

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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21-8036

RECORD PACKET COPY**Wed 6a**

December 15, 1999

TO: COMMISSIONERS AND INTERESTED PERSONS

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

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD LCP
SEGMENT MAJOR AMENDMENT NO. 3-99B (For Public Hearing
and Possible Commission Action at the Meeting of January 11-14, 2000)**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

On October 6, 1999, the City of Carlsbad's proposed Local Coastal Program Amendment (LCPA) #3-99 was received in the San Diego District office. The amendment package contains five separate LCPAs. At the November 1999 meeting a time extension was granted by the Commission at the request of Commission staff due to agenda workload. The Commission approved an amendment to the Carlsbad Ranch Specific Plan permitting a museum open to the public with incidental retail sales (LCPA 3-99A) at its December 1999 hearing. With the exception of the appellate procedures amendment, which will be likely heard at the February 1999 meeting, the remaining three amendments are the subject of this report.

Part 1 is the "Incidental Outdoor Dining Areas" amendment which modifies Chapter 21 of the Municipal Code and would apply to all of the City's LCP segments except the Village Redevelopment Area to allow "incidental outdoor dining areas" associated with restaurants on private property. The amendment allows small accessory outdoor dining areas in association with already allowed restaurants and will exclude such areas from parking requirements.

Parts 2 and 3 of the amendment request revise the certified LCP Mello II segment Implementation Plan. Part 2 (Carnation) rezones a 10-acre parcel from Limited Control (L-C) to One-Family Residential (R-1-7,500-Q). Part 3 (Hadley) rezones a 14.7-acre parcel from Limited Control (L-C) to One-Family Residential (R-1-7,500-Q).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed Incidental Outdoor Dining Areas amendment as submitted. Staff is recommending denial of the Carnation and Hadley Rezones as submitted and approval if modified as suggested in this report. The proposed rezones are inconsistent with the certified Mello II LUP in that the proposed R-1-7500 zone could allow a greater density on the sites than the certified Residential Low Medium (RLM 0-4 du/ac) land use designation would allow. A suggested modification is attached which requires that language be inserted into the "Q" Qualified Development Overlay Zone which has been certified as part of the LCP Implementation Plan. The language shall clarify that residential densities shall be permitted only in conformance with the underlying LCP land use designation for the property.

The appropriate resolutions and motions begin on page 3. The Suggested Modifications begin on page 5. The findings for approval of the Implementation Plan Amendments begin on page 6.

BACKGROUND

The City's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties and Village Redevelopment. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all of its segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment remains as a deferred certification area until an implementation plan is certified. The subject amendment request affects the Mello II segment of the LCP.

ADDITIONAL INFORMATION

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

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

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

B. PUBLIC PARTICIPATION

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

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

A. RESOLUTION I. (Resolution to approve certification of the City of Carlsbad Implementation Plan Amendment #3-99B (Part 1 - Incidental Outdoor Dining Areas), as submitted)

MOTION I: *I move that the Commission reject Part 1 of the City of Carlsbad LCP Implementation Plan Amendment 3-99B, as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

The Commission hereby certifies the Implementation Program for the City of Carlsbad certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act, and certification of the Implementation Program will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been

incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

B. RESOLUTION II **Resolution to deny certification of the City of Carlsbad Mello II LCP Implementation Plan Amendment 3-99B [Part 2 (Carnation Rezone) and Part 3 (Hadley Rezone)], as submitted.**

MOTION II *I move that the Commission reject Parts 2 and 3 of the City of Carlsbad's Mello II LCP Implementation Plan Amendment 3-99B, as submitted.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

The Commission hereby denies certification of the Implementation Program submitted for the Carlsbad Mello II Implementation Plan Amendment and adopts the findings set forth below on grounds that the Implementation Program as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have not been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

C. RESOLUTION III. Resolution to approve certification of the City of Carlsbad Mello II LCP Implementation Plan Amendment #3-99B [Part 2 (Carnation Rezone) and Part 3 (Hadley Rezone)], if modified)

MOTION III: *I move that the Commission approve Parts 2 and 3 of the City of Carlsbad Mello II LCP Implementation Plan Amendment 3-99B if modified in conformance with the suggestions set forth in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

The Commission hereby certifies the Implementation Program for the Mello II segment of the Carlsbad certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

The following are the suggested revisions for this amendment request. Language to be added is underlined; language to be deleted is crossed out.

The following wording shall be added as Section 21.06.170 Coastal Zone Residential Density within the Q Qualified Development Overlay Zone of the Carlsbad Municipal Code to apply to all residential development with a Q designator within the coastal zone.

1. Within the coastal zone, an approved residential subdivision shall not exceed the maximum density permitted by the underlying LCP land use plan designation, subject to the applicable resource protection and affordable housing provisions in the certified LCP. In calculating affordable housing density bonuses, the base density shall not exceed the maximum density permitted by the underlying LCP land use designation.

PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LCP IMPLEMENTATION PLAN AMENDMENT #3-99B, AS SUBMITTED (PART 1 - INCIDENTAL OUTDOOR DINING AREAS).

A. AMENDMENT DESCRIPTION

The proposed LCP amendment would allow, with some exceptions, small outdoor dining areas of limited size to be provided without requiring parking subject to an Incidental Outdoor Dining Areas (IODA) permit. Outdoor dining areas associated with restaurants, deli's and other eating establishments can be provided under current regulations. Such areas are treated like indoor seating areas and the areas are included in calculating the total floor area of the eating establishment, which in turn, is used to calculate the number of parking spaces required for the business. The proposed amendment would provide an incentive to businesses to include small outdoor dining areas by excluding those areas (up to 400 sq.ft. in size) from the parking requirement calculation.

The amendment modifies the City's zoning ordinance citywide and is applicable outside of the Redevelopment Area and outside of the Commercial/Visitor-Serving Overlay Zone. Consequently, it will involve the Mello I, Mello II, Agua Hedionda, East Batiquitos/Hunt and West Batiquitos/ Sammis segments of the Carlsbad LCP. The purpose of the amendment is to provide an incentive for small outdoor dining areas associated with restaurants and other eating establishments.

The Coastal Commission approved the identical amendment in July 1998 with a suggested modification. The modification prohibited IODAs on sites west of the railway line which contain existing restaurants that do not meet required parking standards. With respect to parking associated with coastal access, the railway line generally separates the beach impact zone from the non-critical portion of the City's parking reservoir. The Commission found that those sites on either side of the railway line that complied with parking requirements for their indoor dining areas could provide IODAs. However, those sites that are located west of the railway line and are not providing adequate parking at code requirements for their indoor dining areas are not allowed to get an IODA permit and the attendant parking waiver. This provision results from the Commission's concern over the lack of public parking generally west of the railway line. The Commission did not want to exacerbate any existing inadequate parking situations by allowing such businesses to expand further.

Due to a "sunset clause" in the original ordinance, the approved amendment automatically repealed in October 1998 before the suggested modifications could be adopted by the City Council. Consequently, the City has prepared essentially the same ordinance except that it includes the Commission's suggested modifications, precludes an IODA in the Commercial/Visitor-Serving Overlay Zone and does not include a sunset clause.

B. FINDINGS FOR APPROVAL/PART 1 - INCIDENTAL OUTDOOR DINING AREAS

a) Purpose and Intent of the Ordinance. The purpose and intent of the Incidental Outdoor Dining Areas amendment is to allow small accessory outdoor dining areas on private property in association with already allowed restaurants with indoor seating, and to exclude such areas from parking requirements.

b) Major Provisions of the Ordinance. The Incidental Outdoor Dining Areas amendment modifies Chapter 21 of the Municipal Code to allow incidental outdoor dining areas associated with restaurants on private property as follows:

-Adds a new definition to the municipal code (Section 21.04.188.1) which specifies, among other things, that "incidental outdoor dining areas" shall be limited to: a maximum of 20% of the number of indoor seats or a maximum of twenty (20) seats, whichever is more restrictive; a maximum of six (6) tables; and a maximum of 400 sq.ft. in area; outdoor seating areas are allowed provided they comply with all requirements, including providing required parking at the appropriate restaurant parking ratio.

The amendment regulates the location and design of IODAs, requiring an administrative permit for such areas

The amendment excludes IODAs from parking requirement calculations provided no public access/parking impacts would occur in nearshore areas.

c) Adequacy of Ordinance to Implement the Certified LUP. The standard of review for LCP implementation submittals or amendments are their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). In the case of the subject LCP amendment, the City's Municipal Code serves as the Implementation Program for the Carlsbad LCP. In its 1998 review of this amendment, the Commission was concerned about the proposed parking exemption in the nearshore areas (i.e., areas located west of the railroad right-of-way near the ocean), of the City outside of the Village Redevelopment Area, where parking demand is high but parking supplies may be low; or the southern areas of the City where there are substantial undeveloped areas which are expected to experience growth in the near future. The railroad right-of-way runs north/south through the City, near and paralleling the ocean. There are a number of commercially-designated sites west of the railroad right-of-way that the ordinance would apply to near Palomar Airport Road and Poinsettia Lane, including sites within the Poinsettia Properties Specific Plan Area and the Poinsettia Shores Specific Plan Area. These specific plans cover approximately 190 acres of land north of Batiquitos Lagoon and contain lands approved by the Commission for visitor commercial uses, some of which are located west of the railroad right-of-way.

Some of the above mentioned areas may be considered "beach impact areas" where parking competition is expected to be greatest between residents, commercial patrons and beach visitors. These areas are directly across from South Carlsbad State Beach. South Carlsbad State Beach is a unit of the 'State Department of Parks and Recreation. The campground is located westerly of Carlsbad Blvd., north of Ponto State Beach. In addition to seven beach access stairways, the park is developed with 226 campsites, 10 comfort stations, and a campfire center and concession stand. Because it provides both day use and overnight use, it is considered a major recreational facility for coastal visitors.

Policy 7-9 of the Mello II LUP entitled "Carlsbad State Beach: Parking" states:

Parking facilities are entirely inadequate in the vicinity of South Carlsbad State Beach. To remedy this problem, the 20-acre site located between Carlsbad Boulevard and the railroad junction of Palomar Airport Road shall be developed for parking facilities of approximately 1,500 spaces. When this facility becomes heavily utilized, jitney service should be initiated between the parking area and designated points along Carlsbad Boulevard.

Given the above, the Commission was concerned about allowing this revision on properties located west of the railroad right-of-way outside of the Village Redevelopment Area. This is important because limited public parking and on-street parking is available in the nearshore area along and west of Carlsbad Boulevard for beach visitors. Outdoor dining areas, whether large or "incidental" are a very attractive dining option in Southern California. Given the suitable weather conditions and use of heaters and shade covers, these outdoor areas draw business and are generally preferred by many customers. Should a restaurant be successful already, such an addition will only serve to expand capacity and fuller operation. This could exacerbate potential parking conflicts in the nearshore areas under certain conditions.

One particular concern would be the adequacy of the existing restaurant's parking facilities. If an existing establishment fails to provide its full parking complement, it should not be allowed to add an "incidental dining" area and exacerbate its parking deficiency, especially in nearshore areas. However, the submitted ordinance makes it clear that existing parking cannot be eliminated to provide the incidental dining area, and specifies that restaurants without adequate parking cannot be allowed a further parking exemption west of the railway right of way. Thus, the availability of public parking would not be adversely affected if an incidental outdoor dining area was allowed near the beach and the existing restaurant failed to provide its required parking complement. For that reason, the amendment can be approved as submitted.

PART V. FINDINGS FOR DENIAL OF THE CITY OF CARLSBAD MELLO II

LCP IMPLEMENTATION PLAN AMENDMENT #3-99B (PART 2 – CARNATION REZONE AND PART 3 – HADLEY REZONE), AS SUBMITTED

A. AMENDMENT DESCRIPTIONS/ REZONES

The amendment changes the Mello II LCP implementation plan by rezoning a 10-acre parcel (Carnation) and a 14.7-acre parcel (Hadley) from Limited Control (L-C) to One-Family Residential (R-1-7, 500-Q). The amendments are associated with specific project proposals currently under review by the City.

On the Carnation property, the proposal is to subdivide the site into 32 single-family lots. The project site is on the west side of Black Rail Road and north of Aviara Parkway. The Carnation property is bordered to the north and east by agricultural land, to the west by Planning Area (PA) 22 of Aviara Phase III and to the south by open space. The developable portion of the project site has been subject to previous agricultural operations. The site has a gentle slope from east to west and has until recently been used for growing flowers. Currently there are several green houses on site.

On the Hadley property, the proposal is to subdivide the site into 38 single-family lots and one open space lot. The project site is located on the east side of Black Rail Road and south of Poinsettia Lane (Hadley). The Hadley property is bordered to the north by vacant agricultural land and native habitat, to the east by open space within Planning Area (PA) 22 of Aviara Phase III, to the south by a graded portion of Docena Road (access road to PA 22) and Black Rail Road to the east.

The western quarter of the Hadley site slopes gently westward and the remainder of the site slopes gently eastward to the top of a descending natural slope. The elevation across the site is approximately 110 feet, with the natural slope varying up to 50 feet in height. The flatter portions of the site have been used for agriculture. A 5.45-acre open space lot containing constrained lands and sensitive habitat is proposed on the eastern portion of the site. It contains 4 acres of southern maritime chaparral and 0.2 acres of coast live oak riparian forest. This area is to be designated Open Space and would be maintained by a future homeowner's association land use plan.

The subject sites are located within the non-appealable area of the City's coastal development permit jurisdiction. The sites are designated as Residential Low Medium (RLM, 0-4 du/ac) in the Mello II LCP.

The projects comply with the requirements of the certified Coastal Resource Protection Overlay Zone as slopes over 25% grade containing coastal sage scrub and chaparral are being preserved. The Carnation project proposes .013 acres of impact to slopes greater than 25% but this area does not contain significant species. Approximately 0.32 acres of impact to southern maritime chaparral is proposed with the Hadley proposal; however, the impact is proposed on non-steep slopes and this impact has been accepted by the resource agencies during subdivision review at the City.

The projects comply with the requirements of the Coastal Agriculture Overlay Zone, as they have been required to pay agricultural conversion mitigation fees to develop the properties with other than agricultural uses. This is consistent with the agricultural provisions within the certified Mello II LCP land use plan.

Regarding sewer and water services, such connections are proposed to the Carnation and Hadley sites through extensions of existing lines that have been previously approved in the City's review of its Zone 20 Specific Plan. This plan reviewed environmental impacts associated with infrastructure improvements. Impacts to sensitive vegetation were identified with provision of sewer service on the west side of the specific plan area and mitigation was approved. However, no impacts to sensitive vegetation were identified with provision of such services on the Hadley and Carnation sites either during review of the specific plan or during individual project review. Additionally, no increase in capacity of these services is proposed as existing lines have been sized to accommodate planned growth in the Zone 20 area

a) Purpose and Intent of the Ordinance. The purpose and intent of the proposed LCP amendment is to apply a residential implementing zone to the subject properties which are both designated RLM in the certified LCP land use plan allowing 0 to 4 dwelling units per acre (dua). The R-1-7500-Q zone (One-Family Residential Zone) is to allow for single family detached homes and associated structures. The Limited Control (L-C) zone is currently applied to the sites; it is a holding zone that only allows agricultural uses until future planning is done.

b) Major Provisions of the Ordinance. The amendment provides for the change of zoning of the identified parcel from L-C to R-1. The R-1 zone allows single family detached homes and associated structures, sets a 35 foot height limit, and establishes development standards for setbacks, placement of building and minimum lot area. The minimum required area of a lot in this R-1 zone is 7,500 sq.ft. Additional development standards for this zone include provisions for the type of garage required (i.e. two-car) and that each residence has a permanent foundation. Other requirements pertain to the composition of exterior siding of residences, specifications regarding roof pitches and minimum width of residences.

A Q designator has also been applied to the proposed residential zone by the City. The purpose of the "Q" Qualified Development Overlay Zone in the certified LCP is to "supplement the underlying zoning by providing additional regulations for development within designated areas to: [in part] (1) Require that property development criteria are used to insure compliance with the general plan and any applicable specific plans; (2) Provide that development will be compatible with surrounding developments, both existing and proposed; (3) Insure that development occurs with due regard to environmental factors [...] The overlay zone therefore appears to be a suitable means to provide additional regulations for development to ensure that future development occurs consistent with a variety of concerns or environmental factors. Thus, this overlay is a means to assure the policies of the LCP will be applied and enforced.

c) Adequacy of Ordinance to Implement the Certified LUP. The standard of

review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). In the case of the subject LCP amendment, the City's Municipal Code serves as the Implementation Plan for the Mello II segment of the LCP. The subject properties are designated with the Residential Low Medium (RLM) land use designation in the certified LUP which permits up to 4 du/ac. Although the City found the proposed R-1 zone consistent with the RLM designation, the R-1 zoning could allow up to 5.8 du/ac based on the minimum lot size (43,560 sq.ft. divided by 7,500 sq.ft. = 5.8). Thus, the proposed R-1 zone could permit more dwelling units than the land use designation would allow which is inconsistent with the certified LUP. Increased residential density could result in adverse impact areawide to coastal resources by creating the need for more roads and infrastructure through sensitive areas (i.e., dual criteria slopes, wetland and riparian resources).

In LCPA 2-96A and LCPA 1-99, the Commission addressed the above issue on two sites (Ocean Bluff and Lohf) within the Zone 20 area in Carlsbad. The Commission found that the Qualified Development Overlay Zone should be applied to the Ocean Bluff property and further clarified on the Lohf property. The Q designator ensures that the building locations and architectural styles are reviewed through a Site Development Plan discretionary approval process prior to issuing building permits. On the Ocean Bluff site, the Commission approved a suggested modification that applied the "Q" designator to the site to ensure that the property would be developed with no more than 4 du/ac which was consistent with the certified RLM land use designation. As modified, the Commission found the proposed zone change was consistent with the certified LUP as application of the "Q" designator was one mechanism to address the density limit concerns; however, other options or alternatives would certainly be considered. On the Lohf site the City's amendment was silent with respect to the proposed Q designator limiting the density on the property so that it would not be developed with more than 4 dwelling units per acre. In its approval the Commission clarified with a suggested modification that the Q designator applied to the site should indicate that the property will be developed with no more than 4 dwelling units per acre.

Subsequent to those conditional approvals, the City has indicated that resolving the density issue in this way is unacceptable. The City attorney has indicated that it is inappropriate to attach the above provision regarding density to the Q designator. The City maintains there is a reoccurring misunderstanding of how the City's General Plan and zoning work in conjunction with the Subdivision Map Act and the City's subdivision ordinance. The City maintains it cannot approve a subdivision that is inconsistent with its General Plan regardless of what the zoning allows (i.e., it cannot approve a subdivision for more units than the top end of the General Plan density range). (While the General Plan does allow one exception for small in-fill development in the old part of Carlsbad where all infrastructure including all streets and utilities are in place, the sites that are the subject of this amendment are not in an infill area and could therefore not be granted additional density above the land use designation).

In any event, the City has submitted the subject LCP amendment without any means to assure the density permitted by the LCP land use plan will not be exceeded through the approval of residential development subject to the R-1-7500 zone. Additionally, there is no language that assures the base density utilized to calculate any potential affordable housing density bonuses will

not exceed the maximum density permitted in the LUP. Therefore, the Commission finds the proposed ordinance must be denied, as submitted, as it is inadequate to carry out the provisions of the certified LCP land use plan.

**PART VI. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD MELLO II
LCP IMPLEMENTATION PLAN AMENDMENT #3-99B (PART 2-
CARNATION REZONE AND PART 3 – HADLEY REZONE), IF MODIFIED**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). Although the City found the proposed R-1 zone consistent with the certified RLM designation, the R-1 zoning could allow up to 5.8 du/ac based on the minimum lot size (43,560 sq.ft. divided by 7,500 sq.ft. = 5.8). Thus, the proposed R-1 zone could permit more dwelling units than the land use designation would allow which is inconsistent with the certified LUP. Increased residential density could result in adverse impacts areawide to coastal resources by creating the need for more roads and infrastructure through sensitive areas (i.e., dual criteria slopes, wetland and riparian resources).

As noted above, the Commission rejected the proposed R-1-7500 zoning based on its potential to allow a greater intensity of development than the certified Mello II LUP would allow. Because the City has indicated the means to address this problem, which the Commission has used in the past, is unacceptable, the Commission is suggesting alternative code language that would address the density issue. The suggested modification would be inserted within the "Q" Qualified Development Overlay Zone because, by definition, it's purpose is to "supplement the underlying zoning by providing additional regulations for development within designated areas".

The Commission's suggested modification would ensure that residential densities would not exceed the maximum density permitted by the underlying LCP land use plan designation. Additionally, the language acknowledges that any proposed residential subdivision is also subject to the resource protection policies in the certified LCP which may limit development on environmentally sensitive areas such that the maximum permitted density may not be achievable.

Regarding application of the affordable housing provisions contained in the certified LCP, the suggested modification clarifies that the base density utilized in calculating the density bonus shall not exceed the maximum density permitted by the underlying land use plan designation. The affordable housing provisions contained in the certified LCP require that any housing development which incorporates an affordable housing density bonus or other incentives shall be consistent with all the certified LCP provisions, with the exception of base density. The suggested modification insures that base density will not be determined by the number of units permitted by the R-1-7500 zone, but will be determined by the maximum density permitted in the certified LCP land use plan.

With the inclusion of the suggested modification, the Commission can find the

amendment consistent with the density designations certified in the Mello II LCP land use plan. Thus, as modified, the Commission finds that the subject amendment to the implementation plan is consistent with and adequate to carry out the policies of the certified LUP.

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

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the 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 a LCP submittal or, as in this case, a LCP amendment submittal, to find that the LCP, or LCP, as amended, conforms to CEQA provisions. As modified, the proposed Carnation and Hadley rezones will not result in an intensity of land use incompatible with the surrounding development or have adverse impacts on coastal resources or density. Regarding the Incidental Outdoor Dining Areas amendment, the Commission finds approval of the amendment will not adversely affect the parking reservoir in nearshore beach areas. Therefore, the Commission finds that approval of the LCP amendments will not result in any significant adverse environmental impacts.

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

RESOLUTION NO. 99-217

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A NEGATIVE DECLARATION FOR ZCA 99-01/LCPA 99-01 AND APPROVING LCPA 99-01.

CASE NAME: INCIDENTAL OUTDOOR DINING AREAS II

CASE NO.: LCPA 99-01

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

WHEREAS, on April 21, 1999, the Carlsbad Planning Commission held a duly noticed public hearing to consider a Negative Declaration, Zone Code Amendment (ZCA 99-01) and Local Coastal Program Amendment (LCPA 99-01) relating to Incidental Outdoor Dining Areas II. At the conclusion of the hearing the Commission adopted Planning Commission Resolutions No. 4482, 4483, and 4484 recommending approval of the Negative Declaration, ZCA 99-01 and LCPA 99-01; and

WHEREAS, the City Council of the City of Carlsbad, on the 15 day of June, 1999, held a duly noticed public hearing to consider the Commission's recommendations and to hear all persons interested in or opposed to the Negative Declaration, Zone Code Amendment (ZCA 99-01) and Local Coastal Program Amendment (LCPA 99-01) relating to Incidental Outdoor Dining Areas II.

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

1. That the above recitations are true and correct.
2. That the City Council adopts and incorporates the findings of Planning Commission Resolution No. 4482 approving the Negative Declaration for the Incidental Outdoor Dining Areas II Zone Code Amendment (ZCA 99-01) and Local Coastal Program Amendment (LCPA 99-01).

a. Independent Judgment: The City Council's Declaration reflects the City Council's independent

b. Location and Custodian of Record of Public Resources Code section 21081.1 constitute the administrative record in the custody of and can be found in the office of the Director of Planning in the City of Carlsbad.

EXHIBIT NO. 1
APPLICATION NO.
Carlsbad LCPA
#3-99B
Council Resolution
Outdoor Dining
1 of 2

record includes, but is not limited to: the Negative Declaration and all public comments thereon received during the public review period and responses thereto, and the proceedings of the Planning Commission and the City Council thereon.

3. That the City Council adopts and incorporates the findings of Planning Commission Resolutions No. 4483 and 4484 recommending approval of Zone Code Amendment (ZCA 99-01) and Local Coastal Program Amendment (LCPA 99-01).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad on the 15 day of June 1999, by the following vote, to wit:

AYES: Council Members Lewis, Nygaard, Finnilla & Hall


NOES: None

ABSENT: Council Member Kuzichin



CLAUDE A. LEWIS, Mayor

ATTEST:



ALETHA L. RAUTENKRANZ, City Clerk
KAREN R. KUNDTZ, Assistant City Clerk
(SEAL)

ORDINANCE NO. NS-492

A ZONE CODE AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO AMEND TITLE 21, CHAPTERS 21.04, 21.26, 21.27, 21.28, 21.29, 21.30, 21.32, AND 21.34 OF THE CARLSBAD MUNICIPAL CODE RELATING TO INCIDENTAL OUTDOOR DINING AREAS ON PROPERTY LOCATED CITYWIDE OUTSIDE OF THE REDEVELOPMENT AREA AND OUTSIDE OF THE COMMERCIAL/VISITOR-SERVING OVERLAY ZONE.
CASE NAME: INCIDENTAL OUTDOOR DINING AREAS II
CASE NO.: ZCA 99-01

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

SECTION I: That Title 21, Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of Section 21.04.188.1 to read as follows:

"21.04.188.1 Incidental Outdoor Dining Areas.

"Incidental Outdoor Dining Area" means, everywhere except within the Redevelopment Area Local Coastal Program Segment and except within the Commercial/Visitor-Serving Overlay Zone, a small extension of an indoor restaurant, bona fide eating establishment, or deli which extends outdoors beyond the walls of the restaurant and which is used exclusively for eating, drinking, and pedestrian circulation therein. Incidental Outdoor Dining Areas shall be utilized only as extensions of restaurants providing indoor seating and which are properly licensed for such service. On properties located west of the railroad right-of-way and outside of the Village Redevelopment Area, Incidental Outdoor Dining Areas shall be allowed only where the existing indoor restaurant, bona fide eating establishment, or deli provides on-site parking in compliance with the parking ratios specified in Chapter 21.44 (Parking Ordinance) of the Municipal Code. Incidental Outdoor Dining Areas may be located on private property only (not in the public right-of-way). The maximum number of seats, tables, and square feet allowed in an Incidental Outdoor Dining Area shall be limited to:

- (i) a maximum of 20% of the number of indoor seats or a maximum of twenty (20) seats, whichever is more restrictive; and,
- (ii) a maximum of six (6) tables; and
- (iii) a maximum of 400 square feet in area.

Incidental Outdoor Dining Areas may be allowed pursuant to Chapter 21.26 of the Carlsbad Municipal Code. Any amount of outdoor dining area exceeding the above limitations shall not be considered "incidental" for purposes of this definition."

SECTION II: That Title 21, Chapter 21. 26 of the Carlsbad Mun by the addition of Section 21.26.013 to read as follows:

"21.26.013 Incidental Outdoor Dining Areas permitted by adm

Incidental Outdoor Dining Areas may be approved by administrative bona fide eating establishments, and deli's in the C-1, O, C-2, C-T, C-M, M of the Redevelopment Area and outside of the Commercial/Visitor-Serving those sites located within the Coastal Zone west of the railroad right-of-w

EXHIBIT NO. 2

**Carlsbad LCPA
#3-99B**

Ordinance NS-492
Outdoor Dining

1 of 5

1 parking for their indoor seating on-site in compliance with Chapter 21.44 (Parking Ordinance) of
2 the Municipal Code. The owner of the subject property shall make written application to the
3 Planning Director. Such application shall include all materials deemed necessary by the Director to
4 show that the requirements of Subsection (c) hereof are met. If the site is in the Coastal Zone, the
5 application shall also constitute an application for a Coastal Development Permit.

6 (a) The Director shall give written notice to all property owners within 300 feet of the
7 subject property of pending development decision after the application is complete, at least fifteen
8 calendar days prior to the decision on the application as follows:

9 (1) Contents. The notice shall include all requirements of Section 21.54.061 of
10 this code, including a notice of a public comment period of at least 15 calendar days sufficient to
11 receive and consider comments submitted by mail prior to the date established for the decision.
12 The notice shall also include a statement that a public hearing shall be held upon request by any
13 person and a statement that failure by a person to request a public hearing may result in the loss of
14 that person's ability to appeal approval of the administrative permit by the Director to the Planning
15 Commission.

16 (b) The Director may approve, approve with conditions, or deny the permit. The
17 Director may waive a public hearing on an administrative permit if notice has been provided in
18 accordance with subsection (a)(1) of this section and a request for a public hearing has not been
19 received by the city within 15 calendar days from the date of sending the notice. If a request for a
20 public hearing is received, a public hearing before the Director shall be held in the same manner as
21 a Planning Commission hearing. In either event, the Director's decision shall be based upon the
22 requirements of, and shall include, specific factual findings supporting whether the project is or is
23 not in conformity with the requirements of Section 21.26.013(c).

24 The Director's decision shall be made in writing. The date of the decision shall be
25 the date the writing containing the decision or determination is mailed or otherwise delivered to the
26 person or persons affected by the decision. If the matter includes a Coastal Development Permit,
27 unless the decision is appealed to the Planning Commission, the Director shall provide a notice of
28 final action in accordance with Sections 21.201.160 and 21.201.170.

(c) Development Standards. All Incidental Outdoor Dining Areas shall comply with
the following development standards:

(1) All applicable requirements of the State of California Disabled Access
Regulations (Title 24).

(2) All applicable requirements of the Alcoholic Beverage Commission, if
alcoholic beverages are served in the outdoor area.

(3) Be operated only during the hours of operation of the associated restaurant.

(4) Provide adequate circulation to accommodate normal pedestrian traffic and
circulation for the outdoor dining area. Pedestrian clearance between tables and/or walls/fences
shall be a minimum 42" wide.

(5) Not be located where the Incidental Outdoor Dining Area would:

(A) encroach into the public right-of-way;

(B) eliminate any existing parking spaces;

(C) interfere with vehicle or pedestrian circulation;

(D) remove or reduce existing landscaping (unless equivalent additional
landscaping is provided elsewhere to the satisfaction of the Planning Director);

(E) present a traffic hazard; or,

(F) be incompatible with outdoor dining, in the opinion of the City
Engineer, because of the speed, volume, or nearness of vehicular
traffic.

(6) When calculating square footage for purposes of determining parking required

1 per Chapter 21.44 of this Code, space used for Incidental Outdoor Dining Areas pursuant to this
2 section shall be excluded."

3 SECTION III: That Title 21, Chapter 21. 26 of the Carlsbad Municipal Code is amended
4 by the amendment of Subsection 21.26.021(1) to read as follows:

5 "(1) All uses shall be conducted wholly within a building except such uses as gasoline
6 stations, electrical transformer substations, nurseries for sale of plants and flowers and other
7 enterprises customarily conducted in the open;"

8 SECTION IV: That Title 21, Chapter 21. 27 of the Carlsbad Municipal Code is amended
9 by the addition of Section 21.27.035 to read as follows:

10 "21.27.035 Incidental Outdoor Dining Areas permitted by administrative permit.
11 Subject to the development standards set forth in section 21.26.013(c) an Incidental
12 Outdoor Dining Area may be approved by administrative permit pursuant to section 21.26.013(a)."

13 SECTION V: That Title 21, Chapter 21. 28 of the Carlsbad Municipal Code is amended
14 by the addition of Section 21.28.012 to read as follows:

15 "21.28.012 Incidental Outdoor Dining Areas permitted by administrative permit.
16 Subject to the development standards set forth in section 21.26.013(c) an Incidental
17 Outdoor Dining Area may be approved by administrative permit pursuant to section 21.26.013(a)."

18 SECTION VI: That Title 21, Chapter 21. 28 of the Carlsbad Municipal Code is amended
19 by the amendment of Subsection 21.28.020(1) to read as follows:

20 "(1) All uses shall be conducted wholly within a building except such uses as gasoline
21 stations, electrical transformer substations, horticultural nurseries, and other enterprises
22 customarily conducted in the open."

23 SECTION VII: That Title 21, Chapter 21. 29 of the Carlsbad Municipal Code is
24 amended by the addition of Section 21.29.045 to read as follows:

25 "21.29.045 Incidental Outdoor Dining Areas permitted by administrative permit.
26 Subject to the development standards set forth in section 21.26.013(c) an Incidental
27 Outdoor Dining Area may be approved by administrative permit pursuant to section 21.26.013(a)."

28 SECTION VIII: That Title 21, Chapter 21.30 of the Carlsbad Municipal Code is
amended by the addition of Section 21.30.015 to read as follows:

"21.30.015 Incidental Outdoor Dining Areas permitted by administrative permit.
Subject to the development standards set forth in section 21.26.013(c) an Incidental

1 Outdoor Dining Area may be approved by administrative permit pursuant to section 21.26.013(a)."

2 SECTION IX: That Title 21, Chapter 21. 30 of the Carlsbad Municipal Code is amended
3
4 by the amendment of Subsection 21.30.020(2) to read as follows:

5 "(2) All uses shall be conducted wholly within a completely enclosed building, or
6 within an area enclosed on all sides with a solid wall or uniformly painted fence not less than five
7 feet in height, except such uses as gasoline stations, electrical transformer substations,
horticultural nurseries, and other enterprises customarily conducted in the open, provided such
exclusion shall not include storage yards, contractor's yards and like uses;"

8 SECTION X: That Title 21, Chapter 21.32 of the Carlsbad Municipal Code is amended
9
10 by the addition of Section 21.32.015 to read as follows:

11 "21.32.015 Incidental Outdoor Dining Areas permitted by administrative permit.

12 Subject to the development standards set forth in section 21.26.013(c) an Incidental
Outdoor Dining Area may be approved by administrative permit pursuant to section 21.26.013(a)."

13 SECTION XI: That Title 21, Chapter 21.34 of the Carlsbad Municipal Code is amended
14
15 by the addition of Section 21.34.035 to read as follows:

16 "21.34.035 Incidental Outdoor Dining Areas permitted by administrative permit.

17 Subject to the development standards set forth in section 21.26.013(c) an Incidental
18 Outdoor Dining Area may be approved by administrative permit pursuant to section 21.26.013(a)."

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1 EFFECTIVE DATE: This ordinance shall be effective thirty days after its
2 adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it to
3 published at least once in a publication of general circulation in the City of Carlsbad within
4 fifteen days after its adoption. *(Not withstanding the preceding, this ordinance shall not be*
5 *effective within the City's Coastal Zone until approved by the California Coastal Commission.)*
6

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

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

11 AYES:

12 NOES:

13 ABSENT:

14 ABSTAIN:

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18 _____
19 CLAUDE A. LEWIS, Mayor

20 ATTEST:

21 _____
22 ALETHA L. RAUTENKRANZ, City Clerk

23 (SEAL)
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REDLINE/STRIKEOUT VERSION OF ZCA 99-01 AND LCPA 99-01

SECTION I: That Title 21, Chapter 21. 04 of the Carlsbad Municipal Code is amended
by the addition of Section 21.04.188 to read as follows:

"21.04.188.1 Incidental Outdoor Dining Areas.

Incidental Outdoor Dining Area" means, everywhere except within the Redevelopment Area Local Coastal Program Segment and except within the Commercial/Visitor-Serving Overlay Zone, a small extension of an indoor restaurant, bona fide eating establishment, or deli which extends outdoors beyond the walls of the restaurant and which is used exclusively for eating, drinking, and pedestrian circulation therein. Incidental Outdoor Dining Areas shall be utilized only as extensions of restaurants providing indoor seating and which are properly licensed for such service. On properties located west of the railroad right-of-way and outside of the Village Redevelopment Area, Incidental Outdoor Dining Areas shall be allowed only where the existing indoor restaurant, bona fide eating establishment, or deli provides on-site parking in compliance with the parking ratios specified in Chapter 21.44 (Parking Ordinance) of the Municipal Code. Incidental Outdoor Dining Areas may be located on private property only (not in the public right-of-way). The maximum number of seats, tables, and square feet allowed in an Incidental Outdoor Dining Area shall be limited to:

- (i) a maximum of 20% of the number of indoor seats or a maximum of twenty (20) seats, whichever is more restrictive; and,*
- (ii) a maximum of six (6) tables; and*
- (iii) a maximum of 400 square feet in area.*

Incidental Outdoor Dining Areas may be allowed pursuant to Chapter 21.26 of the Carlsbad Municipal Code. Any amount of outdoor dining area exceeding the above limitations shall not be considered "incidental" for purposes of this definition."

SECTION II: That Title 21, Chapter 21. 26 of the Carlsbad Municipal Code is amended
by the addition of Section 21.26.013 to read as follows:

"21.26.013 Incidental Outdoor Dining Areas permitted by administrative permit.

Incidental Outdoor Dining Areas may be approved by administrative permit for restaurants, bonafide eating establishments, and deli's in the C-1, O, C-2, C-T, C-M, M, and P-M zones outside of the Redevelopment Area and outside of the Commercial/Visitor-Serving Overlay Zone, except on those sites located within the Coastal Zone west of the railroad right-of-way which do not provide parking for their indoor seating on-site in compliance with Chapter 21.44 (Parking Ordinance) of the Municipal Code. The owner of the subject property shall make written application to the Director. Such application shall include all materials deemed necessary by the Director to show that the requirements of Subsection (c) site is in the Coastal Zone, the application shall also constitute an ap Development Permit.

(a) The Director shall give written notice to all property owner subject property of pending development decision after the application fifteen working days prior to the decision on the application as follows:

(1) Contents. The notice shall include all requiremen of this code, including a notice of a public comment period of at least 15 to receive and consider comments submitted by mail prior to the date esta The notice shall also include a statement that a public hearing shall be h

EXHIBIT NO. 3

Carlsbad LCPA
#3-99B

Outdoor Dining
Revisions

1 of 4

1 person and a statement that failure by a person to request a public hearing may result in the loss
2 of that person's ability to appeal approval of the administrative permit by the Director to the
3 Planning Commission.

4 (b) The Director may approve, approve with conditions, or deny the permit. The
5 Director may waive a public hearing on an administrative permit if notice has been provided in
6 accordance with subsection (a)(1) of this section and a request for a public hearing has not been
7 received by the city within 15 working days from the date of sending the notice. If a request for a
8 public hearing is received, a public hearing before the Director shall be held in the same manner
9 as a Planning Commission hearing. In either event, the Director's decision shall be based upon
10 the requirements of, and shall include, specific factual findings supporting whether the project is
11 or is not in conformity with the requirements of Section 21.26.013(c).

12 The Director's decision shall be made in writing. The date of the decision shall
13 be the date the writing containing the decision or determination is mailed or otherwise delivered
14 to the person or persons affected by the decision. If the matter includes a Coastal Development
15 Permit, unless the decision is appealed to the Planning Commission, the Director shall provide a
16 notice of final action in accordance with Sections 21.201.160 and 21.201.170.

17 (c) Development Standards. All Incidental Outdoor Dining Areas shall comply with
18 the following development standards:

19 (1) All applicable requirements of the State of California Disabled Access
20 Regulations (Title 24).

21 (2) All applicable requirements of the Alcoholic Beverage Commission, if
22 alcoholic beverages are served in the outdoor area.

23 (3) Be operated only during the hours of operation of the associated
24 restaurant.

25 (4) Provide adequate circulation to accommodate normal pedestrian traffic
26 and circulation for the outdoor dining area. Pedestrian clearance between tables and/or
27 walls/fences shall be a minimum 42" wide.

28 (5) Not be located where the area would:

(A) encroach into the public right-of-way;

(B) eliminate any existing parking spaces;

(C) interfere with vehicle or pedestrian circulation;

(D) remove or reduce existing landscaping (unless equivalent
additional landscaping is provided elsewhere to the satisfaction of the Planning Director);

(E) present a traffic hazard; or,

(F) be incompatible with outdoor dining, in the opinion of the City
Engineer, because of the speed, volume, or nearness of vehicular
traffic.,

(6) When calculating square footage for purposes of determining parking
required per Chapter 21.44 of this Code, space used for Incidental Outdoor Dining Areas
pursuant to this section shall be excluded."

SECTION III: That Title 21, Chapter 21.26 of the Carlsbad Municipal Code is amended by
the amendment of Subsection 21.26.020(1) to read as follows:

"(1) All uses shall be conducted wholly within a building except such uses as gasoline
stations, electrical transformer substations, *Incidental Outdoor Dining Areas (as defined in
Chapter 21.04)*, and nurseries for sale of plants and flowers and similar enterprises customarily

1 conducted in the open;”

2 SECTION IV: That Title 21, Chapter 21. 27 of the Carlsbad Municipal Code is amended
3 by the addition of Section 21.27.035 to read as follows:
4

5 “21.27.035 Incidental Outdoor Dining Areas permitted by administrative permit.
6 Subject to the development standards set forth in section 21.26.013(c) an Incidental
7 Outdoor Dining Area may be approved by administrative permit pursuant to section
8 21.26.013(a).”

9 SECTION V: That Title 21, Chapter 21. 28 of the Carlsbad Municipal Code is amended
10 by the addition of Section 21.28.012 to read as follows:

11 “21.28.012 Incidental Outdoor Dining Areas permitted by administrative permit.
12 Subject to the development standards set forth in section 21.26.013(c) an Incidental
13 Outdoor Dining Area may be approved by administrative permit pursuant to section
14 21.26.013(a).”

15 SECTION VI: That Title 21, Chapter 21. 28 of the Carlsbad Municipal Code is amended
16 by the amendment of Subsection 21.28.020(1) to read as follows:

17 “(1) All uses shall be conducted wholly within a building except such uses as gasoline
18 stations, electrical transformer substations, *Incidental Outdoor Dining Areas (as defined in*
19 *Chapter 21.04)*, and horticultural nurseries, and similar enterprises customarily conducted in the
20 open.”

21 SECTION VII: That Title 21, Chapter 21. 29 of the Carlsbad Municipal Code is
22 amended by the addition of Section 21.29.045 to read as follows:

23 “21.29.045 Incidental Outdoor Dining Areas permitted by administrative permit.
24 Subject to the development standards set forth in section 21.26.013(c) an Incidental
25 Outdoor Dining Area may be approved by administrative permit pursuant to section
26 21.26.013(a).”

27 SECTION VIII: That Title 21, Chapter 21.30 of the Carlsbad Municipal Code is
28 amended by the addition of Section 21.30.015 to read as follows:

“21.30.015 Incidental Outdoor Dining Areas permitted by administrative permit.
Subject to the development standards set forth in section 21.26.013(c) an Incidental
Outdoor Dining Area may be approved by administrative permit pursuant to section
21.26.013(a).”

SECTION IX: That Title 21, Chapter 21.30 of the Carlsbad Municipal Code is

1 amended by the amendment of Subsection 21.30.020(2) to read as follows:

2 “(2) All uses shall be conducted wholly within a completely enclosed building, or within
3 an area enclosed on all sides with a solid wall or uniformly painted fence not less than five feet in
4 height, except such uses as gasoline stations, electrical transformer substations, ***Incidental Outdoor***
5 ***Dining Areas (as defined in Chapter 21.04)***, and horticultural nurseries, and similar enterprises
6 customarily conducted in the open, provided such exclusion shall not include storage yards,
7 contractor’s yards and like uses;”

8 SECTION X: That Title 21, Chapter 21.32 of the Carlsbad Municipal Code is amended
9 by the addition of Section 21.32.015 to read as follows:

10 ***“21.32.015 Incidental Outdoor Dining Areas permitted by administrative permit.***
11 ***Subject to the development standards set forth in section 21.26.013(c) an Incidental***
12 ***Outdoor Dining Area may be approved by administrative permit pursuant to section***
13 ***21.26.013(a).”***

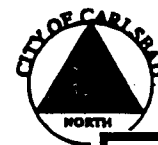
14 SECTION XI: That Title 21, Chapter 21.34 of the Carlsbad Municipal Code is amended
15 by the addition of Section 21.34.035 to read as follows:

16 ***“21.34.045 Incidental Outdoor Dining Areas permitted by administrative permit.***
17 ***Subject to the development standards set forth in section 21.26.013(c) an Incidental***
18 ***Outdoor Dining Area may be approved by administrative permit pursuant to section***
19 ***21.26.013(a).”***



EXISTING L-C

PROPOSED R-1



CARNATION PROPER

ZC 98-11/LCPA 98-08

EXHIBIT NO. 4

Carlsbad LCPA
#3-99B

Location Carnation

California Coastal Commission

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CASE NAME: CARNATION PROPERTY
CASE NO.: ZC 98-11/LCPA 98-08

SECTION I: That the zoning map is hereby amended as shown on Exhibit ZC hereto.

SECTION 2: When effective, this ordinance will also constitute an amendment to the Local Coastal Program Land Use Map as shown on Exhibit ZC 98-11/LCPA 98-08 attached hereto.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption, and the City Clerk shall certify to the adoption of this ordinance and cause it to be published at least once in a publication of general circulation in the City of Carlsbad within fifteen days after its adoption. *(Notwithstanding the preceding, this ordinance shall not be effective within the City's Coastal Zone until approved by the California Coastal Commission.)*

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the 6th day of July 1999, and thereafter.

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1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Carlsbad on the 13 th day of July 1999, by the following vote, to wit:

3 AYES: Council Members Lewis, Nygaard, Finnila, Hall & Kulchin


4 NOES: None

5 ABSENT: None

6 ABSTAIN

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CLAUDE A. LEWIS, Mayor

11 ATTEST:

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AILETHA L. LAUTENKRANZ, City Clerk
14 KAREN R. KUNTZ, Assistant City Clerk
15 (SEAL)
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RESOLUTION NO. 99-244

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION FOR ZC 98-11/LCPA 98-08

CASE NAME: CARNATION PROPERTY

CASE NO.: ZC 98-11/LCPA 98-08

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

WHEREAS, on May 5, 1999, the Carlsbad Planning Commission held a duly noticed public hearing to consider a Mitigated Negative Declaration relating to Zone Change (ZC 98-11) and Local Coastal Program Amendment (LCPA 98-08). At the conclusion of the hearing the Commission adopted Planning Commission Resolution No. 4531 approving the Mitigated Negative Declaration; and

WHEREAS, the City Council of the City of Carlsbad, on the 6 th day of July, 1999, held a duly noticed public hearing to consider the Commission recommendations and to hear all persons interested in or opposed to the Mitigated Negative Declaration, Zone Change (ZC 98-11) and Local Coastal Program Amendment (LCPA 98-08) relating to the Carnation Property project.

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

1. That the above recitations are true and correct.
2. That the City Council adopts and incorporates the findings of Planning Commission Resolution No. 4531 approving the Mitigated Negative Declaration for the Carnation Property Zone Change (ZC 98-11) and Local Coastal Program Amendment (LCPA 98-08).
3. That the Mitigated Negative Declaration ref independent Judgement.
4. That Pursuant to Public Resources Code se materials that constitute the administrative record in this proceeding can be found in the offices of the City Clerk and the Director of Plannir The administrative record includes, but is not limited to: the Mitigated all public comments thereon received during the public review period and the proceedings of the Planning Commission and the City Council

EXHIBIT NO. 6
APPLICATION NO.
Carlsbad LCPA
#3-99B
Council Resolution
Carnation
1 of 2
California Coastal Commission

1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Carlsbad on the 6 th day of July 1999, by the following vote, to wit:

3 AYES: Council Members Lewis, Nygaard, Finnila, Hall & Kulchin

4 NOES: None

5 ABSENT: None

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8 CLAUDE A. LEWIS, Mayor

9 ATTEST:

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11 ALETHA L. RAUTENKRANZ, City Clerk

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PROPERTY ZONE CHANGE

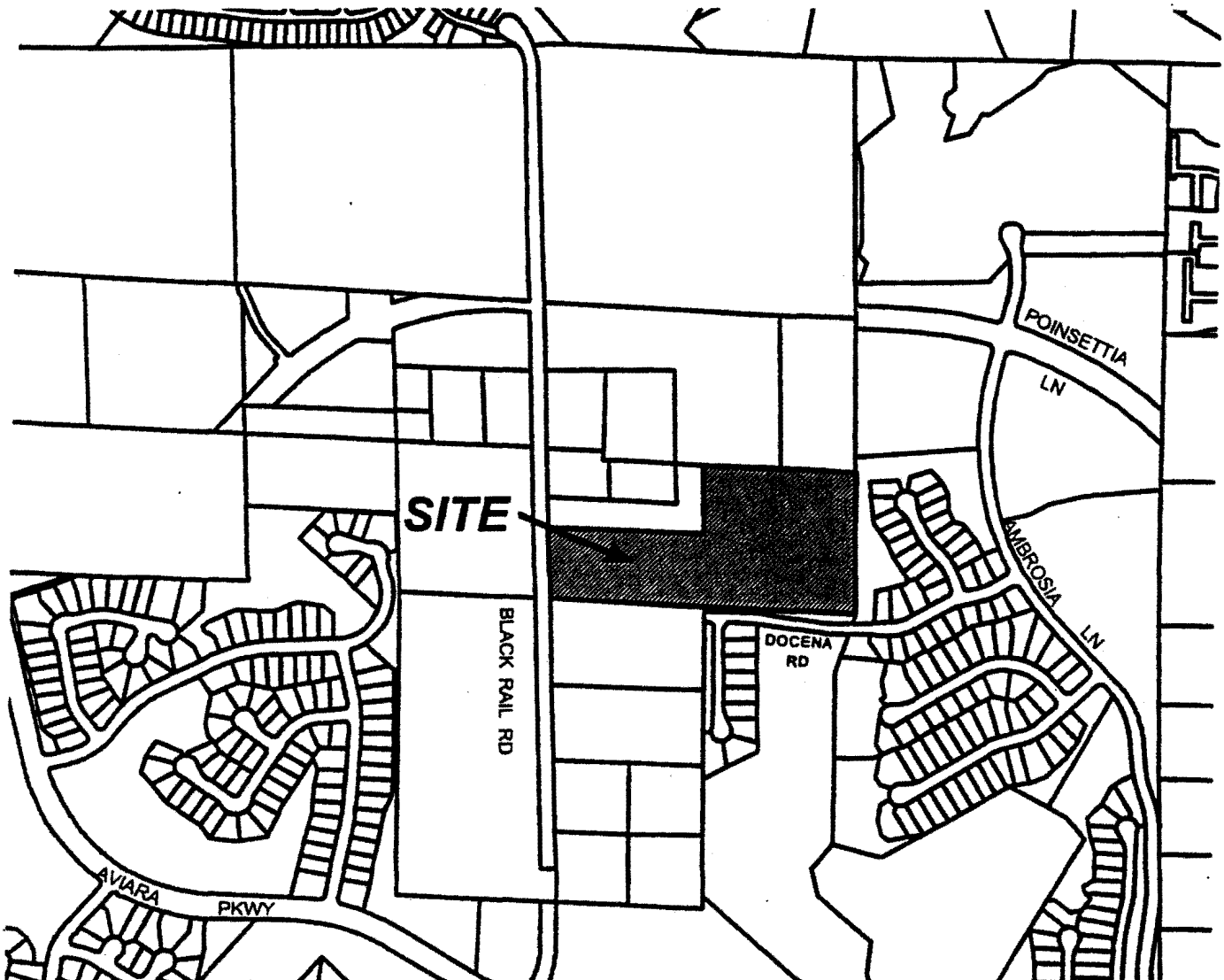
EXHIBIT "BB"

July 7, 1999

ZC: 98-10

draft ☒

final ☐



Project Name: HADLEY PROPERTY			Related Case File No(s):
Legal Description(s): A portion of the south half of the southwest quarter of the southeast quarter of Section 22, Township 12 south, Range 4 west, San Bernardino base and meridian, in the County of San Diego, State of California, according to the United States Government Survey.			LCPA 98-07/CT 98-17/HDP 98-17/CDP 98-74
Zone Change			Approvals
Property:	From:	To:	Council Approval Date:
A. 215-080-19-00	L-C	R-1-7,500-Q	Ordinance No:
B.			Effective Date:
C.			Signature:
D.			
Attach additional pages if necessary			

EXHIBIT NO.7

Carlsbad LCPA

#3-99B

Location Hadley

California Coastal Commission

RESOLUTION NO. 99-285

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, ZONE CHANGE, LOCAL COASTAL PROGRAM AMENDMENT, TENTATIVE TRACT MAP, HILLSIDE DEVELOPMENT PERMIT, AND COASTAL DEVELOPMENT PERMIT TO CHANGE THE LAND USE DESIGNATION ON THE SITE FROM L-C TO R-1-7,500-Q, AND CREATE 37 RESIDENTIAL AND 1 OPEN SPACE LOT ON 14.7 ACRES ON PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF BLACK RAIL ROAD SOUTH OF POINSETTIA LANE AND NORTH OF AVIARA PARKWAY IN THE COASTAL ZONE AND LOCAL FACILITIES MANAGEMENT ZONE 20

CASE NAME: HADLEY PROPERTY

CASE NO.: ZC 98-10/LCPA 98-07/CT 98-17/HDP 98-17
CDP 98-74

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

WHEREAS, on July 7, 1999, the Carlsbad Planning Commission held a duly noticed public hearing to consider a proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change, Local Coastal Program Amendment, Tentative Tract Map, Hillside Development Permit, and Coastal Development Permit to grade and subdivide 14.7 acres into 38 lots, and adopted Resolutions 4573, 4574, 4575, 4576, 4577, and 4578 recommending to the City Council that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change, Local Coastal Program Amendment, Tentative Tract Map, Hillside Development Permit, and Coastal Development Permit be approved; and

WHEREAS, the City Council of the City of Carlsbad, on 10 th day of August, 1999, held a duly noticed public hearing to consider the request of all persons interested in or opposed to the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change, Local Coastal Program Amendment, Tentative Tract Map, Hillside Development Permit, and Coastal Development Permit to grade and subdivide 14.7 acres into 38 lots, and adopted Resolutions 4573, 4574, 4575, 4576, 4577, and 4578 recommending to the City Council that the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change, Local Coastal Program Amendment, Tentative Tract Map, Hillside Development Permit, and Coastal Development Permit be approved; and

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

EXHIBIT NO. 8
APPLICATION NO.
Carlsbad LCPA
#3-99B
Council Resolution
Hadley
1 OF 3
California Coastal Commission

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1. That the above recitations are true and correct.

2. That the recommendation of the Planning Commission for the approval of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Zone Change 98-10, Local Coastal Program Amendment 98-07, Tentative Tract Map 98-17, Hillside Development Permit 98-17, and Coastal Development Permit 98-74 is approved and that the findings and conditions of the Planning Commission contained in Planning Commission Resolutions No. 4573, 4574, 4575, 4576, 4577, and 4578 on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.

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

"NOTICE TO APPLICANT"

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

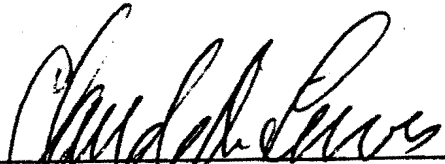
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1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Carlsbad on the 10 day of August 1999, by the following vote, to wit:


3 AYES: Council Members Lewis, Nygaard, Hall & Kulchin

4 NOES: Council Member Finnilla

5 ABSENT: None

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9 CLAUDE A. LEWIS, Mayor

10 ATTEST:

11 
12 ALETHA L. RAUTENKRANZ, City Clerk
13 KAREN R. KUNDTZ, Assistant City Clerk
14 (SEAL)
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