affect existing *sensitive biological resources* on-site or off-site;

(B) The *development* is capable of withstanding periodic *flooding* and does not require or cause the construction of off-site *flood* protective works including artificial *flood* channels, revetments, and levees nor will it cause adverse impacts related to *flooding* of properties located upstream or downstream, nor will it increase or expand a *Flood Insurance Rate Map (FIRM)* or *Flood Hazard Boundary Map (FHBM)* Zone A;

(C) *Grading* and *filling* are ~~minimized~~ limited to the minimum amount necessary to accommodate the proposed development, harm to the environmental values of the floodplain is minimized including peak flow storage capacity, and *wetlands* hydrology is maintained;

(D) The *development* neither significantly increases nor contributes to downstream bank erosion and sedimentation nor causes an increase in *flood* flow velocities or volume; and

(E) There will be no significant adverse water quality impacts to downstream wetlands, lagoons or other sensitive biological resources, and the *development* is in compliance with the requirements and regulations of the National Pollution Discharge Elimination System, as implemented by the City of San Diego.

(F) The design of the development incorporates the findings and recommendations of both a site specific and coastal watershed hydrologic study.

(2) All *development* that involves *fill*, *channelization*, or other alteration of a *100-year floodplain* is subject to the requirements for *channelization* in Section 143.0145(a)(5) and with FEMA regulations.

(c) Special Regulations as Required by FEMA.

All proposed *development* within the *100-year floodplain* is subject to the following requirements and all other applicable requirements and regulations of FEMA.

(1) *Development* and Permit Review

(A) Where *base flood elevation* data has not been provided by the FEMA Flood Insurance Study for the City of San Diego, the City Engineer shall obtain, review, and utilize *base flood elevation* and *floodway* data available from federal or state sources, or require submittal of such data from the *applicant*. The City Engineer shall make interpretations, where needed, as to the location of the boundaries of the areas of *special flood hazards*, based on the best available engineering or scientific information.

(B) Proposed *development* in areas of a *special flood hazard* shall not adversely affect the *flood* carrying capacity of areas where *base flood elevations* have been determined but the *floodway* has not been designated. "Adversely affect" as used in this section means that the cumulative effect of the proposed *development*, when combined with all other existing and anticipated *development*, will not increase the water surface elevation of the *100-year frequency flood* more than one foot at any point.

(C) In all cases where a watercourse, floodplain, or portion of a floodplain is to be altered the City Engineer shall do the following:

(i) Notify affected, adjacent communities and the California Department of Water Resources of any proposed alteration or relocation of a watercourse and submit evidence of the notice to the Federal Insurance Administration;

(ii) Require that the *flood* carrying capacity of the altered or relocated portion of the watercourse is maintained; and

(iii) Secure and maintain for public inspection and availability the *certifications*, appeals, and variances required by these regulations.

(D) The *applicant* shall grant a flowage easement to the City for that portion of the property within a *floodway*.

(E) Appropriate agreements shall be secured between the *applicant* and the City to assure participation by the *applicant* or any successor in interest in financing of future *flood* control works.

(F) *Development* in a *100-year floodplain* shall not increase or expand a *FIRM* Zone A.

(G) In all *floodways*, any *encroachment*, including *fill*, new construction, significant modifications, and other *development* is prohibited unless *certification* by a registered professional engineer or architect is provided demonstrating that *encroachments* will not result in any increase in *flood* levels during the occurrence of the base *flood* discharge.

(2) Standards for *Subdivisions*

(A) All preliminary *subdivision* proposals shall identify the *flood* hazard area and the elevation of the base *flood*.

(B) All final *subdivision maps* shall provide the elevation of proposed *structures* and pads. If the site is *filled* above the *100-year frequency flood* level, the *lowest floor*, including *basement*, shall be certified to be 2 feet above the *base flood elevation* by a registered professional engineer or surveyor, and the *certification* shall be provided to the City Manager.

(C) All *subdivisions* shall be designed to minimize *flood* damage.

(D) All *subdivisions* shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize *flood* damage.

(E) All *subdivisions* shall provide adequate drainage to reduce exposure to *flood* hazards.

(F) The final map shall bear the notation "Subject to Inundation" for those portions of the property with a *grade* lower than 2 feet above the *base flood elevation*.

(3) Standards of Construction

In all areas of *special flood hazard*, the following standards apply for all *development*.

(A) All permitted, permanent *structures* and other significant improvements shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) All permitted permanent *structures* and other significant improvements shall be constructed with materials and utility equipment resistant to *flood* damage.

(C) Construction methods and practices that minimize *flood* damage shall be used.

(D) All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located to prevent water from entering or accumulating within the equipment components during conditions of *flooding*.

(E) *Breakaway walls* shall be certified by a registered engineer or architect to meet all applicable FEMA requirements. The *certification* shall be provided to the City Manager before final inspection approval.

(F) New construction and modification of any *structure* shall have the *lowest floor*, including *basement*, elevated at least 2 feet above the *base flood elevation*. Upon completion of the *development*, the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor to be properly elevated. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval. The City Manager reserves the right to require a preliminary *certification* before foundation inspection approval.

(G) New construction and modification of any *structure* in *FIRM* Zone AH or AO shall have the *lowest floor*, including *basement*, elevated above the highest adjacent *grade* at least 2 feet higher than the depth number specified on the *FIRM*, or at least 4 feet if no depth number is specified. Upon the completion of the *structure* the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor, to be properly elevated. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval. The City Manager reserves the right to require a preliminary *certification* before foundation inspection approval.

(H) Permitted nonresidential construction shall either be elevated as required by Section 143.0145(c)(3)(F) or (G) or, together with attendant utility and sanitary facilities, meet the flood proofing requirements of FEMA. *Certification* by a registered professional engineer or architect that such requirements are met shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval. The City Manager reserves the right to require a preliminary *certification* before foundation inspection approval.

(I) Fully enclosed areas below the *lowest floor* that are subject to *flooding* shall be certified by a registered professional engineer or architect that they comply with the flood proofing requirements of FEMA. The *certification* shall be provided to the City Manager before final inspection approval.

(4) Standards for *Manufactured Homes*

All new and replacement *manufactured homes* and additions to *manufactured homes* are subject to the following regulations.

(A) The *lowest floor* shall be elevated at least 2 feet above the *base flood elevation*.

(B) *Manufactured homes* shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.

(C) A registered engineer or architect must certify that the conditions of this subsection have been met. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval.

(5) Standards for Utilities

Certification shall be provided to the City Manager before final inspection approval that the following requirements have been met.

(A) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of *flood* waters into the system and discharge from systems into *flood* waters.

(B) On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during *flooding*.

83. Section 143.0150
Deviations from Environmentally Sensitive Lands Regulations

Plans submitted in accordance with this section shall, to the maximum extent feasible, comply with the regulations of this division. If a proposed *development* does not comply with all applicable ~~the~~ development regulations of this division and a deviation is requested as indicated in Table 143-01A, the Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit in accordance with Process Four, subject to the following:

(a) Deviations from the regulations of this division may be granted only if the decision maker makes the *findings* in Section 126.0504(c).

(b) Deviations from the FEMA Special Regulations in Section 143.0145(c) may be granted only if the decision maker makes the *findings* in Section 126.0504(d).

(c) Within the Coastal Overlay Zone, deviations from the regulations of this division may be granted only if the decision maker makes all of the findings in Section 126.0708(e).

84. Section 143.0151
Alternative Compliance for Steep Hillside Development Area Regulations

Proposed *developments* that do not comply with the development area regulations of Section 143.0142(a) and do not result in conflicts with other regulations may be considered as alternative compliance as indicated in Table 143-01A, pursuant to the regulations in this section. The Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit with alternative compliance in accordance with Process Four, subject to the following:

(a) Alternative compliance shall not be used in conjunction with any development permit for a *single dwelling unit* on an individual *lot*;

(b) Conformance with all other Environmentally Sensitive Lands Regulations is required unless a deviation is approved with the Site Development Permit, in accordance with Section 143.0150;

(c) Alternative compliance may be granted only if the decision maker makes the findings in Section 126.0504(e); and

(d) Alternative compliance shall not be considered for lands that are designated as open space in the applicable *land use plan* or that are zoned OR-1-1 or OR-1-2.

(e) Alternative compliance shall not be considered for lands that are within the Coastal Overlay Zone.

85. Section 143.0152
Covenants of Easements Pursuant to Environmentally Sensitive Lands Regulations

As authorized by California Government Code Section 65871, the owner of any *premises* affected by issuance of a permit under this division as described in Section 143.0140(a), shall execute a covenant of easement unless the owner dedicates the remainder portion of the property in fee to the City. The covenant of easement shall be recorded against title to the affected *premises* and executed in favor of the City.

(a) The owner shall draft the covenant of easement as follows:

(1) To contain a legal description of the *premises* affected by the permit with a description of the *development* area and the *environmentally sensitive lands* that will be preserved;

(2) To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting use of the *environmentally sensitive lands* covered by the permit;

(3) To ensure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected *premises*; and

(4) To ensure enforceability of the covenant of easement by the City, or jointly and severally by the City, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game in those instances when the covenant of easement affects *premises* containing *sensitive biological resources* or other lands that have been accepted as mitigation.

(b) A Process Four hearing shall be held to consider a formal, written request directed to the City by any person requesting the release of a covenant of easement recorded pursuant to this division. A release of any covenant of easement recorded pursuant to this division shall be recorded by the City only when it is determined by the decision maker that restriction of the property is no longer necessary to achieve the land use goals of the City. In any instance where the covenant of easement concerns *sensitive biological resources*, a determination by the decision maker to release the covenant may be made only with the written concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Game

(c) In the Coastal Overlay Zone, the covenants of easements shall be required as condition of approval at the subdivision stage of *coastal development* rather than at subsequent stages to the extent possible.

86. Section 143.0155
Administrative Guidelines for Environmentally Sensitive Lands Regulations

The City Manager is authorized to promulgate and publish Steep Hillside Guidelines, Biology Guidelines, Coastal Bluffs and Beaches Guidelines, and other support documents to be located in the Land Development Manual, as necessary to implement this division. These administrative guidelines shall serve as baseline standards for processing Neighborhood Development Permits, ~~and~~ Site Development Permits and Coastal Development Permits issued pursuant to these regulations. Any revisions to these guidelines will require review and approval by the Coastal Commission as a local coastal program amendment.

143.0160 Violations and Remedies

The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2, Enforcement Authorities for the Land Development Code

87. Section 143.0212(a) and (c) Need for Site-Specific Survey and Determination of Location of Historical Resources shall be revised to read:

(a) The City Manager shall determine the need for a site-specific survey for the purposes of obtaining a *construction permit*, ~~Neighborhood Development Permit,~~ or ~~Site Development Permit~~ *development permit* for *development* proposed for any parcel containing a *structure* that is 45 or more years old and not located within any area identified as exempt in the Historical Resources Guidelines of the Land Development Manual or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps.

(c) The City Manager shall determine the need for a site-specific survey within 10 *business days* of application for a *construction permit* or within 30 days of application for a *development permit*. A site-specific survey shall be required when the City Manager determines that a *historical resource* may exist on the parcel. If the City Manager ~~does not require a site-specific survey within the specified time period~~ determines that a site-specific survey is not required within the specified time period, a permit in accordance with Section 143.0210 shall not be required.

88. Section 143.0214 Emergency Authorization When Historical Resources Are Present shall be revised as follows:

Whenever *development* activity on a *premises* containing *historical resources*, or for any parcel identified as containing a *historical resource* in any community plan or in an historical resource inventory, or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps is deemed necessary by order of the City Manager to protect the public health or safety, the City Manager may authorize, without a public hearing, the minimum amount of work necessary to protect the public health or safety, subject to the following:

b) If the emergency work results in impacts to *historical resources*, a subsequent Neighborhood Development Permit or Site Development Permit is required in accordance with this division. All impacts to *historical resources* shall be fully mitigated to the greatest extent feasible.

(d) An emergency coastal development permit may be required, if so, any permanent development allowed under the emergency permit must be authorized through a follow-up coastal development permit submitted within 60 days of the date of issuance of the emergency permit.

89. Section 143.0220 Development Exempted from the Requirement to Obtain a Development Permit for Historical Resources shall be revised as follows:

The following *development* activities are exempt from the requirement to obtain a Neighborhood Development Permit or Site Development Permit. However, in all cases a *construction permit* is required.

(b) Interior modifications or repairs or the ordinary maintenance or repair of any exterior architectural feature in or on any *historical building* or *historical structure* ~~that is a designated historical resource~~ that does not adversely affect the special character or special historical, architectural, or cultural value or designated interior elements of the property consistent with the Secretary of Interior's Standards and Guidelines. [...]

[...]

(e) Except in the case of a *designated historical resource,* the modification of an existing structure or the replacement of a *single dwelling unit* with another *single dwelling unit*, including modification or replacement of paved areas, brush management for fire protection purposes, and any other landscaping improvements, or alterations that do not alter the existing *development* area by more than 10 percent.

(i) Development in the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986.

(j) Outside the coastal overlay zone, ~~P~~public works projects for which plans, specifications, and funding have been approved by the City Council or the City Manager before July 1, 1991.

90. Section 143.0225 Limited Exceptions from the Historical Resources Regulations, shall be revised as follows:

The decision maker may grant an exception from the 25 percent *encroachment* limitation for *important archaeological sites* according to ~~Section 143.0251~~ Section 143.0253 for brush management activities in Zone 2 provided that the following circumstances exist:

(a) The area cleared or thinned for such brush management is the minimum necessary to comply with existing City fire codes;

(b) No *grading* occurs in these brush management areas;

(c) Native root stock is retained;

(d) No permanent irrigation is provided; and

(e) No non-native plants are introduced.

91. Section 143.0250 General Development Regulations for Historical Resources shall be revised as follows:

Development that ~~proposes substantial alteration or encroachment into a *designated historical resource, traditional cultural property or important archaeological site* and~~ does not qualify for an exemption pursuant to Section 143.0220 is subject to the following regulations and the Historical Resources Guidelines of the Land Development Manual.

(a) (3) Substantial alteration means demolition, destruction, relocation, new construction or alteration activities that would impair the significance of a *historical resource.*

(b) All areas with *designated historical resources, traditional cultural properties* or *important archaeological sites* that remain undisturbed or are restored or enhanced as a result of a *development* approval shall be preserved as a condition of that approval.

(e) *Designated historical resources* that are occupied shall be maintained in the same manner as all other occupied *structures* in accordance with the Uniform Building Code and State Historic Building Code and in a manner that preserves their historical integrity.

(f) *Designated historical resources* that are unoccupied shall be maintained in a manner that preserves their historical integrity.

(g) All proposed *subdivisions* that contain *designated historical resources, traditional cultural properties* or *important archaeological sites* shall provide a conceptual *grading* plan that indicates future limits of *grading* and future *development* potential of all lots. [...]

92. Section 143.0260 Deviations from the Historical Resources Regulations shall be revised as follows:

(a) If a proposed *development* ~~does not~~ cannot to the maximum extent feasible comply with this division, a deviation may be considered in accordance with decision Process Four.

(b) The minimum deviation to afford relief from the regulations of this division and accommodate *development* may be granted only if the decision maker makes the applicant findings in Section 126.0504.

(c) If a deviation for demolition or removal of a *designated historical resource* or a contributing *structure* within a historical district is approved, the *applicant* shall obtain approval for new *development* on the same premises before issuance of a Demolition/Removal Permit.

93. Section 143.0440, Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development in the AR and OR Zones, shall be revised to read:

In addition to the general regulations for all Planned Development Permits and supplemental regulations for residential *developments*, the following regulations apply to all residential Planned Development Permits for rural cluster *developments* in the AR and OR zones:

(a) *Density*

(1 - 3) No Change

(4) Within the future urbanizing area and outside the Coastal Overlay Zone, the area of a golf course meeting the criteria of Section 143.0440(c)(4) may be used in the calculation of total permitted residential *density*.

(b) No Change.

(c) Open Space Requirement

(1 –3) No Change.

(4) Recreational facilities shall be designed to serve only the occupants and guests of the *development*. However, within the future urbanizing area and outside the Coastal Overlay Zone, golf courses open to the public and their customary incidental, supportive facilities (excluding lodging facilities) need not be restricted provided that a permanent and irrevocable open space easement is established that covers the area of the golf course. A golf course open to the public means a public golf course or a private golf course on public or private land that is open to the public on a daily fee basis or that offers memberships to the public.

(5) Within the future urbanizing area and outside the Coastal Overlay Zone, the area of a golf course meeting the criteria of Section 143.0440(c)(4) may be used in the calculation of total required open space.

94. Section 143.0450, Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development with Increased Density, shall be revised to read:

In addition to the general regulations for all Planned Development Permits and supplemental regulations for residential *developments*, the following regulations apply to all residential rural cluster *developments* requesting increased *density* that are located in the AR-1-1 and OR-1-2 zones within the future urbanizing area. Approval of a proposed *development* in accordance with this section shall require the *findings* in Section 126.0604(b) to be made.

(a) *Density*

(1 - 2) No Change.

(3) Except within the Coastal Overlay Zone, ~~I~~ the area of a golf course meeting the criteria of Section 143.0450(c)(6) may be used in the calculation of total permitted residential *density*.

(b) No Change.

(c) Open Space Requirements

(1- 5) No Change.

(6) Recreational facilities shall be designed to serve only the occupants and guests of the planned *development*. However, within the future urbanizing area and outside the Coastal Overlay Zone, golf courses open to the public and their customary incidental, supportive facilities (excluding lodging facilities) need not be restricted provided that a permanent and irrevocable open space easement is established that covers the area of the golf course. A golf course open to the public shall mean a public golf course or a private golf course on public or private land that is open to the public on a daily fee basis or that offers memberships to the public.

(7) Except within the Coastal Overlay Zone, ~~I~~the area of a golf course meeting the criteria of Section 143.0450(c)(6) may be used in the calculation of total required open space.

(d) No Change.

(e) Subarea Plan Requirement in the North City Future Urbanizing Area

(1) No Change.

(1) Except within the Coastal Overlay Zone, Section 143.0450(e)(1) shall not apply to any project for which an application was *deemed complete* on or before December 10, 1990, and which includes a golf course that is open to the public provided, however, that any such project shall fully participate in the Public Facilities Financing Plan, Interim Fees, and the *school* Facilities Master Plan, and that a development agreement shall be executed for the project.

D. SUGGESTED MODIFICATIONS FOR LAND DEVELOPMENT MANUAL

BIOLOGY GUIDELINES – SUGGESTED MODIFICATIONS

BIOLOGY GUIDELINES – SUGGESTED MODIFICATIONS

1. On Page 1, revise the first paragraph and Section A.2.as follows:

These Guidelines have been formulated by the Development Services Department to aid in the implementation and interpretation of the Environmentally Sensitive Lands Regulations (ESL), San Diego Land Development Code, Chapter 14, Division 1, Section 143.0101 et seq, and the Open Space Residential (OR-1-2) Zone, SDLDC, Chapter 13, Division 1, Section 131.0201 et seq. Section III of these Guidelines, (Biological Impact Analysis and Mitigation Procedures), also serve as standards for the determination of impact and mitigation under the California Environmental Quality Act (CEQA) and the Coastal Act.

These guidelines are the baseline biological standards for processing Neighborhood Development Permits, ~~and~~ Site Development Permits and Coastal Development Permits issued pursuant to the ESL. [...]

A. 2. Wetlands Many of the species included in the MSCP (i.e.Covered Species) are dependent on wetlands for habitat and foraging. The definition of wetlands in the ESL regulation is intended to differentiate uplands (terrestrial areas) from wetlands, and furthermore to differentiate naturally occurring wetland areas from those created by human activities. Except for areas created for the purposes of wetland habitat or resulting form human actions to create open waters or from the alteration of natural stream courses, it is not the intent of the City to regulate artificially created wetlands in historically non-wetland areas, unless they have been delineated as wetlands by the Army Corps of Enginieers or the Department of Fish and Game. [...]

2. On Page 2, revise the third complete paragraph as follows:

Areas that contain wetland vegetation, soils or hydrology created by human activities in historically non-wetland areas do not qualify as wetlands under this definition, unless they have been delineated as wetlands by the Army Corps of Engineers or the California Department of Fish and Game." ~~Examples are~~ Artificially created "wetlands" consist of the following: wetland vegetation growing in brow ditches and similar drainage structures outside of natural drainage courses, wastewater treatment ponds, stock watering, desiltation and retention basins, water ponding on landfill surfaces, ~~and~~ road ruts created by ~~off-road~~ vehicles and artificially irrigated areas which would revert to uplands if the irrigation ceased. ~~(see also Corps of Engineers Regulatory Program Regulations (33 CFR) Section 328.3 (a) (e) for additional examples).~~ [...]

3. On Page 3, revise Section (B) as follows:

B. Wetland Buffers. A wetland buffer is an area or feature(s) surrounding an identified wetland that helps to protect~~s~~ the functions and values of the adjacent wetland by reducing physical disturbance from noise, activity and domestic animals and provides a transition zone where one habitat phases into another. The buffer will also protect other functions and values of wetland areas including absorption and slowing of flood waters for flood and erosion control, sediment filtration, water purification, and ground water recharge, and the need for upland transitional habitat. Uses permitted within wetland buffers are specified in Section 143.0130(e).

4. On Page 4, add the following after the fourth paragraph of Section IIA(1) as follows:

However, within the Coastal Overlay Zone, both within and outside the MHPA, impacts to wetlands shall be avoided and only those uses identified in Section 143.0130(d) shall be permitted which are limited to aquaculture, nature study projects or similar resource dependent uses, wetland restoration projects and incidental public service projects. Such impacts to wetlands shall only occur if they are unavoidable, the least environmentally-damaging feasible alternative, and adequate mitigation is provided.

5. On Page 4, the last paragraph of Section IIA(1) shall be revised to include minimum wetland buffer width as follows:

A wetland buffer shall be maintained around all wetlands ~~as when necessary and~~ as appropriate to protect the functions and values of the wetland. [...] Wetland buffers should be provided at a minimum 100 ft. wide adjacent to all identified wetlands. The width of the buffer may be either increased or decreased as determined on a case-by-case basis, in consultation with the California Department of Fish and Game, the U.S, Fish and Wildlife Service and the Army Corps of Engineers, taking into consideration the type and size of development, the sensitivity of the

wetland resources to detrimental edge effects, natural feature such as topography, and the functions and values of the wetland and the need for upland transitional habitat. [...]

6. On Page 4, add to the end of the last paragraph of Section IIA(1) as follows:

A 100 foot minimum buffer area shall not be reduced when it serves the functions and values of slowing and absorbing flood waters for flood and erosion control, sediment filtration, water purification, and ground water recharge.

7. On Page 5, revise Section IIA(2) as follows:

2. Development in the MHPA. For parcels outside of the Coastal Zone and wholly or partially within the MHPA, a development is limited to the development area allowed by the OR-1-2 zone, as described below (see Section II.B). [...]

8. On Page 5, revise the last paragraph as follows:

Proposed development must be sited on the least sensitive areas and only encroach into more sensitive areas in order to achieve the allowable development area. Within the Coastal Overlay Zone, specific discretionary encroachment limitations into steep hillsides containing sensitive biological resources are established in Section 143.0142(a)(4) of the ESL which shall supercede the allowable development area permitted pursuant to the OR-1-2 zone.

9. On Page 6, revise Section IIA(3) as follows:

3. Development Outside of the MHPA. For parcels outside of the Coastal Overlay Zone and the MHPA, there is no limit on the encroachment into Sensitive Biological Resources, with the exception of wetlands, and listed non-covered species habitat (which are regulated by state and federal agencies and narrow endemic species as described below). However, impacts to Sensitive Biological Resources must be assessed and mitigation, where necessary, must be provided. Within the Coastal Overlay Zone, specific encroachment limitations into steep hillsides containing sensitive biological resources, and permitted uses within wetlands are established in Section 143.0142(a) and Section 143.0130(d) respectively, which, in case of conflict, shall supercede other regulations of the ESL. [...]

10. On Page 7, add the following as Section IIB(2) as follows:

B. Open Space Residential Zone (OR-1-2)

The OR-1-2 Zone provides for low- density residential, agricultural and passive open space uses. Every parcel zoned OR-1-2 has a development area as follows:

[...]- 2. Within the Coastal Overlay Zone, there are specific and discretionary encroachment limitations into sensitive steep hillsides established in Section 143.0142(a)(4) of the ESL. These restrictions are designed to assure that development onto steep hillsides containing sensitive biological resources is minimized. Additionally, development within wetlands shall be avoided to the maximum extent possible. In the event impacts to wetlands are unavoidable, only uses identified in Section 143.0130(d) which include, aquaculture, wetlands-related scientific research and educational uses, wetland restoration projects and incidental public service projects shall be permitted within wetlands. These uses are only permitted where it has been demonstrated there is no less environmentally damaging feasible alternative and mitigation has been provided. In case of conflict with the OR-1-2 zone and/or other regulations, these regulations shall supercede and apply.

11. On Page 8, revise Figure 1 as follows:

FIGURE 1
OR-1-2 Zone Development Area (outside the Coastal Zone)
Examples

12. On Page 13, revise Section III(B)(a) as follows:

a. Mitigation for Wetlands Impacts

The ESL regulations require that impacts to wetlands be avoided. Unavoidable impacts should be minimized to the maximum extent practicable, and mitigated as follows:

As part of the project-specific environmental review pursuant to CEQA, all unavoidable wetland impacts (both temporary and permanent) will need to be analyzed and mitigation will be required in accordance with Table 2; mitigation should be based on the impacted type of wetland habitat. Mitigation should prevent any net loss of wetland functions and values of the impacted wetland.

The following provides an operational definition of the four types of activities that constitute wetland mitigation under the ESL:

Wetland creation is activity that results in the formation of a new wetland in an upland area. An example is the excavation of uplands adjacent to existing wetlands and the establishment of native vegetation.

Wetland restoration is activity that re-establishes the habitat functions of a former wetland. An example is the excavation of agricultural fill from historic wetlands and the re-establishment of native wetland vegetation.

Wetland enhancement is activity that improves the habitat functions of an existing wetland. An example is the removal of exotic species from existing riparian habitat.

Wetland enhancement and wetland acquisition focus on the preservation or the improvement of existing wetland habitat and function and do not result in an increase in wetland area; therefore, a net loss of wetland may result. As such, ~~A~~acquisition and/or enhancement of existing wetlands may be considered as partial mitigation only, for any balance of the remaining mitigation requirement after restoration or creation if wetland acreage is provided at a minimum of a 1:1 ratio. For permanent wetland impacts that are unavoidable and minimized to the maximum extent feasible, mitigation shall consist of creation of new, in-kind habitat to the fullest extent possible and at the appropriate ratios. In addition, unavoidable impacts to wetlands located within the Coastal Overlay Zone shall be mitigated on-site, if feasible. If on-site mitigation is not feasible, then mitigation shall occur within the same watershed. All mitigation for unavoidable wetland impacts within the Coastal Overlay Zone, shall occur within the Coastal Overlay Zone.

For example, satisfaction of the mitigation requirement may be considered for a 3:1 mitigation ratio, with two parts consisting of acquisition and/or enhancement of existing acres, and one part restoration or creation.

The restoration of illegally filled historic wetland areas will not be considered for mitigation, and may result in code enforcement actions or may require restoration as a condition of project approval. All restoration proposals should evaluate the reason for the historic wetland loss (e.g. placement of fill, changes in upstream or groundwater hydrology), the approximate date of the loss, and a determination of whether the historic loss was legally conducted based upon the regulatory requirements at the time of the loss and ownership of the property.

[...]

13. **On Page 14, revise Table 2** to indicate that within the Coastal Zone, mitigation for impacts to riparian scrub habitat shall be at a 3:1 ratio and 4:1 for impacts to freshwater marsh.

14. On Page 15, revise b(1) as follows:

(1) Upland Impacts Within the MHPA (Outside the Coastal Zone). [....]

15. On Page 15, revise b(2) as follows:

(2) Upland Impacts Outside of the MHPA (Outside the Coastal Zone).

[...]

16. On Page 17, add the following after the second complete paragraph:

(3) Upland Impacts Within the Coastal Zone.

Within the Coastal Overlay Zone, encroachment within sensitive biological resources on steep hillsides shall be avoided to the maximum extent possible, and permitted only when in conformance with the encroachment limitations set forth in Section 143.0142(a)(4). Mitigation for permitted impacts shall be required pursuant to Section IIIB1b(1) and (2) above.

17. On Page 28, add the following under IV. Findings/Deviations after the first paragraph:

In the Coastal Overlay Zone, a Coastal Development Permit will be required regardless of whether a Site Development Permit or Neighborhood Development Permit is required for all coastal development proposed within the Coastal Overlay Zone and which does not qualify for an exemption pursuant to Section 126.0407. Such coastal development is subject to the Environmentally Sensitive Lands Regulations as applicable within the Coastal Overlay Zone. The findings required in Section 126.0708 must be made to assure conformance with the land use plans and implementation program of the certified Local Coastal Program.

Additionally, if a deviation from any of the Environmentally Sensitive Lands regulations is requested, two more findings must be made in addition to the general Neighborhood Development Permit or Site Development Permit findings and the five additional findings for environmentally sensitive lands. Deviations from the environmentally sensitive lands regulations in the Coastal Overlay Zone shall be approved only after the decision maker makes an economically viable use determination and findings pursuant to Section 126.0708(e).

COASTAL BLUFFS AND BEACHES GUIDELINES – SUGGESTED MODIFICATIONS

1. On Page 1, the last sentence of the first paragragh should be revised as follows:

A Coastal Development Permit will be required in addition to the Site Development Permit for all coastal development proposed within the Coastal Overlay Zone and which does not qualify for an exemption pursuant to Section 126.0407.

2. On Page 3, revise (C) as follows:

(C) Coastal Beach

Coastal Beach means the land between the edge of the sea and the first line of terrestrial vegetation or development or the toe of the adjacent sensitive coastal bluff ~~or seawall,~~ whichever is the most seaward.

A coastal beach is an Environmentally Sensitive Land that is generally defined as the land lying between the shoreline and the toe of the adjacent sensitive coastal bluff ~~or seawall.~~ If a seawall exists, the landward limit of the beach is still the toe of the bluff. The seawall would represent a seaward encroachment onto the beach. If no seawall or bluff exists, the landward limits of the beach shall be the first line of terrestrial vegetation.

~~**The definition of coastal beach should be revised in Section 113.0103 in the same way as above.**~~

3. On Page 3, revise (D) as follows:

(D) Coastal Bluff Edge

Coastal Bluff Edge means the ~~seaward-most~~ termination of the top of a sensitive coastal bluff where the downward gradient of the land surface begins to increase more or less continuously until it reaches the general gradient of the coastal bluff face.

4. On Page 5, add new (B) as follows:

(B) 143.0143(c) Irrigation on Coastal Bluffs

> Plant material used on or adjacent to coastal bluffs shall be native or naturalized to minimize the need for irrigation beyond initial plant establishment. Permanent irrigation is not permitted on Coastal bluffs. Temporary irrigation, consisting of microsprayers and/or drip irrigation, may be permitted on a case-by-case basis as necessary to establish native or naturalized plant materials. Irrigation shall be removed from the bluff upon establishment of the plant materials.

5. On Page 5, revise New (~~B~~ C) (2) as follows:

(2) Development may be located less than 40 feet but not less than 25 feet from the coastal bluff edge if there is evidence in a geology report that the site is stable enough to support the development at that proposed distance and if the development will neither be subject to nor contribute to significant geologic instability or require a shoreline or bluff erosion control device. In determining the stability of the sensitive coastal bluff, consideration shall be given to the rate of bluff retreat to determine whether the proposed development will be impacted within a reasonable economic life-span, taken to be 75 years. If a development is approved with a less-than-40-foot distance to the coastal bluff edge, future erosion control measures ~~may be~~ are precluded, ~~if it cannot be demonstrated that the bluff stability is in danger.~~ Air-placed concrete, retaining walls and seawalls will only be permitted when the principal structure, or public improvements not capable of being relocated, are in eminent danger. Less environmentally-damaging alternatives that reduce risk and avoid the need to significantly alter the natural landforms of the beach and/or bluff shall be considered as feasible.

6. On Page 6, revise (B)(3) as follows:

(3) A distance of five feet from the coastal bluff edge may be granted for landscape features and accessory structures that are located at grade so that they are not elevated at the base or constructed with a raised floor, and are capable of being relocated.

7. On Page 6, revise (B)(4) as follows:

(4) ~~Fences on the side property lines are not subject to a distance requirement from the coastal bluff edge as long as the fence is an open fence and does not exceed 5 feet in height. This type of fence may extend to the coastal bluff edge only when it is located at the side property line, but in no case may the fence extend onto the coastal bluff face.~~ Open fences may be permitted closer than 5 feet to the coastal bluff edge only if necessary to provide for public safety and to protect resource areas accessible from public right-of-ways or on public parkland.

8. On Page 6, revise the third paragraph of (C) as follows:

Air-placed concrete, retaining walls, and buttress fills shall only be used to protect existing principle structures, or public improvements not capable of being relocated, and if determined that no other feasible less impacting method will accomplish the erosion control. Alternatives may include relocation or removal of existing improvements, if feasible, to avoid significant alteration of the bluff. Such measures shall not be used to accommodate proposed development nor to increase the area of the top of bluff.

9. On Page 6, revise Section (D) as follows:

A site-specific analysis shall be conducted to determine and quantify the impact of the proposed development upon visual access to the ocean. If a visual corridor is feasible, ~~and all criteria in Section 143.0143(j) are met,~~ the appropriate corridor shall be required as a condition of development approval pursuant to Section 132.0403. If there is an existing or potential public view on premises that lie between the shoreline and the first public roadway, but the site is not designated in a land use plan as a view corridor, it is intended that views to the ocean shall be preserved or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and to prevent a walled effect from development. If there is an existing or potential public view and the site is designated in the applicable land use plan as a view corridor or within a public viewshed, it is intended that such critical views to the ocean be maintained or restored by designing and siting the coastal development in such a manner as to preserve the identified public view. Consideration may be given to the development of the adjacent property in determining the appropriate width of the view corridor on the subject premises, so that the overall width of the corridor is at least 10 feet when measured across both properties. Any such corridor shall be created and approved by the City Manager prior to the commencement of any construction on the premises.

No structures or other obstructions that will impede views shall be installed within the boundaries of any required visual corridor. Open fencing and landscaping may be installed within the view corridor provided such improvements do not significantly obstruct public views to the ocean. Landscaping shall be maintained such that during growing stages and at maturity, it will not encroach into the view corridor or obstruct public views to the ocean.

Where remodeling is proposed to an existing structure and the existing development is to be retained which precludes the establishment of a 10-foot wide visual corridor, the preservation of any partial existing visual corridor on the premises will be accepted, provided that the existing visual corridor is not reduced through the proposed remodeling.

10. On Page 7, revise Section (F) as follows:

Any site that contains any portion of a coastal beach shall be subject to a Site Development Permit unless the proposed development qualifies for an exemption pursuant to Section 143.110 (c). A Coastal Development Permit will be required, regardless of whether a Site Development Permit is required, for all coastal development proposed within the Coastal Overlay Zone and which does not qualify for an exemption pursuant to Section 126.0407. The uses permitted on the coastal beach are only those listed in Section 143.0130(b), all of which area public facilities, with the exception of shoreline protective works. If a privately owned premises contains a coastal beach, the private development shall occur on the portion of the premises that does not contain the coastal beach. If no such area exists or if such area is infeasible for development, a deviation from the environmentally sensitive lands regulations must be requested with the Site Development Permit. However, deviations from the Environmentally Sensitive Lands regulations in the Coastal Overlay Zone shall be approved only after the decision maker makes an economically viable use determination and findings pursuant to Section 126.0708(e).

In review of permit applications for shoreline protective works, the City Manager shall determine if the protective device is located on State tidelands or lands subject to the public trust, or if it is located on City or publicly-owned beach or on private property. The ownership of the beach and location of the protective device will determine whether the Coastal Development Permit is issued by the City or by the Coastal Commission. The Coastal Commission retains Coastal Development Permit authority for development proposed on tidelands, submerged lands or public trust lands; therefore, a mapped representation of the mean high tide line as it currently exists must accompany any permit application for a shoreline protective device.

Where erosion control devices are proposed to encroach upon or affect any portion of property owned by the City of San Diego or other public agency, or on lands subject to the public trust, the applicant shall provide written permission from the City Manager or public property owner before approval of any permit. If the protective device encroaches directly on or otherwise affects State tidelands or publicly-owned property, the property owner shall be required to compensate for the use of public property and to mitigate the impacts of the protective device on public beach.

Additionally, Section 143.0144 of these regulations requires that shoreline protective devices incorporate mitigation for adverse impacts on shoreline sand supply. Such impacts include, but are not limited to, loss of the sandy beach on which the structure is located, fixing the back beach, halting the supply of bluff material to the littoral zone, increasing scour and causing changes to the beach immediately seaward of and adjacent to the protective device. The submitted geology report must include site-specific information that will allow the City Manager to determine whether the proposed protective device will have any of these or other adverse effects on shoreline sand supply, use of public beach, the beach area or the bluff landform, either immediately or over time. The City Manger will consider all feasible design changes that will eliminate or minimize any identified impact from the proposed project. Examples of design changes include, but are not limited to, modifications to the type of structure, relocation of the proposed structure further landward, reducing the size or the extent of the protective device, etc.

Some of the effects which a shoreline protective device may have on natural shoreline processes can be quantified. The Coastal Commission has developed a Beach Sand Mitigation Program within the County of San Diego which includes a methodology by which the following impacts associated with protective devices can be quantified:

1) loss of the beach area on which the structure is located;
2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline;

3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

The methodology is found in the Report on In-Lieu Fee Beach Sand Mitigation Program – San Diego County dated January 1997, available from City staff. The methodology is not applicable to all site conditions, however, in many cases, it can be used to calculate the beach area displaced and the amount of bluff material which does not reach the beach, as a result of a seawall, and to calculate the amount of sand which would be required to replace that lost beach area in the project vicinity. This amount of material is then converted to a fee by multiplying the amount of material times the cost of transporting that material to the beach. To derive these amounts, the methodology uses the information specific to the proposed project, such as the design life and amount of seaward encroachment. Also required nformation is specific to the project site, such as the height of bluff, width of property, percentage of sand in the bluff material and the predicted rate of erosion that was used to determine the need for protection of the existing principal structure.

The methodology quantifies some of the impacts caused by a protective device in terms of area of beach and volume of sand, but it is not considered the only means to identify impacts to sand supply and required mitigation. Where unavoidable impacts to shoreline sand supply are associated with an approved shoreline protective device, mitigation shall be required, and may include a mitigation fee to be used for beach replenishment within the same littoral cell of the project. The fee shall be roughly-proportional to the value of the beach area lost as a result of the approved protective device and shall be used for beach replenishment which is directly related to the impact of the project. When applicable, the above referenced methodology may be utilized to calculate the mitigation fee. The fee shall be deposited in the City of San Diego Beach Sand Mitigation Fund held by the San Diego Association of Governments.

11. On Page 8, revise Section (G) as follows:

A site-specific analysis shall be conducted to determine and quantify the impact of the proposed development upon visual access to the ocean. If a visual corridor is feasible, ~~and all criteria in Section 143.0144(c) are met,~~ the appropriate corridor shall be required as a condition of development approval pursuant to Section 132.0403. If there is an existing or potential public view on premises that lie between the shoreline and the first public roadway, but the site is not designated in a land use plan as a view corridor, it is intended that views to the ocean shall be preserved or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and to prevent a walled effect from development. If there is an existing or potential public view and the site is designated in the applicable land use plan as a view corridor or within a public viewshed, it is intended that such critical views to the ocean be maintained or restored by designing and siting the coastal development in such a manner as to preserve the identified public view. Consideration may be given to the development of the adjacent property in determining the appropriate width of the view corridor on the subject premises, so that the overall width of the corridor is at least 10 feet when measured across both properties. Any such corridor shall be created and approved by the City Manager prior to the commencement of any construction on the premises.

No structures or other obstructions that will impede views shall be installed within the boundaries of any required visual corridor. Open fencing and landscaping may be installed within the view corridor provided such improvements do not significantly obstruct public views to the ocean. Landscaping shall be maintained such that during growing stages and at maturity, it will not encroach into the view corridor or obstruct public views to the ocean.

Where remodeling is proposed to an existing structure and the existing development is to be retained which precludes the establishment of a 10-foot wide visual corridor, the preservation of any partial existing visual corridor on the premises will be accepted, provided that the existing visual corridor is not reduced through the proposed remodeling.

STEEP HILLSIDE GUIDELINES – SUGGESTED MODIFICATIONS

1. The Steep Hillside Guidelines were not certified and are subject to future Coastal Commission action, prior to effective certification of the Land Development Code.

LANDSCAPE STANDARDS – SUGGESTED MODIFICATIONS

1. The Landscape Standards shall be modified to be in conformance with the Environmentally Sensitive Lands Regulations and the other general Land Development Code revisions as certified by the Commission.

HISTORICAL RESOURCES GUIDELINES – SUGGESTED MODIFICATIONS

1. The Historical Resources Guidelines shall be modified to be in conformance with the Land Development Code revisions herein, as certified by the Commission.

2. The first paragraph under **When Are Surveys Required?** of **Section II. DEVELOPMENT REVIEW PROCESS**, shall be revised as follows:

For premises not already determined to contain historical resources, the City Manager shall determine the need for a site specific survey for the purposes of obtaining a Construction Permit or, ~~Neighborhood Development Permit or Site~~ Development Permit for development proposed for any parcel containing a structure that is more than 45 years old and not located within any area identified below as exempt or for any parcel identified as containing a historical resource in a land use plan or in a historical resource inventory, or identified as sensitive on the Historical Resource Sensitivity Maps for review based on the Historical Resource Sensitivity Maps. In determining the need for a site-specific survey, the City Manager should consult with and consider input from local individuals and groups with expertise in the Historical Resources of the San Diego area. These experts may include the University of California, San Diego State University, San Diego Museum of Man, local historical and archaeological groups, and designated community planning groups. Consultation with these or other individuals and groups should occur as early as possible so that their input can be considered during the time frame allotted to determine the need for a site specific survey. The City Manager shall determine the need for a site specific survey within 10 working days of application of a construction permit or within 30 calendar days of an application for a development permit. A site specific survey shall be required when the City Manager determines that a historical resource may exist on the premises. If the City Manager does not require a site specific survey within the specified time period a permit for historical resources shall not be required.

E. MINOR TECHNICAL REVISIONS SUGGESTED BY THE CITY

Section 1113.0273(d), Measuring Visibility Area, shall be revised to read:

> The *visibility area* is a triangular portion of a premises formed by drawing one line perpendicular to and one line parallel to the *property line* or *public right-of-way* for a specified length and one line diagonally joining the other two lines, as shown in Diagram 113-02QQ. No *structures* may be located within a *visibility area* unless otherwise provided by the applicable zone or the regulations in Chapter 14, Article 2 (General Development Regulations). [. . .]

(d) Where the required front and street side yards measure less than 25 feet when combined, that measurement or 15 feet, whichever is greater, establishes the *visibility area* at the street intersection.

Chapter 12/Article 1/Division 1: General Rules for Land Development Review

Section 121.0101, Purpose of City Review, shall be revised to read:

The purpose of City review is to help ensure that *development* in the City of San Diego is protective of the public health, safety, and welfare. The intent of the Land Development Code is to provide different review processes appropriate to the different types of *development*.

The Land Development Code provides procedures to review *land use plans*, zoning actions, maps, and permit applications. Map and permit reviews are divided into two major categories: development review and construction review. A proposed map or permit may require either type or both types of review as specified. Development review is the review of conceptual or schematic plans. Development review is required when conditions must be applied to a map or permit or when adjustments or exceptions from regulations are proposed ~~street~~. Construction review is review of final or construction plans for compliance with regulations of the Land Development Code.

Chapter 12/Article 6/Division 5: Site Development Permit Procedures

Section 126.0503, Decision Processes for Site Development Permits, shall be revised to read:

(a) Process Three

A decision on an application for a Site Development Permit for the types of *development* listed in Section 126.0502(a), (b) and (c) shall be made in accordance with Process Three. The decision may be appealed to the Planning Commission in accordance with Section 112.0506.

(b) Process Four

(1) A decision on an application for a Site Development Permit for the types of *development* listed in Section 126.0502(~~b~~d) shall be made in accordance with Process Four.

(2) A recommendation of the Historical Resources Board is required prior to the Planning Commission decision on a Site Development Permit when a *historical district* or *designated historical resource* is present.

(c) Process Five

A decision on an application for a Site Development Permit for the types of *development* listed in 126.0502(~~c~~ e) shall be made in accordance with Process Five.

Chapter 13/Article 1/Division 1: General Rules for Base Zones

Section 131.0112, Description of Use Categories and Subcategories, shall be revised to read:

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b). [. . .]

(3) Residential Use Category

This category includes uses that provide living accommodations for one or more persons. The residential subcategories are:

(A) Group Living Accommodations -- Dwellings where multiple residents share living accommodations and facilities and where meals or other services are provided.

(B) *Mobilehome* Parks -- A *premises* with two or more mobilehomes used as dwelling units other than companion units or employee housing.

(C) *Multiple Dwelling Units* -- Dwelling units where more than one dwelling unit is located on a single *lot*. ~~*Multiple dwelling units do not include uses allowed in single dwelling unit zones.*~~ . . .

Chapter 13/Article 1/Division 1: General Rules for Base Zones

Section 131.0140, Use of Yards and Landscaped Areas in All Base Zones, shall be revised to read:

The following regulations are related to other development regulations that are addressed in the Development Regulations Tables in each of the base zones and are applicable to all base zones. Except as specified by the applicable zone, *yards* and landscaped areas may be used only for the following items and purposes:

(a) Living Landscape Material.

(~~a~~b) Incidental passage and use by occupants.

(~~b~~c) ~~Living landscape materials, or other l~~ Landscape elements, constructed and installed to complement living landscape material, and not exceeding a height of 3 feet within front and street side yards.

(~~c~~d) *Fences* and walls as permitted in Chapter 14, Article 2, Division 3 (Fence Regulations).

(~~d~~e) Directional and other notification *signs* as permitted in Chapter 14, Article 2, Division 12 (Sign Regulations).

(~~e~~f) Walkways and paved driveways consistent with zone standards and applicable parking and landscape regulations.

(~~f~~g) Items that the City Manager may determine to be necessary to accommodate a temporary period of construction, site modification, or equipment change, when there is evidence of frequent and diligent physical effort to complete work.

(~~g~~h) Parking in accordance with Section 142.0510.

(~~h~~i) Storage of items when *screened* in accordance with Chapter 14, Article 2, Division 11 (Outdoor Storage and Display Regulations).

Chapter 13/Article 1/Division 2: Open Space Base Zones

Section 131.0230, Development Regulations of Open Space Zones, shall be revised to read:

(a) Within the open space zones no *structure* or improvement shall be constructed, established, or altered, nor shall any *premises* be used unless the *premises* complies with the regulations and standards in this division and with any applicable development regulations in Chapter 13, Article 2 (Overlay Zones) and Chapter 14 (General and Supplemental Regulations)

(b) (b) A Neighborhood Development Permit or Site Development Permit is required for the types of *development* identified in Table 143-03A.

(c) The regulations in this division apply to all *development* in the open space base zones whether or not a permit or other approval is required except where specifically identified.

Section 131.0231, Development Regulations Table for Open Space Zones, shall be revised to read:

The following development regulations apply in the open space zones as shown in Table 131-02C.

Table 131-02C
Development Regulations of Open Space Zones

Development Regulations (See Section 131.0230 for Development Regulations of Open Space Zones)	Zone Designator	**Zones**					
	1st & 2nd »	OP-		OC-	OR-		OF[1]-
	3rd »	1-	2-	1-	1-	1-	1-
	4th »	1		1	1	2	1

Chapter 13/Article 1/Division 3: Agricultural Base Zones

Section 131.0303, Purpose of the AR (Agricultural--Residential) Zones, shall be revised to read:

(a) The purpose of the AR zones is to accommodate a wide range of agricultural uses while also permitting the *development* of *single dwelling unit* homes at a very low *density*. The agricultural uses are limited to those of low intensity to minimize the potential conflicts with residential uses. This zone is applied to lands that are in agricultural use or that are undeveloped and not appropriate for more intense zoning. Residential *development* opportunities are permitted with a Planned ~~d~~Development ~~p~~Permit at various densities that will preserve land for open space or future *development* at urban intensities when and where appropriate.

(b) The AR zones are differentiated based on the minimum *lot* size as follows:

- AR-1-1 requires minimum 10-acre *lots*
  AR-1-2 requires minimum 1-acre *lots*

Section 131.0323, Additional Use Regulations of Agricultural Zones, shall be revised to read:

The uses in this section are permitted within the agricultural zones as indicated subject to the regulations listed. [. . .]

(b) Horticulture nurseries are permitted subject to the following:

(1) Only plants are permitted to be sold on the *premises*. The sale of nonplant items requires a Conditional Use Permit for a plant nursery in accordance with Section 141.05043;

(2) At least 75 percent of the plants available for sale must be propagated or grown from saplings on the *premises*; and . . .

Section 131.0330, Development Regulations of Agricultural Zones, shall be revised to read:

(a) Within the agricultural zones, no *structure* or improvement shall be constructed, established, or altered, nor shall any *premises* be used unless the *premises* complies with the regulations and standards in this division and with any applicable development regulations in Chapter 13, Article 2 (Overlay Zones) and Chapter 14 (General and Supplemental Regulations)

Section 131.0331, Development Regulations Table for Agricultural Zones, shall be revised to read:

The following development regulations apply in the agricultural zones as shown in Table 131-03C.

Table 131-03C
Development Regulations of Agricultural Zones

Development Regulations (See Section 131.0330 for Development Regulations of Agricultural Zones)	Zone Designator	**Zones**			
	1st & 2nd »	AG		AR	
	3rd »	1-	1-	1-	1-

Footnotes for Table 131-03C

(1) A *single dwelling unit* is permitted only as an *accessory use* to a permitted agricultural use on the same *premises*.

(2) See Section 131.0340(a).

(3) See Section 131.0340(b).

(4) See Section 131.0342(a).

(5) See Section 131.0342(b).

~~(6) See Section 131.0343.~~

(~~7~~6) Each dwelling unit shall have a *gross floor area* of at least 650 square feet, not including the garage.

(~~8~~7) *Structures* that are used to provide shade areas for growing plants, such as green houses and agricultural shade *structures*, are not included for determining *lot coverage*.

Chapter 13/Article 1/Division 4: Residential Base Zones

Section 131.0403, Purpose of the RS (Residential--Single Unit) Zones, shall be revised to read:

(a) The purpose of the RS zones is to provide appropriate regulations for the *development* of *single dwelling units* that accommodate a variety of *lot* sizes and residential dwelling types and which promote neighborhood quality, character, and livability. It is intended that these zones provide for flexibility in development regulations that allow reasonable use of property while minimizing adverse impacts to adjacent properties.

(b) The RS zones are differentiated based on the minimum *lot* size and whether the *premises* is located in an urbanized community or a planned or future urbanizing community, as follows:

(1) Urbanized Communities . . .

(2) Planned or Future Urbanizing Communities . . .

Section 131.0420, Use Regulations of Residential Zones, shall be revised to read:

The regulations of Section 131.0422 apply in the residential zones unless otherwise specifically provided by footnotes indicated in Table 131-04B. The uses permitted in any zone may be further limited if *environmentally sensitive lands* are present, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations). [. . .]

(e) For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

Section 131.0430, Development Regulations of Residential Zones, shall be revised to read:

Within the residential zones, no *structure* or improvement shall be constructed, established, or altered, nor shall any *premises* be used unless the *premises* complies with the regulations and standards in this division and with any applicable development regulations in Chapter
(a) 13, Article 2 (Overlay Zones) and Chapter 14 (General and Supplemental Regulations). . .

Section 131.0431, Development Regulations Table of Residential Zones, shall be revised to read:

The following development regulations apply in the residential zones as shown in the Table 131-04C, 131-04D, 131-04E, and 131-04F.

(a) RE Zones

Table 131-04C
Development Regulations of RE Zones

Development Regulations (See Section 131.0430 for Development Regulations of Residential Zones)	Zone designator	Zones		
	1st & 2nd »	RE-		
	3rd »	1-	1-	1-
	4th »	1	2	3

Table 131-04D
Development Regulations of RS Zones

Development Regulations (See Section 131.0430 for Development Regulations of Residential Zones)	Zone Designator	Zones						
	1st & 2nd »	RS-						
	3rd »	1-	1-	1-	1-	1-	1-	1-
	4th »	1	2	3	4	5	6	7

Table 131-04E
Development Regulations of RX Zones

Development Regulations (See Section 131.0430 for Development Regulations of Residential Zones)	Zone designator	Zones	
	1st & 2nd »	RX-	
	3rd »	1-	1-
	4th »	1	2

Table 131-04F
Development Regulations of RT Zones

Development Regulations (See Section 131.0430 for Development Regulations of Residential Zones)	Zone Designator	Zones			
	1st & 2nd »	RT-			
	3rd »	1-	1-	1-	1-
	4th »	1	2	3	4

Table 131-04G
Development Regulations of RM Zones

Development Regulations (See Section 131.0430 for Development Regulations of Residential Zones)	Zone Designator	Zones					
	1st & 2nd »	RM-					
	3rd »	1-	1-	1-	2-	2-	2-
	4th »	1	2	3	4	5	6

Footnotes for Table 131-04G

(1) One dwelling unit per specified square foot of lot area as determined in accordance with Section 113.0222.

(2) An exception to the maximum permitted *density* may be permitted in accordance with Chapter 14, Article ~~1~~ 3, Division ~~5~~ 7 (Affordable Housing Density Bonus). . . .

Chapter 13/Article 1/Division 5: Commercial Base Zones

Section 131.0530, Development Regulations of Commercial Zones, shall be revised to read:

(a) Within the commercial zones, no *structure* or improvement shall be constructed, established, or altered, nor shall any *premises* be used unless the *premises* complies with the regulations and standards in this division and with any applicable development regulations in Chapter 13, Article 2 (Overlay Zones) and Chapter 14 (General and Supplemental Regulations). . . .

Section 131.0531, Development Regulations Tables of Commercial Zones, shall be revised to read:

The following development regulations apply in each of the commercial zones as shown in Tables 131-05C, 131-05D, and 131-05E.

(a) CN Zones

Table 131-05C
Development Regulations of CN Zones

Development Regulations (See Section 131.0530 for Development Regulations of Commercial Zones)	Zone designator	Zones		
	1st & 2nd »	CN-		
	3rd »	1-	1-	1-
	4th »	1	2	3
Max permitted residential density(1) ~~(sf per du)~~		3,000	1,500	1,500

Table 131-05D
Development Regulations of CR, CO, CV, CP Zones

Development Regulations (See Section 131.0530 for Development Regulations of Commercial Zones)	Zone Designator	Zones					
	1st & 2nd »	CR-		CO-		CV-	CP-
	3rd »	1-	2-	1-		1-	1-
	4th »	1		1	2	1	2	1
Max permitted residential *density* (1) ~~(sf per du)~~		1,500		1,000	1,500	1,500	1,500	--

Table 131-05E
Development Regulations of CC Zones

Development Regulation (See Section 131.0530 for Development Regulations of Commercial Zones)	Zone Designator	Zones																	
	1st & 2nd »	CC-																	
	3rd »	1-	2-	4-	5-	1-	2-	4-	5-	1-	2-	4-	5-	3-	4-	5-	3-	4-	5-
	4th »	1				2				3				4			5		
Max permitted residential density(1) ~~(sf per du)~~		1,500				1,500				1,500				1,500			1500		

Chapter 11/Article 3/Division 6: Industrial Base Zones

Section 131.0622, Use Regulation Tables for Industrial Zones, shall be revised to read:

Table 131-06B
Use Regulations Table of Industrial Zones [. . .]

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator **Zones**							
	1st & 2nd »	IP-		IL-			IH-		IS-
	3rd »	1-	2-	1-	2-	3-	1-	2-	1-
	4th »	1	1	1	1	1	1	1	1
Wholesale, Distribution, Storage									
Separately Regulated Industrial Uses									
Hazardous Waste Research Facility		C	C	C	C	C	C	C	C
Hazardous Waste Treatment Facility		C	C	C	C	C	C	C	C
Marine Related Uses Within the Coastal Overlay Zone		-	-	P	P	P	P	P	P
Mining and Extractive Industries		-	C	C	C	C	C	C	C
Newspaper Publishing Plants		C	P	P	P	P	P	P	P
Processing & Packaging of Plant Products & Animal By-products Grown Off-premises		-	-	P	P	P	P	P	P
Very Heavy Industrial Uses		-	-	-	-	-	-C	-C	-

Chapter 11/Article 3/Division 6: Industrial Base Zones

Section 131.0630, Development Regulations of Industrial Zones, shall be revised to read:

(a) Within the industrial zones, no *structure* or improvement shall be constructed, established, or altered, nor shall any *premises* be used unless the *premises* complies with the regulations and standards in this division and with any applicable development regulations in Chapter 13, Article 2 (Overlay Zones) and Chapter 14 (General and Supplemental Regulations).

(b) A Neighborhood Development Permit or Site Development Permit is required for the types of *development* identified in Table 143-03A.

(c) The regulations in this division apply to all *development* in the industrial base zones whether or not a permit or other approval is required except where specifically identified.

Section 131.0631, Development Regulations Table for Industrial Zones, shall be revised to read:

The following development regulations apply in the industrial zones as shown in Table 131-06C.

Table 131-06C
Development Regulations of Industrial Zones

Development Regulations (See Section 131-0630 for Development Regulations of Industrial Zones)	Zone Designator	Zones							
	1st & 2nd »	IP-		IL-			IH-		IS-
	3rd »	1-	2-	1-	2-	3-	1-	2-	1
	4th »	1		1			1		1

PART III. FINDINGS FOR DENIAL OF CITY OF SAN DIEGO LCPA #1-98, AS SUBMITTED

A. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that the LCP Implementation Plan amendment, as set forth in the resolution for certification as submitted, is not consistent with the policies and requirements of Chapter 3 of the Coastal Act to the extent necessary to achieve the basic state goals specified in Section 30001.5 of the Coastal Act which states:

The legislature further finds and declares that the basic goals of the state for the Coastal Zone are to:

a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources.

b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.

(d) Assure priority for coastal-dependent and coastal-related development over other development on the coast.

(e) Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

B. CONFORMANCE WITH THE CERTIFIED LAND USE PLANS

1. Environmentally Sensitive Lands Regulations

a Purpose and Intent of the Ordinance. As part of Chapter 14, Article 3 which includes "Supplemental Development Regulations", the City has proposed the Environmentally Sensitive Lands Regulations (ESL). The purpose of the regulations is to protect, preserve and, where damaged, restore, the environmentally sensitive lands of San Diego and the viability of the species supported by those lands. The City has revised its Municipal Code with the intent of developing Citywide regulations which are applicable to development in or adjacent to environmentally sensitive habitat areas such that development proceeds in conformance with the City's Multiple Species Conservation Program Subarea Plan. The ESL is also the section of the LDC that addresses the coastal resources protected pursuant to the California Coastal Act.

b Major Provisions of the Ordinance. The ESL regulations apply to all proposed development when environmentally sensitive lands are present on the premises. Environmentally sensitive lands is a defined term for purposes of these regulations and means lands containing steep hillsides, sensitive biological resources, coastal beaches, sensitive coastal bluffs and 100-year floodplains. These terms are defined in Chapter 11, Article 3 as follows:

Coastal beach means the land between the edge of the sea and the first line of terrestrial vegetation or *development* or the toe of an adjacent *sensitive coastal bluff* or seawall, whichever is most seaward.

Sensitive biological resources means upland and/or *wetland* areas that meet any one of the following criteria:

(a) Lands that have been included in the City of San Diego Multiple Species Conservation Program Preserve;

(b) *Wetlands*;

(c) Lands outside the *MHPA* that contain Tier I Habitats, Tier II Habitats, Tier IIIA Habitats, or Tier IIIB Habitats;

(d) Lands supporting species or subspecies listed as rare, endangered, or threatened under Section 670.2 or 670.5, Title 14, California Code of Regulations, or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, Section 17.11 or 17.12, or candidate species under the California Code of Regulations; or

(e) Lands containing habitats with Narrow Endemic Species as listed in the Biology Guidelines in the Land Development manual.

(f) Lands containing habitats of covered species as listed in the Biology Guidelines in the Land Development Manual

Steep hillsides means all lands that have a slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet;

Sensitive coastal bluff means a *coastal bluff* that is designated within hazard category numbers 41 through 47, inclusive, on the City's Geologic Hazard Maps plus the area of an additional 100-foot strip located landward; and,

100-year floodplain means the lands adjoining, and including, the channel of a river, stream, water coursebay, or other body of water that is subject to inundation by the *flood* waters of a *100-year frequency flood.* The *100-year floodplain* includes the *floodway* and *floodplain fringe* as identified in the *flood hazard boundary maps.*

The ESL regulations clearly address those coastal resources which are identified in the Coastal Resource Planning and Management Policies contained in Chapter 3 of the Coastal Act. Chapter 3 policies serve as the standard of review for all the adopted community plans which have been certified by the Commission as land use plan (LUP) segments of the City's certified LCP. The proposed implementation plan must be found by the Commission to conform with and be adequate to carry out the certified land use plans.

The following findings support rejection of the implementation plan as proposed by the City as inadequate to carry out the provisions of the certified LUPs. The initial discussion will address the process whereby the ESL regulations are applied to development. The Commission finds that, even if the regulations were acceptable as proposed by the City, the application of the regulations as proposed does not meet the requirements of the Coastal Act or assure its implementation in conformance with the certified LUPs. The latter discussion will address the specific nonconformance of the proposed regulations with the certified LUP policies.

As proposed, the ESL regulations contain allowed uses and development regulations for development proposed to encroach within any of the identified resource areas. Some examples of such development regulations include, permitted uses on coastal beaches or coastal bluffs; requirements for a site-specific impact analysis to be completed for any development proposing to encroach into wetlands or other biologically sensitive lands; mitigation requirements; allowable development area on premises containing steep hillsides both inside and outside the Multi-Habitat Planning Area (MHPA); requirements to establish visual corridors and/or public access easements on premises containing beaches and/or bluffs, etc.

As submitted, the ESL does not identify the Coastal Development Permit as the vehicle for implementation of the ESL. This fact, by itself, is not a problem, if the regulations themselves and other sections of the LDC make clear the ESL regulations are applicable to coastal development requiring a Coastal Development Permit, and the appropriate findings are made to assure conformance with the certified LUPs. However, as discussed in the following findings, the Commission does not concur that adequate review is afforded through the ESL regulations, as proposed by the City, to all development subject to the Coastal Development Permit process.

As proposed, the ESL regulations are to be implemented by either the Site Development or Neighborhood Development Permit process. If either of those discretionary permits are not required for a proposed development, the development is not subject to the ESL regulations. The following types of development are not required to obtain a Site Development or Neighborhood Development Permit as proposed by the City:

(taken from Section 143.0110 (c))

(1) *Development* on a *premises* containing *environmentally sensitive lands* when the *development* will not encroach into the *environmentally sensitive lands* during or after construction, if the property owner signs an acknowledgment that further *development* on the property is not permitted unless the *development* is reviewed and approved pursuant to this division and if the *development* proposal provides for the following:

(A) A 100-foot *setback* from *sensitive biological resources*;

(B) A 40-foot *setback* from the top of slope of *steep hillsides*;

(C) A 100-foot setback from *coastal beaches*;

(D) A 100-foot *setback* from bluff edge of *sensitive coastal bluff*; and

(E) A 100-foot *setback* from floodplains.

(2) *Development* that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or *accessory structure* and will not encroach into the *environmentally sensitive lands* during or after construction. For a *premises* containing a *sensitive coastal bluff*, any addition above the first *floor* shall observe a minimum 40-foot *setback* from the *coastal bluff edge*.

(3) Minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:

(A) *Clearing* and *grubbing* shall not exceed 100 square feet per acre.

(B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.

(C) The proposed improvements do not *encroach* into *sensitive biological resources*.

(D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor* area of the building or *structure*.

(E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any point.

(4) *Development* activity that is limited to permissible *grading* for the preparation of a site for cultivation of crops and where *grading* for agriculture purposes has occurred in compliance with all legal requirements within the previous 3-years.

(5) City public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.

(6) Restoration projects where the sole purpose is enhancement or restoration of native habitats.

(7) Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

Therefore, if a development is proposed on property which contains, for example, wetlands, but the development is setback at least 100 feet from the wetlands, the development does not require a Site Development Permit or Neighborhood Development Permit. It is, therefore, also not subject to the ESL regulations. However, a Coastal Development Permit is still required for such development; yet, the ESL regulations do not acknowledge this requirement and the regulations, as proposed by the City, would not apply to such development. Thus, the LDC as proposed excludes development from the ESL regulations if a specified setback is provided from the sensitive resource.

The Commission finds the City's approach of excluding development from the discretionary review process afforded by the ESL, if a certain setback is provided, is not adequate to carry out all the provisions of the certified LUPs which address more than just siting of a structure. As structured by the City, the LDC does not allow the ESL regulations to be applied through the Coastal Development Permit process. If approved as submitted, there would be no regulations contained in the certified LCP that would support, for example, securing wetland buffers as open space or otherwise defining developable area for purposes of resource protection, if a 100 foot wetland setback is proposed as part of the project. Many other provisions of the LUPs which are addressed through the ESL regulations would also not be applicable through the Coastal Development Permit process, such as brush management, drainage and erosion controls, visual buffers, access requirements, etc.

The same concern is raised by the proposed process with regards to allowable development area defined in the Development Regulations for Steep Hillsides. The regulations specify that development that proposes encroachment into steep hillsides or that does not qualify for an exemption pursuant to Section 143.0110 (c), is subject to the allowable development area regulations, among others. The allowable development area is defined for both inside and outside the MHPA. Outside the MHPA, the regulations allow development within steep hillsides if necessary to achieve a maximum development area of 25 percent of the premises. An additional 15 percent encroachment is permitted in specified cases. A deviation from the Environmentally Sensitive Lands regulations is also possible if certain findings are made. Alternative compliance for the Steep Hillside regulations is also permitted pursuant to certain findings.

These regulations are problematic for two reasons. One relates to conformity of the regulations with the policy language contained in the certified land use plans, which will be discussed in a later finding. The second problem relates, again, to the process by which development is subject to the provisions of the ESL regulations. The regulations as proposed by the City specifically exempt the following from the 25% allowable development area regulations described above:

1. The development of one or more lots as long as the total area of the lots does not exceed 15,000 square feet and the lots were not joined in ownership to any contiguous lot or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet;

2. Subdivision of a premises less than 15,000 square feet (for single dwelling unit development).

Therefore, any subdivision or development of lots containing less than 15,000 sq.ft. is not subject to Section 143.0142 (a) which sets forth the allowable developable area of a property. Since these regulations are not applicable to a development proposed on lots containing less than 15,000 sq.ft., there would be no mechanism contained within

the LCP, as proposed by the City, to apply encroachment limitations through the Coastal Development Permit process consistent with the policies of the certified land use plans. As discussed in a later finding, many certified LUPs contain encroachment limitations and provide for protection of steep hillsides for reasons including habitat protection, visual impact and hazards associated with geologic instability and erosion control. The steep hillside protection afforded in the certified LUPs is not based on the size of the parcel. The ESL as submitted does not apply to all development requiring a Coastal Development Permit, or apply to all the resource areas afforded protection by the specific policies of the certified LUPs.

Therefore, the Commission finds that, as proposed, the implementation plan and, more specifically the ESL regulations, mention the Site Development Permit and the Neighborhood Development Permit as the primary discretionary permits required to apply the regulations put forth in the LDC. Because the ESL regulations contain the resource protection language necessary to implement the certified land use plans and Chapter 3 policies, it is appropriate for those regulations to be applied through the Coastal Development Permit process. As proposed, the regulations are not applicable to all development requiring a Coastal Development Permit which should be afforded such review. Therefore, as proposed, the LDC is not adequate to carry out the land use plans.

As a potential means to remedy this situation, Commission staff was previously suggesting a separate ESL section that would apply to coastal development within the Coastal Overlay Zone (see previous suggested modifications titled Environmentally Sensitive Lands Regulations for the Coastal Overlay Zone from the 9/24/98 staff report attached as Exhibit A). The staff was suggesting such an approach so that the separate section of the regulations would include the standards which are specific to the Coastal Overlay Zone and that are addressed within the certified LUPs, such as, encroachment limitations on steep hillsides and permitted uses within wetlands. In this way, the remainder of the regulations would stay in place, as proposed by the City, to apply elsewhere outside the coastal zone.

To assure conformance with the ESL regulations, as modified, the staff was also suggesting that specific findings, similar to those proposed by the City as applicable to the Site and Neighborhood Development Permits, be included within the ESL regulations for the Coastal Overlay Zone. The intent was that conformance with the ESL regulations was assured in review of coastal development requiring a Coastal Development Permit, when applicable.

In response to the previous staff recommendation, City staff has indicated a preference to having modifications made within the proposed ESL regulations, if such changes can be made to meet the Commission's concerns, rather than establishing a separate section applicable within the Coastal Overaly Zone only. The City staff notes the Coastal Development Permit does not have to be the only vehicle utilized by a local government to implement the Coastal Act and a certified LCP, and, that the process for review of all development permits is a consolidated process. Therefore, if a Coastal Development Permit is required along with a Site Development Permit, all the findings for all permits must be made in one decision. For appealable development, the entire decision would be appealable to the Coastal Commission. Therefore, if the ESL regulations mention primarily the Site Development Permit and Neighborhood Development Permits, rather than the Coastal Development Permit, but that analysis and review process is approved as part of the certified LCP, then the finding of conformity with the certified LCP for the Coastal Development Permit is sufficient to assure conformance with the ESL regulations.

The Commission does not dispute this as an acceptable scenario, provided it is clear within the certified regulations what constitutes the certified LCP provisions to which coastal development must conform. Additionally, the permit procedures adopted by the local government as the primary vehicles for implementing the LCP policies must apply to all development requiring such review in order to be adequate to carry out the land use plans. In this regard, the Commission finds that revisions must be made to the Land Development Code, as submitted, in order to clarify the applicable permit process and carry out the provisions of the certified land use plans. The following section will identify suggested modifications which the Commission finds would address the stated concerns and allow for certification of the Land Development Code, if modified.

2. Biologically Sensitive Lands

Several land use plan segments of the City of San Diego Local Coastal Program contain specific policies related to wetlands and development within or adjacent to environmentally sensitive habitat areas as follows:

Torrey Pines LUP Segment:

Page 117 of the Community Plan under Local Coastal Program Policies states, in part:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally-damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effect, and shall be limited to the following newly permitted uses and activities:

1. Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

2. Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

3. Restoration purposes.

4. Nature study, aquaculture or similar resource dependant activities.

Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

Buffer zones sufficient to protect wetlands shall generally be 100 feet in width, unless the applicant demonstrates that a smaller buffer will protect the resources of the wetland based on site-specific information including but not limited to the type and size of the development and/or proposed mitigation which will also achieve the purposes of the buffer. The California Department of Fish and Game and the U.S. Fish and Wildlife Service shall be consulted in such buffer determinations and their comments shall be accorded great weight by the City of San Diego and by the California Coastal Commission. Developments permitted in wetland buffer areas shall be limited to access paths, passive recreational areas, fences and similar improvements necessary to protect the wetland, and such improvements shall be restricted to the upper/inland half of the buffer zone. Developments shall be located so as not to contribute to increased

sediment loading of the wetland, cause disturbance to its fish and wildlife values, or otherwise impair the functional capacity of the wetland.

Mira Mesa LUP Segment:

Policy 4 on Page 33 of the LUP states:

Resource Management

[...]

a. No encroachment shall be permitted into wetlands, including vernal pools.

[...]

h. Riparian Areas:

1. Riparian areas within Los Penasquitos Canyon Preserve:

a. Riparian areas within Los Penasquitos Canyon Preserve shall be preserved in their natural state with a buffer of adjoining upland habitat having a minimum width of 100 feet. The buffer shall start at the outside edge of the defined riparian habitat, or at the outside edge of the 100-year FEMA floodplain, whichever is wider or outermost.

[...]

2. All other riparian areas should be preserved in their natural state with a buffer of adjoining upland habitat having a minimum width of 100 feet. The buffer shall start at the outside edge of the defined riparian habitat, or at the outside edge of the 100-year FEMA floodplain, whichever is wider or outermost.

3. Development adjacent to riparian areas shall be designed to avoid erosion, sedimentation, and other potentially damaging impacts (such as pollution from urban run-off) which would degrade the quality of the resources in the area (including wildlife habitat, vegetation, water quality or quantity, and visual quality).

Tijuana River Valley LUP Segment (as amended)

This segment will include similar language addressing protection of wetlands, wetland buffers and other environmentally sensitive habitat areas.

The ESL as submitted contains specific standards for review of development that proposes to encroach into sensitive biological resource areas and provides specific protection for wetlands both within and outside the MHPA. The ESL regulations and the Biology Guidelines also provide for wetland buffers and avoidance of wetland impacts, when possible. The regulations and guidelines also provide for specific mitigation requirements when impacts are unavoidable.

Within the MHPA, development is permitted only if necessary to achieve the 25% allowable development area set forth in the OR-1-2 zone. Outside the MHPA, encroachment into sensitive biological resources is not limited, except through policies stating that wetland impacts shall be avoided with wetland buffers and mitigation provided. On lands designated as open space outside the MHPA, development is permitted only if necessary to achieve a 25% allowable development area. However, as submitted, the Commission finds the ESL regulations and

Biology Guidelines are not adequate to carry out the above referenced LUP policies in the following areas:

1. The regulations and/or guidelines do not specify the uses permitted within wetlands or wetland buffers as specifically identified in the LUP policies;
2. The language does not clarify that only permitted uses shall be allowed within wetlands and only when such activity is unavoidable, the least environmentally damaging alternative and adequate mitigation is required;
3. The regulations and/or guidelines do not specify a minimum width for the wetland buffer as identified in the LUP policies;
4. The guidelines accept restoration, enhancement or acquisition as adequate mitigation which would not result in "no net loss" of habitat value.

The following section will include modifications which the Commission has determined are required in order to find the proposed Land Development Code and ESL regulations are adequate to carry out the land use plans.

3. Steep Hillsides.

Several land use plan segments of the City of San Diego Local Coastal Program contain specific policies related to steep hillside development. The following cited LUP policies are included within the certified Local Coastal Program in response to Sections 30240, 30241, 30251 and 30253 of the Coastal Act which require that new development shall preserve the scenic and visual quality of coastal areas, be sited and designed to protect environmentally sensitive habitat areas and minimize risk in areas of flood, fire or geologic hazard. Environmentally sensitive habitat areas must be protected from any significant disruption of habitat values through the LUP policies and implementing ordinances contained within the certified Local Coastal Program which are applicable to development proposed within the coastal zone.

Torrey Pines LUP Segment:

Within the Coastal Zone, landforms that consist of slopes of 25 percent grade and over that have not been identified as possessing environmentally sensitive habitats, significant scenic amenities or hazards to developments, may be developed provided the applicant can demonstrate all of the following:

1. To protect the scenic and visual qualities of the site as seen from public vantage points, recreational areas, and roads or highways, the proposed development shall minimize the alteration of natural landforms and create only new slopes that are topographically compatible with natural landforms or the surrounding area.

2. The proposed development restores and enhances any previously manufactured slopes on the site to make them compatible with surrounding natural landforms and native vegetation.

3. The proposed development, including any fill or grading, does not create any significant new soil erosion, silting of lower slopes, slide damage or other geologic instability, flooding, or permanent scarring.

4. The proposed development contains a native vegetation restoration and enhancement program for those portions of the site in 25 percent or greater slopes that will provide as follows:

   a. For every area or quantity of native vegetation located on slopes of 25 percent grade or over, in excess of the encroachment allowance provided in Table 1 below, that is

disturbed by the development, an area equal to 120 percent of the disturbed area shall be restored in native vegetation. The restoration and enhancement program shall be performed prior to or concurrently with the development and may be incorporated into the design and implementation of the overall landscaping program for the site.

b. The native vegetation restoration and enhancement program required by subsection (a) shall be located on the site of the permitted development. However, if the size, topography or biological characteristics of the site are determined by the Planning Director to be unsuitable for said restoration or enhancement program, then the native vegetation shall be provided at one or more off-site locations within the Coastal Zone, which may include publicly owned rights of way. If such location within the Coastal Zone are infeasible, then such native vegetation restoration or enhancement program shall be provided at other suitable locations within the City of San Diego outside the Coastal Zone.

All native vegetation restoration and enhancement programs shall be prepared by a biologist, registered landscape architect, or other qualified professional in close consultation with the Department of Fish and Game and U.S. Fish and Wildlife Service.

In the case of those landforms which consist of slopes of 25 percent and over which have been identified as possessing environmentally sensitive habitats or significant scenic amenities or hazards to development (including major undeveloped sites with high erodibility characteristics), the following policy shall apply:

1. Slopes of 25 percent grade and over shall be preserved in their natural state, provided a minimal encroachment into the steep slope areas over 25 percent may be permitted as set forth in the following table:

TABLE 1
25 Percent Slope Encroachment Allowance

Percent of parcel in Slopes of 25 percent and over	Maximum encroachment allowance as percentage of area in slopes of 25 percent and over
75% or less	10%
80%	12%
85%	14%
90%	16%
95%	18%
100%	20%

For the purposes of this ordinance, encroachment shall be defined as any area of twenty-five percent (25%) or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to displacement required for the building, accessory structures or paving, or is cleared of vegetation, other than allowed below:

The following uses shall be exempt from the encroachment limitations set forth above:

b. Major public roads and collector streets identified in the Circulation Element of an adopted community plan or the City of San Diego Progress Guide and General Plan.

c. Local public streets or private driveways which are necessary for access to the more developable portions of a site on slopes of less than 25 percent grade, provided no less environmentally damaging alternative exists. The determination of whether or not a

proposed road or driveway qualifies for an exemption, in whole or part, shall be made by the Planning Director based upon an analysis of the project site.

d. Public utility systems.

2. On existing legal parcels, a deviation in the encroachment allowance percentage may be granted by the Planning Director, if necessary to maintain a minimum development right (total disturbed area) equal to 20 percent of the entire parcel.

3. All encroachment allowances, including permissible deviations, shall be subject to a determination by the Planning Director that such encroachment supports the findings of fact set forth in the City's' Hillside Review Zone.

Mira Mesa LUP Segment

This LUP segment contains almost identical language as cited above relative to development of sensitive and non-sensitive steep hillsides.

La Jolla LUP Segment

This LUP segment contains very similar language as cited above for protection of steep hillside areas.

Tijuana River Valley LUP Segment (as amended)

This segment will contain similar provisions to those cited above.

In response to the above cited provisions within the certified LUPs, the City has established the (HR) Overlay Zone Program for the coastal zone in the current certified Local Coastal Program, which is being proposed for replacement by the submitted LDC. The purpose of the HR zone was to provide supplementary regulations to assure that permitted development protects natural topographic features and character, aesthetic qualities, and environmental resources from direct or indirect impacts. Both the certified La Jolla and North City LUPs contain policy language which require new development to preserve steep sloping hillsides in excess of 25% gradient in their natural condition. Historically, only minor encroachments were permitted where an existing parcel was entirely (or almost completely) in steep slopes. In review of the City's LCP, the Commission has been adamant about protecting both the resource and scenic values found on the steep slopes which would be destroyed, if disturbed, and about protecting downstream wetland areas which could be adversely impacted from erosion resulting from grading on steep hillsides.

In the current certified Hillside Review (HR) ordinance and in response to City concerns about equity and maintaining reasonable use for hillside parcels, the Commission concurred with the sliding scale for allowable, but discretionary, encroachments into steep slopes in excess of 25% gradient. Such encroachments have always been viewed by the Commission to be discretionary and not permitted by right. The current ordinance also incorporates detailed mapping of all of the coastal zone hillsides and separates them into sensitive and non-sensitive or less-sensitive categories. This classification system establishes strict limitations for those slopes designated as sensitive and then requires additional mitigation for further encroachment within the less-sensitive slope areas. The ordinance also delineates several uses or development features, such as major Circulation Element roads or public utility systems, which are exempt from the encroachment limitations.

However, the City is now proposing a different approach within the submitted LDC that establishes a 25% allowable development area. Inside the MHPA , the 25% allowable development area is determined in accordance with the OR-1-2 zone. Outside the

MHPA, the allowable development area includes all portions of the premises without steep hillsides, which shall be preserved in their natural state, except that development is permitted on steep hillsides if necessary to achieve a maximum development area of 25% of the premises. Outside the MHPA, up to an additional 15% development area is permitted for major public facilities, such as parks, fire and police stations, libraries, schools, major streets and prime arterials, and public utility systems. The 15% additional encroachment is also permitted "for projects where the existing development is not contiguous, and access to the entirety of the development area is not otherwise available", and "for projects where the existing development does not have direct access to a public right-of-way. Beyond the 40% allowable development area, alternative compliance is offered for developments that do not comply with the above mentioned allowable develoment area and do not result in conflicts with other regulations. Further, deviations from the Environmentally Sensitive Lands regulations can be approved if certain findings are made.

Therefore, the Commission finds that, as proposed, the regulations for steep hillsides will cumulatively allow a greater amount of encroachment onto naturally vegetated hillsides than was intended by the above mentioned LUP policies. As proposed, the LUP policy language which has historically been applied to the slopes mapped as sensitive in the current certified LCP would not be implemented. To reach certification of the current Municipal Code and HR overlay provisions as adequate to carry out the land use plans, a rigorous mapping effort was completed to refine the steep slope encroachment concerns faced by the City and Commission. It was agreed that the mapping would represent a clear definition of the affected hillside and slopes within the coastal zone and their sensitivities. The certified map is referred to as the Coastal Zone Sensitive Slopes Map Drawing No. C-720 and includes steep hillsides containing environmentally sensitive habitats, or significant scenic amenities, or potential hazards to development.

An additional concern addressed at the time the HR provisions were certified was the potential for modifying a site's classification from sensitive to non-sensitive, because less stringent protective measures are afforded non-sensitive slopes in the LUP policies. The current ordinance requires a detailed slope analysis and biological survey as part of its application requirements and would not allow a change in a slope's classification without further review by the Commission. The previously-approved mapping of sensitive steep hillsides was field-checked and reviewed by staff. Based on the maps' application in relevant permit decisions since the City has assumed permit authority, there have been few examples of any significant problem associated with their use. However, the Commission does acknowledge that there may be a few cases where the site-specific mapping performed in the HR permit review would warrant some refinement of the sensitivity classification for a particular site.

As part of implementation of the proposed LDC, the City has utilized GIS mapping technology as a tool to map areas within the City that contain slopes greater than 25% grade, lots greater than 15,000 sq.ft., the desired MSCP preserve area for habitat protection, and public lands. The proposed ESL regulations would apply the 25% allowable development area to all lots greater than 15, 000 sq.ft. in size. With regard to the 15, 000 sq.ft. lot size, comparison of these new maps to the old HR maps indicate there are several locations within the coastal zone that are currently mapped HR, which would be exempt from the proposed 25% allowable development area. The majority of these areas are in La Jolla (see Exhibit F for areas of 25% or greater in La Jolla community) and are shown conceptually on Exhibit G (6 pages) attached to this report. These areas are not contiguous with any MSCP preserve lands or visible from major coastal access routes or scenic areas. Additionally, there are a significantly greater number of lots within

the coastal zone which would be subject to the proposed steep hillside provisions, that are not currently regulated.

However, there are areas that are mapped within the current HR Overlay due to their visibility from I-5 or major canyon systems, or geologic instability, that may not be adequately regulated by the proposed steep hillside provisions because they may not contain sensitive biological resources. Therefore, with regards to the adequacy to carry out the land use plans, it appears the area to where the steep hillside regulations would be applied, as proposed, is problematic, and additional encroachments into naturally vegetated steep hillsides, beyond those envisioned in the LUP policies, would be permitted. Again, the HR encroachment limitations are considered discretionary, with development of the naturally-vegetated steep hillsides avoided to the extent possible. In order to assure reasonable use is afforded, there were exceptions built in to the ordinance, similar to those proposed in the LDC as a 15% additional encroachment, that acknowledged there may be the need to possibly encroach on steep hillsides to access the flatter, more developable, area of the site. It is in those kinds of circumstances that the encroachment allowance is to be utilized. Therefore, the Commission finds revisions must be made to the steep hillside regulations as they are applied within the Coastal Overlay Zone in order to be adequate to carry out the land use plans.

At the time of certification of the current HR overlay zone, the Commission also concurred that some provisions should be established within the ordinance for fire protection, which must be accomplished in a prudent manner recognizing the habitat values present on designated sensitive slopes in particular. Since the presence of coastal sage and chaparral plants are a primary indicator for inclusion into the sensitive slope category, the removal or substantial diminishment of such areas and their replacement with non-native fire resistant materials, in particular, directly conflicts with the certified LUP policies. However, the Commission does recognize that these areas also constitute Priority I fire hazard areas, as identified by the City of San Diego Fire Department. All existing and proposed hillside and mesatop structures that border areas of native vegetation require some vegetative clearance for fire protection purposes. At the time of approval of the HR ordinance, City fire codes required that the 30 feet closest to the structure be cleared to a height of two inches, with existing trees pruned of all dry undergrowth. Fire retardant plantings are allowed within this area. Beyond the first 30 feet, the total amount of area required for the full firebreak can be adjusted somewhat depending on the characteristics of each specific site. State law would allow the fire marshall to order clearance to 100 feet from an existing structure if deemed necessary for fire protection purposes.

Based on this information and recognizing the competing goals of resource preservation and fire protection, the Commission approved an approach that establishes three zones within a 100 foot fuel management area. Zone 1 is 30 feet, allows for clearcut vegetation removal and is subject to the steep hillside encroachment limitation as if it is development. Zone 2 is 30 feet and does not allow the wholesale clearing or cutting of existing vegetation down to a uniform height, and permits individual non-irrigated plant groupings over 18 inches in height to be retained provided they do not exceed 400 sq.ft. in area and their combined coverage does not exceed 30 % of the total Zone 2 (allows 70% removal of vegetation). Zone 3 is up to 40 feet and permits retention of individual group plantings over 18 inches in height provided they do not exceed 650 sq.ft. and 60% of Zone 3 (allows 40% removal of vegetation).

Therefore, the clearcutting or bulldozing of steep slopes, as in Zone 1, would constitute encroachment into such areas and would, therefore, be restricted according to the City's proposed sliding scale. Selective clearing would allow only necessary pruning and thinning by hand to reduce the fuel load to acceptable levels rather than the wholesale clearance of vegetative cover, and specific percentages of native material would be allowed to remain. These provisions were approved as part of the certified LCP and apply to existing structures or already subdivided lots; no exemptions or encroachment would be permitted for fire protection purposes in new land divisions or subdivisions.

However, the City is proposing a revised brush management program in Section 142.0412 of the LDC and within the Landscape Standards of the Land Development Manual. The new standards establish only two brush management zones with a total width of 40 to 60 feet. Zone 1 width is 20 feet but may be increased to 30 feet if fire retardant building materials are not utilized. A Zone 1 width of 25 feet is required when development is adjacent to slopes greater than 4:1 gradient that are 50 feet or greater in vertical height; or adjacent to vegetation greater than 24 inches in height; or adjacent to the MHPA. Zone 2 is a minimum 20 ft. in width that is required to be increased to 30 ft. when the zone is on slopes greater than 4:1 gradient that are 50 feet or greater in vertical height, or the vegetation in Zone 2 is greater than 48 inches in height; however, the additional width is not required within the MHPA.

The concern associated with the proposed language is that the Commission has found in the past that a minimum 30 foot setback is required from sensitive steep hillsides to accommodate Zone 1 and prevent encroachment into sensitive areas. Further, the Commission has found that the approved brush management zones must be sufficient in width to allow retention of at least 60% of the native material beyond Zone 2 and within 100 feet of any structures. However, the City's proposed brush management program has been endorsed by the Fire Department. Because it requires only 50% removal of vegetation within Zone 2 (50-60 feet from structures) with the adjacent natural vegetation remaining undisturbed, the City argues it is more protective of sensitive coastal resources, while still providing adequate fire protection. The Commission can concur with the fire hazard management program as it has been presented in the LDC with input from the City Fire Department and through coordination with many other agencies in review of the MSCP. However, there are some minor revisions still required in order to assure that new development and subdivision of land provides at least a 30 foot setback from naturally-vegetated areas. In those situations there are not the typical constraints associated with accommodating both an existing structure and native vegetation, and the 30 foot setback is appropriate to avoid any possibility of encroachment being necessary in the future. Therefore, if the proposed LDC and Landscape Guidelines are revised to assure a minimum 30 ft. setback for new development and subdivisions, with no encroachment into steep hillsides permitted for Zone 1 brush management, it can be found to be adequate to carry out the land use plans.

4. Floodplains

Several land use plan segments of the City of San Diego Local Coastal Program contain specific policies related to development within stream channels and the associated floodplain as follows:

Torrey Pines LUP Segment:

Within the 100-year floodplain fringe of the San Dieguito River, fill for roads and other public improvements and/or permanent structures will be allowed only if such development is consistent with uses allowed pursuant to the A-1-10 Zone and other existing zoning, is capable of withstanding periodic flooding, and does not require the construction of off-site flood protective works. The following requirements shall also be met:

Existing environmentally sensitive habitat areas will not be significantly affected and, that as a condition of development, significant new riparian corridors will be planted and maintained to function as enhanced wildlife corridors. Such revegetation program shall, to the maximum extent feasible, utilize native vegetation and shall be designed and implemented by a professional landscape architect, biologist, or other qualified professional in close consultation with the Department of Fish and Game and the U.S. Fish and Wildlife Service.

The design of the development incorporates the findings and recommendations of both a site-specific and coastal watershed hydrologic study in order that the development either assures 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 a six-hour period once every ten years, and neither significantly increases sedimentation, including wetlands, lagoons, and other environmentally sensitive habitat areas.

North City LUP Segment:

(A). Channelization or other substantial alteration of rivers or streams shall be limited to (1) necessary water supply projects, (2) flood control projects where no other feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development, or (3) other development, a primary element of which is the improvement of fish and wildlife habitat. Such development may include new or expanded roads or highways that are essential to the economic health of the region, state or nation, provided they comply with all the provisions of part (B) of this policy and all other applicable policies of this local coastal program. Long-term maintenance of healthy wetlands in Los Penasquitos Lagoon shall be a primary goal of any sedimentation or erosion control measures instituted pursuant to this section.

(B). Any development permitted pursuant to the provisions of Subsection (A) shall do all of the following:

(1) Incorporate all relevant findings of hydrological studies for the coastal watershed of the affected stream, including but not limited to erosional characteristics, flow velocities, and sediment transport;
(2) Incorporate mitigation measures designed to assure that there will be no increase in the peak runoff rate from the developed site as compared to the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during a six-hour period once every ten years (i.e., the "6-hour, 10-year" design storm);
(3) Minimize stream scour, avoid increases in and reduce, where feasible, the transport of stream sediment to downstream wetlands and other environmentally sensitive habitat areas, including but not limited through the planting of riparian vegetation in and near the stream; and
(4) If channelization is determined to be necessary, the floodway of the stream shall accommodate a 100-year flood. To the maximum extent feasible, all artificial channels shall be constructed without removal of riparian vegetation, shall be designed to allow for riparian vegetation regrowth, and shall consist of natural bottoms and sides.

Tijuana River Valley LUP Segment (as amended)

Similar provisions to those cited above in other LUP segments are contained in this segment.

In response to these LUP policies, the Commission finds that structures should not be a permitted use within the floodway. It has been well documented that development in floodplains can lead to adverse impacts on the environment which could then result in needed flood protective works that could impact or eliminate sensitive habitat areas. In addition, modification of the floodplain not only presents a danger to proposed structures, but also impacts downstream resources through increased sedimentation. Due to these concerns, several of the City's certified LUP segments contain policies which strictly limit floodway and floodplain development. Thus, to be consistent with the certified LUPs, the Commission suggests that Section 131.0222, Table

131-02B, Use Regulations Table of Open Space Zones should be modified to make it clear that within the Coastal Zone, no structures are permitted within the floodway.

Also, the City LDC has established use regulations for Open Space Zones which include the floodway and floodplain areas within the City . However, the table that indicates all the permitted uses does not specifically prohibit structures within the floodway. The Commission finds such revisions are necessary in order to adequately carry out the provisions of the certified land use plans. Additionally, several of the use categories, as proposed, would allow development within floodplain areas that is not consistent with the land use plan policies. The LUPs indicate that no permanent structures shall be permitted within the floodplain, and only uses compatible with periodic flooding and capable of being removed should be located in such floodplain areas. Therefore, the Commission finds revisions to the tables and use categories must be made in order to carry out the provisions of the certified land use plans. The specific revisions will be discussed in the findings for approval, if modified.

5. <u>Bluffs and Beaches.</u>

Several land use plan segments of the City of San Diego Local Coastal Program contain specific policies related to protection of the natural landforms occurring along the shoreline including coastal bluffs and sand supply as follows:

Certified La Jolla-La Jolla Shores LCP Addendum – Page 91 of addendum

- The placement of shoreline protective works should be permitted only when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger of erosion and when designed to eliminate or mitigate adverse impacts on shoreline sand supply.

- The placement of any necessary shoreline protective works should not be allowed to encroach on any area utilized by the public unless engineering studies indicate that minimal encroachment may be necessary to avoid significant adverse erosion conditions, and that better alternatives exist. Any infilling between protective devices shall encroach no further seaward than adjacent functioning protective works.

- New shoreline protective devices should be constructed and designed to be visually compatible in design, materials, and color with the existing natural environment.

c) Bluff repair and erosion control devices such as seawalls, revetments, drainage conduits and other similar devices provided such measures and devices would not significantly alter the natural character of the bluff face or restrict public access.

Ocean Beach Precise Plan - Page 38

Goals

- Preserve the natural features and beauty of the coastline adjacent to Ocean Beach.

General Recommendation:

Due in large part to the shoreline and ocean, Ocean Beach is both a nice place to visit and live. While the goals are to optimize the public accessibility to the beach and

maintain the "neighborhood" atmosphere of the residential community, these two ends often come into conflict-for example in the increasingly congested traffic and parking situation.....There must, of course, be a beach for people to visit in the first place. Continued sand erosion would be a significant threat to public enjoyment of the breach as well as community aesthetics. For this reasons a sand replenishment operation should be considered.

Such an operation, however, should only involve the beach area between the pier and the middle jetty marking the Mission Bay Channel. Every effort must be made to maintain the existing shoreline...."

Summary of Plan Recommendation

- That a sand replenishment operation between the south jetty and the pier be considered as an on-going procedure to combat erosion.

Mission Beach Precise Plan - Page 66

Maximizing the beneficial usage of San Diego's shoreline is a formidable but manifestly vital undertaking...

...the following information and implementation techniques are proposed in addition to the policies contained in the City's General Plan and "The Ocean Edge of San Diego" report.

1. Sand replenishment is a regional problem, and any effective long-range management program should be directed and implemented on the basis of regional studies and policies. Additionally sand replenishment activities involve other government agencies at national, state and local levels. These agencies activities should be coordinated under a common plan.

2. A beach erosion monitoring problem should be initiated at the regional level to provide reliable data concerning the rate of erosion and to permit remedial measures to be instituted promptly when and where indicated.

3. A sand replenishment program should be instituted for San Diego shoreline and particularly the Pacific Beach/Mission Beach/Mission Bay beaches based on the findings of the sand replenishment regional study and the beach erosion monitoring program also to be done at the regional level....

4. Sand replenishment of beaches should be coordinated with future dredging projects....

The Development Regulations for Bluffs and Beaches along with the Coastal Bluffs and Beaches Guidelines contain a number of significant provisions including, but not limited to:

1. specification of the permitted uses within beach areas and on coastal bluffs;

2. establishment special regulations and development standards for coastal blufftop projects creating a 40 ft. setback from the bluff edge for all principal structures and preserving the natural character of the bluff face;

3. provision for view corridors and public access easements; and,

4. standards for review of bluff erosion control devices.

The language proposed within these sections is similar to that previously certified as part of the Sensitive Coastal Resource (SCR) overlay zone in the current certified Local Coastal Program. However, several changes are necessary in order to provide for a standard of review through the LDC which is comparable to that afforded through the SCR ordinance. In addition, the Commission finds the LDC should contain standards for shoreline protective devices, even though many such structures may be within the Commission's original permit jurisdiction. Additionally, provisions addressing the Beach Sand Mitigation Program which has been developed within the San Diego region since certification of the current LCP should be incorporated into the certified document.

Bluff repair and erosion control measures which may include a variety of structural improvements varying from shotcrete to seawalls, all have adverse impacts on coastal resources. Namely, any type of bluff repair work alters the natural bluff formation which results in adverse visual impacts to coastal scenic areas. Because such devices alter the natural formation of the bluffs, they should only be permitted to protect existing principal structures that are in danger from erosion and also when they are designed to eliminate or mitigate the adverse impacts on local shoreline sand supply. Seawalls, revetments, groins, etc. all have adverse impacts on shoreline sand supply. Many policies of the respective land use plans contain policies addressing shoreline protection. In the La Jolla-La Jolla Shores LCP Addendum, it is stated, in part, that erosion control devices such as seawalls, revetments be permitted or placed beyond the face of a coastal bluff only when it will not significantly alter the natural character of the bluff face or restrict public access.

The LDC as submitted addresses review of bluff erosion control devices, but it does not include specific standards for review of shoreline protective devices. Therefore, the Commission finds language is necessary in both the ESL regulations and the Coastal Beaches and Bluffs Guidelines that provides specific standard for such review. Additionally, regarding impacts of shoreline protective devices on shoreline sand supply, since certification of the current LCP, the San Diego region has developed a Beach Sand Mitigation Program. The program is designed to address specific impacts associated with shoreline protective devices to beach sand supply, and to provide for mitigation of those impacts in the form of a mitigation fee that will be used for beach replenishment in the same littoral cell as the proposed project.

Regarding permitted uses on coastal bluffs, bluff repair and erosion control measures are a permitted uses; however, as proposed to be permitted by the City, such devices would be allowed without documentation that they are necessary or required to be designed to eliminate or mitigate for adverse impacts on sand supply. As such, the Commission finds revised language is necessary so that such measures are used only when necessary to protect existing principal structures and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. The City language indicates public improvements would also warrant protection, and the Commission concurs for permanent structures involving substantial public investment that are not capable of being relocated. However, when possible, degraded public improvements should be relocated to a more stable location for longterm protection to avoid the need for substantial investment in shoreline protective devices.

The City has also listed as a permitted use, "Stairways, ramps and other physical structures", however, did not specify that such structures should be public structures. The Commission finds

that only public stairways can be permitted in coastal blufftop areas as opposed to private stairways to gain access to the beach. Therefore, the Commission believes modifications are necessary to assure that these types of permitted structures are public in nature.

Essential public drainage facilities and public walkways leading to permitted beach access facilities are permitted uses in coastal blufftop areas. However, as proposed by the City, such facilities or public walkways could be installed on coastal bluffs without setbacks and, as such, could result in adverse visual impacts as well as impacts to geologic stability of the coastal bluff. Therefore, the Commission is suggesting that the language be revised such that those public facilities shall only be permitted closer than 5 feet to the bluff edge or on the bluff face provided they are designed to minimize impacts to the bluff and beach areas.

Many policies of the respective land use plans contain policies addressing protection of coastal blufftop areas. The La Jolla-La Jolla LCP Addendum contains the following policies:

> "Blufftop development should not contribute significantly to problems of erosion or geologic instability on the site or on surrounding properties....
>
> No structures should be placed, or erected less than 25 feet from any point along the bluff edge, except as provided in this section.
>
> No structures should be placed on or extend beyond the face of the bluff except as provided below:....
>
> c) Bluff repair and erosion control devices such that seawalls, revetments, drainage conduits and other similar devices provided such measures and devices would not significantly alter the character of the bluff face or restrict public access....

Fences are also a permitted use on coastal bluffs; however, historically fences have been included in the list of public improvements that are sometimes necessary for public safety and to protect the sensitive resource areas. Fences as accessory structures to residential development are not permitted closer than 5 feet to the bluff edge. The reason for the distinction is that construction of fences can alter the bluff face or cause damage to blufftop areas through the construction of footings, etc. Therefore, they should be limited to only those cases where it is necessary for public safety, such as to keep the public away from steep, hazardous or unstable bluffs or to protect the coastal bluff from further erosion.

In some coastal bluff areas which are hazardous and unstable, it is preferable to deter pedestrian usage and to define the areas of the coastal bluff that are safe to access. For example, the City recently installed such improvements in a scenic coastal blufftop area known as Goldfish Point in La Jolla. Previously there were no fences or improved trails in this area to define the areas where the public could walk out onto the coastal blufftop for viewing purposes and as a result, there was heavy pedestrian usage over the entire blufftop area including the bluff edge and bluff face. Due to the hazardous nature of the bluff and concerns regarding public safety, the City installed fencing, a view platform and improved the blufftop with a pedestrian path which clearly defined the areas where the public could walk. This improved public safety and also deterred the public from trampling over the bluffs which was causing further erosion.

Many policies of the respective land use plans contain policies to this effect. In the La Jolla-La Jolla Shores LCP Addendum, a policy statement includes the following:

> "No structures should be placed on or extend beyond the face of the bluff except as provided below:
>
> ....Fencing, as reasonably required to deter trespassing on private property, to protect fragile resources, or to maintain public safety...." [Emphasis added]

In addition, the City's proposed language does not provide that such fences be "open". The Commission is suggesting a revision that requires fences to be "open" when proposed in sensitive coastal blufftop areas in order to preserve public views toward the ocean, protect visual resources and to promote the ambience of the coastal setting, consistent with several policies in the respective land use plans. Solid walls can result in blockage of coastal views as well as contribute to a "walled off" effect along the shoreline. For this reason, the Commission is also suggesting that the definition of open fences be changed when applicable in the Coastal Overlay Zone to assure the structure is at least 75% open for view protection purposes. As proposed, the definition of open fence which "has at least 35 percent of the vertical surface area of each 6-foot section open to light", is not adequate to carry out the land use plans.

For permitted development in coastal bluff areas, the City also proposes language addressing the requirements for vertical public accessways for properties located between the shoreline and first public roadway. The City proposes to require that the public accessway be required if the need for the accessway has been identified in the applicable land use plan or no other easement exists within a lateral distance of 500 feet of the subject site, or that the impacts caused by the proposed development otherwise justify the requirement for a vertical accessway. The proposed Coastal Bluffs and Beaches Guidelines identify the following factors which must be considered in determining whether a proposed development justifies the need for the requirement of a vertical or lateral public access easement. The factors include: Appropriateness of access; privacy rights of the landowner; existing public access; historic public use; intensification of land use; habitat values of the site; topographic constraints of the site; fragility of environmentally sensitive lands in the vicinity; development's effect on current and projected demands for access and recreation; physical obstructions and the aesthetic, visual or recreational value of public use areas; recreational needs of the public; and impact of development on public's use of the beach areas. The Commission finds such analysis is appropriate and consistent with the public access policies of Chapter 3 of the Coastal Act. The Commission believes minor changes are necessary to clarify that encroachment into an accessway identified in the applicable land use plan, is an impact that justifies the requirement for an accessway.

Numerous policies of the respective land use plans contain policies addressing the protection of public access opportunities. In the La Jolla-La Jolla Shores LCP Addendum, the following policies state:

> "La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved."
>
> New development should not prevent or unduly restrict access to the beaches or other recreational areas"
>
> "The maximum use and enjoyment of La Jolla's shoreline is dependent upon adequate public access...."

In addition, the community plan contains subarea maps for different sections of the shoreline and lists the existing physical and visual access areas on a map for each subarea. On back of the map are numerous recommendations pertaining to improving and maintaining existing physical

access to each of these shoreline areas. The LUP also contains provisions for protection of potential prescriptive rights. Without language clearly protects access areas historically used by the public and/or identified in the access component of the land use plans, the proposed LDC cannot be found consistent with the public access and recreation policies of the Coastal Act.

6. Coastal Development Permits.

The purpose and intent of this ordinance is to establish the procedures for the processing of coastal development permits, consistent with the certified LCP, by the City. The stated purpose for the division is to "establish a City review process for coastal development that is consistent with the Local Coastal Program, the California Coastal Act [...] and the California Code of Regulations ...." As adopted by the City, this amendment substantially revises the present coastal development permit processing system. For instance, the review of coastal development permits is largely being made more ministerial, eliminating public hearings, except for appealable developments. The revised procedures also attempt, from the City's perspective, to integrate the coastal development permit process more fully with the City's other development permits rather than as a more independent review. Therefore, it is critical that the standards of review for development within the Coastal Overlay Zone be clear and objective.

In general, the major provisions of the ordinance are similar to the existing ordinance relative to the actual components and procedural requirements. The ordinance's major provisions include the following:

- Coastal development permit requirements, as well as the delineation of specific development exemptions;
- Application procedures;
- Public hearing and notice requirements;
- Required findings for all approved or conditionally approved coastal development permits;
- Appeal procedures, both at the local and Coastal Commission levels
- Public Access, Open Space or Conservation Easement recordation requirements;
- Amendment and extension procedures and
- Emergency permit provisions.

The Commission finds that the Coastal Development Permit Procedures section of the revised code is, with some noted exceptions and technical corrections, adequate to implement the certified land use plans, consistent with Sections 30600 and 30620.6. In all instances, the suggested modifications that have been drafted are clearly technical corrections or minor revisions; however, because of the critical nature of this ordinance, the Commission must reject the ordinance as submitted. The City should be recognized for its efforts here to translate the Coastal Act's provisions into its own regulatory processes and attempt to more fully integrate coastal development permit review into its land use regulations. However, some of the proposed streamlining envisioned for the City's overall land use regulations creates a potential for confusion as to the applicability of certain regulations for coastal development, challenges on interpretation and the standard of review, and forces members of the public to consult other documents for basic information. Therefore, it is important to recognize that the coastal development permit process does remain different, mandated under a separate legislative act, and it is not unexpected that some revisions would be necessary.

Briefly, the City's issuance of coastal development permits would be separated into two processes. For all non-appealable developments, a decision process, entitled "Process Two", would be utilized and it is a more ministerial operation. No formal public hearing is involved and the decision is made at a staff level whether or not to issue the permit. A notice is however distributed and public comments are solicited during an established review period. Such items may also be appealed to the Planning Commission. For appealable developments, the decision

process established is identified as Process Three and it does involve a formal public hearing with a hearing officer as the decisionmaker. These Process Three items are also subject to appeal at the local level to the Planning Commission.

Relative to the ordinance's provisions which render it unacceptable, the first concern lies with the definition of "coastal development". The definition makes only a statutory cross-reference and fails to provide the specific definition of development under the Coastal Act. This definition is too critical to be removed from the City's newly proposed Land Development Code. Another concern is the identification of when a coastal development permit is required and the permit process when a proposed development is located in both the Commission's retained permit jurisdiction or deferred certification area and the City's permit jurisdiction. Although there have been attempts to reconcile the problem of forcing a developer to seek two permits in these instances, at present, there do not appear to any easy answers and the code must be modified to reflect the present legal direction on this matter.

As conveyed in the proposed suggested modifications, there were a number of technical corrections needed for the exemptions section of the permit procedures. Many of the recommended changes come directly from the Commission's Regulations. 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.

Relative to the decision process for coastal development permits, Section 126.0707, there are several corrections needed to clarify the applicability, standard of review and relationship of multiple permit reviews, subdivisions and other land divisions with the coastal development permit review process. As submitted by the City, the proposed subdivision regulations and procedures in the Land Development Code are not being presented for Commission adoption as part of the City's local coastal program. In the City's presently certified LCP, those provisions were included. Since the City now chooses to try and exclude them from incorporation into the LCP, these revisions are necessary to assure what the standard of review and approach will be in the coastal zone.

The Commission finds the City's certified LCP should also contain provisions which identify when a temporary event may require a coastal development permit. Currently, there are no such provisions in the LCP and technically many temporary events meet the definition of development and require a Coastal Development Permit. The Commission has adopted guidelines for use within the Commission's permit jurisdiction that require a Coastal Development Permit for events which meet all the following criteria: The event is held between Memorial Day weekend and Labor Day; it will occupy all or a portion of a sandy beach area; and it involves a fee for public admission to the event. Such events have been found to have the potential to adversely effect public access to the shoreline. Additionally, the City should have the discretion to require a permit for any event that has the potential to adversely affect access. With revisions that incorporate similar provisions to those contained in the Commission's guidelines, the LDC can be found consistent with the public access and recreation policies of the Coastal Act.

Additional revisions were proposed for the required findings for coastal development permit approval. These include clarifications on findings for physical and visual access, sensitive biological resources and incorporates the specifically required findings for any development between the ocean and first public roadway that the development conforms with the public access and recreation policies of the Act pursuant to Section 30604(c). Relative to the code's proposed appeal provisions, the appeal provisions for a major public works project or major energy facility were revised to conform to the Commission's regulations. In addition, a more precise listing of when local appeals do not have to be exhausted and an appellant can proceed directly to the Coastal Commission has been provided. Again, these revisions are completely

drawn from the Commission's regulations and the most notable revision is that an appellant on an appealable project can proceed directly to the Commission should the City establish appeal fees. In the original certification, the City chose not to require appeal fees; however, that topic is now under reconsideration at the local level.

Technical clarifications were also proposed to the extension procedures and procedures for the issuance of emergency coastal development permits. For time extensions, it is necessary for the review process to analyze whether or not there are any changed circumstances that might affect the project's consistency with the certified LCP. Relative to emergency permits, revisions are necessary to emphasize that such permits should be issued for the minimum amount of work necessary to address the emergency and that they are temporary authorizations, with a follow-up regular permit required in order for the emergency work to remain on a permanent basis. Also, notice of those permits should always be distributed to the Coastal Commission.

A new provision for implementing a "beach sand mitigation fee" is also necessary within the coastal development permit procedures. This mitigation requirement has been imposed by the Commission as part of its efforts to fully mitigate the long-term impacts of shoreline protective devices on sand supplies and processes. At this time, it is deemed appropriate to incorporate the implementation measure into the City's proposed land use regulation in order to fully carry out the certified land use plans. Lastly, a new section is necessary on revocation procedures as the City's general permit revocation procedures do not conform with the Commission's regulations. Again, while a technical clarification, it is important that the City's development review procedures adhere to the Coastal Commission's regulatory process. In summary, the proposed revisions detailed in the suggested modifications are necessary to clarify the revised coastal development permit procedures and assure their conformance with the Commission's regulations. Although these corrections are, for the most part, technical in nature, they are critical to assure the administration and issuance of coastal development permits in the City will serve to adequately and fully carry out the certified land use plans, promote reasonable and sound development practices and preserve the City's coastal resources and public access opportunities.

7. Commercial Base Zones

Chapter 13 of the LDC establishes base zones which are intended to regulate uses, zone density and intensity, size of buildings, and to classify, regulate, and address the relationships of uses of land and buildings. For purposes of time savings, this set of findings is only briefly addressing those areas where the Commission finds the LDC is not adequate to carry out the land use plans. Proposed suggested modifications which would achieve that objective are addressed in the next set of findings.

Chapter 13/Article 1/Division 1: General Rules for Base Zones – In Section 131.0112(a)(6)(K), Descriptions of Use Categories and Subcategories, single-room occupancy hotels are included under the category of Visitor Accommodations. Although these facilities are called hotels, they generally provide longer-term housing for low-income persons, rather than short-term visitor (tourist) accommodations. The following, more detailed discussion on commercial zones describes, among other things, examples of inappropriate uses proposed in nearshore areas. The Commission finds, for the reasons outlined below, that single-room occupancy hotels fall within this definition, and therefore, within the Coastal Overlay Zone, should not be considered visitor accommodations.

Chapter 13/Article 1/Division 5: Commercial Base Zones – The issue raised herein is that of appropriate permitted uses in the CV zones within the Coastal Overlay Zone. The purpose of this zone classification within the Coastal Overlay Zone is to promote and protect an adequate supply of visitor-serving facilities in nearshore areas. Priority uses include hotels, motels, restaurants and visitor-serving retail uses. Historically, only such priority uses oriented towards visitors are allowed on the ground floor, with other uses (such as residential and instructional studios)

allowed on upper floors. Also, only 50% of the ground floor of any permitted structures may be utilized for required parking. The placement of visitor-serving facilities on the ground floor makes such services easily accessible to visitors unfamiliar with the area and also promotes pedestrian activity consistent with various land use plan policies of the City's many LCP segments. Examples of some certified land use plan policies addressing both the types of allowed uses in nearshore areas and their appropriate design are cited below:

Several policies of the certified **Pacific Beach Community Plan** state, in part:

> Designate the Mission Bay Drive commercial area for regional-serving and visitor-serving commercial use ... In the areas designated for visitor commercial uses, which includes the area closest to Mission Bay Park, only visitor-serving uses shall be permitted.
>
> Designate the Mission Boulevard commercial area for visitor-serving commercial uses. ... An emphasis shall be placed on meeting the unique needs of destination visitors (tourists) who often initially access the beach area with automobiles. Promote destination parking at hotels and motels, with pedestrian-friendly visitor uses and activities nearby. North of Diamond Street, those properties fronting on Mission Boulevard and between the Pacific Ocean and the first alleyway, permitted uses shall be those which serve visitors, such as hotels and motels, restaurants, and commercial uses. ...
>
> Enhance pedestrian activity by requiring entryways and windows at the street level, and encourage the development of first floor retail and upper floor residential mixed-use projects through the use of floor area ratio bonuses.

Policies of the **Mission Beach Precise Plan Local Coastal Program Addendum** and **Mission Beach Planned District Ordinance** state, in part:

> (A goal of the plan) The accommodation of commercial facilities necessary to serve the needs of tourists attracted to the community by the beaches.
>
> Commercial-recreation or visitor-commercial uses are visitor-serving uses including: hotels and motels, establishments for food and beverage service, retail convenience sales, tourist-oriented specialty shops, personal services, recreation, entertainment and sports equipment rental.
>
> Only commercial uses should be permitted on the ground floor of structures on any lot abutting Mission Boulevard within the Santa Clara Commercial District.
>
> (In the PDO's list of allowed uses) Business offices (not including hiring halls) provided, however, that business offices shall not be permitted within the first story of any building on any lot within the "VC-N" and "VC-S" Subdistricts. ...

Also, the **Ocean Beach Precise Plan** recommendations addressing commercial uses in the Newport Center area, adjacent to the beach, includes the following provision:

> The actual configuration intended is ground floor commercial with residential above.

It appears to be the City's intent to maintain the existing pattern of primarily commercial uses on the ground floor of structures within commercial zones. The Commission's concern is generally limited to maintaining those areas providing services to beach visitors and tourists. The City's proposed zoning changes eliminated language found in the previous code that required the first floor of structures be used exclusively for visitor-serving uses and limited the amount of ground-floor area that could be used for parking. As proposed, the Commission finds the LCP

amendment does not conform with, and is inadequate to carry out, the cited land use plan policies of the City's certified LCP.

An additional concern identified in connection with the proposed CV zones in the Coastal Overlay Zone is with the potential allowed uses. The proposed zone revisions (as described in Table 131-05B) greatly expand the types of allowed uses, making it less likely that a strong visitor-oriented commercial support system will be maintained in the nearshore areas of the City. Examples of some non-visitor uses that would be allowed in the proposed zoning code update include such facilities as cemeteries, student dormitories, social service facilities, schools and newspaper publishing plants. Depending on market trends, designated visitor-serving areas could develop significant amounts of non-visitor serving uses, to the detriment of visitors overall.

It should be noted that very few areas of the Coastal Overlay Zone have, or will have, CV Zone applications. Within the actual beach communities, only Pacific Beach has CV zoning. This is located in two small nodes along East Mission Bay Drive, near the northeastern corner of Mission Bay Park, and, in a wider, longer strip along the Mission Boulevard corridor paralleling the Pacific Ocean at the western edge of the community. La Jolla and Mission Beach are governed by Planned District Ordinances, rather than by the City's general zoning. Ocean Beach and the Peninsula community include several nearshore commercial nodes, but they are implemented with other commercial zones, not CV Zones. The only other existing and potential (based on the zone renaming which will occur with this amendment) CV-zoned sites are located in the North City community along the Interstate 5 corridor. A two-page exhibit is attached delineating all the CV-zoned areas within the Coastal Overlay Zone. Because the CV-zoned areas are so few in number, it is even more critical that these minimal locations maintain a strong base of visitor-serving commercial uses. Numerous other sites are available, including many nearshore locations, to accommodate the broader range a commercial uses the City is currently proposing for the CV Zones. Therefore, the Commission finds the proposed ordinances are inconsistent with cited land use plan policies and are inadequate to carry out their intent.

8. Parking.

Chapter 13 of the LDC establishes parking regulations for purposes of providing a unified set of standards for public and private transportation related improvements throughout the City. For purposes of time savings, this report is only briefly addressing those areas where the Commission finds the parking regulations within the LDC are not adequate to carry out the land use plans or are not consistent with the public access and recreations policies of the Coastal Act.

Chapter 13/Article 2/Division 8: Parking Impact Overlay Zone – This ordinance describes the City's two parking overlay zones, one applied to campus areas to address student traffic and parking impacts and the other applied to nearshore areas to address public beach access concerns. The Beach Impact Area (BIA) covers approximately the first three blocks inland from the Pacific Ocean and Mission Bay, a distance considered walkable by most people. More stringent parking requirements and tighter regulations on curb cuts and driveway size apply within the BIA, to assure that private development doesn't usurp public street parking spaces, or reduce the number of street spaces otherwise available for beach visitors. Table 132-08A failed to identify that all residential and commercial uses in the BIA would be subject to the BIA provisions; it only identified multi-family residential uses and eating and drinking establishments. Examples of public access policies implemented by the BIA standards include the following:

The **La Jolla Community Plan and Local Coastal Program Land Use Plan** states:

> The maximum use and enjoyment of La Jolla's shoreline is dependent upon providing safe yet adequate public access to such major and special use recreational areas as La Jolla Shores Beach, Ellen B. Scripps Park, Coast Boulevard Park, Marine Street Park, Coast Walk, Windansea Beach, Calumet Park, Tourmaline Surfing Park and the Bird

> Rock tidepool areas. In order to provide adequate public access to these shoreline points, maintain existing facilities including streets, public easements, stairways, pathways and parking areas.

The **Torrey Pines Community Plan** states:

> All commercial, industrial and residential uses shall be designed and constructed with sufficient off-street parking and loading facilities to assure adequate parking is provided with new development such that no adverse impacts on coastal access are documented. Parking ratios shall be utilized as specified and detailed in the City's Zoning Code to provide sufficient parking spaces so as not to require patrons/employees/residents to utilize parking which is necessary/required for other approved uses, or street and other public parking that would otherwise be available for public use. In addition, existing public parking facilities used for public beach access shall be maintained and no reduction in existing public parking shall be permitted.

The **Pacific Beach Community Plan** states (in several separate sections):

> Enhance existing public access to the beach, bay and park areas along the shoreline to benefit community residents and visitors.
>
> Promote the utilization of alley access and minimize the number of allowed curb cuts, particularly on pedestrian-oriented streets such as Mission Boulevard, Garnet Avenue west of Ingraham Street and Cass Street.
>
> New development projects shall limit the number of curb cuts to the absolute minimum necessary (preferably one per property), unless precluded for safety reasons. Where possible, vehicular access shall be solely from alleys.
>
> New curb cuts shall not be permitted and existing curb cuts shall be removed where safe and efficient access is available from an abutting alley. ... (Exceptions are allowed for large properties with at least 150 linear feet of street frontage and in cases where existing development is being retained and thus precludes use of an alley; in both cases, a maximum 25-foot-wide curb cut is allowed.)

In addition, the City's existing Off-Street Parking regulations (Section 101.0814 B.) allow the Zoning Administrator to approve driveways as narrow as ten feet for single-family and duplex development and twelve feet for multi-family uses, provided the average driveway slope is less than eight percent and there will not be an unsafe condition created. This zoning ordinance is representative of the type of added specificity the City has maintained should be located in the ordinances as a means to implement land use plan policies. However, the proposed new parking ordinances set a less stringent standard than the currently certified ordinances would allow. Application of the proposed standards, such as twenty-five to thirty-foot-wide curb cuts for all uses, could cumulatively reduce the number of on-street parking spaces to a significant degree.

Another parking issue is raised within the category of Separately Regulated Uses. In many instances, the City is proposing that "parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property." This is not an adequate standard for application within the BIA, where public parking facilities are already insufficient and it is imperative that all parking associated with private development be maintained on private property. Spillover effects due to inadequate parking facilities on private properties have a direct and immediate impact on available street parking for the general public. The proposed regulation relies on a completely subjective determination of how much parking a particular use may require, where the currently certified ordinances give a specific parking ratio. The Commission finds that, within the BIA, the proposed ordinances are inconsistent with, and inadequate to carry

out, the public access and parking provisions of the certified land use plans, absent some minimum parking standard.

The last parking-related concern is with Table 142-05G, which offers alternative compliance for commercial uses on small lots. It would require only one parking space per 10 feet of alley frontage, for those sites on an alley, and would eliminate the requirement for parking altogether for commercial uses on small lots without alley access. Since this would result in business employees and patrons parking on the public streets, usurping parking spaces otherwise available to beachgoers and other visitors, the proposed parking reductions are inconsistent with the public access policies of the City's certified land use plans, including the following examples:

The **Torrey Pines Community Plan/Commercial Element** states:

> All required parking for commercial development shall be accommodated on site; no on-street parking shall be used to satisfy parking requirements.

Also, a goal of the **Ocean Beach Precise Plan**, requires:

> The provision of increased off-street commercial parking in order to improve access to commercial facilities.
>
> The proposed parking regulations are inconsistent with these, and other, certified land use plan policies addressing the preservation and enhancement of public access through, among other means, provision of adequate parking facilities for private development. The proposed regulations are thus also inadequate to carry out those specific policies of the City's various certified land use plans.

9. Views/Overlay Zones.

Chapter 13 establishes overlay zones to provide supplemental regulations that have been tailored to specific geographic areas of the City. Overlay zones are applied in conjunction with a base zone and modify or add regulations of the base zone to address specific issues. In the interest of time, this staff report will only address those areas where the Commission believes a revision is necessary in order to adequately carry out the provisions of the certified land use plans.

Chapter 13/Article 2/Division 4: Coastal Overlay Zone – This ordinance describes where the Coastal Overlay Zone is located and what permit regulations apply in various cases. Table 132-04A describes the coastal development permit procedure for developments partially or fully within the Coastal Commission area of permit jurisdiction. As adopted by the City, the table indicates that, for any development "that is partially or completely within the Coastal Commission Permit Jurisdiction or the Deferred Certification Area," coastal development permits are issued by the Coastal Commission. This is correct, but incomplete. Neither the Commission nor the local government can delegate its permit authority to the other entity. Thus, for those developments only partially within the Commission's jurisdiction (i.e., partially within the City's jurisdiction), the City must also issue a coastal development permit. The individual permits can only address the specific geographic portions of the proposed development within each jurisdiction. Therefore, as proposed, the table provides inaccurate procedural guidance to potential permit applicants and, thus, requires revision.

Of more critical concern from a coastal resource perspective, the proposed ordinances will not adequately carry out the many certified land use plan policies addressing the preservation and enhancement of public views to and along the coast. The proposed regulations will only apply to properties located between the sea and first coastal roadway. In many cases, there are

significant long-range public views from areas further inland, which would thus not be protected under the proposed regulations. The same criticism can be made of the existing, certified regulations, which are implemented under the Sensitive Coastal Resource Overlay Zone (SCR), which again only applies to development located between the first coastal roadway and the sea.

Implementation of the current zoning, and application of the proposed zoning code update would not be adequate to carry out the following certified land use plan policies:

From the certified **La Jolla-La Jolla Shores LCP Addendum**:

> La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved.
>
> La Jolla's physical assets should be protected in future development and redevelopment; particularly with respect to the shoreline, significant canyons and steep slopes. Ocean views should be maintained, beach access provided, and open space retained wherever possible.
>
> As an integral part of the City of San Diego, La Jolla maintains close cultural, social and economic relationships with the City as a whole. However, its unique ocean-oriented setting and natural terrain, which separate it from adjoining portions of the City, enable La Jolla to maintain its own identity. La Jolla's distinctive architecture and landscaping, handsome parks, beaches and scenic vistas are an asset to all of San Diego.
>
> Structures should be designed to incorporate views of La Jolla's natural scenic amenities--especially the ocean, shoreline, and hillsides. Developments in prime view locations which are insensitive to such opportunities, diminish visual access and compromise the natural character of the community. Large windows, observation areas, outdoor patios, decks, interior courtyards, elevated walkways, and other design features can be used to enhance visual access and increase the public's enjoyment of the coast.
>
> View corridors utilizing side yard setbacks, should be encouraged along shoreline and blufftop areas, in order to avoid a continuous wall effect. Even narrow corridors create visual interest and allow for sea breezes to refresh passersby.... [emphasis added]
>
> Where existing streets serve as visual corridors, development on corner lots requires special design considerations. In order to maximize public vistas, new development should be setback from the corner or terraced away from the view providing street.

The **Pacific Beach Community Plan** states the following:

> Where a proposed development would lie wholly or partially upon a coastal bluff, the following shall apply:
>
> Buildings and other structures shall be cited, designed and constructed so as not to obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

Policy #13 addressing public access also states:

> Maintain and enhance the public views and scenic vistas of the beach and bay by undergrounding utilities and maintaining street landscaping, and by requiring new development to conform with the design standards of the commercial and residential elements of this plan. Figures 4, 16, and 18 of this plan shall be used together to determine where said design standards are to be applied.

These figures show view corridors, intermittent public views and areas where utilities will be undergrounded. They demonstrate that public views are available from roadways many blocks inland, some even inland of the Coastal Overlay Zone boundary. In addition, the Pacific Beach Community Plan contains some unique policies addressing the public views to Crystal Pier by stating that new structures on the land portion of the pier property should be limited to two stories in height and should not block the view to the end of the pier. Other policies require that views from the pier are preserved and that no above ground parking structures should be located on lots fronting Ocean Boulevard, which is the first public road. The land use plan also contains policies addressing development standards for coastal bluffs. In addition to policies similar to those already cited, these policies include the installation and maintenance of landscaping such that during growing stages and upon reaching maturity, such materials do not obstruct public views.

In addition, the **Mission Bay Park Master Plan** states:

> To ensure as unencumbered and amenable a view of the bay environment as possible, no structure, earthform, or landscape feature should be constructed within the major public view corridors, or viewsheds, so as to impede, diminish or negatively affect the view of the Bay's environment.
>
> Around Sail Bay and the western coves and basins, views of the Bay from public access corridors should be maintained an enhanced. Palm trees or other landscape features placed along the beach to meet the landscape provisions of these Guidelines should not screen more than half the view of the water as seen one block away from the park from any of the public access corridors.

Other inconsistencies between the proposed regulations and the certified land use plans include that the City's language does not provide that blufftop fences be "open" in order to preserve public views toward the ocean, protect visual resources and promote the ambience of the coastal setting. Solid walls can result in blockage of coastal views as well as contribute to a "walled off" effect along the shoreline. In addition, when view corridors are required, they are not protected in perpetuity through a recorded deed restriction or easement.

The cited land use plan policies are only a small example of the many policies found throughout the certified land use plans addressing public view issues. The Commission has reached the conclusion, based on years of public comments and appealed permits, that the currently certified language has failed to carry out these land use plan policies. The City's proposed update, with regard to view protection, contains very similar regulations to those currently certified. Thus, the Commission must find that the proposed regulations are not consistent with these policies and are not able to adequately carry them out.

10. Affordable Housing

The City of San Diego is currently in the process of modifying its Housing Element to conform to the State law including the mandatory provisions of Government Code Section 65915 which applies to density bonuses. These are: (1) the requirement that local governments grant a density increase of 25% to developers who agree to make specified percentages of new units affordable to low income and/or senior households, and (2) The requirement that local governments grant an incentive in addition to the density increase unless the incentive is not necessary to make the housing affordable. The Government Code mandates an increase in density of 25% but not an increase beyond 25%. In addition, the Government Code does not specify how the 25% density bonus is to be accommodated. Therefore, how the increase is

accommodated and whether to provide an increase beyond 25% is within local government's discretion.

Since many of the City's land use plan policies address protection of coastal resources varying from wetlands, to public access, to visual resources, the granting of a density bonus on a particular site could result in adverse impacts to such resources. Therefore, in order to approve such an increase in density, it must be assured that if there are means of accommodating the 25% density bonus without creating inconsistencies with the policies and development standards of the certified local coastal program, those means should be used. Coastal resources may be adversely affected only when it has been found to be impossible to accommodate the density increase without such impacts. In those situations, the density increase must be accommodated by those means that are the most protective of significant coastal resources. For example, if a proposed density bonus could be accommodated only through either increasing building heights, thereby reducing public views to the ocean, or filling wetlands, the density increase must be accommodated by the height increase, since that will be most protective of significant coastal resources (wetland resources). If relief from more than one standard is necessary to accommodate the 25% density bonus, the LCP may provide for such relief.

Similarly, the LCP must insure that any proposed density increase beyond 25% will not occur unless it can be demonstrated than the increase will not result in any inconsistency (or inconsistency beyond that created by accommodation of a 25% density bonus) with the policies and development standards of the certified local coastal program. Thus, a land use plan could specify subregions where there are means of accommodating a density increase beyond 25% that will not adversely affect coastal resources. A land use plan could provide that in those subregions, the discretion to provide a density bonus beyond 25% could be exercised without reducing protection of coastal resources.

Government Code Section 65915(f) requires the increase in density granted to a developer be 25% over the "maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan." Many local government general plans and ordinances address residential densities by identifying both a density range that indicates the approximate density for an area, as well as a list of the development standards and other factors (e.g., setbacks, heights, yard size, proximity to circulation element roads, etc.) that will be applied to determine the maximum density that will be allowed on any particular site within the area. The Government Code requires that the 25% density increase be applied to the density that will be the maximum allowed under the general plan and zoning ordinances. Therefore, the base density to which the density bonus will be applied is the density that would be identified after application of both the density range for an area and the factors applicable to the developer's particular site.

Government Code Section 65915(b) requires local governments to provide not only a density bonus but also "at least one of the concessions or incentives identified in Section 65915(h)" unless the local government finds that the additional concession or incentive is not required to provide for affordable housing. Thus, the provision of at least one incentive is mandatory unless the local government finds that the additional incentive is unnecessary. However, Government Code Section 65915 does not require local governments to provide more than one incentive in addition to the density bonus. Further, it does not indicate how a local government is to choose which incentive to provide. Therefore, whether to award more than one incentive and which incentive to aware are discretionary under the Government Code.

Therefore, under the Coastal Act, LCPs may not provide for more than one incentive unless it can be demonstrated that the granting of additional incentives will not result in inconsistencies with the policies and development standards of the certified local coastal program. Similarly, in applying the one incentive, LCPs must insure that if there are incentives that will encourage

development of low income or senior housing without adversely affecting coastal resources, those incentives will be used. If all possible incentives will have an adverse effect on coastal resources, the LCP must provide for use of the incentive that is the most protective of significant coastal resources.

For example, if the potential incentives are: (1) a reduction in parking standards that may impede coastal access, and (2) allowing otherwise impermissible fill of wetlands, the first incentive should be awarded, rather than the second, since the Coastal Act places greater restrictions upon the filling of wetlands. LCPs should either rank incentives in terms of impacts on coastal resources or identify criteria or a process for determining which incentives will be used. This will insure that incentives that impose either no burden or lesser burdens will be granted instead of incentives that impose a greater burden or impact on coastal resources.

The regulations in the Land Development Code of the Municipal Code that address affordable housing do not include all the necessary provisions to insure that density bonus requirements will be harmonized with the requirements of the Coastal Act in the above-described manner. However, the submitted language is similar to that contained within the currently certified LCP. The City has asked that revisions to the code language not be adopted by the Commission at this time, due to the pending nature of the City's Housing Element and the City's intent to address the Commission's concerns in a revised code. The revisions to the Affordable Housing regulations will be brought forward in the near future as an LCP amendment, which is the appropriate time for the Commission to address any remaining concerns regarding protection of coastal resources.

11. Fencing Regulations

Chapter 14/Article 2/Division 3: Fence Regulations – This section addresses the construction of fences and retaining walls throughout the City. It includes a table identifying what types of permits are required for various types of fences, and which specific regulations apply. Most identified structures require no permit at all or only a building permit, with any proposed fences or retaining walls that would exceed normal height limitations requiring a Neighborhood Development Permit. Although most fences and retaining walls are exempt from coastal development permit requirements, not all are. These are considered significant non-attached structures when located between the sea and first coastal roadway; as such, they not only require a coastal development permit, but said permit is appealable to the Coastal Commission. Fences on property located in close proximity to the ocean have the potential to obstruct significant public views and/or public access to the shoreline; thus, appropriate review must be afforded to assure conformance with the certified land use plans through the coastal development permti process. As proposed by the City, Table 142-03A does not address this circumstance, and could be misleading to the general public by giving the impression that no permit is required when, in fact, one is. This procedural error requires correction.

12. Sign Regulations

The proposed sign regulations, in general, are very similar to those currently in effect in the Coastal Overlay Zone. The existing regulations were certified by the Coastal Commission many years ago, and found to be consistent with the visual resource policies of the City's various LCP land use plans. In general, the certified sign regulations for the Coastal Overlay Zone prohibit freestanding pole signs, projecting signs and roof signs, while allowing monument signs not exceeding eight feet in height and wall (façade) signs, including some signs on mansard or false roofs that do not vary more than 45 degrees from vertical. The following land use plan policies are typical of coastal zone applications:

From the **Mission Bay Park Master Plan**:

> Commercial Signs: As a general rule, free-standing commercial signs should be low, close to the ground, shall not exceed eight feet in height and shall be placed in a landscaped setting. An exception may be granted for large resort hotels, to accommodate sign designs or site identification within other architectural features, such as entry walls or gatehouses. When planning such signs near roadways, motorist sightlines should be kept in mind. Signs attached to buildings should be designed with similar sensitivity, ensuring that the signs blend with the architecture rather than appearing as a billboard. Rooftop signs are specifically prohibited.

From the **Pacific Beach Community Plan**:

> Maintain and enhance public views to the Pacific Ocean, Mission Bay, the Northern Wildlife Preserve and Kate Sessions Park.
>
> Limit signage to conform with the Citywide Sign Ordinance. Rooftop signs, free-standing pole signs, off-premise signs and billboards shall not be permitted with new development.

From the **University Community Plan** (to meet the objective of design detail contributing to a visually coherent streetscape):

> Designing signs as integral parts of developments. Corporate symbols or logos should be used rather than corporate names. Such logos should not be located on the roof of a building nor be freestanding on a pole.

A general recommendation of the **Ocean Beach Precise Plan** states :

> Additional sign criteria should be developed that is specifically designed to enhance the character of the Ocean Beach community. Signs in the Newport commercial center, for example, should be of a small scale, giving information and direction to the pedestrian and slow-moving cars.

Finally, the **Mission Beach Precise Plan Local Coastal Program Addendum** and **Mission Beach Planned District Ordinance** state respectively:

> That sign criteria be developed detailing the shape, texture, material, lettering style, and layout of signs necessary for the purpose of adequately identifying uses in Mission Beach.
>
> One single or double-faced freestanding sign located adjacent to each entrance or exit driveway to a parking lot. Signs shall not exceed 12 square feet in area nor a height of <u>eight</u> feet measured vertically from the base at ground level to the apex of the sign.

The only problem identified in association with the proposed sign regulations is a failure to recognize the certified eight-foot height limit for freestanding signs in a few regulations addressing the La Jolla community. The eight-foot limit is called out specifically in several of the plans identified previously and is included in the currently-certified City-wide ordinances. Thus, the proposed language is inconsistent with, and inadequate to carry out, the certified land use plans.

13. Administrative Changes/Technical Revisions.

The City has submitted minor modifications to the Land Development Code for inclusion in this report. They are to either clarify text, correct formatting or remedy typographic errors and do not affect the meaning or intent of the regulations. They are found in Part II E. of this report.

14. Historical Resources.

Many of the certified land use plans for the City of San Diego's coastal overlay zone include policies addressing historic resources within the individual communities. Some (the La Jolla – La Jolla Shores Local Coastal Program Addendum and the Pacific Beach Community Plan, for example) include inventories of historic structures and resources in the community. However, many of the sites listed in these inventories (and potential other sites not yet included on any inventory) are not formally designated as historic structures or resources at this time. The proposed historic resource regulations establish a process for formal designation of historical resources, and a Site Development Permit is only required for development those historical resources which are designated. As proposed, the proposed regulations do not require consultation with all appropriate agencies should a premises be anticipated to contain currently undesignated, but potentially significant, historic resources. Additionally, any existing historical resource inventory and/or the community planning group and certified land use plan should be consulted in the process of such designation. The Commission finds the proposed regulations are not, therefore, consistent with the historic preservation policies of the certified land use plans, and are thus unable to adequately carry out the plans. With modifications which establish a comprehensive approach toward the designation process, prior to development and including consultation with experts in the field and the adopted community plans, the proposed regulations would protect significant historical resources in the coastal zone, consistent with the certified land use plans.

PART IV. FINDINGS OF APPROVAL, IF MODIFIED.

In the previous findings, the Commission has identified inconsistencies between the proposed ordinance update and the certified land use plans. Preceding that discussion are the suggested modifications the Commission finds would be necessary to bring the proposed implementation plan into conformance with the certified land use plans. Following are more specific findings addressing how inclusion of the suggested modifications will result in conformance with the certified land use plans, arranged by issue in the same order as the previous findings.

1. Environmentally Sensitive Lands

As noted, the Commission finds several revisions are required to the Environmentally Sensitive Lands regulations in order to assure implementation of the certified land use plans. First, the regulations must be modified to assure that the analysis required by the ESL regulations is applied to all development on premises containing environmentally sensitive lands. This can be accomplished by eliminating the exemption of Section 146.0110 (c) to properties within the Coastal Overlay Zone. This exemption provides that development on premises containing environmentally sensitive lands need not undergo the review required by the ESL regulations if the development is not proposed to be located on the environmentally sensitive lands. By eliminating this exemption, the Commission assures that all development that could potentially adversely impact environmentally sensitive lands is reviewed pursuant to the ESL regulations to ensure that adverse impacts are avoided. Additionally, the Commission is suggesting modifications to the standards of the ESL to insure that within the Coastal Overlay Zone, resources are protected to the degree required by the certified Land Use Plans. The two most significant areas where different standards are necessary related to encroachment limitations on steep hillsides, and permitted uses within wetlands.

Regarding steep hillsides, the Commission finds that modifications are required to insure that sensitive steep hillsides, i.e., those with habitat value, scenic qualities, or potential geologic hazards, are protected to the extent necessary to carry out the certified LUPs. The proposed ordinance update establishes a new method for addressing development proposals on sensitive hillsides. Within the certified HR overlay zone, the significant slopes greater than 25% that are sensitive either for habitat value, scenic amenities or potential geologic hazard were mapped on

Map C-720, and those hillsides are protected by policies that limit encroachment through a "sliding scale" of discretionary permitted encroachment, depending on the amount of the site containing steep hillsides. Staff was previously recommending that the previously-certified "sliding-scale" be incorporated into Section 143.0142 the Development Regulations for Steep Hillsides as the applicable standard within the Coastal Overlay Zone. For lots with 75% or less steep hillsides, a maximum 10 percent encroachment would be permitted, and the percentage of encroachment allowed increases with an increase in the amount of steep hillsides on the site, to a maximum 20% encroachment if all or nearly all of the site contains steep hillsides. This encroachment limitation has been considered by the Commission to be a discretionary allowance and not permitted by right.

The proposed ordinance update eliminates the "sliding scale" approach and instead provides for a 25% maximum allowable development area afforded to all premises, and encroachment is permitted within steep hillsides, if necessary to achieve a maximum allowable development area. When comparing the previously-certified "sliding scale" with the City's 25% maximum allowable development area, it appears there could be more encroachment permitted by the "sliding scale" for lots with less than 90% steep hillsides. However, that is only true if the encroachment limitation is considered a matter of right, rather than a discretionary encroachment that is allowed only for unusual situations and when it is unavoidable.

Therefore, the Commission finds when encroachment into steep hillsides is unavoidable, the allowance of any encroachment is a discretionary action. If a limit for coastal hillside encroachment is set by the use of the "up-to" 25% maximum allowable development area, as in the proposed LDC, this standard is more restrictive than the present "sliding scale" encroachment limit contained in the current certifed LCP. This is not true if the encroachment allowance is not applied in a discretionary manner, or for lots with more that 91% of the area in steep hillsides. For lots with 91% or more of the area in steep hillsides, the Commission finds a 20% maximum development area conforms with the certified land use plan policies. However, for such highly constrained properties it was suggested that specific criteria may be developed by the City to determine when an additional 5% encroachment may be permitted to allow an economically viable use. The Commission acknowledged that the City may develop an alternative set of criteria for that additional 5% encroachment that is different from the deviation process that is established by the suggested modifications to Section 126.0708. The deviation process established in that suggested modification is to be used primarily when an applicant contends strict application of the regulations would constitute a taking of property without just compensation. However, should the City decide any encroachment beyond the 20% maximum developable area for the highly-constrained properties should only be permitted through the deviation process, that could also be consistent with the Commission's intent.

The criteria for determining when encroachment into sensitive hillsides is unavoidable are to be identified by the City in the Steep Hillside Guidelines. The suggested modifications to the ESL provide that encroachment into steep hillsides is to be avoided to the maximum extent possible, and if unavoidable encroachment is necessary, it shall be minimized. The criteria contained within the guidelines must be sufficiently specific and objective to assure the code language is interpreted and implemented consistently by the City in review of coastal development. The suggested modifications to the LDC are intended to insure that encroachment is not permitted solely for the purpose of obtaining the maximum allowable development area but rather only when encroachment is unavoidable, such as when necessary to access the less sensitive, flatter portions of the site. Such criteria shall be incorporated into revised Steep Hillside Guidelines, which shall be subject to Coastal Commission review and approval prior to effective certification of the LDC.

As is the case currently within the certified City code, an additional 15% encroachment allowance can be authorized for public related-improvements, such as major roads and public utilities. This additional 15% encroachment is also allowed within the North City LCP land use plan areas only

for local public streets or private roads and driveways which are necessary for access to the more developable portions of the site containing non-steep hillsides, provided no less environmentally-damaging alternative exists.

A separate concern from the amount of encroachment permitted onto steep hillsides is where those limitations should be applied. As proposed by the City, the 25% allowable development area would not be applied to lots of 15,000 sq. ft. or less. The new GIS maps, which indicate slopes greater than 25% grade and lots less than 15,000 sq.ft. do not include several small pocket areas of lots within the La Jolla community that are currently mapped HR, which means they are protected under the current implementing ordinance but would not be protected by the City's proposal. Although it appears these lots may not be visible from major coastal access routes or public resource areas, the mapped areas are inland canyons which contain habitat and maintain community character which are protected by policies in the certified land use plans. Additionally, there are Hillside Development Guidelines within the LJ/LJ Shores Community Plan which have been incorporated into the regulations and should be applied in review of all coastal development within the La Jolla community. Therefore, the Commission finds that in order for the LDC to carry out the certified land use plan policies, the exemption from the steep hillside guidelines for lots less than 15,000 sq. ft. must not be applied in the Coastal Overlay Zone. This would also avoid the potential for uneven application of the standards to similarly constrained lots immediately adjacent or in the same neighborhood, simply due to lot size.

Further, the current certified Hillside Review (HR) Overlay Zone protects those areas mapped as sensitive, viewshed or geologic hazard on the certified Map C-720. The Map C-720 was the result of a rigorous mapping effort to represent a clear definition of steep hillsides containing environmentally sensitive habitats, significant scenic amenities or potential hazards to development. There are several reasons why it is appropriate to utilize the currently certified HR maps (or similar criteria to develop new maps), to identify areas where the additional encroachment limitations should apply, within the Coastal Overlay Zone, in order to adequately carry out the land use plans. They are: 1) The currently certified HR ordinance affords protection through the sliding scale encroachment limitations to hillside areas visible from I-5 and/or major inland canyon systems, regardless of habitat value; 2) There is a third criteria for protection that relates to the geologic stability of the area, regardless of visibility or habitat; 3) Examples of areas mapped as visible but not possessing sensitive vegetation include hillsides on the north and south sides of Los Penasquitos Canyon, Lopez Canyon and Carmel Valley, and hillsides visible from the freeway at Genesee and Interstate 5 and in the Sorrento Valley area. Some of these hillsides also have areas of geologic instability. The areas were identified as sensitive and worthy of protection as part of the site specific mapping done prior to certification of the HR overlay provisions and Map C-720, as adequate to carry out the certified land use plans

In summary, the Commission finds the certified land use plan policies establish encroachment limits on steep, naturally-vegetated hillsides through a "sliding scale" approach applicable within the Coastal Overlay Zone. The Commission has considered these encroachment limits to be discretionary, not permitted by right; and that development of the steep hillsides containing sensitive biological resources or mapped as viewshed or geologic hazard on Map C-720 should be avoided to the maximum extent possible. With the proposed suggested modifications, the steep hillside regulations are adequate to carry out the provision of the certified land use plans and Chapter 3 policies of the Coastal Act. The corresponding changes must also be made to the Open Space Zones Section 131.0250 and the Steep Hillside Guidelines. Other modifications address brush management and assure that a minimum 30 ft. setback is required from steep hillsides containing sensitive biological resources for new development and subdivisions.

Regarding permitted uses within wetlands, the ESL regulations as proposed do not specify allowable uses within wetlands pursuant to Section 30233 of the Coastal Act. The certified land use plans and the current SCR ordinance contain language which indicates only aquaculture,

nature study projects or similar resource dependent uses, wetland restoration projects and incidental public service projects are permitted in wetland areas, provided there is no feasible, less environmentally-damaging alternative, and where mitigation measures have been provided to minimize adverse environmental effects. The current code also identifies uses permitted within wetland buffers to include access paths, fences and other improvements necessary to protect wetlands.

In the proposed ESL regulations, Section 143.0141 (b) indicates that impacts to wetlands shall be avoided, and that wetland buffers shall be maintained around all wetlands when necessary and as appropriate to protect the functions and values of the wetland. The Commission finds this to be a lessor standard for protection than is contained within the current certified land use plan. Therefore, modifications are necessary to insure the LDC carries out the land use plan. The Sections 143.0130 (d) and (e) are added to restrict the uses permitted within wetlands and wetland buffers to those limited uses allowed by the land use plan. Additionally, within Section 143.0141(b), language is added to clarify a minimum 100-foot wetland buffer is required, unless a lesser or greater buffer is warranted as determined through Resource agency review. Section 143.0141(a) establishes the means for coordination with the Resource agencies, and a suggested modification makes it clear that input must be solicited and incorporated into the project prior to the first public hearing.

Additionally, language must be added to both the ESL regulations and the Biology Guidelines to recognize the broad and necessary functions and values of wetlands. Such functions and values include the absorption and slowing of floodwaters for flood and erosion control, sediment filtration, water purification, ground water recharge and the need for upland transitional habitat.

Another important revision to the ESL regulations is additions to Table 143-01A which establishes the applicability of the Environmentally Sensitive Lands Regulations. The table identifies R – development regulation sections (in addition to Section 143.0140) applicable to the environmentally sensitive lands present; P – type of permit/decision process required/Neighborhood Development Permit (NDP) and Site Development Permit (SDP); and U – regulations that identify permitted uses when they are different than the applicable zone due to the environmentally sensitive lands present. The Commission finds it is very important that the Sections identifying the permitted uses within wetlands and wetland buffers be provided in the table. Additionally, the section that indicates wetland impacts shall be avoided (Section 143.0141 (b) should be included as an applicable regulation. That section also includes the requirement for a 100 ft. buffer, as modified. In the past, the fact that the Coastal Development Permit is not mentioned in the table presented a potential problem for Commission staff. However, due to the process of consolidating permits, the Commission is assured that the ESL regulations will be applied to all development requiring an SDP and NDP; and with the elimination of the exemption from the SDP and NDP requirements in the Coastal Overlay Zone, such permits will be required for all development on which environmentally sensitive lands are present.

Other significant modifications, which the Commission finds are necessary in order to carry out the provisions of the land use plans, will prohibit alternative compliance for the steep hillside regulations within the Coastal Overlay Zone. Also, the suggested modifications address the application process and findings for deviations from the ESL regulations within the Coastal Overlay Zone. As proposed, Section 143.0150 of the LDC allows the City to grant deviations for proposed development that does not comply with the ESL regulations if certain findings are made. The City indicates the purpose of deviations is to allow for relief from the regulations if reasonable use is not afforded through their application.

The Commission finds that deviations may be granted only to the extent necessary to avoid a denial of all economically viable use of property. To ensure that deviations are granted only under such circumstances, the LDC must be modified to establish an application process in which applicants claiming a denial of all economically viable use are required to submit

information evidencing the claim. All applications for deviations would be required to meet the same strict findings tests and comprehensive application and process requirements which is based on Coastal Commission experience and precedent.

In addition, the findings required for a Coastal Development Permit must be modified to include findings that must be made in order to approve a deviation from the ESL regulations because the applicant contends that application of the regulations would result in denial of all economically viable use. The suggested changes also require an application process, which requires all the information necessary to allow for an economic viability determination. The application requirements include economic information related to cost, date of purchase, property value, zoning, development restrictions and income information for the entire period of property ownership to be utilized by the decision-maker in determining investment-backed expectations and economically viable use for the premises. These application procedures would be developed as procedural instructions, not as a direct part of the LDC. However, these instructions would be a part of the LCP Implementation Plan and would subject to Coastal Commission approval if proposed to be modified.

The specific findings which must be made to approve a Coastal Development Permit would be located within Section 126.0708(e) and include: 1) based on economic information there is evidence each use would not provide economically viable use; 2) application of regulations would interfere with investment-backed expectations; 3) the proposed use is consistent with zoning; 4) the deviation requested is the minimum necessary to provide economically viable use; and, 5) the proposal is the least environmentally-damaging alternative and consistent with the LCP, with the exception of the provision for which the deviation is sought. With such revisions to the deviation process, the Commission can find adequate protection is afforded environmentally sensitive lands within the coastal zone in a manner consistent with the certified land use plans. There are several suggested modifications both in the LDC and the Land Development Manual which address the deviation process. Previously recommended language specifically addressed the section of the code referring to permitted uses in wetlands as the only instance when deviations were applicable. The Commission finds the suggested modifications to the code and guidelines should be changed anywhere deviations are addressed, to maintain consistency with the Commission action and between the documents with regard to the deviation process in the Coastal Overlay Zone.

2. Agriculturally Zoned Areas/Floodplains/Future Urbanizing Areas

Chapter 14/Article 1/Division 2: Agriculture Use Category-Separately Regulated Uses – This section of the Land Development Code addresses a number of different uses allowed within agriculturally-designated areas. Section 141.0202(a), Commercial Stables, would allow placement of portable structures in a floodway in association with a commercial stable operation. The pertinent suggested modification clarifies that no structures, including portable ones, may be located in a floodway within the Coastal Overlay Zone. Both the certified North City LCP Land Use Plan Segment and the more-recently certified Torrey Pines Community Plan include the following statement::

Within the 100-year <u>floodplain fringe</u> of the San Dieguito River, fill for roads and other public improvements and/or permanent structures will only be allowed if such development is consistent with uses allowed pursuant to the A-1-10 Zone and other existing zoning, is capable of withstanding periodic flooding, and does not require the construction of flood protective works ...(emphasis added)

Similar language is found in the Tia Juana River Valley Land Use Plan, as modified herein. Neither these cited land use plans, nor any other certified land use plan document in the City's LCP, address uses within the floodway itself, as no development within the actual floodway has

ever been envisioned. It has been well documented that development in floodplains can lead to adverse impacts on the environment which could then result in needed flood protective works that could impact or eliminate sensitive habitat areas. In addition, modification of the floodplain not only presents a danger to proposed structures, but also impacts downstream resources through increased sedimentation. Due to these concerns, several of the City's certified LUP segments contain policies which strictly limit floodplain development. Thus, to be consistent with the certified LUPs, the above suggested modification makes it clear that within the Coastal Zone, no structures are permitted within the floodway.

Chapter 14/Article 1/Division 4: Institutional Use Category-Separately Regulated Uses, Chapter 14/Article 1/Division 6: Commercial Services Use Category-Separately Regulated Uses, and Chapter 14/Article 1/Division 9: Wholesale, Distribution and Storage Use Category-Separately Regulated Uses – These three use categories contain the descriptions and regulations for a number of individual uses. A common criteria for many of them is that they are not permitted in floodplains located in agriculturally zoned areas of the Coastal Overlay Zone. While this seems a good idea, especially in light of the above finding which quotes floodplain policies common to many of the City's certified land use planning documents, it is not clear why the prohibition is only on agriculturally-zoned lands. There are floodplain areas within the Coastal Overlay Zone with land use designations and zoning other than agricultural. Sorrento Valley is an example, where some industrial zoning exists. It would appear that the identified uses would be inconsistent with the cited floodplain policies regardless of the underlying zone, since they would all involve fill and permanent structures, and do not appear to be uses compatible with periodic inundation. A suggested modification is included deleting the phrase "in agriculturally zoned areas of" to clarify that the use itself is not allowed in the floodplain of the Coastal Overlay Zone. As modified, the Commission finds the Land Development Code amendment consistent with, and adequate to carry out, the floodplain provisions of the City's certified land use plans.

The modification applies to the following code sections:

Section 141.0404(a)(1) and (b)(1), Churches and Places of Religious Assembly
Section 141.0407(a),Educational Facilities—Schools for Kindergarten to Grade 12 and Colleges/Universities
Section 141.0413(a), Hospitals, Intermediate Care Facilities, and Nursing Facilities
Section 141.0610(a), Helicopter Landing Facilities
Section 141.0624(a), Veterinary Clinics and Animal Hospitals
Section 141.0902(a), Junk Yards

Additionally, Section 143.0440, Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development in the AR and OR Zones and Section 143.0450, Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development with Increased Density, allow for the area of a golf course to be used in the calculation of total permitted residential density and useable open space. The Commission suggests that changes are required to these two sections which relate to golf courses within the City's Future Urbanizing Area (FUA) for the following reasons.

In May of 1993, the Commission reviewed City of San Diego LCPA 1-93. In its review, the Commission denied (with no suggested modifications) the development of golf courses within the FUA (under the PRD Ordinance) for two reasons: The first related to the City's definition of a golf course that is "open to the public". The Commission found that a golf course open to the public, based on the City's language, would be inconsistent with the public access and recreation policies of the Coastal Act in that it allowed "private " memberships, which could render such a facility as not being available to the general public. The second reason for denial of golf courses within the FUA related to the City's proposal to allow the area of a golf course to be utilized in the calculation of residential density and total usable open space. Because those portions of the FUA within the Coastal Zone contain significant environmentally sensitive habitat areas, by

allowing the area of a golf course to be used in calculation of residential density, higher intensity residential developments could potentially be crowded onto a smaller building area in order to retain sufficient area to accommodate the golf course. This could lead to competition for buildable area, thereby opening up the possibility/need for encroachment into sensitive areas to obtain the desired/permitted density.

Since the Commission denied golf courses within the FUA, the proposed sections are inconsistent with the North City Future Urbanizing Area Framework Plan and Guideline for Urban Development. With the suggested modifications, which make it clear that the provisions only apply to the FUA areas which are located outside the Coastal Overlay Zone, the proposed amendment can be found consistent with and adequate to carry out the certified LUPs.

3. Bluffs and Beaches

The previous findings indicated a number of revisions which are necessary in order for the Commission to find the proposed ESL regulations relating to development on beaches and bluffs to be in conformance with the certified land use plans. In addition, the Commission found that additional modifications should be made to the Development Regulations for Sensitive Coastal Bluffs (Section 143.0143) to augment the information required in geology reports which are to be utilized by City staff in determining the appropriate blufftop setback for proposed development. The standards would also be used to determine whether a setback from a coastal bluff edge should be reduced from 40 feet to 25 feet. The standards include the following to be provided by a geological expert: 1) an analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards; 2) an analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information; 3) an analysis of the potential effects of past and projected El Nino events on bluff stability; and 4) an analysis of whether this section of the coast line is under a process of retreat. This information would not only address bluff stability and retreat, but also the processes and/or conditions that are currently affecting the project site, such as rising sea level.

Additionally, in approval of any reduction of the blufftop setback, the decision-maker must find that no significant geologic instability is occurring on the site, and that seawalls will not be required during the economic life of the structure. Further, to strengthen the assurance that shoreline protective devices will not be sought for development that has been permitted closer than 40 feet from the bluff edge, applicants shall be required to waive their right to shoreline protection for the development. This protects against the situation in which a geotechnical report for proposed development concludes that the development can be safely located closer than 40 feet to the bluff edge but then, after construction of the development, another geotechnical expert makes different findings regarding the stability of the site and concludes that shoreline protection is necessary to protect the development. Thus, the suggested modifications add a provision that requires applicants who seek to develop closer than 40 feet to the bluff edge to accept and record on their deed that they waive any and all applicable rights to protective devices for the subject property. The Commission finds that corresponding changes to the Bluff and Beaches Guidelines should also be made to reflect these revisions to the LDC.

4. Coastal Development Permit Process

The previous findings discuss a number of revisions that are necessary to the regulations addressing the Coastal Development Permit process which have been incorporated into the suggested modifications in order to assure conformance with the certified land use plans. However, the Commission made some specific changes to the findings required to approve a coastal development permit, and changes addressing the consolidation of the permit process. Specifically, a provision of the code clearly indicates that when more than one permit, map, or other approval is required for a single development, the applications shall be consolidated into one action and the findings must be consolidated into the Coastal Development Permit. This is important because the primary vehicles proposed to implement the Environmentally Sensitive

Lands regulations are the Neighborhood Development Permit and Site Development Permit. Through these permits, the review afforded through application of the ESL regs will be incorporated into the Coastal Development Permit, along with review for conformance with the land use plan policies of the certified LCP. The decision maker is required to find the proposed development is in conformity with the certified land use plan and complies with all regulations of the certified Implementation Plan in approval of any Coastal Development Permit.

Additionally, if a variance is being sought in conjunction with any proposed coastal development, the Commission is requiring that the decsion maker find that granting of the variance conforms with and is adequate to carry out the provisions of the certified land use plan. Variances are not to be utilized to request deviations from the applicable regulations. They are to provide relief for cases in which, because of special or unique circumstances applicable to the property, strict application of the development regulations would deprive the property of privileges enjoyed by other property in the vicinity and under the same land use designation and zone. The deviation process is appropriate in those rare instances when strict application of the regulations may deny all economically viable use of a premises. The Commission is suggesting revisions to the deviation process and the required findings in order to assure limited use under extraordinary circumstances and not solely to gain the maximum allowable development area on a premises. With the suggested changes, the Commission finds the Coastal Development Permit process adequate to carry out the provisions of the certified land use plans.

5. Commercial Base Zones.

As identified previously, the Commission's main concern with the proposed ordinance revisions addresses the treatment of areas designated as CV Zone (i.e., areas intended to cater to the needs of visitors). The issues raised are both the appropriateness of some of the City's proposed permitted uses and the uses and design of the ground floor of commercial structures. One suggested modification revises the **Description of Use Categories and Subcategories** to indicate that single-room occupancy hotels are not considered visitor accommodations within the Coastal Overlay Zone. Another suggested modification would amend **Table 131-05B**, both to exclude strictly non-visitor serving uses from the CV Zones and to include one use (wearing apparel and accessories) which does serve visitors but was not identified in the table as permitted in the CV Zones. A modification is included stipulating that only visitor-serving uses may be located on the ground floor of structures, with other uses, such as residential uses or business offices, located on upper floors. Finally, a suggested modification clarifies that, within the Coastal Overlay Zone, not more than 50% of the ground floor of any structure in the CV Zone may be used for required parking, to assure that adequate ground-floor, pedestrian-accessible space is given to true visitor-serving commercial uses.

With the suggested modifications, uses in the CV Zones within the Coastal Overlay Zone will be limited to true visitor-serving facilities, allowing some compatible uses (such as residential) on upper floors. Therefore, the Commission finds the zoning code update, as modified herein, conforms with, and is adequate to carry out, the provisions of the City's many LCP land use plan segments, including the specific policies cited previously.

6. Parking.

As previously noted, the Commission is concerned primarily with the application of the proposed parking regulations within the BIA (i.e., the immediate nearshore area) and with standards for restaurants throughout the Coastal Overlay Zone. Modifications are suggested which the Commission believes would achieve the objective of making the proposed ordinances adequate to carry out the land use plan policies cited previously. These include a modification applying the proposed BIA standards to all categories of development, instead of just multi-family residential uses and eating and drinking establishments. For many of the separately regulated uses listed below, the suggested modifications add a minimum parking ratio for any proposed developments

within the BIA. Also, there is a suggested modification to apply more stringent limits on curb cut/driveway width within the BIA. This will make the land development code consistent with the intent of the certified Pacific Beach Community Plan which includes some of the specific parking, curb cut and driveway standards of the BIA overlay zone and with numerous other land use plan policies which generally address preserving and enhancing public access opportunities through providing adequate off-street parking and minimizing curb cuts.

The Sections of the proposed code which include suggested modifications addressing BIA standards or concerns are the following:

Section 141.0301(d), Boarder and Lodger Accommodations
Section 141.0614(a), Nightclubs and Bars over 5,000 Square Feet in Size
Section 141.0615(b)(4), Outpatient Medical Clinics
Section 141.0617(a) Private Clubs, Lodges, and Fraternal Organizations
Section 141.0621(o), Sidewalk Cafes
Section 141.0623(a), Theaters that are Outdoor or over 5,000 Square Feet in Size
Section 142.0510(d)(1), General Parking Regulations
Section 142.0525(b), Multiple Dwelling Unit Residential Uses-Required Parking Ratios
Section 142.0530(a), Nonresidential Uses-Parking Ratios
Section 142.0530(b), Parking Ratios for Eating and Drinking Establishments
Section 142.0530(c), Nonresidential Uses-Parking Ratios
Section 142.0560(j), Development and Design Regulations for Parking Facilities

The code sections listed above are found in **Chapter 14/Article 1/Division 3: Residential Use Category-Separately Regulated Uses, Chapter 14/Article 1/Division 6: Commercial Services Use Category-Separately Regulated Uses, and Chapter 14/Article 2/Division 5: Parking Regulations**. Within these same sections are suggested modifications addressing a number of public access/parking-related matters not limited to the BIA. Several modifications require that, within the Coastal Overlay Zone, outdoor dining and drinking areas are considered part of the permitted facility for purposes of calculating required parking. Both the certified Mission Bay Park Master Plan and certified Pacific Beach Community Plan include this specific standard, and it has been historically required in all Commission-issued permits for eating and drinking establishments. The requirement acknowledges the Southern California climate and lifestyle, which result in many such establishments having large outdoor eating and drinking areas which are used year-round. It is entirely appropriate that such establishments provide off-street parking based on their entire plant, not just enclosed floor areas, which may, in some cases, represent less than half of the total facility. With the suggested modifications, the Commission finds the ordinances consistent with, and adequate to carry out, the two cited land use plans, as well as the public access policies of all other certified planning documents in the City's LCP.

Additional modifications within these same sections address the use of off-premises and tandem parking and exceptions to parking requirements for small-lot commercial development. Historically, off-premises parking has been allowed only for commercial uses, but the City is proposing to expand its use to residential development as well. The land use planning policies cited above, and the general public access policies of other certified land use documents, clearly take the position that new development is to provide adequate parking for its needs, such that public street parking is not adversely affected. The City's proposed modification is less restrictive than the previously-certified ordinances, and could result in adverse impacts to the available supply of on-street public parking. It seems less likely that residents will utilize off-premises parking, which would require leaving a vehicle overnight at some distance from the residence, or walking a greater distance carrying packages, groceries, etc. It is more likely that residents will park on the street directly in front of their homes, where vehicles will at least be in sight and readily accessible. Therefore, the suggested modifications disallow off-premises parking for residential uses, require adequate signage to direct persons to the off-premises parking locations

associated with commercial uses, and require that covenants be recorded over both the parking site and the site of the use requiring the parking.

With respect to tandem parking, the Commission and City have historically approved such for residential uses as long as both parking spaces are assigned to a single living unit. The previously-approved parking ordinance, which was found consistent with the City's certified land use plans, identified only two circumstances which justified the use of tandem spaces in commercial development: assigned employee parking and valet parking associated with restaurant use. The City is now proposing to allow tandem parking in any valet situation and has also added bed and breakfast establishments as a use allowed to have tandem parking. The Commission finds the use of tandem parking for bed and breakfast establishments acceptable, but has added a suggested modification to only allow valet parking when associated with restaurant use. The concern here is that, from a practical perspective, valet parking associated with other forms of commercial development tends to be avoided by most patrons. Thus, the commercial development would initially receive the benefit of providing less parking by proposing a valet service. However, if patrons didn't use the service, patron parking would be inadequate on-site and could spill over onto adjacent streets, usurping areas otherwise available for parking by beach visitors.

The City's beach communities (Ocean Beach, Mission Beach, Pacific Beach and La Jolla, primarily) are all deficient in parking to meet current needs. To offer reduced parking standards in nearshore areas subject to a heavy influx of residential users and visitors can only exacerbate an already critical public parking shortage. Therefore, the Commission finds it appropriate to modify Table 142-05G to clarify the table is not applicable in the Coastal Overlay Zone. With the suggested modifications addressing parking and related issues, the Commission finds the proposed ordinances consistent with, and adequate to carry out, the certified LCP land use plans.

7. Views/Overlay Zones

One suggested modification for the Coastal Overlay Zone is to correct the procedural error that failed to identify cases where dual permit jurisdiction applies. This situation may occur on any properties which are bisected by the boundary between the City's and Commission's permit jurisdictions, wherein each entity is required to issue a coastal development permit for any portion of the proposed development within its respective jurisdiction.

The other issue raised by this overlay zone is that of protecting public views to and along the coastline. Several modifications are suggested to address this issue and establish protection of the many public views available from inland areas, which have not been adequately addressed in either the proposed ordinances or the currently-certified ones. The Commission is suggesting a revision that requires fences to be "open" when proposed in sensitive coastal blufftop areas. For this reason, the Commission is also suggesting that the definition of open fences be changed when applicable in the Coastal Overlay Zone to assure the structure is at least 75% open for view protection purposes. Many policies of the respective land use plans call for the preservation of public views to the ocean. The City also proposes to include language in the LDC that specifies under what conditions and when a visual access corridor must be provided in association with any coastal blufftop or beachfront development. The language, as proposed, states that a visual corridor should be provided through an offer of dedication as a public easement or deed restriction as a condition of approval of a Neighborhood Development Permit or Site Development Permit.

The Commission is suggesting that language be changed such that this requirement is a condition of a Coastal Development Permit approval (vs. a Neighborhood Development Permit or Site Development Permit). Any property located between the ocean and the first coastal roadway would be within the Coastal Overlay Zone and require a Coastal Development Permit, unless it is an exempt development. For this reason, it is appropriate to relocate the language

addressing view protection to the Coastal Overlay Zone as supplemental regulations. Since this only applies within the Coastal Overlay Zone, the Coastal Development Permit is the appropriate vehicle to administer the view protection policies.

As proposed by the City, a view corridor not less than 10 feet and running the full depth of the property would be required to be preserved when the proposed development is located on a site that lies between the "nearest through vehicular public access route paralleling the shoreline and the requirement for a visual corridor is feasible and will serve to preserve, enhance or restore existing public views identified in the applicable land use plan. The City's referral to the first coastal roadway as the "nearest through vehicular public access route paralleling the shoreline" is vague and confusing. The Commission is suggesting that the reference be struck and replaced with "first coastal roadway" which is much clearer in intent and also mirrors the reference shown on the legends of the certified coastal zone boundary map (#C-731). The City's language also does not require that such views be preserved or restored through a deed for the required side yard setback areas. Without such assurance, the provision of such a view corridor could not be guaranteed to be provided on a particular site in perpetuity in the event the land ownership transfers.

The Commission is also suggesting that if there is an existing or potential public view, but the site is not designated in a land use plan as a view corridor, that such views to the ocean should be preserved or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a "walled-off" effect from development. The Commission believes additional language is necessary to clarify this requirement because the current certified language has not resulted in the preservation of side yard setbacks as a means to preserve and/or restore public ocean views. The Commission finds such language is consistent with the LUP provisions and will serve to prevent a walled effect from development between the ocean and first coastal roadway.

In addition, if there is a designated or potential public view and the site is designated in the applicable land use plan as a view corridor or within a public viewshed, it is clear that such views should be maintained. For this reason, any development approved on such a site would need to be designed and sited in a manner that would preserve the identified public view. Therefore, the Commission is suggesting to modify the language so that the provision of a visual corridor will be assured through a deed restriction. In such cases, these critical views to the ocean will be required to be maintained or restored by designing and siting new development in a manner that will preserve the identified public view. This includes restricting the size, number of stories, and siting of the home on the site in a manner which is most protective of existing coastal views to the ocean.

In addition, the City also contains a provision that where remodelling is proposed to an existing structure/residence that precludes full establishment of a desired corridor as previously outlined, preservation of any existing visual corridor on the site will be accepted. However, there remains the potential that through remodelling, any existing public views to the ocean could be diminished further. For example, if there are presently existing ocean horizon views over an existing one-story residence that is located in a designated visual corridor and the proposed remodelling includes the addition of a second story to the residence, measures must be taken to site the second story in a manner that will preserve the existing views. Therefore, the Commission is suggesting the provision should assure that the existing visual corridor is not reduced through the proposed remodelling. Other designs must be considered such as expanding the first level, in lieu of the second level, such that the public views will be protected. Additionally, in review of redevelopment projects that involve the demolition of more than 50% of the existing exterior walls, setbacks from the bluff edge and sideyards must be applied that are respective of new regulations developed in response to changing circumstances. Any previously-conforming rights are not retained in perpetuity if redevelopment involves 50% demolition. Therefore, the

Commission finds that the new regulations, as certified herein with suggested modifications, must be applied to carry out the intent of the certified land use plans.

In addition, the City's language does not include provisions addressing the permitted landscaping or fences in visual corridors. As noted earlier in these findings, only open fencing is permitted in the coastal blufftop areas. Therefore, the Commission is suggesting the language be revised to specifically state that only open fencing and landscaping may be permitted within the established view corridors, but only if such vegetation does not significantly obstruct public views to the ocean and that the landscaping is maintained. Through on-going maintenance of such landscaping (pruning, trimming, etc.) it can be assured to that such landscaping, as it matures, will not intrude into the view corridor in the future and that public views to the ocean will be preserved in perpetuity.

Therefore, in summary, through all of the suggested revisions described above, the preservation of existing visual corridors as well as protection of any existing public views to the ocean in the sideyard setback areas of project sites will over time serve to increase the number of functional view corridors on a cumulative basis. This will prevent a "walled off effect" from development, consistent with policies of respective land use plans which call for preservation of public views to the ocean.

8. Fencing Regulations

The inconsistency cited previously in this regard is a procedural one. **Table 142-03A** identifies required permit procedures for fences. In most cases, fences are exempt from discretionary review. However, if located between the sea and first coastal roadway, an appealable coastal development permit would be required for construction of a fence. The suggested modification clarifies this point for any prospective applicants.

9. Signs

For the most part, the proposed sign regulations are similar, or identical, to the currently-certified ordinances. One change is that the proposed sign regulations would now allow projecting signs in the coastal zone. The Commission finds that these are acceptable. There are, however, three suggested modifications addressing the height of freestanding signs in the coastal overlay zone. These are detailed below as follows:

Section 142.1290 La Jolla Commercial and Industrial Sign Control District
(d)(3)(A) Freestanding Ground Signs

The City's proposed language allows for freestanding ground signs to extend to a maximum height of 20 feet. However, no provisions were included for signage in the coastal zone. The Commission is suggesting the language be revised to include the requirements for sign height for the coastal zone areas such that freestanding ground signs shall not exceed 8 feet in height. This is consistent with the previously-certified City of San Diego LCP that restricts ground signs to a height of 8 feet in the coastal zone.

(e)(1)(C) On-Premise Sign Regulations

The City's proposed language allows for freestanding ground signs to extend to a maximum height of 20 feet. However, no provisions were included for signage in the coastal zone. The Commission is suggesting the language be revised to include the requirements for sign height for the coastal zone areas such that freestanding ground signs shall not exceed 8 feet in height. This is consistent with the previously-certified City of San Diego LCP that restricts ground signs to a height of 8 feet in the coastal zone.

(e)(2)(A) Identification Signs

The City's proposed language allows for freestanding identification signs to extend to a maximum height of 20 feet. However, no provisions were included for signage in the coastal zone. The Commission is suggesting the language be revised to include the requirements for sign height for the coastal zone areas such that identification signs shall not exceed 8 feet in height. This is consistent with the previously-certified City of San Diego LCP that restricts signs to a height of 8 feet in the coastal zone.

These three items are the only problem identified in the City's proposed sign regulations. Therefore, as modified herein, the Commission finds the overall sign regulations consistent with, and adequate to carry out, the cited land use plan policies as well as the general policies on visual resources found within all the City's certified LCP land use plans.

10. Administrative Changes/Technical Revisions.

The City has submitted minor modifications to the Land Development Code for inclusion in this report. They are to either clarify text, correct formatting or remedy typographic errors and do not affect the meaning or intent of the regulations. They are found in Part II E. of this report.

11. Historical Resources

The Commission is suggesting a series of modifications to the proposed ordinances. Primarily, these modifications will improve coordination with appropriate agencies and the community planning group and require recognition of the certified land use plan policies and historical resource inventories in the process for "designation" of a historical resource. The Commission suggests modifying the Historical Resource Guidelines to include consultation with all appropriate agencies whenever the City must determine if a site specific survey of potential historic resources is required in conjunction with the processing of a construction or development permit. Only as modified, can the Commission find the proposed regulations, and the accompanying guidelines, fully consistent with the various certified land use plans, and thus able to carry out their intent.

PART V. 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 or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the amendment, incorporating the suggested modifications listed above, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act. Absent incorporation of these suggested modifications to effectively mitigate potential adverse impacts to coastal resources, such a finding could not be made.

Specifically, the proposed revisions to the Implementation Plan, for the most part were found to be consistent with the certified land use plans. It is the nature, however, of these reports to focus on the areas of differences and resource issues and address the means to correct such noted deficiencies. With regards to environmentally sensitive lands, specifically wetlands and steep, sensitively vegetated hillsides, critical public views, parking supplies in nearshore areas,

floodplain development standards, permitted use issues in sensitive areas, shoreline development policies, the proposed Land Development Code raises several environmental concerns. As submitted, the Commission finds there are feasible mitigation measures which would serve to mitigate certain impacts to coastal resources. As modified herein, the suggested revisions do reduce such impacts to a level of insignificance. The suggested modifications further serve to bring the City's implementation plan into conformity with, and adequate to carry out, the resource protection standards specified in its certified land use plans.

Given the proposed mitigation measures, the Commission finds the proposed local coastal program amendment, as modified, will not result in significant environmental impacts under the meaning of the California Environmental Quality Act. Furthermore, future individual projects would require coastal development permits from the City of San Diego. Throughout the City's Coastal Zone, the specific impacts associated with individual development projects would be assessed through the environmental review process; and, the individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for such impacts which have not been explored and the LCP Amendment, as modified, can be supported.

(SDLCPA 1-98B(LDC)RFfinal6.99hearing)

Kelly Kroeger
(R-98-288 REV. 1) MS 301
11/10/97

RESOLUTION NUMBER R- 289458

ADOPTED ON NOV 18 1997

Th 14b

A RESOLUTION CERTIFYING ENVIRONMENTAL IMPACT REPORT (EIR) NO. 96-0333 AND ADDENDUM NO. 96-7897 TO EIR NO. 96-0333, AND ADOPTING FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH THE APPROVAL OF THE LAND DEVELOPMENT CODE.

WHEREAS, on May 23, 1996, The City of San Diego initiated review of the proposed Land Development Code pursuant to the California Environmental Quality Act of the 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations section 15000 et seq.); and

WHEREAS, the Land Development Code was set for a public hearing to be conducted by the Council of The City of San Diego; and

WHEREAS, the issue was heard by the City Council on October 28, 1997, and continued to November 18, 1997; and

WHEREAS, the City Council considered the issues discussed in Environmental Impact Report (EIR) No. 96-0333 and Addendum No. 96-7897 to EIR No. 96-0333; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that it is hereby certified that the information contained in Environmental Impact Report No. 96-0333/SCH No. 96081056 and Addendum No. 96-7897 to EIR No. 96-0333, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public

EXHIBIT NO. 1
APPLICATION NO.
SAN DIEGO
LCPA 1-98B
City Council
Resolutions

Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the reports reflect the independent judgment of The City of San Diego as Lead Agency and that the information contained in said reports, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Land Development Code and related implementing actions.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk as Document No. RR-289458-1 and incorporated herein by reference.

BE IT FURTHER RESOLVED, that pursuant to California Code of Regulations section 15093, the City Council hereby adopts the Statement of Overriding Considerations, a copy of which is on file in the office of the City Clerk as Document No. RR-289458-2 and incorporated herein by reference, with respect to the project.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:lc:cfk
10/10/97
11/10/97 REV. 1
Or.Dept:Dev.Svcs.
R-98-288
Form=eirgen&f.frm

NOTICE OF DETERMINATION

TO: X Recorder/County Clerk
P.O. Box 1750, MS A33
1600 Pacific Hwy, Room 260
San Diego, CA 92101-2422

X Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: City of San Diego
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101

DEP Number: 96-0333 State Clearinghouse Number: 96081056

Project Title: City of San Diego Land Development Code

Project Location: City of San Diego

Project Description: Various CITY COUNCIL actions including the ADOPTION of the proposed Land Development Code to be incorporated as Chapters 12, 13, and 14 of the Municipal Code; AMENDMENT and RE-ADOPTION of previously adopted Chapter 11; and REPEAL and AMENDMENT of certain chapters of the Municipal Code including Chapter 10 and portions of Chapters 2, 5, 6, and 9 of the Municipal Code.

This is to advise that the City of San Diego City Council on Nov. 18, 1997 approved the above described project and made the following determinations:

1. The project in its approved form X will, ____ will not, have a significant effect on the environment.

2. X An Environmental Impact Report was prepared for this project and certified pursuant to the provisions of CEQA. R-289458.

   ___ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

   Record of project approval may be examined at the address above.

3. Mitigation measures ___ were, X were not, made a condition of the approval of the project.

4. (EIR only) Findings X were, ___ were not, made pursuant to CEQA Guidelines Section 15091.

5. (EIR only) A Statement of Overriding Considerations X was, ____ was not, adopted for this project.

It is hereby certified that the final environmental report, including comments and responses, is available to the general public at the office of the Land Development Review Division, Fifth Floor, City Operations Building, 1222 First Avenue, San Diego, CA 92101.

Analyst: Baker Telephone: (619) 236-7714

Filed by: Diane R. Baker
Signature

Associate Planner
Title

Reference: California Public Resources Code, Sections 21108 and 21152.

R- 289458

(R-98-290)(REV. 1)

RESOLUTION NUMBER R-289460

ADOPTED ON NOV 18 1997

A RESOLUTION ADOPTING GUIDELINES FOR THE LAND DEVELOPMENT MANUAL.

WHEREAS, on DEC 09 1997, the Council of The City of San Diego adopted the Land Development Code for the City of San Diego, to replace existing land use regulations contained in the Municipal Code; and

WHEREAS, the Land Development Code (section 111.0106) provides for the establishment of a Land Development Manual for the City of San Diego to contain guidelines used by city staff in implementing the regulations contained in the Land Development Code; and

WHEREAS, in connection with the Land Development Code, the City has revised existing guidelines relating to regulation of steep hillsides, biological resources and landscaping; and

WHEREAS, in connection with the Land Development Code, new guidelines have been prepared relating to regulation of coastal bluffs and beaches and to historic resources; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Clerk is hereby authorized and directed to establish and maintain in the office of the City Clerk a document titled "Land Development Manual" which shall contain the guidelines to be used by city staff in interpretation and application of the Land Development Code of The City of San Diego;

BE IT FURTHER RESOLVED, that the City Council adopts the revised guidelines listed below which are on file in the Office of the City Clerk as follows:

Document	Document Number
Steep Hillside Guidelines	RR-289460-1
Biology Guidelines	RR-289460-2
Landscape Standards	RR-289460-3

BE IT FURTHER RESOLVED, that the Council adopts the new guidelines listed below which are on file in the Office of the City Clerk as follows:

Document	Document Number
Coastal Bluffs and Beaches Guidelines	RR-289460-4
Historical Guidelines	RR-289460-5

BE IT FURTHER RESOLVED, that the City Clerk is instructed to add the above-listed guidelines to the Land Development Manual.

BE IT FURTHER RESOLVED, that these guidelines shall take effect on the date the Land Development Code adopted by Ordinance No. O-18451 is effective.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:lc
10/14/97
10/31/97REV. 1
Or.Dept:Dev.Svcs.
R-98-290
Form=estcpr.frm

CLERK'S FILE COPY

330 L.

(R-98-291)(COR.COPY)

RESOLUTION NUMBER R-289461

ADOPTED ON NOV 18 1997

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT THE CITY OF SAN DIEGO'S LOCAL COASTAL PROGRAM AMENDMENTS TO THE CALIFORNIA COASTAL COMMISSION.

WHEREAS, on DEC 09 1997 the Council of The City of San Diego adopted the Land Development Code of The City of San Diego pursuant to Ordinance No. O-18451; and

WHEREAS, the California Coastal Act (Public Resources Code section 30000 et seq.) requires Coastal Commission certification of zoning ordinances, zoning maps, and in sensitive coastal areas, other implementing actions to implement the approved local coastal plan; and

WHEREAS, The City of San Diego local coastal program land use plan consists of several land use plans previously certified by the California Coastal Commission as local coastal plan segments for The City of San Diego; and

WHEREAS, there have been a number of amendments to the City's local coastal program since its inception; and

WHEREAS, the Land Development Code replaces all zoning ordinances in the San Diego Municipal Code previously certified by the California Coastal Commission to implement the local coastal program, with the exception of the provisions of Chapter X, Article 3, relating to the regulation of Planned Districts in the City; and

WHEREAS, the City desires to clarify what regulations are certified as implementing its local coastal program under the Coastal Act; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is directed to submit the Land Development Code as approved by City Council to the Coastal Commission for certification of the following provisions consistent with the Coastal Act:

Chapter 11, titled "Land Development Procedures"

Chapter 12, Article 2, titled "Land Use Plans"

Chapter 12, Article 3, titled "Zoning"

Chapter 12, Article 6, titled "Development Permits"

Chapter 12, Article 7, titled "Previously Conforming Premises and Uses"

Chapter 13, Article 1, titled "Base Zones"

Chapter 13, Article 2, Division 1, titled "General Rules for Overlay Zones"

Chapter 13, Article 2, Division 2, titled "Airport Approach Overlay Zone"

Chapter 13, Article 2, Division 4, titled "Coastal Overlay Zone"

Chapter 13, Article 2, Division 6, titled "Sensitive Coastal Overlay Zone"

Chapter 13, Article 2, Division 7, titled "Mobilehome Park Overlay Zone"

Chapter 13, Article 2, Division 8, titled "Parking Impact Overlay Zone"

Chapter 13, Article 2, Division 9, titled "Residential Tandem Parking Overlay Zone"

Chapter 13, Article 2, Division 10, titled "Transit Area Overlay Zone"

Chapter 13, Article 2, Division 11, titled "Urban Village Overlay Zone"

Chapter 13, Article 2, Division 14, titled "Community Plan Implementation Overlay Zone"

Chapter 14, Article 1, titled "Separately Regulated Use Regulations"

Chapter 14, Article 2, titled "General Development Regulations"

Chapter 14, Article 3, titled "Supplemental Development Regulations"

BE IT FURTHER RESOLVED, that the City Manager is directed to submit to the California Coastal Commission for certification concurrent with the Land Development Code (Ordinance No. O-18466 [O-98-28]) for rezones of single family areas to distinguish urbanized areas from planned and future urbanizing areas.

BE IT FURTHER RESOLVED, that the City Manager is directed to submit to the California Coastal Commission for certification concurrent with the Land Development Code the Historical Guidelines, Coastal Bluffs and Beaches Guidelines, Steep Hillside Guidelines, Biology Guidelines, and Landscape Standards adopted and revised pursuant to Resolution No. R-289460 [R-98-290].

BE IT FURTHER RESOLVED, that the certified provisions of the Land Development Code shall replace all previously certified zoning ordinances implementing the City's local coastal plan with the exception of the regulations contained in Chapter X, Article 3, of the San Diego Municipal Code, previously submitted and certified by the Coastal Commission.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:lc:cdk
10/10/97
10/24/97COR.COPY
Or.Dept:Dev.Svcs.
R-98-291
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Kelly Broughton
5A

(O-98-28)

ORDINANCE NUMBER O-18446 (NEW SERIES)

ADOPTED ON DEC 02 1997

AN ORDINANCE AMENDING R1-40000, R1-20000, R1-15000, R1-10000, R1-8000, R1-6000, and R1-5000 OF THE SAN DIEGO MUNICIPAL CODE AS APPLIED IN AREAS DESIGNATED "URBANIZED" BY THE PROGRESS GUIDE AND GENERAL PLAN BY RENUMBERING THE ZONES TO THE NEW SINGLE UNIT RESIDENTIAL ZONES RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-5, RS-1-6, AND RS-1-7 AND AMENDING R1-40000, R1-20000, R1-15000, R1-10000, R1-8000, R1-6000, AND R1-5000 OF THE SAN DIEGO MUNICIPAL CODE AS APPLIED IN AREAS DESIGNATED "PLANNED URBANIZING" AND "FUTURE URBANIZING" BY THE PROGRESS GUIDE AND GENERAL PLAN BY RENUMBERING THE ZONES TO THE NEW SINGLE UNIT RESIDENTIAL ZONES RS-1-8, RS-1-9, RS-1-10, RS-1-11, RS-1-12, RS-1-13, AND RS-1-14 ALL RELATING TO ZONING.

BE IT ORDAINED, by the Council of The City of San Diego, that the San Diego Municipal Code and the Land Development Code are hereby amended as follows:

Section 1. That property in the portion of the City shown as "Urbanized" on Drawing No. B-4081 on file in the office of the City Clerk as Document No. OO-18446 (a copy of which is attached hereto as Exhibit A), be and the same is hereby zoned to new single unit residential zones as follows:

Old Zone	New Zone
R1-40000	RS-1-1
R1-20000	RS-1-2
R1-15000	RS-1-3
R1-10000	RS-1-4

EXHIBIT NO. 2
APPLICATION NO.
SAN DIEGO
LCPA 1-98B
City Ordinances
California Coastal Commission

R1-8000	RS-1-5
R1-6000	RS-1-6
R1-5000	RS-1-7

Section 2. That property in the portion of the City shown as "Planned Urbanizing and Future Urbanizing" on Drawing No. B-4081, on file in the office of the City Clerk as Document No. OO-18446, (a copy of which is attached hereto as Exhibit A) be and the same is hereby zoned to new single unit residential zones as follows:

Old Zone	New Zone
R1-40000	RS-1-8
R1-20000	RS-1-9
R1-15000	RS-1-10
R1-10000	RS-1-11
R1-8000	RS-1-12
R1-6000	RS-1-13
R1-5000	RS-1-14

Section 3. City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date this ordinance becomes effective.

Section 4. This ordinance shall not take effect until unconditionally certified by the Coastal Commission as an amendment to the San Diego Local Coastal Program and, if so certified shall take effect on the effective date of the Land Development Code adopted by

Ordinance No. O-18451

APPROVED: CASEY GWINN, City Attorney

By _____
Prescilla Dugard
Deputy City Attorney

PD:cdk
09/10/97
Or.Dept:Dev.Svcs.
O-98-28

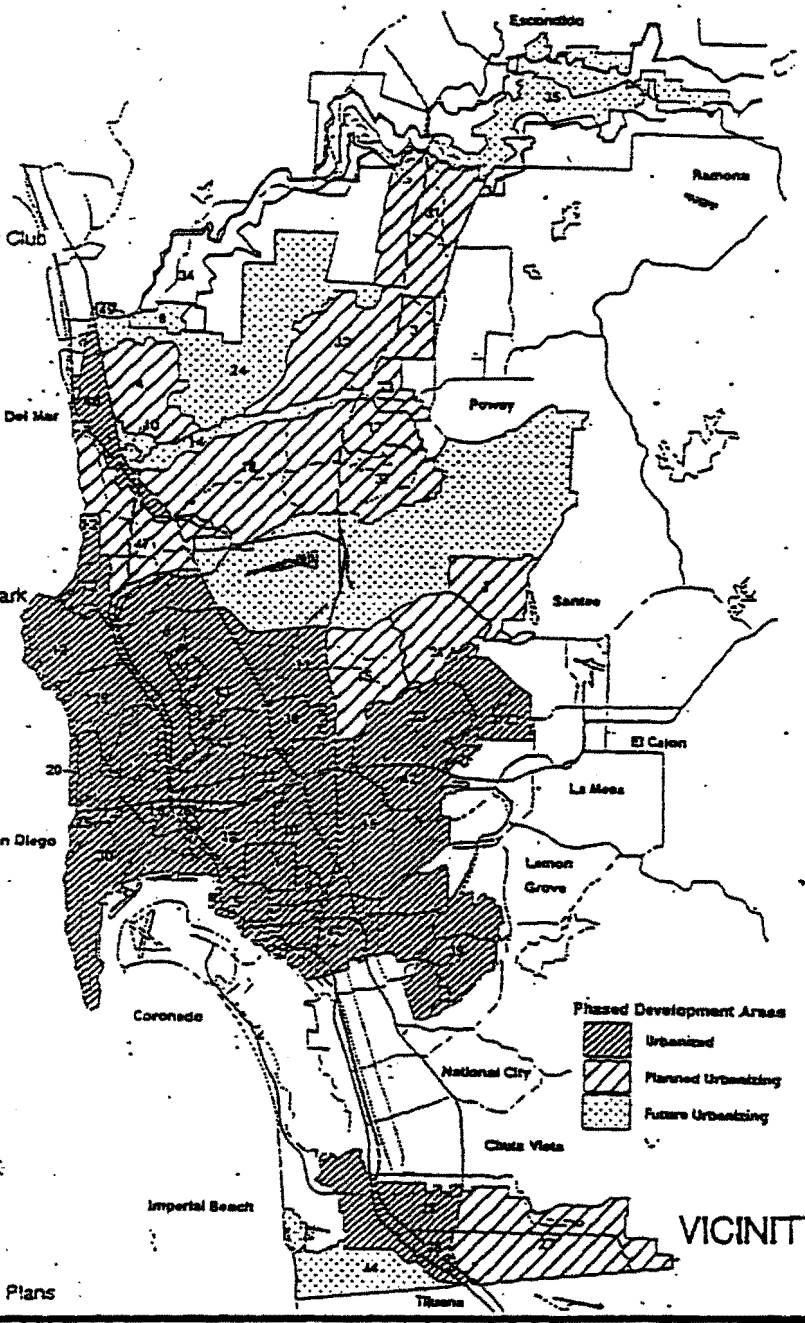
CITY OF SAN DIEGO
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

PROPOSED REZONING

Planning Areas
March 1993

* 1. Balboa Park
2. Barrio Logan
3. Carmel Mountain Ranch
4. Carmel Valley
5. Centre City
6. Clairemont Mesa
7. East Elliott
8. Fairbanks Ranch Country Club
9. Greater Golden Hill
10. Greater North Park
11. Kearny Mesa
12. La Jolla / La Jolla Shores
13. Linda Vista
* 14. Los Peñasquitos Canyon Preserve
15. Mid-City
16. Midway/Pacific Highway Corridor
17. Miramar Ranch North
18. Mira Mesa
* 19. Mission Bay Park
20. Mission Beach
* 21. Mission Trails Regional Park
22. Mission Valley
23. Navajo
24. North City Future Urbanizing Area
25. Ocean Beach
26. Old San Diego
27. Otay Mesa
28. Otay Mesa/ Nestor
29. Pacific Beach
30. Peninsula
31. Rancho Bernardo
32. Rancho Peñasquitos
33. Sabre Springs
34. San Dieguito River Basin
35. San Pasqual Valley
36. San Ysidro
37. Scripps Miramar Ranch
38. Serra Mesa
39. Skyline/Paradise Hills
40. Sorrento Hills
41. Southeast San Diego
42. College Area
* 43. Tecolote Canyon Park
44. Tia Juana River Valley
45. Tierrasanta
46. Torrey Pines
47. University
48. Uptown
49. Via De La Valle

*Park Plans



VICINITY MAP

N

ORDINANCE NO.	REQUEST Rezoning Single Unit Residential Property	CASE NO. 1191
EFF. DATE ORD.	PLAN. COMM. RECOMMENDATION Approve	
ZONING SUBJ. TO		
BEFORE DATE	CITY COUNCIL ACTION	B- 4081
EFF. DATE ZONING		
MAP NAME & NO.		

EXHIBIT A

(O-98-27)(COR.COPY)
(REV. 1)(REV. 2)(REV. 3)

ORDINANCE NUMBER O-18451 (NEW SERIES)

ADOPTED ON DEC 0 9 1997

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY REPEALING: CHAPTER II, ARTICLE 6, DIVISION 2 TITLED "HISTORICAL SITE BOARD"; CHAPTER V, ARTICLE 4, DIVISION 1, SECTION 54.0120 TITLED "EXCAVATIONS — PERMIT REQUIRED"; SUB-SECTIONS: 54.0120.1 TITLED "PROCEDURE ON APPLICATION FOR PERMIT"; 54.0120.2 TITLED "PAYMENT OF FEES"; 54.0120.3 TITLED "INVESTIGATION AND RECOMMENDATION"; 54.0120.4 TITLED "CONSIDERATION BY THE CITY MANAGER"; 54.0120.5 TITLED "BOND AND CERTIFICATE OF INSURANCE"; 54.0120.6 TITLED "PREVENTING COLLAPSE OF SIDES OF EXCAVATION"; 54.0120.7 TITLED "OTHER CONDITIONS REQUIRED OF APPLICANTS"; 54.0120.8 TITLED "REVOCATION OF SUSPENSION OF PERMIT"; 54.0120.9 TITLED "EXPIRATION OF PERMITS—ISSUANCE OF SUPPLEMENTAL PERMITS"; AND 54.0120.10 TITLED "PERMIT DOES NOT EXCUSE COMPLIANCE WITH OTHER LAWS"; "CHAPTER IX, ARTICLE 1 TITLED "BUILDING CODE"; CHAPTER IX, ARTICLE 2 TITLED "ELECTRICAL CODE"; CHAPTER IX, ARTICLE 3 TITLED "PLUMBING AND MECHANICAL CODE"; CHAPTER X, ARTICLE 1 TITLED "ZONING-ZONE PLAN"; CHAPTER X, ARTICLE 2 TITLED "SUBDIVISIONS"; CHAPTER X, ARTICLE 4 TITLED "SPECIAL SIGN DISTRICTS"; CHAPTER X, ARTICLE 5 TITLED "DEVELOPMENT AGREEMENTS"; CHAPTER XI TITLED "LAND DEVELOPMENT"; AND ADDING: NEW CHAPTER 11 TITLED "LAND DEVELOPMENT PROCEDURES"; CHAPTER 12 TITLED "LAND DEVELOPMENT REVIEWS"; CHAPTER 13 TITLED "ZONES"; AND CHAPTER 14 TITLED "GENERAL REGULATIONS", ALL RELATING TO LAND DEVELOPMENT.

WHEREAS, the City Council directed the City Manager to revise the organization and

content of the San Diego Municipal Code relating to land development; and

WHEREAS, the goals of the code update project were (1) to simplify the land development regulations; (2) to make the land development regulations more objective; (3) to make the code more adaptable; (4) to eliminate redundancies and contradictions in the land development regulations; (5) to standardize the land development regulation framework; and (6) to increase predictability in the application of land development regulations; and

WHEREAS, the City Council directed that the process to develop the proposed Land Development Code be as broad and open to comprehensive public participation as possible; and

WHEREAS, the proposed Land Development Code is based upon a comprehensive review of the City's current general and community plans and strengthens the implementation of general and community plan policies while striving for citywide consistency in land use regulations, with the exception of regulations in Chapter X, Article 3, relating to planned districts; and

WHEREAS, the City has held more than 230 public forums for discussion and input by the public on the proposed revisions; and

WHEREAS, the proposed revisions have been reviewed and recommendations made by both the Planning Commission and the Land Use and Housing Committee of the City Council; and

WHEREAS, the proposed Land Development Code accomplishes the goals set for the project by eliminating inconsistencies, duplicate requirements and conflicts contained in the existing regulations and by providing an organization and format that makes regulations easier to locate by both City staff and the public, thus reducing confusion and lost time in the review

process; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego as follows:

Section 1. That Chapter II, Article 6 of the San Diego Municipal Code is amended by repealing Division 2 titled "Historical Site Board."

Section 2. That Chapter V, Article 4, Division 1 of the San Diego Municipal Code is amended by repealing Section 54.0120 titled "Excavations — Permit Required", and by repealing the following Sub-Sections:

54.0120.1 titled "Procedure on Application for Permit"

54.0120.2 titled "Payment of Fees"

54.0120.3 titled "Investigation and Recommendation"

54.0120.4 titled "Consideration by The City Manager"

54.0120.5 titled "Bond and Certificate of Insurance"

54.0120.6 titled "Preventing Collapse of Sides of Excavation"

54.0120.7 titled "Other Conditions Required of Applicants"

54.0120.8 titled "Revocation of Suspension of Permit"

54.0120.9 titled "Expiration of Permits — Issuance of Supplemental Permits"

54.0120.10 titled "Permit Does Not Excuse Compliance With Other Laws"

Section 3. That Chapter VI, Article 2, of the San Diego Municipal Code is amended by repealing Division 4 titled "Grading" and Division 8 titled "Street Closings."

Section 4. That Chapter IX of the San Diego Municipal Code is amended by repealing Article 1 titled "Building Code", Article 2 titled "Electrical Code", and Article 3 titled "Plumbing and Mechanical Code."

Section 5. That Chapter X of the San Diego Municipal Code is amended by repealing Article 1 titled "Zoning - Zone Plan", Article 2 titled "Subdivisions", Article 4 titled "Special Sign Districts", and Article 5 titled "Development Agreements."

Section 6. That the San Diego Municipal Code is amended by repealing Chapter XI titled "Land Development."

Section 7. That the San Diego Municipal Code is amended by adding Chapter 11 titled "Land Development Procedures", Chapter 12 titled "Land Development Reviews", Chapter 13 titled "Zones", and Chapter 14 titled "General Regulations", attached hereto as Exhibit A and incorporated in this ordinance as though fully set forth.

Section 8. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date this ordinance becomes effective.

Section 9. This ordinance shall take effect and be in force on May 1, 1998 or on the date the Coastal Commission unconditionally certifies the provisions subject to Coastal Commission jurisdiction as a local coastal program amendment, whichever is later.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:cdk
10/07/97
10/23/97COR.COPY
10/31/97 REV. 1
11/10/97 REV. 2
11/21/97 REV. 3
Or.Dept:Dev.Svcs.
O-98-27

Passed and adopted by the Council of The City of San Diego on DEC 0 9 1997, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	☑	☐	☐	☐
Byron Wear	☑	☐	☐	☐
* Christine Kehoe	☑	☐	☐	☐
* George Stevens	☑	☐	☐	☐
Barbara Warden	☑	☐	☐	☐
*Valerie Stallings	☑	☐	☐	☐
Judy McCarty	☑	☐	☐	☐
* Juan Vargas	☑	☐	☐	☐
Mayor Susan Golding	☑	☐	☐	☐

* District 3,4, 6, & 8 voted nay on the Wetlands portion.

AUTHENTICATED BY:

SUSAN GOLDING,
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.

By _____, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on NOV 1 8 1997, and on DEC 0 9 1997.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number O-18451 Adopted DEC 0 9 1997

This information is available in alternative formats upon request.

CC-1255-A (Rev. 11-95)

SUGGESTED MODIFICATION FOR THE OCTOBER, 1998, HEARING
ATTACHED AS EXHIBIT 'A'

Section 143.0146 Environmentally Sensitive Lands Regulations for the Coastal Overlay Zone

Purpose and Intent

The purpose of these regulations is to address the protection, preservation and, where damaged, restoration, of the environmentally sensitive lands of San Diego's Coastal Zone. These regulations are intended to assure that development within the City's Coastal Zone occurs in a manner that protects the overall quality of the coastal resources and the natural and topographic character of the area, encourages a sensitive form of development, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to flooding in specific areas.

In the event of conflict, these regulations shall supersede the regulations set forth in preceding sections of this division. Regardless of whether a Site Development Permit or Neighborhood Development Permit is required for development on environmentally sensitive lands pursuant to the previous sections, within the Coastal Overlay Zone, a Coastal Development Permit is required for all coastal development, unless exempt pursuant to Section 126.0704, and the following regulations apply.

Uses Allowed Within Environmentally Sensitive Lands

Within the Coastal Overlay Zone, allowed uses within environmentally sensitive lands are those allowed in the applicable zone, except where limited by this section.

(a) Wetlands. Permitted uses in wetlands shall be limited to the following:

(1) Aquaculture;

(2) Nature study projects or similar resource dependent uses;

(3) Wetland restoration projects;

(4) Incidental public service projects.

(b) Wetland Buffer Areas. Permitted uses in wetland buffer areas shall be limited to the following:

(1) Access paths;

(2) Fences;

(3) Restoration and enhancement activities; and

(4) Other improvements necessary to protect wetlands.

(c) Sensitive Steep Hillside Areas. Permitted uses shall be open space and those permitted by the underlying zone subject to the regulations and restrictions of the underlying zone and this section.

EXHIBIT NO. A
APPLICATION NO.
LCPA #1-98B
~~Previous~~ Suggested Modification
Attached for info purposes only
California Coastal Commission

(d) Non-Sensitive Steep Hillside Areas. Permitted uses shall be those permitted by the underlying zone subject to the regulations and restrictions of the underlying and this section.

(e) Coastal Beach Areas. Permitted uses and activities in coastal beach areas are limited to those identified in Section 143.0130 of this division.

(f) Sensitive Coastal Bluffs Areas. Permitted uses and activities on sensitive coastal bluff areas are limited to those identified in Section 143.0130 of this division.

(g) Floodways. Permitted uses in the floodway portion of a 100-year floodplain are those allowed by the OF Zone, as indicated in Table 131-02B.

(h) Floodplain Fringe. Permitted uses and activities shall be those permitted by the underlying zone subject to the regulations and restrictions of the underlying zone and this section.

Development Regulations for Sensitive Biological Resources

Coastal development on premises within the Coastal Overlay Zone that contain sensitive biological resources is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

(a) State and federal law precludes adverse impacts to wetlands or listed non-covered species habitat. The applicant shall confer with the U. S. Army Corps of Engineers, U. S. Fish and Wildlife Service and/or California Department of Fish and Game before any public hearing for the development proposal. Coastal Development Permits shall not be issued for any project that adversely impacts wetlands or Listed non-covered species habitat until all necessary federal and state permits have been obtained.

(b) Outside and inside the MHPA, impacts to wetlands, including vernal pools in naturally occurring complexes, shall be avoided to the maximum extent possible. Only uses permitted within wetlands pursuant to these regulations shall be permitted. The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects

(c) A wetland buffer shall be maintained around all identified wetlands to protect the functions and values of the wetland. A minimum 100 ft. wide buffer shall be provided adjacent to all identified wetlands and a minimum 50 ft. wide buffer shall be provided adjacent to riparian areas. The width of the buffer may be either increased or decreased as determined on a case-by-case basis, in consultation with the California Department of Fish and Game, taking into consideration the type and size of development, the sensitivity of the wetland resources to detrimental edge effects, natural features such as topography, and the functions and values of the wetland. The buffer shall be measured landward from the wetland. Maps and supplemental information submitted as part of the application shall be used to determine the specific boundaries of the wetland and buffer.

(d) All buildings or other improvements proposed to be placed or erected, and all grading activities proposed to be undertaken adjacent to a wetland shall be located so as not to contribute to increased sediment loading of the wetland, cause disturbance to its habitat values, or otherwise impair the functional capacity of the wetland.

Exhibit A p.4

(e) All development occurring in sensitive biological resources is subject to site-specific impact analysis conducted by the City Manager, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to sensitive biological resources and CEQA sensitive species. The analysis shall determine the necessary mitigation, where appropriate and the requirements for protection and management. Mitigation for permitted uses in wetlands and permitted encroachment on sensitive and non-sensitive steep hillsides may include measures identified in Section 143.0141 (i) of this division.

(f) Inside the MHPA, development shall avoid impacts to narrow endemic species. Outside the MHPA, measures for protection of narrow endemic species shall be required such as management enhancement, restoration an/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

(g) Grading during wildlife breeding seasons shall be consistent with the requirements of the City of San Diego MSCP Subarea Plan.

(h) Inside and adjacent to the MHPA, all development proposals shall be consistent with the City of San Diego MSCP Subarea Plan. In case of conflict with the environmentally sensitive lands regulations applicable within the Coastal Overlay Zone, the latter shall apply.

(i) Sensitive biological resources that are outside of the allowable development area on a premises, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval. If the land is not dedicated to the City, identification of permissible passive activities and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152 of this division. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.

Development Regulations for Steep Hillsides

Development on a premises within the Coastal Overlay Zone that contain steep hillsides is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

(a) Sensitive Steep Hillsides - Allowable Development Area

Where a development, including any land division, is proposed on a premises inside the MHPA or on steep hillsides containing environmentally sensitive habitats, or significant scenic amenities, or potential hazards to development, as identified on the Coastal Zone Sensitive Slopes Map Drawing No. C-720 (on file in the office of the City Clerk as Document No. 00.17065), the following regulations shall apply:

(1) Steep hillsides shall be preserved in their natural state, provided a minimal encroachment into such steep hillsides(areas disturbed by grading or development) may be permitted as set forth in the following table:

TABLE 1 STEEP HILLSIDES ENCROACHMENT ALLOWANCE

75% or less	10%
80%	12%
85%	14%

Exhibit A cont.

90%	16%
95%	18%
100%	20%

For the purposes of this ordinance, encroachment shall be defined as any area of twenty-five percent (25%) or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to the displacement required for the building, accessory structures, or paving, or is cleared of vegetation (including Zone 1 brush management), other than allowed below.

The following uses and/or development features shall be exempt from the encroachment limitations set forth above:

(A) Major public roads and collector streets identified in the Circulation Element of an adopted community plan or Land Use Plan;

(B) Public utility systems;

(C) In the North City Local Coastal Program Land Use Plan areas only:

Local public streets or private roads and driveways which are necessary for access to the more developable portions of a site containing slopes of less than twenty-five percent (25%) grade, provided no less environmentally damaging alternative exists. The determination of whether or not a proposed road or driveway qualifies for an exemption, in whole or in part, shall be made by the City Manager based upon an analysis of the project site;

(D) All vegetated areas located between thirty (30 and one hundred (100) feet of existing or proposed structures, which are selectively pruned, thinned or trimmed by hand to comply with existing City fire codes provided that such slopes retain their native root stock, and that no alteration or reconfiguration of the natural landform is required. Selective clearing under this exemption shall not allow the wholesale clearing or cutting of existing vegetation down to a uniform height.

Exemptions from the encroachment limitations set forth above shall not be allowed for any designated areas located within thirty (30) feet of existing or proposed structures, which are cleared or cut down to comply with existing City fire codes; and.

(E) Natural slopes or previously graded slopes located directly underneath pole supported or cantilevered buildings, provided such areas are open to light and air and allow a minimum clearance of four (4) feet between the building sub-floor and the ground.

(2) On existing legal parcels, a deviation in the encroachment allowance percentage may be granted by the City Manager if necessary to maintain a minimum development right (total disturbed area) equal to twenty percent (20%) of the entire parcel.

(3) All encroachment allowances shall be subject to a determination by the City Manager that such encroachment supports the findings of fact set forth in Section 143.0146 and the Steep Hillside Guidelines.

(b) Non-Sensitive Steep Hillsides

Exhibit A-Cont

Where a development or land division is proposed on steep hillsides which have not been identified as possessing environmentally sensitive habitats, or significant scenic amenities, or potential hazards to development, as identified on Map Drawing No. C-720 (on file in the office of the City Clerk as Document No. 00-17065), such slopes may be developed provided the following regulations are met:

(1) Coastal development on non-sensitive steep hillsides within the Coastal Overlay Zone is subject to Section 143.0142 of this division (Development Regulations for Steep Hillsides).

(c) Any adjustment or modification of the adopted Coastal Zone Sensitive Steep Hillsides classifications, as identified on Map Drawing No. C-720, which results in a change from the sensitive to nonsensitive category on a portion of a property or a property in its entirety shall require a Local Coastal Program amendment.

(d) All slopes of twenty-five percent (25%) grade and over which remain undisturbed or which are restored or enhanced as a result of a development approval shall be conserved as a condition of permit approval through a deed restriction, open space easement or other suitable device that will preclude any future development or grading of such slopes.

(e) All development on steep hillsides located in La Jolla or La Jolla Shores Community Plan areas, shall, in addition to meeting all other requirements of this section, be found consistent with the Hillside Development Guidelines set forth in the La Jolla - La Jolla Shores Local Coastal Program Land Use Plan.

(f) In accordance with the development boundaries established by previous Coastal Commission Development approvals obtained prior to May 14, 1985, in lieu of other provisions of this ordinance, development, grading, or filling shall be allowed on steep hillsides on the north and south sides of Lopez Canyon provided that such development, grading, or filling shall not be visible from a point located along the streamed of Lopez Canyon that is nearest to the proposed development, grading or filling. All other developments within the Hillside Review Zone on the north and south sides of Lopez Canyon shall comply with the provisions of this ordinance.

(g) Brush Management

(1) Designated areas located within thirty (30) feet of existing or proposed structures, which may be cleared or cut down to comply with existing City fire codes.

(2) Selected clearing of all vegetated areas located between thirty (30 and one hundred (100) feet of existing or proposed structures, is permitted if selectively pruned, thinned or trimmed by hand to comply with existing City fire codes provided that such slopes retain their native root stock, and no alteration or reconfiguration of the natural landform is required. Selective clearing shall not allow the wholesale clearing or cutting of existing vegetation down to a uniform height.

(3) Disturbed portions of the site in 25 percent or greater slopes shall be revegetated or restored in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations). Native, fire-retardant vegetation shall be utilized to the maximum extent practicable.

(h) Erosion Control Measures

Exhibit A cont.

(1) Erosion control measures are subject to the encroachment limits set forth above, the landscape regulations in Chapter 14, Article 2, Division 4 and the Steep Hillside Guidelines in the Land Development Manual.

(2) Air-placed concrete, including gunite or shotcrete, retaining walls, buttress fills and other similar erosion control measures are considered encroachment and may be allowed only if determined to be the only feasible means of erosion control to protect the existing principal structure or public improvements.

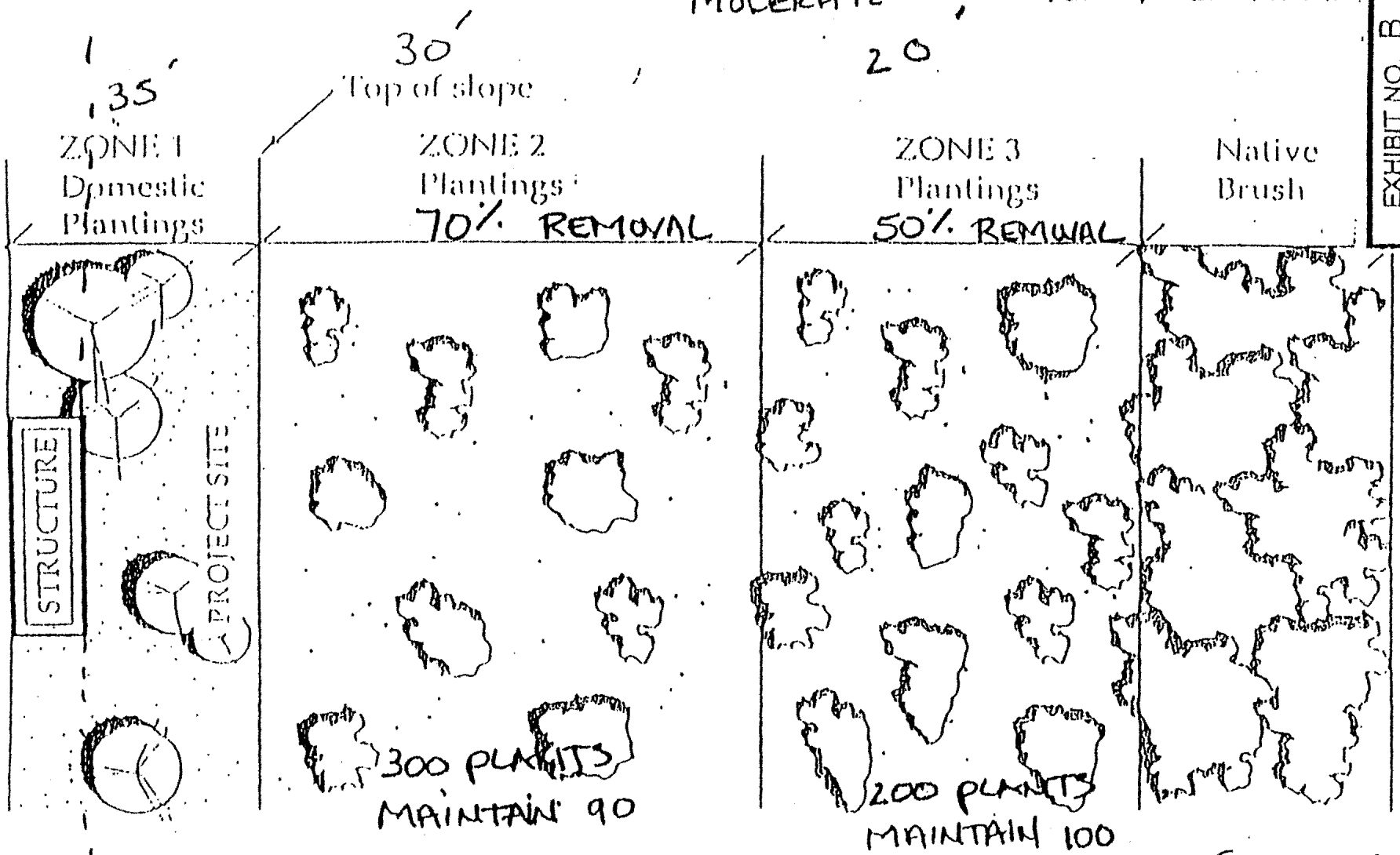
Exhibit A cont.

EXISTING CODE

WEST OF I-5

ASSUME 100 PLANTS PER 10 LINEAR FT.

MODERATE



(190 MAINTAIN = 38% OF 500.)

Undulating, Brush - Cleared Edge and Retention of Specimens for a More Natural Appearing Transition.

REMOVE 62% OVER 50' DISTANCE.

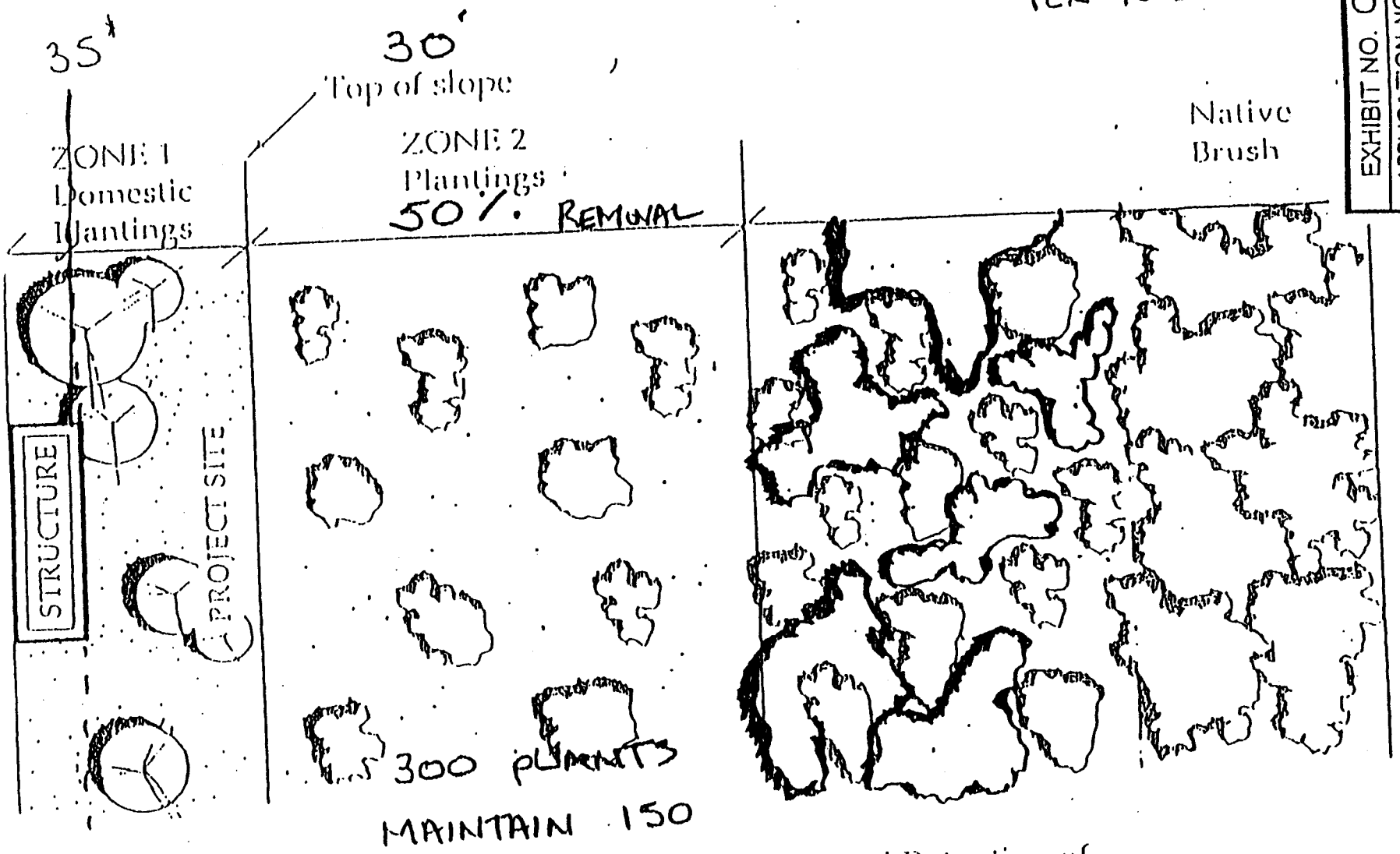
EXHIBIT NO. B
APPLICATION NO.
LDC #1-98B
Brush Management - Existing Zoning Code
California Coastal Commission

EXHIBIT NO. C
APPLICATION NO. LCPA #1-98B
Brush Management-Proposed in LDC
California Coastal Commission

:QPOSED LDC

WEST OF L-5

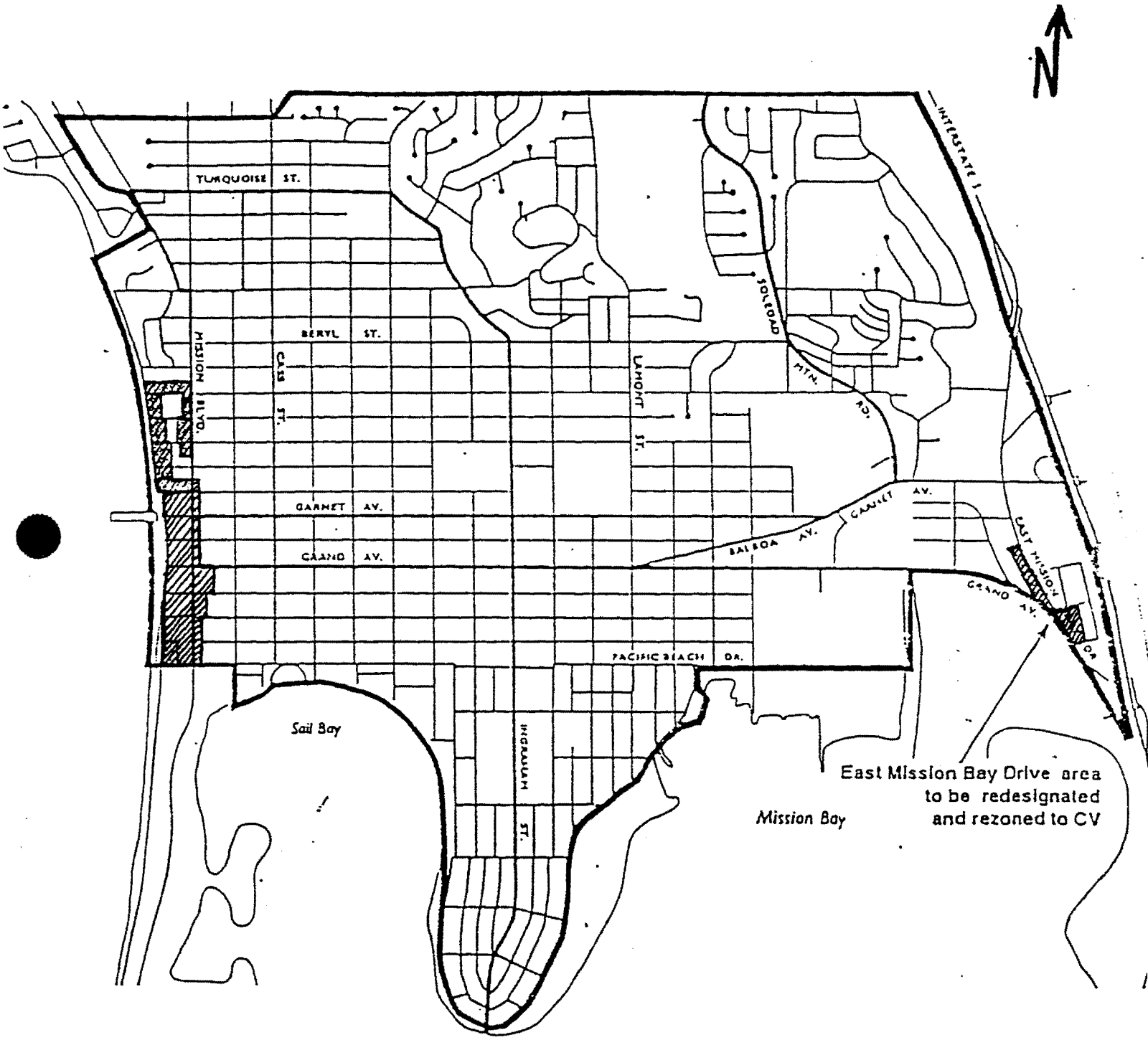
ASSUME 100 PLANTS PER 10 LINEAR FT.



Undulating, Brush - Cleared Edge and Retention of Specimens for a More Natural Appearing Transition.

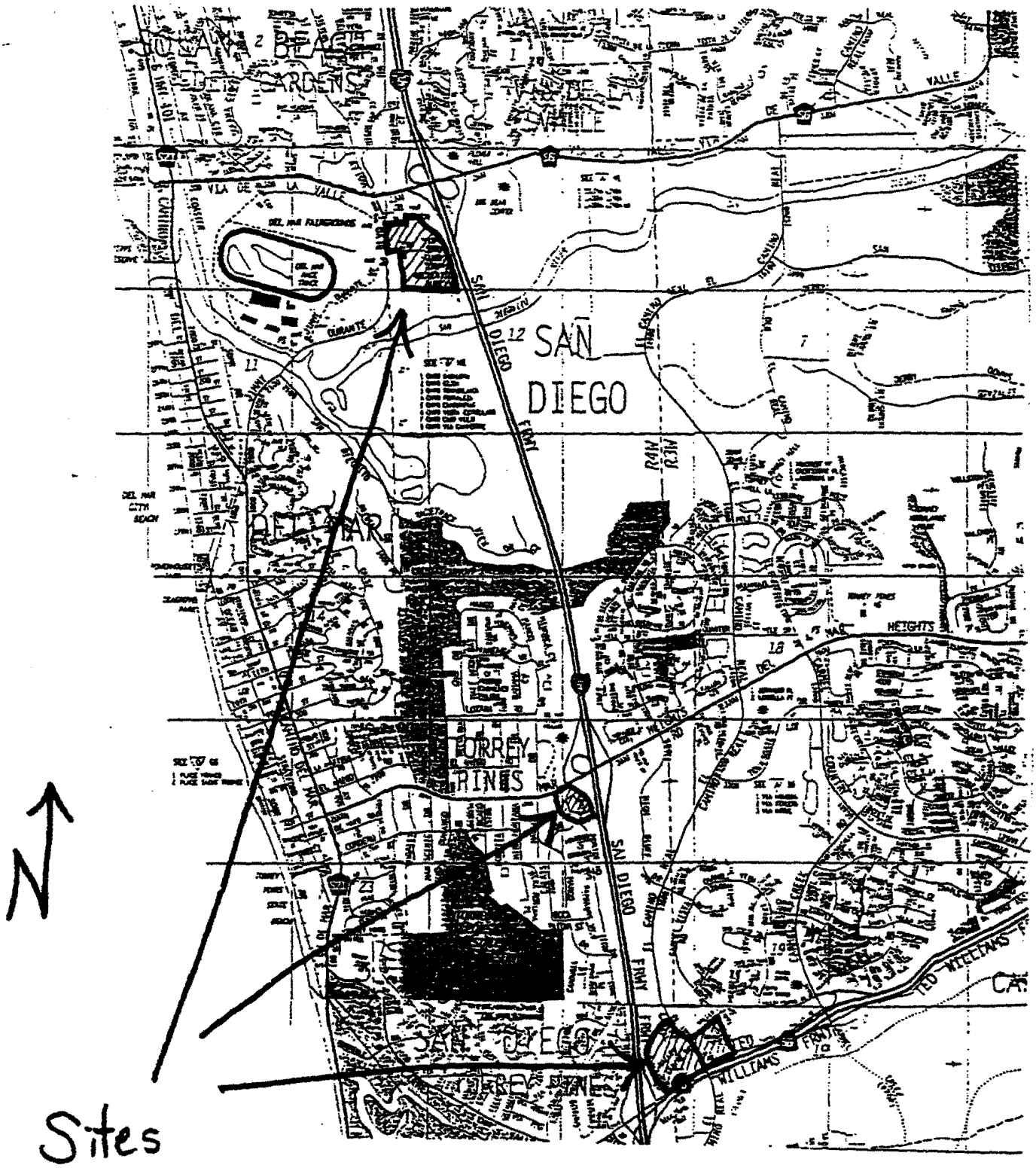
REMOVE 50% OVER 30' DISTANCE

(WITHOUT SPECIFIC "FIRE SAFE" CONSTRUCTION - DIFFERENTIATE 25 W/ADJACENT TO 25% SLOPE



Page 1

EXHIBIT NO. D
APPLICATION NO.
SDLCPA 1-98B
Pacific Beach
CV Zones



Page 2

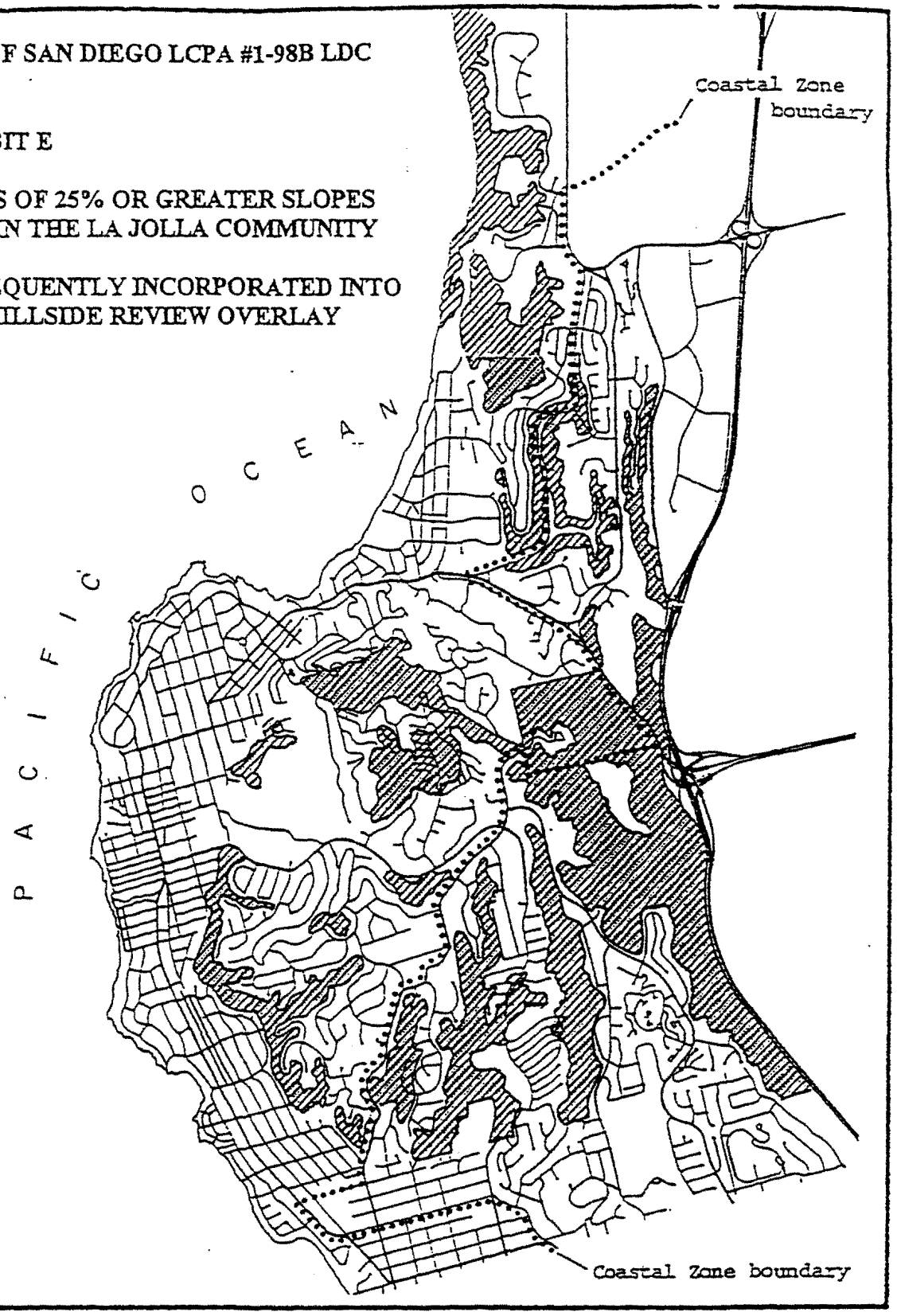
EXHIBIT NO. D
APPLICATION NO.
SDLCPA 1-98B
North City
CV Zones
California Coastal Commission

CITY OF SAN DIEGO LCPA #1-98B LDC

EXHIBIT E

AREAS OF 25% OR GREATER SLOPES
WITHIN THE LA JOLLA COMMUNITY

SUBSEQUENTLY INCORPORATED INTO
THE HILLSIDE REVIEW OVERLAY



La Jolla • La Jolla Shores

LOCAL COASTAL PROGRAM • 25%+ SLOPES

AREAS WITH 25% SLOPE OR GREATER

CITY OF SAN DIEGO
PLANNING DEPARTMENT

EXHIBIT E

CITY OF SAN DIEGO LCPA #1-98B LDC

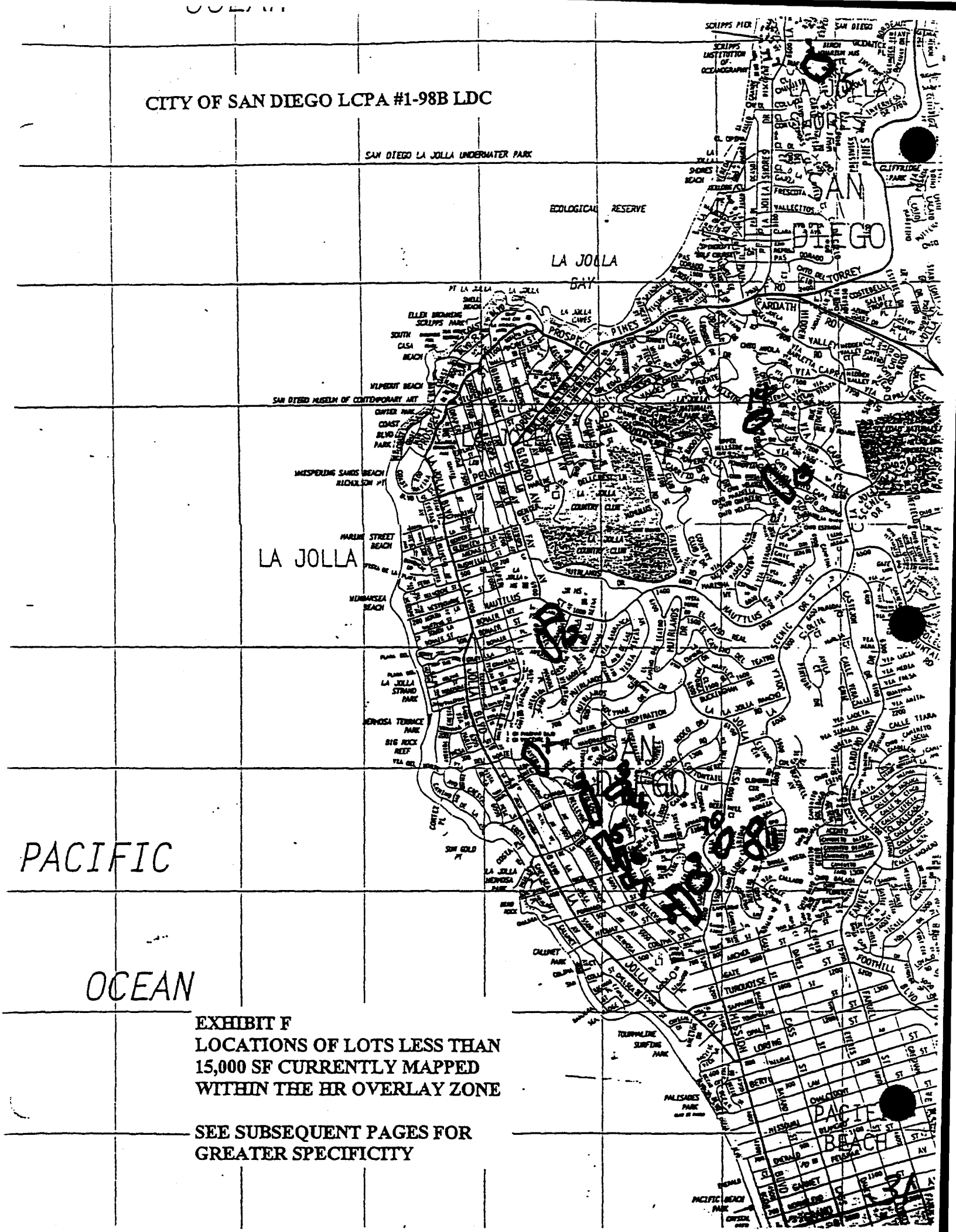


EXHIBIT F
LOCATIONS OF LOTS LESS THAN 15,000 SF CURRENTLY MAPPED WITHIN THE HR OVERLAY ZONE

SEE SUBSEQUENT PAGES FOR GREATER SPECIFICITY

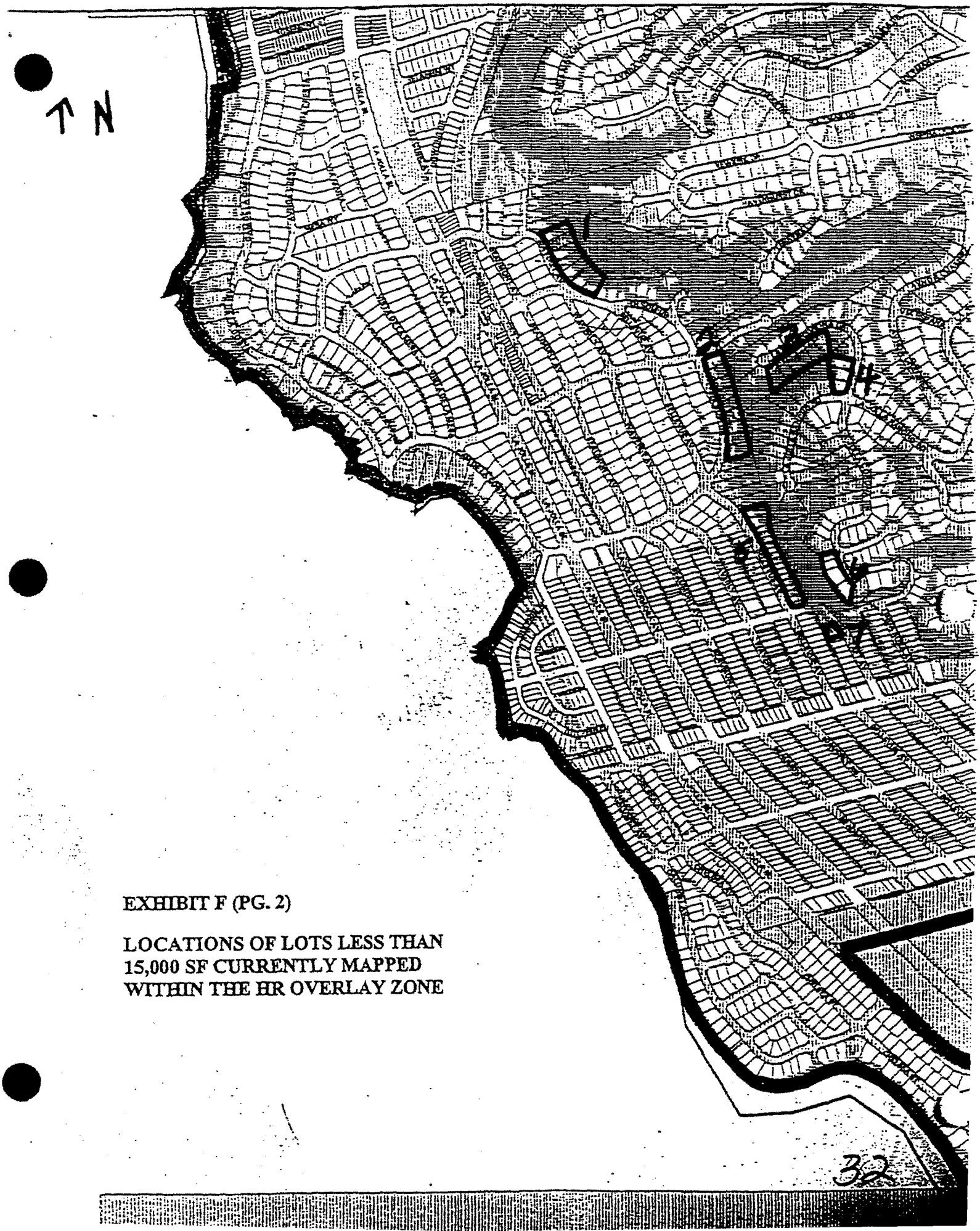


EXHIBIT F (PG. 2)

LOCATIONS OF LOTS LESS THAN
15,000 SF CURRENTLY MAPPED
WITHIN THE HR OVERLAY ZONE

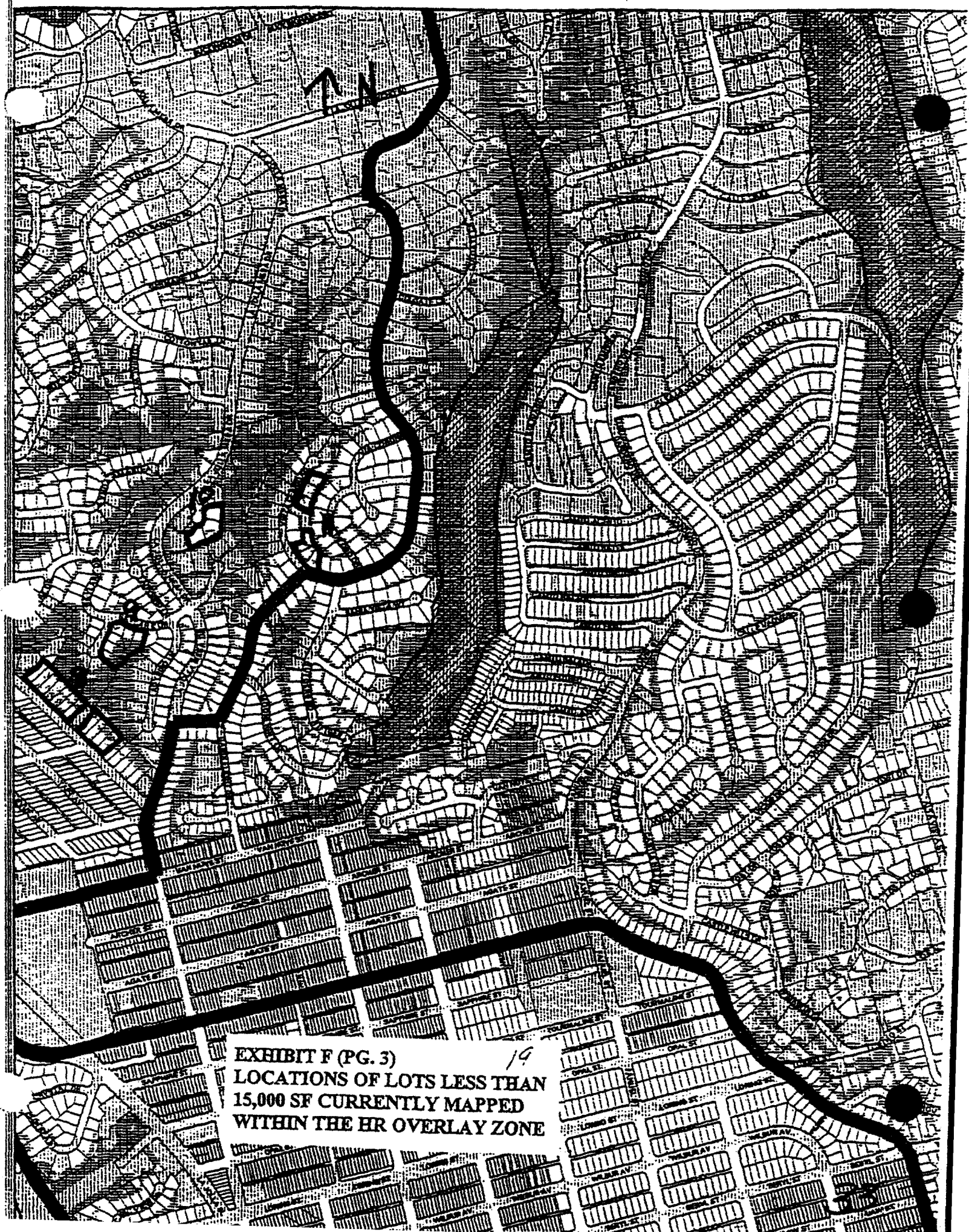


EXHIBIT F (PG. 3)
LOCATIONS OF LOTS LESS THAN 15,000 SF CURRENTLY MAPPED WITHIN THE HR OVERLAY ZONE

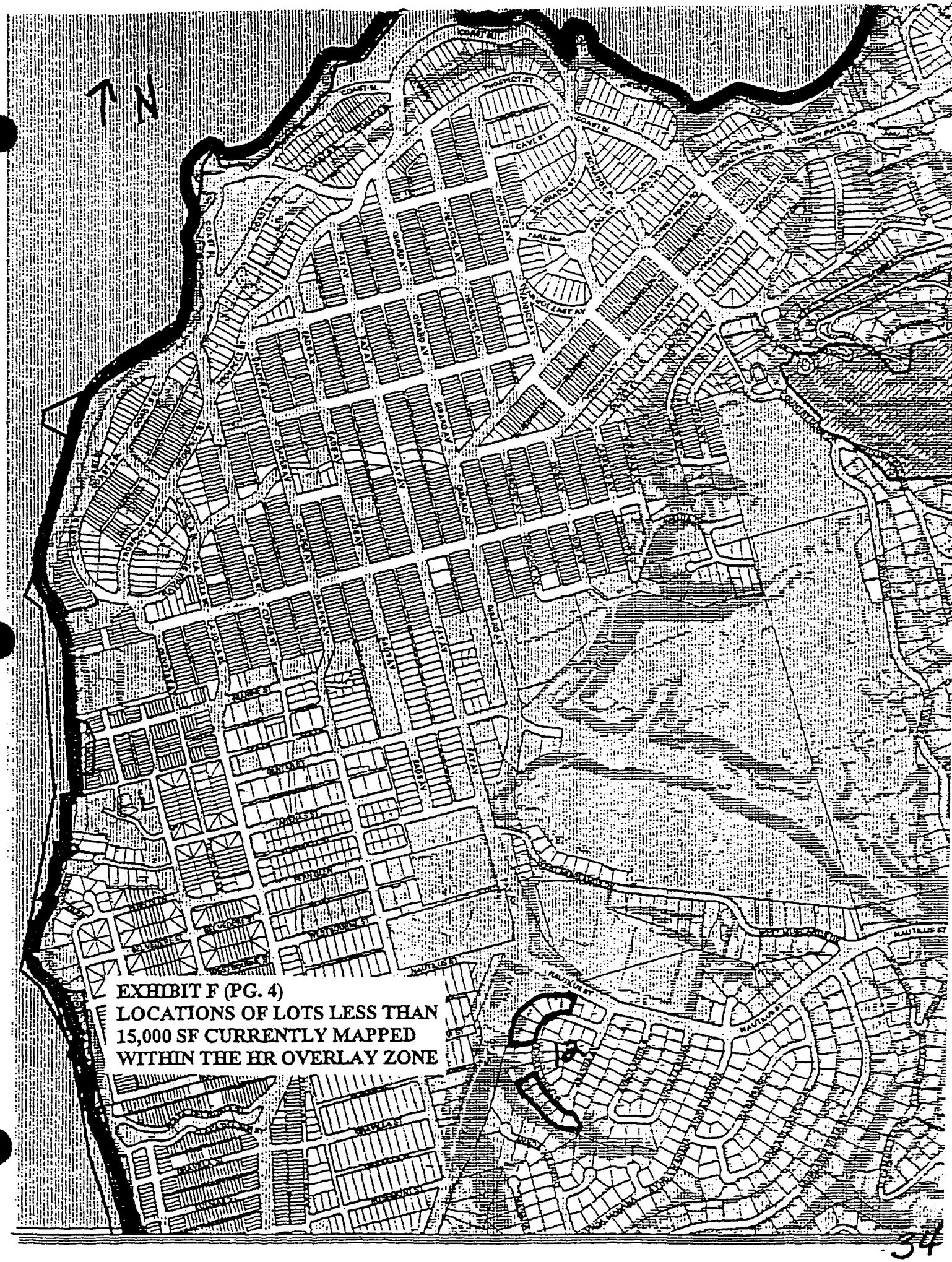


EXHIBIT F (PG. 4)
LOCATIONS OF LOTS LESS THAN 15,000 SF CURRENTLY MAPPED WITHIN THE HR OVERLAY ZONE

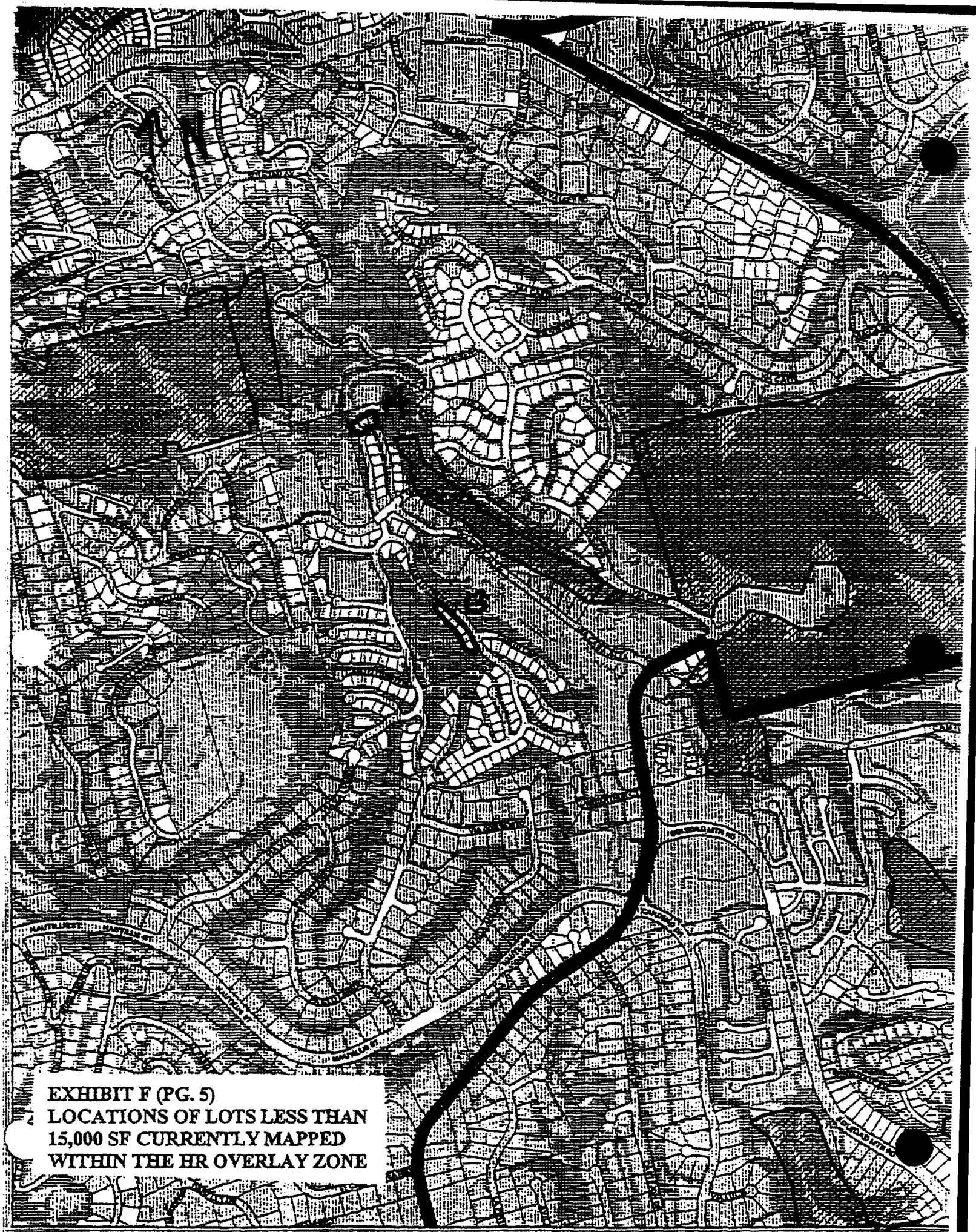


EXHIBIT F (PG. 5)
LOCATIONS OF LOTS LESS THAN 15,000 SF CURRENTLY MAPPED WITHIN THE HR OVERLAY ZONE

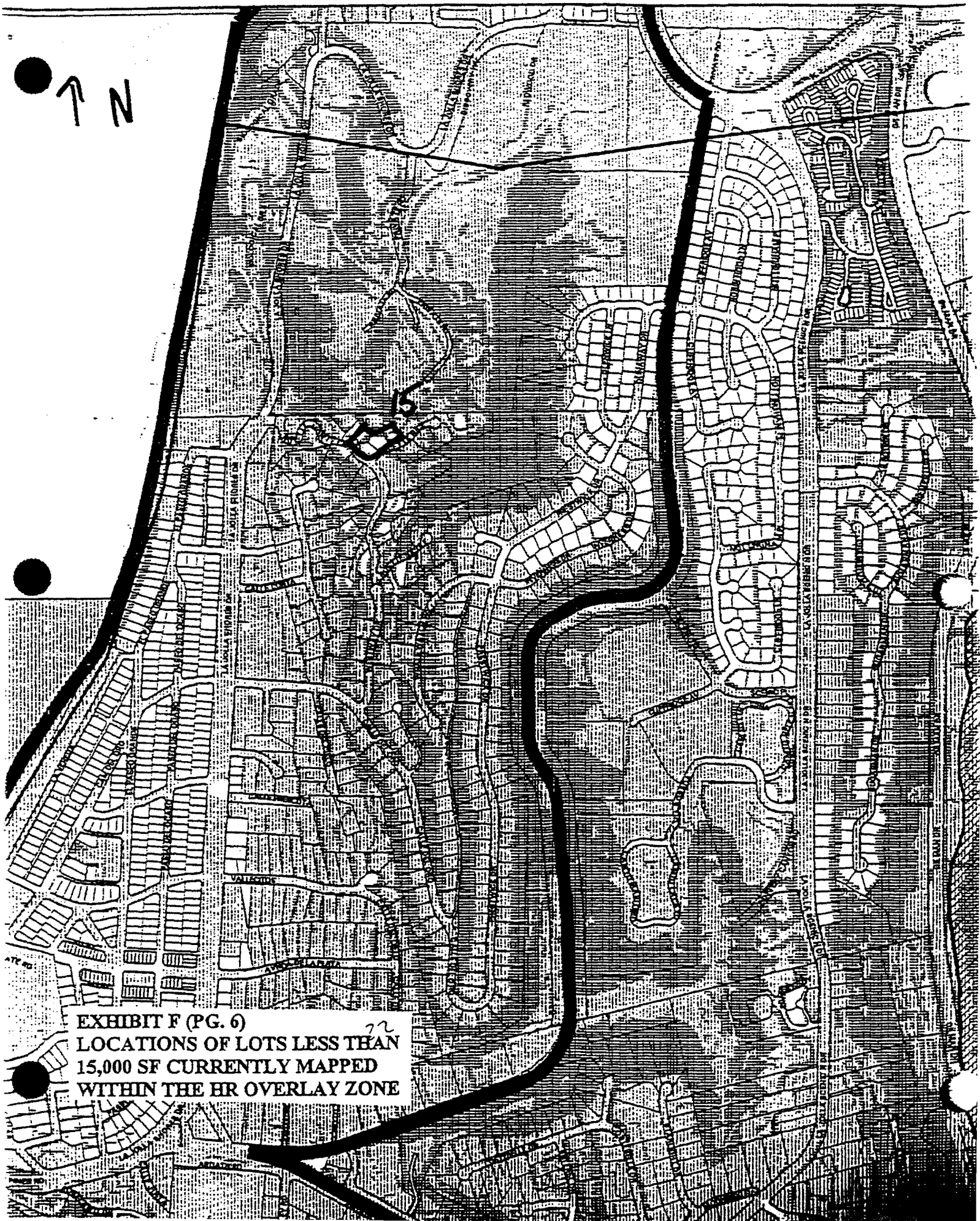


EXHIBIT F (PG. 6)
LOCATIONS OF LOTS LESS THAN 72
15,000 SF CURRENTLY MAPPED
WITHIN THE HR OVERLAY ZONE

VII. HAZARD AREAS

A. Existing Plan Policies

In both the residential and open space elements the community plan discusses the need to protect La Jolla's physical assets, particularly with respect to the shoreline, significant canyons, and steep slopes. Concepts to ensure that new residential development respects these features includes Planned Residential Developments, cluster housing, and hillside review zoning (page 15).

Recommendations

"SLOPES OF 35 PERCENT OR GREATER SHOULD BE ACQUIRED AND RETAINED IN THEIR NATURAL STATE" (page 54).

"IF SLOPES OF 35 PERCENT OR GREATER ARE EVER DEVELOPED THE DENSITY SHOULD BE VERY LOW, WITH MINIMUM CUTTING AND FILLING" (page 54).

"SOLEDAD AND LA JOLLA HEIGHTS PARKS SHOULD REMAIN IN THEIR NATURAL STATE. NO DEVELOPMENTS OR IMPROVEMENTS SHOULD BE PERMITTED WHICH WOULD DETRACT FROM THEIR NATURAL APPEARANCE" (page 54).

"THE DEVELOPMENT OF PARCELS WITH 20 PERCENT OR MORE LAND HAVING SLOPES OF 35 PERCENT OR GREATER, FOR WHICH FOUR OR MORE UNITS ARE PROPOSED, SHOULD INVOLVE DEVELOPMENT CONCEPTS WHICH WILL PRESERVE STEEP SLOPES AND SIGNIFICANT CANYONS" (page 24).

"DEVELOPMENT, IRRIGATION PRACTICES, OR ACCESS THAT WOULD STIMULATE EROSION OF COASTAL BLUFF FACES SHOULD BE AVOIDED" (page 24).

"THERE MAY BE SIGNIFICANT GEOLOGIC FAULTS WITHIN THE LA JOLLA COMMUNITY AS WELL AS MANY OTHER PARTS OF SAN DIEGO. THEREFORE, THE SEISMIC SAFETY ELEMENT OF THE CITY'S GENERAL PLAN INCLUDING GEOLOGIC HAZARD MAPS SHOULD BE CONSULTED BY APPLICANTS PROPOSING DEVELOPMENTS IN LA JOLLA" (page 24).

B. Local Coastal Program - Policy Clarifications

In order to address specific Coastal Act - L.C.P. requirements and to develop implementation techniques and ordinances designed to reinforce the goals and objectives of the La Jolla Community Plan, the following additional information and policy clarifications are proposed:

1) Hillside Development

In addition to the existing community plan recommendations, community concerns regarding the development of steep slopes and canyon bottoms are reflected in several Coastal Commission requirements designed to protect the natural vegetation and visual resources of the community, and to minimize the potential for localized erosion. In response to these concerns, the following specific hillside development criteria have been developed:

- Lot divisions shall be required to have a portion of each created lot in natural slopes of less than 25 percent gradient. The portion of the lot to be in slopes of less than 25 percent gradient shall be equal to or exceeding the area represented by the FAR for the zone in which the property is located. This requirement would not apply to parcels restricted to open space uses, either by dedication or transfer of title to The City of San Diego or another responsible public agency. In the case of clustered developments obtained through a Planned Residential Development Permit, lot divisions consistent with the PRD ordinance may be allowed provided the development is located in the flattest portions of the site and is designed to harmonize with the natural features of the hillsides.

- Developments, grading or land alterations, (including private access roads) associated with Subdivisions or Planned Residential Developments should be located on existing slopes of less than 25 percent gradient, and be designed to harmonize with the natural features of the hillsides. Where more than 50 percent of the area of an existing parcel contains natural slopes with a gradient in excess of 25 percent, minimal encroachment into such slopes may be permitted consistent with all other policies of the Land Use Plan that relate to the protection and management of areas within the Hillside Review (HR) Overlay District; provided, however, with respect to an existing vacant single-family residential lot, such a minimal encroachment may be permitted commensurate with the use of the lot for a single-family residence. Specific criteria addressing the extent of development encroachment into such slopes, shall be developed for inclusion in the Hillside Review (HR) Ordinance.

- Slopes of 25 percent or greater shall be included within the Hillside Review (HR) Overlay District as provided in the City of San Diego Municipal Code, Chapter X, Article 1, Division 4, SEC. 101.0454. Within the HR Overlay District, a permit shall be required for the removal or disturbance of existing native vegetation (coastal sage and chaparral).

- In the Mt. Soledad - Muirlands area of La Jolla, an on-site erosion control plan consistent with the Coastal Zone regulations in the City's Land Development Ordinance shall be required for all grading or landform alterations in conjunction with Subdivision, and Planned Residential Developments.

- In association with PRD developments, undeveloped slopes exceeding 25 percent gradient shall be preserved through permanent natural open space easements as a condition of approval. Except as provided herein, the easement restrictions shall prohibit any alterations of landforms, removal of natural vegetation, and the erection of structures of any type. The purpose of the restrictions shall be to mitigate potential erosion and geologic problems, to protect native vegetation, and to preserve the areas scenic and visual amenities, all of which are associated with steep slopes in excess of 25 percent gradient and described in the Open Space Element of the City's Progress Guide and General Plan. As determined through applicable development review procedures, minimal alteration of landforms and removal of vegetation may be permitted in the open space easement if necessary to protect the public health, safety, and general welfare.

- Where it is in the interest of the public safety or welfare to restrict the development of slopes in excess of 25 percent gradient in order to mitigate erosion and geologic problems, to preserve an areas scenic and visual amenities and to protect native vegetation, such slopes which remain undeveloped as part of a new subdivision approval, shall be preserved through a permanent natural open space easement.

- The existing R-1-40 (1 du/ac) zoning within community plan areas designated as open space or very low density residential should be retained.

- Rezonings to higher densities in all steep slope areas (greater than 25 percent) should not be permitted.

- Rezoning to R-1-40 (1 du/ac) in all undeveloped areas greater than 25 percent slope should be initiated provided, however, that such rezoning shall not be initiated if it would require the consolidation of any existing subdivided lots which are in conformance with the existing zone and the community plan.

- Because of existing evidence of unstable soils and geologic risks in the Mt. Soledad/Muirlands area and other parts of La Jolla and La Jolla Shores, a geological reconnaissance report shall be required for all residential development on slopes exceeding 25 percent gradient to be located

in a "moderate" (C), "high" (D), or "variable" (BC or AC) Risk Zone as identified on the geotechnical land use capability maps referenced by the Seismic Safety Element of the General Plan, and on file in the Office of the City Engineer. All geological studies shall be prepared in accordance with the City's Engineering and Development Department "Guidelines for Geotechnical Reports."

Geologic Studies will be required as follows:

1. Geological Reconnaissance Report.

   A Geological Reconnaissance Report shall be prepared to address potential geologic hazards, and will be submitted to the Planning Department as part of the environmental review process. The study will be available for public review and noticed as part of the standard environmental review process.

2. Preliminary Engineering Geology Report.

   Where unstable conditions are indicated but, in the opinion of the City Engineer, not sufficiently defined in the Geological Reconnaissance Report, these findings shall be addressed by a preliminary Engineering Geology Report. This preliminary Engineering Geology Report shall contain the result of limited subsurface investigations sufficient to identify, in a general manner, the nature and magnitude of unstable conditions, as noted, and shall identify candidate mitigation measures that may be needed. This preliminary Engineering Geology Report shall be available prior to Tentative Subdivision Map approval.

3. Final Engineering Geology Report.

   A final Engineering Geology Report will follow the preliminary studies with more extensive subsurface investigations, as necessary to develop specific mitigation measures, that would be incorporated and detailed in construction plans, as a condition of final map approval.

- In accordance with existing City policy, final development approvals will not be granted unless it can be found that all identified geotechnical problems would be eliminated or avoided through proper design or other development constraints.

- The following hillside development guidelines should be used to evaluate all new development on slopes above 25 percent as a requirement of the City's Hillside Review (HR), Planned Residential Development (PRD) and La Jolla Shores Planned District review processes.

1) Design structures to adapt to hillside conditions and minimize the need for cut and fill grading. Standard prepared pads should not be permitted on slopes above 25 percent. Creative architectural solutions in land preparation and selection of appropriate foundation types are encouraged. These include open foundations, pier supports, split levels, cascading developments and similar techniques designed to minimize grading. Driveways, parking areas, tennis courts, swimming pools, and other accessory uses should be kept to a minimum and located in the more level portions of the site in slopes below 25 percent.

2) Cluster structures, to preserve the existing topography and conserve natural resources. Clustering permits appropriate densities while maintaining greater open space areas. Such structures should be sited and designed to avoid adverse impacts to adjacent single-family residential neighborhoods. This includes use of appropriate setbacks.

3) Utilize the structural quality of the soils as a determinant of the type of construction. This includes respecting the site conditions of steepness, soil characteristics, hydrology, faults, bedding, and slope geology to insure hillside stability both during and after construction.

4) Maintain the natural surface drainage system. This includes intermittent streams, creeks, gullys and

rivulets, especially where such drainage ways adjoin or transverse other properties. The way in which changes to the natural landform or its surface coverage affects the natural drainage system must be determined prior to project approval. Sensitive design will help eliminate problems of erosion, landslides or damage to plant and animal life.

5) Limit the total amount of surfaced ground cover. The design of such site surfaces as structure foundations, driveways, patios, sidewalks, and roads, should support and not alter the natural system of drainage. Clustering developments, use of open foundations and pervious surfacing materials, and maintenance of natural landscaping respond to this requirement.

6) Retain existing vegetation and/or tree patterns where feasible, and incorporate such features into the overall landscaping of the site. Where new landscaping is required, the use of native vegetation and species that require minimal maintenance and watering is encouraged, consistent with the need for adequate fire protection. Native vegetation and associated habitats of the coastal sage and chaparral communities should not be disturbed.

7) Development should be sited to minimize impacts to special environmental resources such as indigenous plant communities, wildlife habitats, major rock outcroppings, ridge lines, drainage ways, vistas, trees and known archaeological sites. Structures should not overwhelm hillside vegetation to where the natural character of the hillside is destroyed. This approach requires an environmental inventory of site resources, their condition, importance, and protection require- ments. It is anticipated that a master Environmental Assessment and Data Base could be prepared for the Mt. Soledad/Muirlands areas of La Jolla. The master Environmental Assessment would be used as a resource document for the preparation of site specific environ- mental impact reports in accordance with the require- ments of California Environmental Quality Act (CEQA).

8) Design of development, above all, should relate to existing topography and landscape features. The incorporation of existing features into project design minimizes environmental destruction and results in development which harmonizes with the natural characteristics of the site.

9) Larger scale structures should be set back from the brow of the hillside. This is especially important for those locations which are visible from natural open space systems, park lands, and the seashore. The preservation of the natural character of these areas depends upon minimizing visual intrusions.

10) Visual access to open space areas should be provided in all large developments where scenic vistas presently exist. Clustering techniques may permit the establishment of view corridors from public roadways into open space areas. The viewing of open space may be enhanced by the provision of turnouts and clustered parking at scenic locations. Walls and fences should be designed to accommodate existing public vistas, respecting the legitimate needs of privacy and public safety.

11) In general, new development should be compatible with the scale and character of the surrounding development. The height, bulk, and appearance of open foundations, retaining walls and pier foundations shall not be out of scale with new or adjacent structures particularly in scenic or view sensitive areas. Design of structures should be innovative yet complimentary to existing development in the area. Historic features such as old buildings, signs, landscaping, geologic landmarks, and other signs of past use should be retained wherever possible.

12) Roof designs in hillside areas should be sensitive to their visual prominence. Materials, forms, and colors should be compatible with the existing site topography and respectful of the cumulative visual impact when viewed from above or below. Flat roofs with mansards or other incomplete designs should be discouraged. Inappropriate roof treatments in large hillside developments may completely destroy the natural character of the hillside.

13) Hillside streets should not exceed minimum width requirements consistent with public safety. Narrow lanes, one-way streets, and split level roads should be given design priority and investigated for use in hillside areas. Continuous on-street parking and broad medians contribute to roadway widths, and are often unnecessary to serve fronting land uses. The minimum requirements appropriate for any given site should be evaluated by the City Engineering and Development Department observing minimum standards of Council Policy 600-4 for consideration of safety.

14) Roadways should follow natural contours to avoid excessive cut and fill and preserve the existing hillside topography. More realistic evaluations of radius and grade restrictions (consistent with Council Policy 600-4) would allow more flexible alignment possibilities.

15) The circulation systems of hillside development should include pedestrian access. Where residential privacy can be assured, pathways which provide public access to natural and recreational open space areas should be developed. Such pathways may serve as circulation networks within and between hillside and canyon development areas. Footpaths, sidewalks, alleys, and equestrian trails should be considered for access to structures that may be built in sensitive hillside and canyon areas, provided adequate fire protection and City servicing can be accomplished.

16) Where new development fronts on the street, parking should be located on the street side portion of the site. On larger parcels, the parking should be separated from the main structure. This technique will help reduce the amount of grading required to terrace parking areas in the open space portions of the site or to prepare long driveways.

17) Damaged hillsides should be stabilized and permitted development should be designed to restore and enhance hillside form.

18) The existing condition of hillsides should be maintained during construction. Dirt and fill generated during construction should not be allowed to spill into the canyon below. Existing resources on or adjacent to the construction site should be protected from being trampled or destroyed. Runoff should be controlled to prevent erosion. Such measures should be conditions of the land development permit.

19) Scarred slopes and graded areas should be replanted with native vegetation. Revegetation should simulate pre-development conditions whenever possible in order to reclaim the natural habitat.

20) Top soil from excavated areas which will be reused on the site should be stockpiled. If they are to remain through a rainy season, the stockpiles should be seeded with groundcover to reduce the effects of erosion and siltation.

It is recommended that these requirements be integrated into the City's existing Hillside Review (HR) and Planned Residential Development (PRD) ordinances for application to the Coastal Zone only. Developments within the Coastal Zone portions of these ordinance jurisdictions will require additional findings to ensure the protection of identified coastal/hillside resources. Where necessary, appropriate changes will be made to the La Jolla Shores Planned District Ordinance to ensure consistency with these guidelines.