

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 441-8036

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June 16, 2000

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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 AGUA
HEDIONDA AND MELLO II LCP SEGMENT MAJOR AMENDMENT NO.
2-99D (For Public Hearing and Possible Commission Action at the Meeting of
July 11-14, 2000)**

SYNOPSIS**SUMMARY OF STAFF RECOMMENDATION/SITE HISTORY**

The area of land addressed by this LCP amendment is the 433 acre Kelly Ranch which consists of a 195 acre Wetland Preserve comprised of the wetlands and uplands of the eastern end of Agua Hedionda Lagoon in Carlsbad. The site has a long history of Commission actions including the 1982 approval of the Agua Hedionda LCP Land Use Plan. This action included development of the least environmentally damaging alignment of Cannon Road, a major east-west corridor extending from I-5 to El Camino Real in the City's Circulation Element. This road alignment by necessity will cross Macario Canyon and the wetlands of Macario and Agua Hedionda Creek leading to Agua Hedionda Lagoon. As part of approval of the land use plan, it was recognized that the Kelly Ranch property, which also includes 216 acres of uplands in the Mello II LCP segment east of the lagoon, should be developed through a master plan. The Kelly Ranch Master Plan was approved as part of the Carlsbad LCP in 1985 and included a comprehensive planning effort necessary to address the alignment of Cannon Road, mitigation for wetland impacts, agricultural preservation and the appropriate mix of development and open space to meet the requirements of the Coastal Act.

At the same time the master plan was approved, and coastal development permit was approved which included construction of a portion of Cannon Road, subdivision of the site into 20 planning areas for residential and commercial development and rough grading for infrastructure improvements. Also part of that permit was the offer to dedicate a 186 acre wetland preserve to the Department of Fish and Game and a wetland mitigation component. The offer to dedicate has been recorded and the wetland mitigation completed. Also, the Cannon Road construction has begun in reliance on this permit and

a subsequent permit for the remainder of the roadway. However, the tentative map for the subdivision has not been recorded and the map has expired. This permit authorized construction of up to 1,400 dwelling units within the Kelly Ranch; however, development and design of each individual planning area would be subject to application of the resource protection policies of the LCP and current law, thus, the 1,400 was always recognized as a maximum limit.

This LCP amendment seeks to rescind the Kelly Ranch Master Plan and replace it with land use designations and zoning. Since the certification of the Kelly Ranch Master Plan, the State has enacted the Natural Community Conservation Planning Act (NCCP). The City of Carlsbad, the Department of Fish and Game (DFG) and the U.S. Fish and Wildlife Service (USFWS) have worked together to implement the NCCP planning process by establishing habitat corridors connecting critical areas used by multiple species, including the gnatcatcher, that will be preserved. The process has resulted in the City of Carlsbad's draft Habitat Management Plan (HMP) that identifies habitat corridors and preserve areas on the Kelly Ranch property.

The LCP amendment includes a revised open space system that acknowledges the work done to date by the resource agencies and the City in developing the draft HMP on all the proposed planning areas except Planning Area L. The proposed upland open space system contains steep and non-steep areas containing primarily coastal sage scrub and southern maritime chaparral vegetation in two core habitat corridors oriented in a north/south and an east/west direction which provide connectivity between Macario Canyon, preserve areas to the south of Kelly Ranch and Agua Hedionda Lagoon.

In review of the submitted LCP amendment, staff has acknowledged the areas shown as open space in the LCP amendment as environmentally sensitive habitat area are also protected by Section 30240 of the Coastal Act. However, there are additional Coastal Act concerns reflected in the steep slope policies of Chapter 3 and the current LCP which address landform alteration and visual impact of development within scenic viewsheds. The open space system established by the LCP amendment is based only on sensitive habitat and long-term connectivity of wildlife corridors. It fails to take into account other concerns which must be considered in addition to habitat protection in order to find the LCP amendment in conformance with Chapter 3 policies of the Coastal Act.

Additionally, staff believes the LCP amendment as submitted by the City does not contain adequate replacement policies for the certified master plan to ensure that buildout of the planning areas will be consistent with Chapter 3 policies of the Coastal Act. Additionally, the submitted land use plan and zoning maps are inconsistent and do not reflect the open space that will be required pursuant to the draft HMP. The maps are inconsistent because the land use maps designate areas as either residential or open space but the zoning map zones all of the areas as residential. Further, the areas shown as open space on the land use plan are only those areas that are designated as "hardline" preserve in the draft HMP. The areas designated as "standards" area in the draft HMP will be required to include open space, but this open space is not shown by the City on the land use plan map. If approved as submitted, there would be no LCP map which delineates the entire open space system that will actually be in place (and required by the HMP). Staff believes substantial revisions are necessary to the LCP amendment in order to address the

complex planning issues represented by development of the Kelly Ranch, and to replace the comprehensive planning effort involved in certification of the master plan.

One recommended revision is that the LCP for Kelly Ranch must include an open space map and include specific policy direction addressing uses and activities which can occur in designated open space, in addition to the land use plan and zoning map. The LCP amendment as submitted would revise the previously-approved open space system to eliminate certain "dual criteria" slopes from open space and designates them for residential development; however the City has not proposed to modify the LCP language which protects "dual criteria" slopes which would serve as the standard of review to implement the proposed land use map. The City has stated to Commission staff that its intent is to allow the grading and development of those slopes, as evidenced by the City approval of the coastal development permit for the Core Area development. However, staff believes revisions are necessary, primarily due to an inconsistency between the requirements of the currently certified LCP and the draft HMP, and should be addressed in this comprehensive update to the LCP policies for Kelly Ranch.

In this particular case, staff has looked at the resource value afforded on the proposed planning areas including, not only habitat value, but also the value of the natural landforms and open space in mitigating the impact of residential development on significant coastal resources. Therefore, the staff recommended revisions to the proposed open space system through a Suggested Modification #10 requires the City to prepare an LCP Kelly Ranch Open Space Map to delineate all of the significant landforms and habitat which should be protected from development in order to meet the requirements of Chapter 3 of the Coastal Act. The required revisions to the open space system will result in either protection of significant environmentally sensitive area in place because its development would result in a unacceptable conflict with Coastal Act policies; or the revised open space would result in expansion of the proposed habitat corridors to enhance connectivity and functions for long-term continuance of the resource value.

The staff has acknowledged that the proposed open space system would allow development within environmentally sensitive habitat areas protected by the current LCP, i.e. the Kelly Ranch Master Plan. There is also an acknowledgement that the property owner has developed a revised residential development plan for this property primarily in recognition of the requirements in the City's draft HMP which has established "hardline" preserve boundaries on all the sensitive planning areas except Planning Area L. This effort to concentrate development and recognize long-term goals for habitat protection has resulted in a conflict between Sections 30240, 30251 and 30253 of the Coastal Act which protect environmentally sensitive habitat areas, significant natural landforms and scenic resources and Section 30250 which seeks to concentrate development in areas having the least individual and cumulative impact on coastal resources.

Staff has found that through use of the balancing provisions of the Coastal Act, and with significant revisions to the approved open space system, the proposed impacts to environmentally sensitive habitat areas can be accepted to allow for clustering of development that results in greater protection of other significant environmentally sensitive habitat areas. The revisions to open space include requiring additional area on the west-facing hillside extending up to the ridgeline of Planning Area J be retained in open space, as well as elimination of area for three potential residential lots on the north and west-facing slopes to widen the habitat corridor and require development to be setback from the ridgeline. Another revision would establish an open

space delineation on Planning Area L which corresponds to the north and east-facing steep and naturally-vegetated portions of the property. A third revision requires development to be eliminated from the northern portion of Planning Area D (43 potential units) to avoid impacts to 1.44 acres of jurisdictional wetlands and provide a direct linkage of the upland open space to Agua Hedionda Lagoon. With this revision, a minimum 800 foot wide wildlife corridor, extending to approx. 1,300 feet in some areas, would be provided. With these changes to the open space system, staff believes the impacts to environmentally sensitive habitat in a canyon on Planning Areas D and G, a hillside in Planning Areas H and I, and the upper reaches on the hillsides and canyons on the northeast, east, and southeast portions of Planning Area J are offset, and the development and open space plan results in a concentration of the development which, on balance, is most protective of significant coastal resources.

Additional suggested modifications include requirements for public trails and vista points to serve as recreational amenities for future residents in addition to the proposed interpretive center and a prohibition on gated communities within the planning areas which would contain such facilities. Brush management provisions are also included which accept the 3 fuel management zones established in the City's Landscape Manual, but regulate their application adjacent to open space. The revisions require that development be sited a sufficient distance away from designated open space to accommodate Zones 1 and 2 outside the open space. Zone 3 may be permitted if planting of fire retardant, native vegetation is permitted to replace vegetation required to be removed. The suggested modifications also address water quality by including in the land use plans and implementing ordinances provisions which require best management practices to meet not only NPDES permit requirements, but also address runoff volume by maximizing permeable surfaces. The revisions also address control of potential pollutants from parking lots of 25 spaces or more.

Finally, for the Planning Areas along the north shore of the lagoon, the revisions include a reduction in density on Planning Area A and specify the wetland buffer shall be a minimum of 100 feet to avoid indirect impacts to sensitive resources and protect significant upland habitat within the buffer. It should be noted that any reduction in the density of development which will result from the required revisions to the open space system and/or roadway design may be accommodated within the planning areas approved for development. In other words, the recommended revisions are not intended to reduce the intensity of development approved in Kelly Ranch. The revisions are intended to concentrate the proposed intensity in the areas able to accommodate it, without significant adverse effect, individually and cumulatively on coastal resources, consistent with Section 30250.

The staff suggested revisions will result in an open space system that is superior to that approved in the Kelly Ranch Master Plan. The revised Kelly Ranch Open Space will include the 195 acre Wetland Preserve and an extensive upland habitat system which provides connectivity to significant habitat core areas to the north and south and will enhance long-term productivity of rare and endangered species. The revisions to the plan will also result in reduced density and greater wetland buffers provided in development of the lagoon's north shore in Planning Areas A and C. Impacts to existing wetland vegetation will be avoided on Planning Area D, and development will be concentrated in the least environmentally sensitive area within Kelly Ranch. Finally, development along prominent ridgelines within Planning Areas L, K and J will be set back to reduce visibility and brush management within open space to mitigate the habitat impact and preserve the visual quality of this scenic coastal area. Finally, public trails and vista points

will be provided, in addition to the proposed interpretive center, to address the recreational needs of future residents.

The appropriate resolutions and motions begin on page 10. The Suggested Modifications begin on page 13. The findings for denial of the Land Use Plan amendments begin on page 29. The findings for denial of the Implementation Plan amendment begin on page 69.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad proposes to amend its local coastal program for the Mello II segment of the City of Carlsbad Local Coastal Program (LCP) and the land use plan for the Agua Hedionda Lagoon segment of the LCP. The area of land affected by this LCP amendment is the 433 acre Kelly Ranch, the development of which is governed by the Kelly Ranch Master Plan (which is included with the Agua Hedionda LUP and the Mello II LCP). The amendment proposes to rescind the Kelly Ranch Master Plan and replace it with other existing City land use designations and zoning. The certified Kelly Ranch Master Plan is attached as Exhibit 4. The proposed LCP land use plan and zoning maps as proposed by the City to replace the current master plan are attached as Exhibits 5 and 7 respectively.

1. Agua Hedionda Lagoon LUP segment. The western portion of Kelly Ranch is addressed by the certified Agua Hedionda LUP which divides this portion of Kelly Ranch into three Planning Areas, A, B and C. This portion of Kelly Ranch is characterized by a large contiguous wetland area within the boundaries of eastern Agua Hedionda Lagoon as mapped by the State Department of Fish and Game. It includes the wetlands of Agua Hedionda Lagoon and the Wetland Preserve, which is 195 acres to be dedicated to the Department of Fish and Game. The Wetland Preserve is Planning Area B in both the proposed LCP amendment and the Kelly Ranch Master Plan. The LCP amendment proposes to change the boundaries of Planning Areas A, B and C to reflect the boundaries contained in the current dedication documents and address the changes in the wetland boundaries that have occurred on the property since 1985. Also, the density on Planning Area C would be decreased from RMH (8-15 dua) to RLM (0-4 dua). The residential density on Planning Area A is proposed at 8-15 dua.

Regarding text changes, Land Use Policy 1.2 of the certified Agua Hedionda Land Use Plan is proposed to be deleted. The policy describes allowed uses in the lagoon wetlands and is proposed for deletion because the allowed uses are inconsistent with Policy 3.1 which is far more restrictive and will be retained.

2. Mello II LCP segment. Of the 433 total acres of the Kelly Ranch, approximately 216 acres lie within the Mello II LUP. The existing LCP (i.e., Kelly Ranch Master Plan) divides the portion of Kelly Ranch within the Mello II segment into planning areas that are designated for open space, commercial, and residential development (these are Planning Areas E-R). The proposed LCP amendment modifies most of the planning area names, boundaries and designations from that identified in the Kelly Ranch Master Plan. Areas that were previously designated for residential development are proposed for

residential development; however, proposed open space boundaries have changed in recognition of the City of Carlsbad's draft Habitat Management Plan (HMP) which the City and developed pursuant to the Natural Community Conservation Planning Act (NCCP). In addition, the commercial use designation would be eliminated. The letters assigned to planning areas have been changed in the amendment and the following discussion refers to planning areas as they are identified in the LCP amendment.

The Kelly Ranch Master Plan provides for an upland open space system as shown of Exhibit 4, which consists primarily of the naturally vegetated, steep hillsides and canyons in Kelly Ranch. The proposed LCP amendment revises the previously approved upland open space system. The revisions do not significantly change the amount of land to be kept in open space. The amount of open space in the proposed plan is X acres compared to 75 acres of open space in the currently approved master plan. The revisions change the open space system from one based primarily on preservation of steep slopes to one based on preservation of areas, both steep and non-steep, containing coastal sage scrub and southern maritime chaparral. These areas are contiguous and form two corridors on the Kelly Ranch property. The areas shown as open space in the submitted LCP amendment have been developed in consultation with the United States Fish and Wildlife Service (USF&WS) and the California Department of Fish and Game (DF&G) for all of Kelly Ranch except on Planning Area L. The open space system as submitted by the City has also been incorporated into the City's draft HMP as a "hardline" preserve. The proposed open space is shown in a rough configuration on a land use map prepared for the City's General Plan which the City has submitted as the LCP land use plan. No open space is shown on the proposed LCP zoning map, also taken from the City's General Plan. Thus, under the proposed LCP amendment, areas would be designated as open space in the land use plan, but zoned for residential development in the implementation plan.

The text changes proposed by the City to acknowledge rescission of the Kelly Ranch Master Plan are minimal and include revisions to Policy 3-5 in the certified Mello II LUP applicable to the Kelly Ranch/Macario Canyon area to delete reference to the Kelly Ranch Master Plan and the permit approved by the Commission for the master plan CDP #6-84-617. Also, the City is proposing to delete Section 21.38.160 from the certified Mello II LCP Implementation Plan which applies to the Kelly Ranch/Macario Canyon area and contains much of the same resource protection language contained in the Coastal Resource Protection Area Overlay Zone (Section 21.203) which is applicable Citywide. Section 21.203 would become the applicable standard of review for Kelly Ranch development with deletion of Section 21.38.160. These policies are attached to this staff report as part of Exhibit A and Exhibit B.

KELLY RANCH MASTER PLAN/LCP AND SITE HISTORY

The subject 433-acre Kelly Ranch property is located in central Carlsbad and is bisected approximately in half by the boundary between the Agua Hedionda LCP segment and the Mello II LCP segment. The Mello II segment overlays the southeastern half, and in 1997 received effective certification, which transferred permit authority to the City of Carlsbad. The Agua Hedionda LCP segment overlaying the remainder of Kelly Ranch has not yet been certified, and

permit authority over this segment has not yet been transferred. The boundary between the certified Mello II segment and the uncertified Agua Hedionda segment is largely the alignment of Cannon Road (Area F is west of Cannon Road but within the Mello II segment).

On April 15, 1985, the Coastal Commission approved LCP amendments for both Agua Hedionda and Mello II (Major Amendments 1-85), which stipulated that the Kelly Ranch property be governed by the Kelly Ranch Master Plan land use document. The master plan created 20 Planning Areas to be developed under Policies 1.2, 3.1 and 3.2 of the Agua Hedionda Land Use Plan and LUP Policy 3-5 and Section 21.38.160 of the Mello II LCP implementation. These policies were to serve as the standard of review for buildout of the Master Plan area (ref. Exhibits of policy language attached to the staff report).

The approved Kelly Ranch Master Plan also included an approximately 70 acre open space system within naturally vegetated steep slope areas containing coastal sage scrub and chaparral vegetation, i.e., "dual criteria" slopes. The master plan provided for buildout of a maximum of 1,400 residential units, however, this figure is a total of the upper limit of permitted density assigned to each planning area. The design for residential development in each planning area would be subject to constraints analysis and the application of resource protection policies through the coastal development permit process. In its approval of the master plan, the Commission waived the agricultural preservation policies in the Mello II LCP due to the significant amount of wetland preservation provided with the plan.

The land use plan policies and implementing ordinances which address future buildout of the planning areas prohibit development on slopes greater than 25% grade containing coastal sage/chaparral vegetation, i.e. "dual criteria" slopes. The LCP policies also clarify the approved density and number of residential units assigned to each planning area is a maximum density subject to application of the resource protection policies.

At the same hearing, the Commission granted a coastal development permit (CDP #6-84-617) for development of the Kelly Ranch Master Plan. This coastal development permit approved the master subdivision of the 433-acre site to create 20 parcels, rough grading of 120 acres (1.2 million cubic yards), construction of access roads, dedication of the wetland preserve and implementation of wetland restoration programs. The site contains a wide variety of topography and habitat including wetlands, pastureland, field crops, farmland, and steep slopes. The parcels ranged in size from approximately 200 acres to 2 acres. In addition to the subdivision, a 5,400 foot-long portion of Cannon Road, a major arterial, was approved, along with access roads throughout the residential development. The Commission acknowledged the wetlands of Agua Hedionda Lagoon by requiring the dedication of approximately 180 acres as a preserve.

As stated, this permit approved subdivision of the Kelly Ranch, initial grading of portions of Cannon Road and rough grading of buildable area and infrastructure improvements associated with buildout of the Mello II portion of Kelly Ranch (known as the Core Area). The developer of CDP #6-84-617 began construction of the project in 1985, but ran into City delays and an economic recession, and eventually filed for bankruptcy and the project was never completed. Development activities conducted by the developer

included the rough grading of Cannon Road and portions of the subdivision, and installation of sediment basins and drainage facilities. The final map for the subdivision was not recorded and has expired. The property was sold in 1997 to Kelly Land Company, which began a new program of planning on the site.

Although permitted by the original CDP #6-84-617, construction of Cannon Road was not carried out pursuant to that permit. Instead, plans for the road were revised, and construction of the revised road was recently permitted by CDP No. 6-97-11. This major arterial roadway is currently under construction. In addition, Kelly Ranch Planning Area "E" has recently received a coastal permit from the City of Carlsbad (CDP No. 96-13), on January 21, 1998 for 144 single-family homes. The Village E development is also presently under construction. The creation of Planning Area E as a separate lot required a lot line adjustment which requires an "after the fact" amendment to the existing Kelly Ranch permit. In October, 1998, the City issued CDP No. 98-01 for Planning Area "F" to accommodate the Agua Hedionda Lagoon Information Center. This area was designated for visitor serving or neighborhood commercial uses in the original coastal development permit. Consistent with that land use designation, the information center has been donated by the property owner (previously a real estate model home) and placed on the site for use by the Aqua Hedionda Lagoon Foundation.

Most recently, the City of Carlsbad approved a coastal development permit for subdivision and development of the 153 acre Core Area for residential uses (155 single-family homes and 495 multi-family units). The Core Area includes all of the Kelly Ranch within the Mello II LCP segment, east of Cannon Road, and Planning Area F west of Cannon Road. The Core Area permit is CDP 97-43 and is subject to appeal by the Coastal Commission pending effective certification of the subject LCP amendment. Although Carlsbad's coastal development permit was issued conditional upon Coastal Commission approval of an LCP amendment, it was appealed by two Coastal Commissioners. The grounds for appeal are that the approved development is inconsistent with the existing certified LCP documents and Carlsbad did not follow proper procedures in conditionally approving the permit before Commission action on the necessary LCP amendment.

LCP BACKGROUND

The City's certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties and East Batiquitos Lagoon/Hunt Properties and Village Redevelopment Area. 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 Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. The Commission certified the Agua Hedionda Land Use Plan in 1982. The West Batiquitos Lagoon/ Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. 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 both the Agua Hedionda and Mello II segments 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 land use plans, or their amendments, is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP or LUP amendment if it finds that it meets the requirements of Chapter 3 of the Coastal Act. Specifically, it states:

(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.

The standard of review for implementation plans, or their amendments, is found in Section 30513 of the Coastal Act. Pursuant to Section 30513, 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. Denial as Submitted

MOTION I: *I move that the Commission certify Land Use Plan Amendment #2-99D as submitted by the City of Carlsbad.*

STAFF RECOMMENDATION TO DENY:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The

motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO DENY:

The Commission hereby denies certification of the Land Use Plan Amendment #2-99D as submitted by the City of Carlsbad and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. Approval with Suggested Modifications

MOTION II: *I move that the Commission certify Land Use Plan Amendment #2-99D for the City of Carlsbad if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

Staff recommends a YES vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION TO CERTIFY WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Land Use Plan Amendment #2-99D for the City of Carlsbad if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.

C. Denial as Submitted

MOTION III: *I move that the Commission reject the Implementation Program for the Mello II segment of the certified Carlsbad LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of 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.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program submitted for the Mello II segment of the certified Carlsbad LCP 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 as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

D. Approval with Suggested Modifications

MOTION IV: *I move that the Commission certify the Implementation Program for the Mello II segment of the certified Carlsbad LCP if it is modified as suggested 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.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program for the Mello II segment of the certified Carlsbad 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

A. Agua Hedionda Land Use Plan Revisions

1. Revised Land Use Plan Map - The City shall prepare a revised LCP Land Use Plan map, to replace Exhibit C contained in the certified Agua Hedionda LCP Land Use Plan, which shall incorporate the following changes:

- a. Revisions to the boundaries of Planning Areas A, B, and C as proposed in LCPA #2-99D Kelly Ranch;
- b. The land use designation on Planning Area A shall be revised from the proposed RMH (8-15 dua) to RM (4-8 dua);
- c. The land use designation on Planning Area B shall be Open Space and the map shall delineate the boundary of Planning Area B to correspond to the area to be dedicated as Wetland Preserve to the Department of Fish and Game as shown on attached Exhibit 11.
- d. The land use designation on Planning Area C shall be revised from RMH (8-15 dua) to RLM (0-4 dua) as proposed by the City.

2. Revised Exhibit D – Wetlands – The City shall prepare a revised Exhibit D which shall indicate the boundary of the Wetland Preserve, i.e. Planning Area B and any potential wetlands located on proposed Planning Areas A and C or other locations with the Agua Hedionda Lagoon LUP segment and outside the Wetland Preserve. The map shall contain a note indicating an exact delineation of wetlands within any planning area shall be required prior to filing a coastal development permit application for future development.

3. Permitted Uses in Wetlands/Buffers – Section 30233 shall be added to the text of the certified Agua Hedionda Land Use Plan after Section 30240 on Page 22. Additionally, Policy 3.1 shall be revised to read as follows:

3.1 Kelly Property. No uses development shall occur within the boundaries of the wWetland Preserve area, (see foldout exhibit at back of document) except to the extent those activities necessary for resource maintenance and resource management, farming and grazing, or except as approved by the State Department of Fish and Game. All allowable development within the Wetland Preserve shall be consistent with Section 30233 of the Coastal Act. No development shall occur within wetlands that are outside of the Wetland Preserve except to the extent such development is consistent with Section 30233 of the Coastal Act. Any wetlands outside of the preserve boundaries shall be delineated as part of the coastal development permit process prior to development approval.

- a) A buffer strip of at least 100 feet in width shall be maintained in a natural condition around the perimeter of all delineated wetlands or environmentally sensitive habitat areas to protect the functions and values of wetlands. The width of

the buffer may be increased as determined on a case by case basis, unless in consultation with the State 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, including the need for upland transitional habitat, determines that a lesser setback or physical barrier is adequate. In no case shall a buffer of less than 100 feet in width be permitted.

b) Fencing shall be required near or adjacent to improved pedestrian and vehicular travelways to prevent uncontrolled access of persons or domestic animals into the wetland or environmentally sensitive areas; and

c) No vehicle, pedestrian, or equestrian access shall be permitted within either the wetlands, environmentally sensitive habitat areas, ~~or~~ and buffer areas, except for resource management, passive recreational uses and educational purposes. Access improvements shall be permitted only within the upper half of the required buffer.

4. Landform Alteration – Policy 4.4 shall be revised to read as follows:

4.4 Recognizing the unique environmental features of the lagoon and its environs and the sensitivity of the area to soil erodibility and sedimentation, development shall be regulated as follows:

a. Development on existing subdivided lots having all of their area in slopes of 25% or greater shall be permitted, but grading shall be limited to minimal site preparation for pole type footings. Driveway, parking areas shall be limited in size and shall be restricted to an area adjacent to the local streets. On site vegetation shall not be disturbed beyond the minimal area needed to be cleared for the construction process, which shall be clearly delineated on approved site plans.

b. Development, grading and landform alteration ~~in~~ of natural steep slope areas (25%) shall be ~~restricted-~~ avoided, when feasible. Any unavoidable disturbance shall be minimized to the extent possible. Exceptions may include encroachments by roadway and utilities necessary to reach flatter developable areas, when there is no feasible less environmentally damaging alternative. The maximum allowable density shall be calculated on the total lot area, although this may be modified through setbacks, plan review, or other requirements of this plan and applicable city regulations.

c. Use of the Planned Development (PD) Ordinance and cluster development shall be required in areas containing environmentally sensitive resources, extensive steep slope areas and significant natural landform features.

5. Revised Exhibit J – Public Trails – The City shall prepare a revised Exhibit J which extends the public access trail along the north shore of the lagoon within Planning Area A to connect with Park Drive east of Planning Area A.

6. Public Works/Gated Communities – Policy 5.9 (c) shall be revised to read as follows:

c. Dedication of easements and provisions for funding all public improvements required by this plan and other city plans and ordinances, shall be a requirement for new development. Improvements shall include utility extensions, roadways, bicycle and pedestrian access to designated viewpoints, and any other public improvements necessary to accommodate the proposed development. Public access trails to and along the lagoon shall be provided consistent with the Pedestrian Access Plan (Exhibit J) where feasible, in consultation with the Department of Fish and Game. Public access and parking on interior streets shall be required as a condition of coastal development approval at the subdivision stage either through a public street system, public access easements or deed restriction. No private gated communities which preclude the general public from parking and accessing public trails along the lagoon shall be permitted.

7. Water Quality - Add Section 5.10 to read:

All new development, substantial rehabilitation, redevelopment or related activity, shall be designed and conducted in compliance with all applicable local ordinances including Chapter 15.12 of the Carlsbad Municipal Code Stormwater Management and Discharge Control Ordinance, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments, and the San Diego NPDES Municipal Storm Water Permit issued to San Diego County and Cities by the California Regional Water Quality Control Board (Regional Board Order No. 90-42) and any amendment, revision or re-issuance thereof.

In addition the following shall apply:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or Best Management Practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the following specific requirements shall be applied to development of type and/or intensity listed below:

Residential Development

Development plans for, or which include residential housing development shall:

- a. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and /or design site with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- b. Use porous materials for or near walkways and driveways where feasible;
- c. Install rain gutters and orient them towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.

Parking Lots

Development plans for, or which include parking lots with 25 or more parking spaces, susceptible to stormwater, shall:

- a. Incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks

All Development

- a. A public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs;
- b. A landscape management plan that includes herbicide/pesticide management.

Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision and/or development stage, as appropriate.

8. Public Views – Add the following to Policy 8.3 which addresses regulation of development located between the road and the shoreline:

[a-d]

e. Any residential subdivision on Planning Area A shall be designed to preserve natural landforms and shall provide a public view corridor at the western property line of sufficient width to preserve the existing view towards the lagoon in that location. At least one additional view corridor shall be provided across the central portion of the site, such that the total width of at least two view corridors is not less than 200 feet. The public view corridor(s) shall be kept free of all structures and free of landscaping which at maturity would rise above a reasonable viewline from vehicles passing on the public road. The view corridor shall be secured through deed restriction or easement as a condition of subdivision approval.

B. Mello II Land Use Plan Revisions

9. Revised Land Use Plan and Zoning Maps - The City shall prepare revised LCP Land Use Plan and Zoning maps, to replace the approved Kelly Ranch Master Plan, for the Mello II LCP segment. The revised maps shall delineate the proposed Planning Areas D through J and the residential land use designation and zoning assigned to each area as follows:

<u>Planning Area</u>	<u>Land Use Designation</u>	<u>Zoning</u>
D	RMH (8-15 dua)	R-3-Q (Multi-fam.)
E	RM (4-8 dua)	R-1 (One-Family)
F	OS (Open Space)	OS (Open Space)
G	RMH (8-15 dua)	R-3-Q (Multi-fam.)
H	RMH (8-15 dua)	R-3-Q (Multi-fam.)
I	RLM (0-4 dua)	R-1-Q (One-Family)
J	RLM (0-4 dua)	R-1-Q(One-Family)
K	RM (4-8 dua)	RD-M-Q (Multi-fam.)
L	RM (4-8 dua)	RD-M-Q (Multi-fam.)

10. Revised Open Space Map – The City shall prepare a revised LCP Kelly Ranch Open Space map for the entire Kelly Ranch which shall include Planning Area boundaries and topography and shall delineate the following areas, shown in concept on Exhibit 20, as open space. The exact location of the open space boundary shall be determined utilizing a recent topographic survey and aerial photography, to be prepared by the City for review and written approval by the Executive Director, prior to submittal to the City Council.

- a. Planning Areas B and F in their entirety, as proposed;
- b. Revise the open space delineation in Planning Area D to extend the southern limit of the proposed open space west to Cannon Road such that all of Planning Area D northern of the southern limit of the "hardline" is open space; however, this open space delineation may be modified to accommodate daycare facilities and RV parking which meet the following criteria, subject to an approved coastal development permit: a) In no case shall the designated open space corridor be less than 800 feet including the desiltation basin on Planning Area E; b) No development shall encroach into jurisdictional wetlands mapped by the ACOE; c) The facilities shall be located on the least environmentally sensitive portion of the site, and within non-native grassland and/or disturbed agricultural area to the maximum extent possible; and, d) The area utilized for these uses shall be the minimum size necessary to satisfy the requirements of the City of Carlsbad Zoning Code.
- c. Planning Areas H and K, open space boundaries as proposed;
- d. Revise the open space delineation in Planning Area I to include the proposed access roads;
- e. Revise the open space delineation in Planning Area J to include the proposed access roads, proposed lots 72, 73 and 74 and the north-facing slopes adjacent to those lots. Also, the eastern limit of the open space delineation on the west-facing slopes of Planning Area J shall extend up to the ridgeline and include the slopes greater than 25% grade as shown on the Steep Slope Analysis-Kelly Ranch dated 8-21-97; and,

- f. The open space delineation on Planning Area L shall include the northern and eastern portion of the planning area including the east and north facing slopes greater than 25% grade and the flat, disturbed area south of the approximate 195 foot contour, as shown on the Slope Analysis – Area L submitted 9-24-99.

11. New Mello II Land Use Plan Policies 1-1 and 1-2. The following policies shall be added as new Policies 1-1 and 1-2 to the Mello II Land Use Plan regarding allowable land uses and maximum density of development.

Policy 1-1 Allowable Land Uses (Mello II)

Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 1-2 Maximum Density of Development

Residential densities shall be permitted and based on the underlying LCP land use designation. The residential land use designations shall represent the maximum density permitted subject to application of requested density bonuses pursuant to Chapter 21.86 of the Carlsbad Municipal Code and the applicable resource protection provisions of the certified LCP.

12. Revisions to Policy 3-5 Kelly Point/Macario Canyon Area –Policy 3-5 of the Mello II LUP shall be revised to read as follows (**bold** indicates changes to language proposed by the City in (a)(6) and (7)):

POLICY 3-5 Kelly Point Ranch/ Macario Canyon

~~The Kelly Point/Macario Canyon area shall be designated for Planned Residential/Agriculture development. The area affected by this policy, and development regulations applicable to this master plan area, are described below:~~

(a) Maximum Density of Development

- ~~(1) All slopes greater than 25 percent shall result in an allowable development intensity of 1 dwelling unit per ten acres;~~
- ~~(2) All slopes greater than 20 percent, but less than 25 percent, shall result in a development intensity of 1 dwelling unit per five acres;~~
- ~~(3) All slopes greater than 15 percent, but less than 20 percent, shall result in a development intensity of 1 dwelling unit per acre;~~
- ~~(4) All slopes greater than 10 percent, but less than 15 percent, shall result in a development intensity of 2 dwelling units per acre;~~
- ~~(5) All areas with a slope less than 10 percent shall result in a development intensity of 6 units per acre;~~
- (6) For the Kelly Ranch Master Plan area, residential densities in the 433 acre Kelly Ranch and slope criteria shall be permitted and based on those contained in the City approved Master Plan and as approved by the Coastal Commission in Permit 6-84-617 the underlying General Plan LCP Land Use designation. The residential land use designations shall represent the maximum density permitted subject to application of**

requested density bonuses pursuant to Chapter 21.86 of the Carlsbad Municipal Code and the applicable resource protection provisions of the certified LCP.

- (72) Approximately -4 2.8 acres located adjacent to the extension of and west of Cannon Road, ~~and as described in~~ coastal development permit 6-84-617 ~~CDP 98-47~~ are designated Open Space with ~~for visitor serving or neighborhood commercial use an~~ interpretive center for Agua Hedionda Lagoon designated as a allowable use.

(b) Coastal Commission Permit 6-84-617 Agriculture

Due to overriding and extensive wetland preservation and protection provisions of the Kelly Ranch Master Plan as approved by the City and Coastal Commission in permit 6-84-617, agricultural preservation policies are waived.

Agricultural preservation policies for the 433-acre Kelly Ranch ~~remaining areas covered by this policy~~ have been deleted by LCP amendment of 2 1-85.

(c) Preservation of Steep Slopes, Sensitive Vegetation ~~Drainage~~ and Erosion Control

Any development proposal that affects steep slopes (25% inclination or greater) shall be required to prepare a slope map and analysis for the affected slopes. ~~Steep slopes are identified on the PRC Troups maps.~~ The slope mapping and analysis shall be prepared during CEQA environmental review on a project-by-project basis and shall be required as a condition of a coastal development permit.

- (1) Areas and Slopes Possessing Endangered Species and/or Coastal Sage Scrub and Chaparral Plant communities: For those slopes ~~mapped as~~ possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language applies:

(a) Coastal sage scrub and chaparral plant communities ~~Slopes of 25% grade and over~~ shall be preserved in their natural state within designated open space areas shown on the LCP Kelly Ranch Open Space map. ~~unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the~~

(b) Restoration of the disturbed areas within the delineated open space shall be required as a condition of subdivision approval and shall be developed in consultation with the Department of Fish and Game. The disturbed areas shall be revegetated and existing vegetation enhanced with native species to serve as upland transitional habitat to low-lying wetlands and environmentally sensitive habitat areas north and west of Cannon Road. The restoration and enhancement plan shall include a maintenance and monitoring component to assure long-term productivity and continuance of the habitat value.

(c) Upon dedication of a conservation easement or in fee dedication, or

upon recordation of offers to dedicate the Kelly Ranch Open Space to the City of Carlsbad or other public entity, development of steep slopes over 25% grade may occur in areas outside the designated open space. Such encroachment shall be approved by the Department of Fish and Game and the U.S Fish and Wildlife Service as consistent with the State and Federal Endangered Species Act. Dedication will assure preservation of a viable upland habitat corridor and scenic hillsides. For existing legal parcels, with all or nearly all of their area in slope area over 25% grade, encroachment may be permitted; however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

~~b) No further subdivisions of land or utilization of Planned Unit Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned Unit Development is proposed which limits grading and development to not more than 10% of the total site area.~~

(ed) Slopes and habitat areas within the designated open space remaining undisturbed as a result of the hillside review process, shall be placed in a permanent open space conservation easement or dedicated in fee as a condition of development subdivision approval. The purpose of the open space easement shall be to reduce the potential for localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating authorized firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to the entire community. The easement shall be granted to the City of Carlsbad to be maintained and managed as part of the LCP open space system for Kelly Ranch.

~~(2) All Other Slope Areas: For all other steep slope areas, the City Council may allow exceptions to the above grading provisions provided the following mandatory findings to allow exceptions are made:~~

~~(a) Soils investigation conducted by a licensed soils engineer has determined the subject slopes are stable and grading and development impacts mitigatable for at least 75 years, or life of structure.~~

~~(b) Grading of the slope is essential to the development intent and design.~~

~~(c) Slope disturbance will not result in substantial damage or alteration to major wildlife habitat or native vegetation areas.~~

~~(d) If the area proposed to be disturbed is predominated by steep slopes and is less than 10 acres, complete grading may be allowed only if no~~

~~interruption of significant wildlife corridors occurs.~~

~~(e) Because north facing slopes are generally more prone to stability problems and in many cases contain more extensive vegetation, no grading or removal of vegetation from these areas will be permitted unless all environmental impacts have been mitigated. Overriding circumstances are not considered adequate mitigation.~~

(3) Drainage and Runoff Rates: Drainage and runoff shall be controlled so as not to exceed at any time the rate associated with the property in its present state, and appropriate measures shall be taken on and/or offsite to prevent siltation of lagoons and other environmentally sensitive areas.

(4) Installation Timing of Drainage and Runoff Control Measures: The appropriate measures shall be installed prior to onsite grading.

~~(5) Required Open Space Easements on Undeveloped Slopes: All undevelopable slopes shall be placed in open space easements as a condition of development approval.~~

(d) Park Purposes (Macario Canyon):

Park purposes shall be a permitted use compatible with this land use designation provided that any park construction is subject to 3-5 C above the slope preservation provisions of 3-5 C above.

(e) Brush Management: A fire suppression plan shall be required for all residential development adjacent to designated open space subject to approval by the City of Carlsbad Fire Department. The fire suppression plan shall incorporate a combination of building materials, sufficient structural setbacks from native vegetation and selective thinning designed to assure safety from fire hazard, protection of native habitat, and landscape screening of the residential structures. No portions of brush management Zone 1 and 2 as defined in the City of Carlsbad Landscape Manual shall occur in designated open space areas. Zone 3 may be permitted within designated open space upon written approval of the Fire Department and only when native fire retardant planting is permitted to replace high and moderate fuel species required to be removed.

(f) Siting/Parking. Due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated to minimize paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site.

(g) Roads in Open Space: Access roads shall be a permitted use within designated open space subject to an approved coastal development permit, only when necessary to access flatter areas and when designed to be the least

environmentally damaging feasible alternative. Wildlife corridors shall be required when necessary to facilitate wildlife movement through the open space area.

(h) Other Uses in Open Space: The designated open space on Planning Area D may be modified to accommodate daycare facilities and RV parking which meet the following criteria, subject to an approved coastal development permit:

- 1) In no case shall the designated open space corridor be less than 800 feet including the desiltation basin on Planning Area E;
- 2) No development shall encroach into jurisdictional wetlands mapped by the ACOE;
- 3) The facilities shall be located on the least environmentally sensitive portion of the site and within non-native grassland and/or disturbed agricultural area to the maximum extent possible; and,
- 4) The area utilized for these uses shall be the minimum size necessary to satisfy the requirements of the City of Carlsbad Zoning Code.

13. Water Quality - Add Section 5.10 to read:

All new development, substantial rehabilitation, redevelopment or related activity, shall be designed and conducted in compliance with all applicable local ordinances including Chapter 15.12 of the Carlsbad Municipal Code Stormwater Management and Discharge Control Ordinance, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments, and the San Diego NPDES Municipal Storm Water Permit issued to San Diego County and Cities by the California Regional Water Quality Control Board (Regional Board Order No. 90-42) and any amendment, revision or re-issuance thereof.

In addition the following shall apply:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or Best Management Practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the following specific requirements shall be applied to development of type and/or intensity listed below:

Residential Development

Development plans for, or which include residential housing development shall:

- a. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and/or design site with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- b. Use porous materials for or near walkways and driveways where feasible;
- c. Install rain gutters and orient them towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.

Parking Lots

Development plans for, or which include parking lots with 25 or more parking spaces, susceptible to stormwater, shall:

- a. Incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks.

All Development

- a. A public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs;
- b. A landscape management plan that includes herbicide/pesticide management.

Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision and/or development stage, as appropriate.

14. Vista Points – Add the following as new subsection Policy 3-5 (f) and develop a Scenic Resource map indicating the designated vista point(s) within Kelly Ranch:

(f) Public vista points shall be provided at two locations, one each in Planning Areas J and L, to provide views of the Pacific Ocean, Agua Hedionda Lagoon and its environs, and shall be accessible to the public at large. Vista points may be located in disturbed open space areas subject to approval by the Department of Fish and Game. Support parking shall be provided and may be located either on-street or off-street within close proximity to the vista point(s). Dedications necessary to provide the vista points and access to the vista points shall be a condition of coastal development permit approval at the subdivision stage.

15. Public Trails – Add the following as new subsection Policy 3-5 (g) of the Mello II land use plan delineating the approved public trails system for Kelly Ranch:

(g) A public trails system that links Agua Hedionda Lagoon, the interpretive center, the street system, open space areas and public vista point(s) shall be provided in consultation with California Department of Fish and Game. Trails provided outside of the public right-of-way shall be dedicated by easement as a condition of subdivision approval. Trail improvements may be a combination of sidewalks within the public right-of-way and, for segments located outside of the public right-of-way, as defined in the Open Space Conservation and Resource Management Plan. Trails shall be installed concurrent with residential development and are indicated on Exhibit 19 (Conceptual Open Space & Conservation Map).

16. Public Streets/Gated Communities - Add the following as new subsection Policy 3-5 (h):

(h) The street systems shall provide public access and support parking for the public trail system and vista points in the residential developments located in Planning Areas J, K and L of Kelly Ranch. Public access may be provided through public streets, or private streets with public access easements or deed restriction. Private gated communities shall not be permitted within those planning areas.

C. Mello II Implementation Plan Revisions

17. Preservation of Steep Slopes. Revise Section 21.203.040(A) of the Coastal Resource Protection Overlay Zone to read as follows:

21.203.040 Development Standards. The following specific development standards shall be applied to areas within the Coastal Resource Protection Overlay Zone as part of the coastal development permit. Such standards shall control, notwithstanding the provisions of the underlying zone and shall include:

A. Preservation of Steep Slopes and Vegetation

Any development proposal that affects steep slopes (25% inclination or greater) shall be required to prepare a slope map and analysis for the affected slopes. ~~Steep slopes are identified on the PRC Troups maps.~~ The slope mapping and analysis shall be prepared during CEQA environmental review on a project-by-project basis and shall be required as a condition of a coastal development permit.

1. Outside the Kelly Ranch property, ~~For those slopes mapped as possessing~~ endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language ~~would apply~~s:

a. Slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. For existing legal parcels, with all or

nearly all of their area in slope area over 25% grade, encroachment may be permitted; however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads of the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

b. No further subdivisions of land or utilization of Planned Unit Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned Unit Development is proposed which limits grading and development to not more than 10% of the total site area.

c. Slopes and areas remaining undisturbed as a result of the hillside review process, shall be placed in a permanent open space easement as a condition of development approval. The purpose of the open space easement shall be to reduce the potential for localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to the entire community.

2. Within the Kelly Ranch property, for those slopes possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language applies:

a. Coastal sage scrub and southern maritime chaparral plant communities shall be preserved in their natural state within designated open space areas shown on the LCP Kelly Ranch Open Space Map and addressed in Policy 3-5 of the certified LCP land use plan.

b. The open space shown on the Kelly Ranch Open Space Map shall be secured through conservation easements or dedicated in fee at the time of subdivision approval. The easements shall be granted to the City of Carlsbad or other public entity and maintained and managed as part of the LCP Kelly Ranch Open Space system.

c. Restoration of disturbed areas within the designated open space through revegetation of disturbed areas and enhancement of existing vegetation with native upland species shall be required, in consultation with the Department of Fish and Game, as a condition of subdivision approval. The restoration and enhancement plan shall include a maintenance and monitoring component to assure long-term productivity of the habitat value.

d. Upon dedication of a conservation easement or in fee dedication, or upon recordation of offers to dedicate the Kelly Ranch Open Space to the City of Carlsbad or other public entity, development of steep slopes over 25% grade

may occur in areas outside the designated open space. Such encroachment shall be approved by the Department of Fish and Game and the U.S Fish and Wildlife Service as consistent with the State and Federal Endangered Species Act. Dedication will assure preservation of a viable upland habitat corridor and scenic hillsides.

e. Roads in Open Space: Access roads shall be a permitted use within designated open space subject to an approved coastal development permit, only when necessary to access flatter areas and when designed to be the least environmentally damaging feasible alternative. Wildlife corridors shall be required when necessary to facilitate wildlife movement through the open space area.

f. Siting/Parking. Due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated to minimize paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site.

e. Brush Management: A fire suppression plan shall be required for all residential development adjacent to designated open space subject to approval by the City of Carlsbad Fire Department. The fire suppression plan shall incorporate a combination of building materials, sufficient structural setbacks from native vegetation and selective thinning designed to assure safety from fire hazard, protection of native habitat, and landscape screening of the residential structures. No portions of brush management Zone 1 and 2 as defined in the City of Carlsbad Landscape Manual shall occur in designated open space areas. Zone 3 may be permitted within designated open space upon written approval of the Fire Department and only when native fire retardant planting is permitted to replace high and moderate fuel species required to be removed.

2-3. For all other slope areas,.....

18. Grading Season – Revise Section 21.203.040 (B) 4) e) as follows:

e. All construction activities shall be planned so that grading will occur in units that can be easily completed within the summer construction season. All grading operations shall be limited to April 1 to October 1 of each year. All areas disturbed by grading shall be planted within 60 days of initial disturbance and prior to October 1 with temporary or permanent (in the case of finished slopes) erosion control methods. The October 1 grading season deadline may be extended with the approval of the City Engineer subject to implementation by October 1 of erosion control measures designed to prohibit discharge of sediments off-site during and after the grading operation is completed. Extensions beyond November 15 may be allowed in areas of very low risk of impact to sensitive coastal resources and may be approved either as part of the original coastal development permit or as a formal amendment to an existing coastal development

permit.

Exception. If any of the responsible Resource Agencies prohibit grading operations during the summer grading period in order to protect endangered or rare species or sensitive environmental resources, then grading activities may be allowed during the winter by a coastal development permit or permit amendment.

19. Water Quality - Add the following as new Section 21.203.040 (B) 4) j):

All new development, substantial rehabilitation, redevelopment or related activity, shall be designed and conducted in compliance with all applicable local ordinances including Chapter 15.12 of the Carlsbad Municipal Code Stormwater Management and Discharge Control Ordinance, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments, and the San Diego NPDES Municipal Storm Water Permit issued to San Diego County and Cities by the California Regional Water Quality Control Board (Regional Board Order No. 90-42) and any amendment, revision or re-issuance thereof.

In addition the following shall apply:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or Best Management Practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the following specific requirements shall be applied to development of type and/or intensity listed below:

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Development plans for, or which include residential housing development shall:

- a. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and /or design site with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- b. Use porous materials for or near walkways and driveways where feasible;
- c. Install rain gutters and orient them towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.

Parking Lots

Development plans for, or which include parking lots with 25 or more parking spaces, susceptible to stormwater, shall:

- a. Incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks.

All Development

- a. A public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs;
- b. A landscape management plan that includes herbicide/pesticide management.

Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision stage.

20. Scenic Preservation – Add the following as new Section 21.203.040 (G):

G. Within the Kelly Ranch, scenic public views from Interstate 5, Cannon Road and Agua Hedionda Lagoon shall be preserved, as feasible, through the following measures:

- a. Landscaping and Setbacks: Use of trees or fire retardant vegetation with substantial height as a landscape screen and/or setbacks from the ridgelines and open space areas;
- b. Building Colors: Exterior wall and roof colors shall be of low intensity earth or vegetative tones. Stucco with accent materials such as tile, natural stone, or other compatible natural building materials shall be preferred. Roof colors shall be low intensity colors which blend with the environmental setting of the project;
- c. Residential Building Height: Maximum height limits and variation in roof heights shall be utilized, as necessary, to minimize visibility of structures from scenic public roadways, public vista points and public trails.

21. Landscaping Requirements – Add the following as new Section 21.203.040 (H):

H. Within the Kelly Ranch, landscaping shall be utilized as a visual buffer and be compatible with the surrounding native vegetation and preserved open space by incorporation of the following measures:

- a. All residential development shall be required to identify and implement a landscaping plan that provides for installation of plant species that are native or naturalizing, non-invasive and drought tolerant to the maximum extent feasible. Ornamental vegetation shall be permitted in the interior of residential subdivisions only;
- b. Approved landscaping shall be installed immediately upon completion of construction and maintained by the property owners in good growing condition for the life of the development;
- c. Landscape screening of structures, including specimen trees and fire retardant vegetation of substantial height, shall be required to screen and soften the view of structures from I-5, Cannon Road, Agua Hedionda Lagoon, public trails and public vista points;
- d. The landscape treatment shall cause the development to blend in with the natural setting and present a visually cohesive appearance as viewed from Agua Hedionda Lagoon, Cannon Road and Interstate 5.

PART IV. FINDINGS FOR DENIAL OF THE CITY OF CARLSBAD
AGUA HEDIONDA AND MELLO II LAND USE PLAN AMENDMENT 2-99D,
AS SUBMITTED

A. DETAILED AMENDMENT DESCRIPTION

1. Agua Hedionda Land Use Plan

The City of Carlsbad proposes to amend its local coastal program for the Mello II segment of the City of Carlsbad Local Coastal Program (LCP) and the land use plan for the Agua Hedionda Lagoon segment of the LCP. The area of land affected by this LCP amendment is the 433 acre Kelly Ranch, the development of which is governed by the Kelly Ranch Master Plan (which is included with the Agua Hedionda LUP and the Mello II LCP segments). The amendment proposes to rescind the Kelly Ranch Master Plan and replace it with other existing City land use designations and zoning.

The western portion of Kelly Ranch is within the Agua Hedionda plan area. The LUP divides the portion of Kelly Ranch in the plan area into three Planning Areas, A, B and C. This portion of Kelly Ranch is characterized by a large contiguous wetland area within the boundaries of eastern Agua Hedionda Lagoon as mapped by the State Department of Fish and Game. It includes the wetlands of Agua Hedionda Lagoon and the Wetland Preserve, which is 195 acres to be dedicated to the Department of Fish and Game and shown as Planning Area B in the proposed local coastal program amendment and the Kelly Ranch Master Plan. Planning Areas A and B are located north of and adjacent to the Wetland Preserve, between the lagoon and Park Drive. Existing Park Drive runs generally east to west adjacent to upland and marsh areas of the lagoon and just north of

Planning Areas A and B. Along the western boundary of the site, in Planning Area A there are several previously filled wetland areas. These areas, known as the "fingers" extend outward from Planning Area A. The LCP amendment proposes to change planning area boundaries and revise density on Planning Area C as follows:

Planning Area A & B (10.2 and 195.2 acres)

The existing designation for Planning Area A is RMH (8-15 dua) and Planning Area B is Open Space. Both are proposed to remain the same. The amendment proposes a boundary adjustment between development Planning Area A and the Agua Hedionda Lagoon (Planning Area B), which separates the developable portion of Planning Area A from the lagoon and ultimately reduces the size of Planning Area A.

Planning Area C (8 acres)

The existing designation for Planning Area C is RMH (8-15 dua) and it will be changed to RLM (0-4 dua). In addition, the amendment proposes an adjustment between Planning Area C and Planning Area B which will reduce the size of Planning Area C. The adjustment is intended to include constrained lands into Planning Area B which is Open Space. The City indicates an RLM designation on this property is appropriate since it is surrounded by single family residential development and there is only one point of access. The net effect is a reduction in the allowable residential units which is compatible with the neighborhood and also equates to less Average Daily Traffic (ADT) to the street which accesses the site.

Land Use Policy 1.2 of the certified Agua Hedionda Land Use Plan is proposed to be deleted. The policy describes allowed uses in the lagoon wetlands and is proposed for deletion because the allowed uses are inconsistent with Policy 3.1 which is far more restrictive. The policies are as follows:

Policy 1.2 (to be deleted)

That portion of the "Kelly Property" containing wetland areas shall be designated as open space consistent with the maintenance of the natural resources of the wetlands and floodplain area. Permitted uses shall include maintenance and extension of utility transmission and distribution systems, agriculture, outdoor plant nurseries, fish hatcheries, driving ranges, archery ranges, hiking and equestrian trails, apiaries, or other non-intensive recreational, scientific or educational uses compatible with resource values. No permanent structures or impermeable surfacing or filling shall be permitted within the 100-year floodplain. Any development of the property shall be subject to regulation by conditional use permit and shall be subject to the approval of the State Department of Fish and Game.

Policy 3.1—Kelly Property (to be retained)

No uses shall occur within the boundaries of the wetland area except those

activities necessary for maintenance, resource management, farming and grazing, or as approved by the State Department of Fish and Game

- a) A buffer zone of at least 100-feet in width shall be maintained in a natural condition around the perimeter of all wetlands or environmentally sensitive habitat areas, unless the State Department of Fish and Game determines that a lesser setback or physical barrier is adequate.
- b) Fencing shall be required to prevent uncontrolled access of persons or domestic animals into the wetland or environmentally sensitive areas; and
- c) No vehicle, pedestrian, or equestrian access shall be permitted within either the wetland, environmentally sensitive, or buffer areas, except for resource management and educational purposes.

Policy 3.1 states that no uses shall occur within the boundaries of the wetland area except those activities necessary for maintenance, resource management, farming and grazing, or as approved by the State Department of Fish and Game. By comparison, Land Use Policy 1.2 allows for outdoor plant nurseries, fish hatcheries, driving ranges, archery ranges, and agricultural production. The City found the proposed permitted uses within wetlands are more in line with those accepted in the Mello II LCP and Chapter 3 policies of the Coastal Act.

2. Mello II Land Use Plan

Although the Kelly Ranch Master Plan serves as both the Land Use Plan and Implementation Plan, it is part of the certified Land Use Plan of the Mello II LCP. Thus, amendments to the Master Plan are amendments to the Mello II LUP and are reviewed for consistency with Chapter 3 policies of the Coastal Act.

The Mello II LCP land use map is proposed for modification to eliminate the existing Kelly Ranch Master Plan (Exhibit 4) land use regulatory document, and replace it with the General Plan Map and zoning standards applicable to a new land use scheme (see Exhibits 5 and 6). In addition, LCP text changes are proposed to eliminate references to the Kelly Ranch Master Plan and the previously-approved coastal development permit for the Kelly Ranch Master Plan (CDP #6-84-617).

Of the 433 total acres of the Kelly Ranch, approximately 216 acres lie within the Mello II LUP area with the remaining acreage in the Agua Hedionda Lagoon segment. The Mello II property is bounded by Cannon Road and El Camino Real to the north and east, Agua Hedionda Lagoon to the west and Macario Canyon to the south. Cannon Road divides the two segments for most of the boundary (see Exhibit 1). The road joins El Camino Real south of the Agua Hedionda Creek bridge. Portions of the roadway lie within the 100-year floodplain of Agua Hedionda Creek.

The existing LCP (i.e., Kelly Ranch Master Plan) divides the portion of Kelly Ranch within the Mello II segment into planning areas that are designated for open space,

commercial, and residential development (these are Planning Areas E-R). The proposed LCP amendment modifies most of the planning area names, boundaries and designations from that identified in the Kelly Ranch Master Plan. Areas that were previously designated for residential development are proposed for residential development; however, proposed open space boundaries have changed. In addition, the commercial use designation would be eliminated. The letters assigned to planning areas have been changed in the amendment and the following discussion refers to planning areas as they are identified in the LCP amendment.

Planning Areas D, G, and H (27, 21.3 and 14.6 acres)

The existing designation for these Planning Areas is RM (4-8 du/a). The amendment proposes a redefinition of the planning area boundaries and a change to RMH (8-15 du/a). The net effect of the change would be an increase in the allowable residential units for the planning areas. The City indicates the increase in density is appropriate in that, the site is near major sources of employment at the Carlsbad Research Center, Carlsbad Airport Center, Carlsbad Ranch and Legoland California. The site is situated on a Circulation Element Roadway with direct access to Interstate 5. The planning areas are located at the base of the hillside adjacent to the major roadways which accommodates access and reduces grading requirements. The increase in density for these Planning Areas is also balanced against the reduction in densities of Planning Areas I and J located at the upper reaches of the site.

Within Planning Area D there is a settling basin north of the proposed access road that has been the subject of an Army Corps 404 permit as it contains jurisdictional wetlands. The eastern portion of Planning Area D is shown as open space on the proposed land use plan; however, the entire planning area is zoned R-3-Q allowing multi-family residential development. There is RV parking and a daycare center also contemplated for Planning Area D. An existing desiltation basin is located adjacent to the north of Planning Area D immediately east of Cannon Road and within Planning Area E.

Planning Areas I and J (36.3 and 55 acres)

The existing designation for these planning areas is RM (4-8 du/a). The amendment proposes a redefinition of the planning area boundaries and a change to RLM (0-4 du/a). The net effect of the change would be a decrease in the allowable residential units for the planning areas. The City concluded that the reduction in density is appropriate in that these Planning Areas are more difficult to access because of the hillside conditions.

Planning Area F (7.8 acres)

The existing designation for this Planning Area is Travel Recreation (T-R) which allows for visitor-serving uses. The developable portion of the site is proposed to be changed to Open Space which is a reduction in the intensity of use from Travel Recreation and will accommodate the future use of the site for the Agua Hedionda Lagoon Nature Center. The City found this proposed change to be appropriate in that the reduced intensity of use will reduce traffic generation, the potential future use will provide community facilities

which will benefit the new residential development and the community at large, and will potentially have lesser offsite impacts to the adjacent Agua Hedionda Lagoon wetlands in the form of less night lighting and less potential for unsupervised entrance and disturbance to the wetlands. The interpretive center provides a visitor-serving use consistent with the previous designation and the proposed open space designation.

Planning Area K (6.3 acres)

This planning area contains the Kelly Ranch homestead and is approximately 6.3 acres. The City's submittal indicates approximately 4.3 acres of this planning area is designated Open Space which is shown on the proposed LCP land use plan map. However, the zoning map does not reflect this designation. The land use map also indicates a portion of the area to be Residential RM (4-8 dua). The zoning map shows the entire planning area to be zoned RD-M-Q allowing multi-family residential development.

Planning Area L (5.7 acres)

The proposed LCP land use plan map and zoning show the entire Planning Area L designated RM (4-8 dua) and zoned RD-M-Q. It is approximately 5.5 acres.

Planning Area E (45 acres)

No changes are proposed in Planning Area E. The land use designation is RM and the zoning R-1. This area is currently under construction with a 144 unit residential subdivision approved under a separate coastal development permit by the City.

Open Space

The configuration of previously approved open space boundaries are proposed for modification taking into consideration the City of Carlsbad draft Habitat Management Plan (HMP). Briefly, the upland open space system that was approved in the Kelly Ranch Master Plan conformed to the "dual criteria" slopes that exist on the site. These "dual criteria" areas are naturally vegetated slopes (i.e., containing coastal sage scrub or chaparral) that are at least 25% grade. The Carlsbad LCP protects such slopes from development encroachment as "dual criteria" slopes provide habitat value, contain significant landforms, and have value as a scenic resource. Grading of such protected slopes, in addition to habitat impacts, can also lead to off-site sedimentation, on-site erosion and geologic instability.

The areas previously approved as open space which are now shown for development include canyon and hillside areas on Planning Areas D, G, H and I, and the upper reaches of canyons surrounding Planning Area J on the west, north, east and south facing slopes. The proposed open space system, if implemented, would allow impacts to 19.85 acres of coastal sage scrub, 4.9 acres of southern maritime chaparral and 1.29 acres of riparian/mulefat scrub. The most significant areas previously approved for development that are now shown as open space include approximately 1 acre of disturbed, non-steep area or steep non-vegetated area along the west-facing ridgeline of proposed Planning Area J (previously Planning Area L).

Since the certification of the Kelly Ranch Master Plan, the State has enacted the Natural Community Conservation Planning Act (NCCP). The City of Carlsbad, the Department of Fish and Game (DFG) and the U.S. Fish and Wildlife Service (USFWS) have worked together to implement the NCCP planning process by establishing habitat corridors connecting critical areas used by multiple species, including the gnatcatcher, that will be preserved. The process has resulted in the City of Carlsbad's draft Habitat Management Plan (HMP) that identifies habitat corridors and preserve areas on the Kelly Ranch property.

The LCP amendment includes a revised open space system that acknowledges the work done to date by the resource agencies and the City in developing the draft HMP on all the proposed planning areas except Planning Area L. The proposed upland open space system contains steep and non-steep areas containing primarily coastal sage scrub and southern maritime chaparral vegetation in two core habitat corridors oriented in a north/south and an east/west direction which provide connectivity between Macario Canyon, preserve areas to the south of Kelly Ranch and Agua Hedionda Lagoon as shown on Exhibit 12.

Text Changes

The City is proposing text changes to the policy in the certified Mello II LUP applicable to the Kelly Ranch/Macario Canyon area as follows. The entirety of Policy 3-5 is an attachment to this report. Policy 3-5(a)(6) is proposed to be revised as follows:

~~For the Kelly Ranch Master Plan area, Residential densities in the 433-acre Kelly Ranch and slope criteria shall be permitted based on those contained in the City approved Master Plan and as approved by the Coastal Commission in Permit 6-84- the underlying General Plan Land Use designation.~~

Policy 3-5(a)(7) is proposed to be revised as follows:

~~Approximately four 2.8 acres located adjacent to the extension of Cannon Road, and as described in coastal development permit 6-84-617 CDP 98-47 are designated for visitor serving or neighborhood commercial use~~ an interpretive center for Agua Hedionda.

Finally, the City is proposing to delete Section 21.38.160 from the certified Mello II LCP Implementation Plan. This section applies to the Kelly Ranch/Macario Canyon area and contains much of the same resource protection language contained in the Coastal Resource Protection Overlay Zone which applies to the remainder of the Mello II segment. The entire policy is an attachment to this report.

B. CONFORMANCE WITH SECTION 30001.5 OF THE COASTAL ACT

The Commission finds, pursuant to Section 30512.2b of the Coastal Act, that portions of the proposed Land Use Plan amendment as set forth in the previous resolutions, are not in conformance 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.

The Commission therefore finds, for the specific reasons detailed below, that the land use plan amendment does not conform to Chapter 3 of the Coastal Act or the goals of the state for the coastal zone.

C. NONCONFORMITY WITH CHAPTER 3 POLICIES

1. PROPOSED REVISIONS TO LCP MAPS/POLICIES

The proposed revisions to the certified LCP are to replace the currently certified Kelly Ranch Master Plan. By nature, a master plan offers a great deal of specificity with regard to a standard of review for future development within the master plan area. The City was motivated to amend the certified LCP by several factors including, primarily, the property owner's desire to obtain a coastal development permit for development within the 153 acre Core Area. Additionally, the property owner is in the process of a Section 7 consultation with the Army Corps of Engineers pursuant to the Endangered Species Act which would authorize impacts to environmentally sensitive habitat areas consistent with preserve planning areas identified in the City of Carlsbad's draft Habitat Management Plan (HMP). However, the revised open space system which has been proposed by the City is not in conformance with Chapter 3 policies of the Coastal Act.

In developing the LCP amendment for Coastal Commission certification, the City did not address the requirements of the Coastal Act in addition to those of the NCCP. The City's submitted land use plan map only shows areas of open space where a specific delineation for the habitat preserve or a "hardline" has been negotiated with the Department of Fish and Game (DFG) and the U.S.

Fish and Wildlife Service (USFWS). Additionally, the zoning map does not include any open space designations, even on areas shown as "open space" on the land use plan map. Thus, the zoning map is not adequate to carry out the land use designations contained in the LCP land use plan.

Additionally, resource protection policies have not been proposed which are adequate to replace the specificity and the land use provisions contained in the certified master plan. Therefore, the LCP amendment as submitted by the City must be denied. The following findings include a more specific explanation of the areas where the LCP amendment is deficient in addressing new requirements as a result of the listing of the gnatcatcher, as well as all areas where the current LCP needs to be updated to provide a suitable standard of review for future development, to replace the certified Kelly Ranch Master Plan. These areas include scenic viewshed preservation, protection of environmentally sensitive habitat areas, public access and recreational requirements, brush management measures, water quality protection and grading and erosion controls.

2. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

a. Agua Hedionda Land Use Plan.

Section 30231 of the Coastal Act requires:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 states in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects ...

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks

and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

Agua Hedionda Lagoon LUP Policy 1.2 is proposed to be deleted. As a result, the only policy addressing wetlands would be existing Policy 3.1 (see Page 25 for policy language). However, Policy 3.1 allows farming and grazing as permitted uses within wetlands. These are not identified as permitted uses within Section 30233 of the Coastal Act. To be consistent with Section 30233, these uses must be deleted from the LUP policy. Regarding permitted uses within the Wetland Preserve, Policy 3.1 must be revised to indicate that only uses consistent with Section 30233 shall occur within the boundaries of the Wetland Preserve (Planning Area B), including activities necessary for maintenance and resource management. Additionally, the certified LUP lacks specific policy language addressing wetland areas outside the Wetland Preserve which currently exist or may exist in the future. Thus, Section 30233 must be added to the text of the certified Agua Hedionda Land Use Plan to make clear that uses permitted in all remaining wetlands shall be limited to those identified in Section 30233 of the Coastal Act.

Additionally, with regards to water quality, the LUP amendment contains no provisions that require new development to use Best Management Practices (BMPs) during construction and operation of residential projects to ensure water quality will be preserved through a water quality/urban runoff control plan. Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters, wetlands, and estuaries be maintained and restored through, among other means, controlling run-off. Because Kelly Ranch is adjacent to Agua Hedionda Lagoon and its surrounding wetlands, runoff associated with residential development in Kelly Ranch has the potential to adversely affect the water quality of the lagoon and surrounding wetlands.

Since the certification of the Kelly Ranch Master Plan, additional BMPs that reduce the amount of pollutants in run-off have been approved in Carlsbad LCPA 1-98B (approved June/98) as the Storm Water Management and Discharge Control Ordinance. However, the ordinance does not contain requirements to control or minimize runoff volume or address mitigation for pollutants on parking lots of 25 or more spaces. Implementation of such BMPs for residential development in Kelly Ranch would reduce the adverse impacts of such development on the lagoon and surrounding wetlands. Since the LCP amendment fails to incorporate certain BMPs, it is inconsistent with Section 30231 and must be denied.

Agua Hedionda Lagoon LUP Policy 3.1 also provides for a 100-foot buffer between wetland resources and new development unless reduced by the Department of Fish and Game (DFG). A 50-foot buffer zone was approved by the Commission in CDP #6-84-617 in Planning Area A based on a large topographical difference in elevation between the developable portion of the planning area and adjoining wetland resources and in consultation with the Department of Fish and Game. Since that time, the wetlands have expanded and the Commission must consider not only the adequacy of a reduced wetland buffer, but also whether the proposed density is appropriate based on the environmental

resources present on the site at this time.

The subject LCP amendment includes revisions to the boundaries of Planning Areas A, B and C. Planning Area B contains 195 acres of open space and is known as the Agua Hedionda Lagoon Wetlands Preserve. In CDP #6-84-617, the Commission required an irrevocable offer to dedicate in fee title these low lying wetland areas which was recorded in 1985. However, according to representatives from the DFG, the metes and bounds description of the dedicated area had not been completed prior to the recorded offer. The property owner has been working with DFG and the Wildlife Conservation Board to get the offer accepted. In drawing the legal description, it became apparent there were areas that are clearly wetlands located outside the preserve limits which should be included within it. Therefore, there was a negotiated change to the boundaries that excluded the wetlands along the western boundary from Planning Area A in exchange for adding a comparable area to Planning Area A along the southern boundary. Additionally, there is a temporary desiltation basin along the eastern edge of Planning Area A that the DFG did not want to include in the Wetland Preserve. The City included these changes to the planning area boundaries in the proposed LCP amendment. The resultant acreage is a 195 acre Wetland Preserve which was approximately 186 acres at the time of the 1985 approval.

It is expected that the preserve system will be dedicated to the Department of Fish and Game as a Wetland Preserve sometime this year. A copy of the draft offer has been given to Commission staff. The Wetland Preserve is also part of the "hardline" preserve identified in the City's draft Habitat Management Plan (HMP).

Although the Commission can accept the revised planning area boundaries, it finds that the proposed LUP amendment is inconsistent with Chapter 3 policies because it fails to update the policies relating to protection of wetland resources and environmentally sensitive habitat existing within the Kelly Ranch properties in the Agua Hedionda segment. The wetland map contained in the land use plan also requires updating. The previous wetland delineation for Planning Area A was done many years ago and the wetlands in this area have expanded. Also, the density on Planning Area A does not appear to reflect the potential impact of adjacent development on the current wetland and adjacent uplands providing gnatcatcher habitat. Since, in some areas, the proposed revisions to the planning area boundaries moves the property line closer to wetland vegetation, there is greater pressure to construct residential development in close proximity to sensitive resources. Therefore, it does not appear to be appropriate to accept a reduced 50-foot buffer within this planning area. Policy 3.1 as currently drafted would allow a reduction in the 100-foot buffer in consultation with the DFG.

Further, the Commission has found on many occasions that high densities associated with residential development proposals near wetland areas has resulted in adverse impacts to such resources. These resources are directly and adversely impacted by intrusion from humans and pets and indirectly adversely impacted by the introduction of erosion and pollution (sedimentation, insecticides, pesticides etc.) into wetlands.

The wetlands surrounding Agua Hedionda Lagoon are an environmentally sensitive habitat area under Section 30240 of the Coastal Act. Therefore, residential development on Planning Area A, which is immediately adjacent to these wetlands must be consistent with both Section 30231 of the Coastal Act and Section 30240(b), which requires that development in areas adjacent to environmentally sensitive habitat area must be sited and designed to prevent impacts which would significantly degrade those areas. For the above reasons, the Commission finds the land use designation of RMH (8-15 dua) is too high a density for this area. Because the land use plan amendment fails to reduce the density of Planning Area A to reflect the need to protect the expanded wetlands and environmentally sensitive habitat, the LUP amendment is inconsistent with Chapter 3 policies of the Coastal Act. Additionally, the City needs to prepare a revised wetland exhibit that includes the boundary of the wetland preserve, as shown in the documents prepared for dedication purposes, as well as any potential wetlands located in areas outside the preserve limits. Land use plan policies are also needed to require an updated wetland delineation prior to approval of any future development adjacent to the preserve limits.

Additionally, the Commission is concerned about the protection of upland resources (i.e., naturally vegetated steep slopes). Existing LUP Policy 4.4 restricts development, grading and landform alteration on steep slope areas (25%) grade and greater. However, the policy does not state that development of steep hillsides should be avoided, if feasible. Any unavoidable disturbance shall be minimized to the extent possible. Since the LUP amendment fails to reflect this need, it is inconsistent with Chapter 3 policies of the Coastal Act. Thus, for all of the above reasons, the Commission finds the proposed LUP amendment inconsistent with Chapter 3 policies of the Coastal Act.

b. Mello II Land Use Plan

The Commission finds that the proposed amendment is inconsistent with Chapter 3 policies regarding preservation of environmentally sensitive habitat areas and protection of natural landforms and visual resources for the following reasons.

The Kelly Ranch Master Plan allows for residential development of Kelly Ranch while providing for an extensive upland open space system that preserves two environmentally sensitive habitats, coastal sage scrub (CSS) and southern maritime chaparral (SMC) on most of the steeply sloping hillsides. The proposed LCP amendment revises the pattern and density of residential development on the Kelly Ranch, and revises the open space system from that approved in the Kelly Ranch Master Plan. The revisions to the open space system change the open space system from one based primarily on preservation of steep slopes to one based on preservation of areas, both steep and non-steep, that consist of coastal sage scrub and chaparral vegetation and form two corridors on the Kelly Ranch property.

Policy 3-5 of the certified LCP land use plan is applicable specifically to Kelly Ranch and requires that "for those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. Uses of slopes

over 25% may be made to provide access to flatter areas if there is no less environmentally damaging alternative available."

The revised open space plan would permit 13.7 acres of "dual criteria" slopes to be impacted by grading. "Dual criteria" slopes are designated in the certified Mello II LCP as naturally-vegetated steep slopes of at least 25% grade. There is a total 61.6 acres of dual criteria slopes onsite within the 153 acres encompassing the Core Area where the majority of residential development is proposed.

The LCP amendment includes a revised open space system that acknowledges the work done to date by the resource agencies and the City in developing a "hardline" preserve as part of the HMP. The revised open space on Kelly Ranch reflects the "hardline" preserve areas negotiated thus far. The City and the resource agencies have not yet established a "hardline" preserve on Planning Area L. As a result, the City did not propose to include any of Planning Area L in the proposed open space system. However, the resource agencies have indicated that portions of Planning Area L will be required to be kept in open space under the HMP.

The Commission does not dispute that the areas shown as open space in the LCP amendment are environmentally sensitive habitat area also protected by Section 30240 of the Coastal Act. However, there are additional Coastal Act concerns reflected in the steep slope policies of Chapter 3 and the current LCP which address landform alteration and visual impact of development within scenic viewsheds. The open space system established by the LCP amendment is based only on sensitive habitat and long-term connectivity of wildlife corridors. It fails to take into account other concerns which must be considered in addition to habitat protection in order to find the LCP amendment in conformance with Chapter 3 policies of the Coastal Act.

Regarding brush management, the existing master plan text contains fire suppression guidelines that require a fuel modification zone be established around new development so that vegetation clearance will be kept to the minimum necessary for fire safety. Aside from the Kelly Ranch Master Plan, the Mello II LUP does not contain brush management provisions. Thus, the proposed amendment would eliminate the only brush management policies applicable to Kelly Ranch. Furthermore, since the certification of the Master Plan, the fire department has changed its brush clearance requirements to require more extensive clearance and thinning of vegetation. These requirements have been addressed by the City only within the City of Carlsbad LCP East Batiquitos Lagoon segment for the Aviara development on the north shore of Batiquitos Lagoon.

Because Kelly Ranch contains significant areas of sensitive vegetation, the policies applicable to development of Kelly Ranch must include updated brush management policies that reflect the protected status of coastal sage scrub/southern maritime chaparral vegetation as well as the need to reduce vegetation clearance for visual and erosion control purposes. The policies also should address landscape requirements for screening purposes in the context of required fuel management measures. Therefore, because this current fire suppression language is not provided within the existing text of the Mello II LCP, the Commission cannot find that the amendment is consistent with Section 30240 and other Chapter 3 policies of the Coastal Act and must be denied. Inclusion

of the updated fire suppression language in the form of a suggested modification will be necessary to find the amendment consistent with Section 30240 of the Act.

Additionally, with regards to water quality, the LUP amendment contains no provisions that require new development to use Best Management Practices (BMPs) during construction and operation of residential projects to ensure water quality will be preserved through a water quality/urban runoff control plan. Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters, wetlands, and estuaries be maintained and restored through, among other means, controlling run-off. Because Kelly Ranch is adjacent to Agua Hedionda Lagoon and its surrounding wetlands, runoff associated with residential development in Kelly Ranch has the potential to adversely affect the water quality of the lagoon and surrounding wetlands.

Since the certification of the Kelly Ranch Master Plan, additional BMPs that reduce the amount of pollutants in run-off have been approved in Carlsbad LCPA 1-98B (approved June/98) as the Storm Water Management and Discharge Control Ordinance. This ordinance and compliance with its requirements should be addressed in the Mello II LCP land use plan applicable to Kelly Ranch. Additionally, the policies should contain requirements to control or minimize runoff volume and address mitigation for pollutants on parking lots of 25 or more spaces. Implementation of such BMPs for residential development in Kelly Ranch would reduce the adverse impacts of such development on the lagoon and surrounding wetlands. Since the LCP amendment fails to such provisions, the proposed amendment cannot be found consistent with Chapter 3 policies of the Coastal Act and must be denied.

3. VISUAL RESOURCES

a. Agua Hedionda Land Use Plan

Section 30251 of the Coastal Act provides in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

In recognition of the unique scenic and natural resource values of Agua Hedionda Lagoon, the City adopted detailed provisions in the Agua Hedionda LUP aimed at preserving and protecting the visual quality of the lagoon and its surrounding uplands. The project site is highly visible from traffic on I-5 and El Camino Real. The Carlsbad LCP recognizes that the lagoon and its surroundings present a scenic open space break from the intense urban development characteristic of the Southern California coastal zone. Excellent views and vistas are afforded the public from vantage points along Carlsbad Blvd., I-5, Adams Street, the subject property and Park Drive. Cannon Road is designated as a Scenic Highway. As a result, the City included the following policies in the LUP which are relevant to the subject property:

Policy 8.3 Development located adjacent to scenic roadways, or located between the road and the shoreline, shall be regulated as follows:

- a) Where a significant elevation difference (e.g., 35 feet) exists between the shoreline and the first parallel public road, as in the case of Hedionda Point and Snug Harbor, no portion of a structure in the intervening area shall be permitted to exceed the elevation of the roadway.
- b) Where no significant elevation difference exists between the shoreline and the first parallel public road, permitted development in the intervening area shall provide a view corridor, of a width equivalent to at least one-third of the road frontage of the parcel, which shall be kept free of all structures and free of landscaping which at maturity would rise above a reasonable viewline from vehicles passing on the public road.
- c) On all property adjoining the shoreline, permitted development shall be designed to "step down" in height, to avoid casting shadows on shoreline areas and to produce a perceived transition from open space areas to developed areas ...
- d) Any development proposed to be located on or near a significant landform (e.g., Agua Hedionda Point) shall be designed so as to minimize disturbance of natural landforms, and shall be developed in a manner that assures its compatibility and harmony with the natural landform through use of such architectural techniques as terraced or pole foundations and variations of roof lines to complement the topography

In response to Section 30251 of the Coastal Act, the certified Agua Hedionda LUP requires that new development be designed to preserve public views from Adams Avenue and Park Drive which are designated as "scenic roadways" in the LUP. Both roads are designated as the first coastal roadway along the north side of the lagoon. As such, views from these roads are protected as identified in the above LUP Policy 8.3. Park Drive is adjacent to Planning Area A and is generally at the same elevation as the lagoon.

In regards to Park Drive and Planning Area A, Policy 8-3(b) calls for the preservation of one-third of the width of the parcel as a "view corridor". However, the existing LUP policy does not address the site conditions on Planning Area A because there is a significant elevation difference between it and the road due to a large amount of fill that was deposited on Planning Area A during the grading of a nearby residential subdivision. This fill mound obscures views from the road across the site to the lagoon and wetlands. Policy 8-3(b) is meant to address the situation where the site is the same elevation as the road and subsection 8-3(a) addresses where the site is lower than the road. Thus, the situation on Planning Area A is unique and is not currently addressed in Policy 8-3.

The Commission finds that to be consistent with Chapter 3 policies of the Coastal Act the LUP policy must address potential development on Planning Area A and assure such development is

designed to preserve any natural landform, preserve the existing view corridor at the western property line, and provide an additional view corridor in the central portion of the site. However, due to the fact that the public's view is currently blocked across the majority of the site, and that an unobstructed view of the lagoon exists immediately east of the planning area, the requirement for a view corridor encompassing a distance of one-third (400 +/- ft.) of the approx. 1,200 foot long road frontage is not necessary.

The Commission finds sufficient view preservation will occur with a requirement that at least a 200-foot width of corridor be provided in two locations across the site, one being at the western property line. The public view corridor should be kept free of all structures and free of landscaping which at maturity would rise above a reasonable viewline from vehicles passing on the public road. The view corridor should be secured through deed restriction or easement as a condition of development approval. The LUP would be in conformance with Chapter 3 policies with such revisions. However, absent these provisions and, as submitted, the amendment must be denied as being inconsistent with Section 30251 of the Coastal Act.

The Commission is also concerned about landform alteration in this visually significant area. Existing policies of the Agua Hedionda LUP recognize the unique environmental features of the lagoon and its environs and the sensitivity of the area to soil erosion and sedimentation, and require that new development limit grading and vegetation removal to minimal site preparation to preserve natural landforms. The policy requires development, grading and landform alteration of steep slope areas (25% grade) shall be avoided, if feasible, although exceptions may include encroachments by roadway and utilities necessary to reach developable area. Finally, it provides that use of the Planned Development (PD) Ordinance and cluster development shall be required in areas containing environmentally sensitive resources, extensive steep slope areas and significant natural landform features.

The Commission notes Policy 4.4 was one of the first policies regarding landform alteration to be certified in San Diego County almost 18 years ago. This language has evolved over the years to include other ways of preventing excessive landform alteration while providing reasonable development expectations to permittees. Policy 4.4 requires that any unavoidable disturbance shall be minimized to the extent possible and that exceptions may include encroachments by roadways and utilities necessary to reach flatter developable areas, when there is no feasible less environmentally damaging alternative. The Commission finds it would be inconsistent with Chapter 3 policies to certify a LUP amendment that revises and updates policies that allow for residential development within the Kelly Ranch without also updating policies that are intended to avoid or mitigate adverse impacts associated with such development. Thus, the Commission must deny the amendment request, as submitted.

b. Mello II Land Use Plan

As noted, the Mello II portion of the LCP amendment request contains low lying areas associated with the Wetland Preserve immediately adjacent to the eastern shore of Agua Hedionda Lagoon, and upland areas comprised of steep hillsides and canyons that give way to mesa tops where the single family planning areas, Planning areas I and J, are proposed. This area is yet to be developed and is probably the most rural and open space land remaining within the City's coastal zone. Distant views from I-5 and the ocean exist

from many parts of the property. Also to the north is the floodplain of Agua Hedionda Creek and its associated riparian corridor and floodplain. Much of the property has been farmed, although it's generally too steep for cultivated crops. As noted, Cannon Road runs generally parallel to the creek between El Camino Real and the westerly limits of the Kelly property. The area can be characterized as highly scenic based on its topography and the presence of several habitat types.

Although the LCP amendment allows for substantial residential development in a highly scenic area, it fails to provide for any public vista points. This is a major shortcoming considering the size and topography of the Kelly Ranch and the viewshed across Agua Hedionda Lagoon to the ocean. Few, if any, other areas in Carlsbad afford such expansive views in all directions. The residential development allowed under the LCP amendment will result in grading of natural landforms, development of a highly scenic area, and the addition of residential development that will increase the use of coastal resources, including public recreational amenities, in the area. Allowing this development without mitigating the adverse impacts on visual and recreational resources is inconsistent with Sections 30250, 30251, and 30252 of the Coastal Act; therefore, the amendment must be denied.

4. PUBLIC ACCESS

The following Coastal Act policies apply to the proposed amendment:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 (in part).

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area. [...]

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

a. Agua Hedionda Land Use Plan

Section 30212 of the Coastal Act provides that adequate public access must be provided by new development from the nearest public roadway to the shoreline and along the coast. The lagoon is somewhat unique in its status as a multiple-use wetland area. It provides an extensive range of water-related passive and active recreational uses, as well as providing sensitive habitat for plants and animals. In preparing the LUP, the Commission and the City were aware of the need to balance competing uses. Thus, while public access is desired, the existing LUP provides for controlled access by limiting public access to a portion of the north shore of the lagoon. The LUP identifies that along the south shore, the slope conditions are such that attempts to provide usable access to the water's edge would be difficult.

Policies 7.1 through 7.8 identify the locations of proposed pedestrian accessways (pedestrian and bike trails), along the north shore of the lagoon. Policy 7.6 provides that access to and along the north shore of the lagoon shall be made continuous, to the maximum extent feasible, and shall be provided as a condition of development for shorefront properties. As identified in the Agua Hedionda LUP, the north shore trail extends from near the lagoon's ocean entrance along the north shore of the outer, middle and inner basins of the lagoon to Marina Drive which is a street west of Planning Area A. The LUP does not indicate the public trail would extend across Planning Areas A and C. Rather, the LUP indicates the trail would continue as a bike route along Park Drive to Park Drive's intersection with El Camino Real.

Section 30212 of the Coastal Act requires that new development provide public access along the coast. In this case, the Commission finds it is necessary for public access to be provided as a trail in Planning Area A to give coastal visitors more direct access and immediacy to the lagoon, consistent with Section 30212. The trail may connect with Park Drive east of Planning Area A.

Because the amendment does not include this trail provision, it is inconsistent with Chapter 3 policies and must be denied.

Policy 5.9 (c) of the Agua Hedionda Lagoon LUP provides that dedication of easements and provisions for funding all public improvements required by this plan and other city plans and ordinances, shall be a requirement for new development. Improvements shall include utility extensions, roadways, bicycle and pedestrian access to designated viewpoints, and any other public improvements necessary to accommodate the proposed development. A public access concern relates to the residential development being proposed in Planning Areas A and C. If proposed as gated communities, both vehicular and pedestrian access would be prohibited through the interior of the sites, and the interior street system would not meet public street standards with respect to width, design or setbacks.

In prior Commission actions, the Commission has found that gated communities are inconsistent with the public access policies of the Coastal Act. The Commission has found that the construction of gated communities in the coastal zone, particularly adjacent to recreational or scenic resources, either directly impacts public access, or has a "chilling" effect on the public's perceived ability to access coastal resources. The subject sites are immediately adjacent to the 195 acre Wetland Preserve on the north shore. Moreover, there is currently physical and visual access to the lagoon across the property. Fencing and gating the entire developed area would alter existing access. The Commission finds this inconsistent with Chapter 3 public access policies. Also, public streets or public access easements on private streets must be proposed to be consistent with the public access provisions of the Coastal Act.

The Commission further finds it is not necessary that the interior streets be upgraded to meet public street standards in all cases. The LCP could allow for a private street system which provides on-street public parking. Access easements or deed restrictions could assure public access is available on the private street system. If design constraints prohibit such a scenario, then public streets should be required. With regional population growth continuing, the need for adequate support facilities becomes ever more critical. Thus, the Commission finds the LCP should provide the maximum possible number of public parking spaces in order to be consistent with the access provisions of the Coastal Act because of the proximity to coastal waters and a significant public recreational area. Additionally, public access to the lagoon should be provided through a public trail system and public access signage along the planning area, if acceptable to the Department of Fish and Game. Without such provisions, the Commission finds the amendment must be rejected as not being consistent with Chapter 3 policies of the Coastal Act.

b. Mello II Land Use Plan

Section 30213 of the Coastal Act provides that lower cost visitor and recreational facilities shall be provided and that developments providing public recreational opportunities are preferred. Section 30223 of the Coastal Act provides that upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible. The existing Kelly Ranch Master Plan in the Mello II segment contains no specific requirement for public pedestrian access into or through the subject area other than a trail provided along Cannon Road (sidewalk). However, based on its large area, its scenic setting and proximity to the lagoon, it is the type of upland site that is appropriate

to provide coastal recreational uses consistent with the above Coastal Act sections. The City of Carlsbad Open Space Element requires public dedication of a trail system both along the southern frontage of Cannon Road, and along an interior road through Planning Area J, located at the top of the ridgeline. The City found the accommodation of these two trails would be a public benefit, and will result in greater compliance with Coastal Act policies regarding public access. Additionally, the proposed Planning Area F site will accommodate an interpretive center, intended to provide information to the public regarding the adjacent lagoon wetlands, and incorporate a trail system within the planning area. However, the Commission finds that while the above access provisions are laudable, they do not go far enough (i.e., no public vista points are proposed along the upland trail) to assure adequate public access in this large and scenic property within the coastal zone.

In its approval of the Aviara Master Plan, on nearby Batiquitos Lagoon, the Commission found a trail system was necessary to find master plan development consistent with the public access and recreation requirements of the Coastal Act. In that case, the trail system links a series of upland community trails to the North Shore Trail which follows the northern shore of Batiquitos Lagoon. The North Shore Trail is an important local and regional visitor destination point for hikers, bicyclists and bird-watchers. The trail system provides the upland linkages to the lagoon and addresses the recreational demand of future residents and impacts on existing public recreational facilities. The Commission has found both the upland community trails and the North Shore Trail are necessary public access and recreation components of the Aviara Master Plan.

There are parallels between the Aviara Master Plan and the subject Kelly Ranch property. Both are large planned developments that are situated near lagoons and enjoy significant amounts of open space because of the resources that inhabit the areas. While the Mello II portion of the Kelly Ranch is not immediately accessible to the shoreline of Agua Hedionda Lagoon, it is immediately upland of the 195 acre Wetland Preserve and the floodplain of Agua Hedionda Creek, thereby affording destination points where the coastal visitor can learn about and enjoy the resources of the lagoon and its environs. The demand that development of the Kelly site would have on recreational facilities was not addressed in the Commission's earlier approval in 1985. Recreational demand today has increased since then as the population of City has almost doubled within the last 15 years.

To prevent overload of existing recreational facilities and to offset the impact of 900+ additional units, the Commission finds it is necessary to provide for additional recreational facilities/improvements in the policies of the Carlsbad LCP. Such improvements should be addressed at the subdivision stage of development. The Agua Hedionda Interpretive Center on proposed Planning Area F together with the additional public trail and vista points will meet the recreational needs of new residents and offset the impacts of the proposed development on the existing Carlsbad community. The current amendment does not propose an extensive community trail system with vista points. As a result, the Commission finds the LUP amendment cannot be found consistent with Sections 30213 and 30223 of the Coastal Act and must be denied.

5. INTENSITY OF DEVELOPMENT/DENSITY MODIFICATIONS

a. Agua Hedionda Land Use Plan

Section 30250 of the Coastal Act requires that new development be concentrated in areas able to support it without adversely affecting coastal resources and states, in part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....

Section 30240 of the Coastal Act also provides that new development be sited and designed to not have an adverse impact on sensitive environmental resources. The proposed amendment involves modification of land uses and applicable zoning for Kelly Ranch and a revised open space system. The City of Carlsbad found this redistribution of land uses necessary to comply with land use regulations adopted since the most recent 1985 LCP modifications for the affected property i.e., the City's Growth Management Program, which requires stricter limits on densities and developable properties, and the draft Habitat Management Program, which is an outgrowth of the "threatened" listing of the California gnatcatcher. The proposed amendment results in a net reduction in allowable dwelling units from the existing LCP Kelly Ranch Master Plan capacity of 1400 units (3.2 dua) to 909 units (2.0 dua).

Regarding the Agua Hedionda Lagoon planning areas, the LCP amendment proposes to retain the existing land use designations that were approved in the Kelly Ranch Master Plan, with the exception of Planning Area C. In Planning Area C, a lower density of development is proposed in recognition of wetland resources that have expanded onto the planning area since the time of approval of the master plan. The City is proposing a change from RMH (8-15 dua) to RLM (0-4 dua). The Commission finds this land use change to be appropriate given the present environmental conditions of the site.

Planning Area A is proposed at the same density as approved in the master plan which is RMH (8-15 dua). Section 30250 of the Coastal Act requires that new residential development must be located in areas able to accommodate it and where it will not have significant adverse impacts on coastal resources. Section 30240 also requires that new development protect environmentally sensitive habitat areas and be compatible with the continuance of such areas. In this case, similar to Planning Area C, the Commission finds that a lower intensity of development is appropriate for Planning Area A. This is true given the expansion of wetlands that has occurred within and adjacent to the planning area and the value of the uplands on the site as endangered species habitat. If the permitted density is lowered on Planning Area A, development and open space proposed within the Agua Hedionda LUP portion of the Kelly Ranch would concentrate development without significant adverse impacts on coastal resources consistent with Section 30250. However, since a lower land use density is not proposed, the amendment must be denied as being inconsistent with Sections 30240 and 30250 of the Coastal Act.

b. Mello II Land Use Plan

Section 30250 of the Coastal Act requires that development be compatible with surrounding uses, concentrated in areas with appropriate infrastructure and where it can occur without adversely impacting coastal resources. The City regulates residential density through general plan and zoning designations. Additionally, Carlsbad has a growth management ordinance that limits the number of units within the City by assigning building caps to each of four sectors within the City. As required by the ordinance, residential density shall not exceed the midpoint of a particular density range without a finding that to do so would not exceed the planned density for that sector of the City. A sector's planned density cannot be exceeded unless a corresponding number of units in excess of the residential cap are subtracted from another sector. In that way, a building cap on the number of units allowed in the City is never exceeded. Finally, density bonuses are required to provide affordable housing based on State Law. Due to the City's use of the growth management ordinance to set residential buildout which is not a part of the certified LCP, the Commission finds the LCP should include language which clarifies that in the coastal zone, and in this particular case, the Mello II segment, residential densities shall be permitted and be based on the underlying LCP land use designation.

Regarding the Kelly Ranch area, previously, the Mello II LUP and Kelly Ranch master plan required that density be determined through application of a slope density formula. The slope density formula was approved when part of the site was required to be maintained as agriculture. Basically, some agricultural areas were identified for preservation while residential development was allowed in other areas. Where residential development was allowed, less development was permitted as slope gradient increased (i.e., on slopes greater than 25%, only one dwelling unit per 10 acres was allowed where by contrast all slopes with a grade less than 10% were allowed six dwelling units per acre). However, the agricultural preservation policies pertaining to Kelly Ranch were waived in Local Coastal Program Amendment #1-85 when the Commission found that the granting of 186+ acres of open space to preserve the low lying areas adjacent to the eastern end of Agua Hedionda Lagoon was an acceptable exchange for waiving the agriculture requirement.

Today, the City is proposing that the master plan be rescinded and that property development be reviewed through land use and zoning. Because of these revisions, the amendment must first be denied and then certified with a suggested modifications. The changes should acknowledge the residential land use designations contained in the LCP land use plan. The policies should also acknowledge those designations represent the maximum density permitted subject to application of requested density bonuses pursuant to Chapter 21.86 of the Carlsbad Municipal Code and the applicable resource protection provisions of the certified LCP. This means a density increase may be permitted pursuant to the affordable housing provisions contained in Chapter 21.86, which allows a density bonus provided the development is in conformance with all other policies of the LCP except density. Also, the language acknowledges that a maximum density is not allowed by right if resource constraints such as brush management or open space

requirements result in a buildable area that cannot accommodate the maximum permitted density.

Regarding the proposed intensity of use within the Mello II land use plan portion of Kelly Ranch (Core Area development), the proposed increase in residential intensity within Planning Areas D, G and H is acceptable (from RM to RMH). As noted, the sites are near major sources of employment at the Carlsbad Research Center, Carlsbad Airport Center, Carlsbad Ranch industrial and commercial centers, and the LegoLand California amusement park. The site is also situated on an arterial roadway, with direct access to I-5. Planning Areas D, G and H contain some of the more flat terrain on Kelly Ranch, at the base of the upland hillsides. However, the area encompassed by these planning areas contains two pockets of "dual criteria" slopes. As noted, one is a long, narrow canyon area in proposed Planning Areas H and I. It is separated from the main north/south trending open space corridor that occurs to the east. The other area is a canyon in proposed Planning Areas D and G which is separated from the proposed east/west open space corridor by an existing dirt road. This area would be protected under the "dual criteria" slope provisions of Policy 3-5 and the Coastal Resource Protection Overlay zone.

The proposed decrease in residential intensity in Planning Areas I and J is appropriate in that these areas are more difficult to access because of rougher terrain and hillside conditions, and their high visibility from surrounding areas. Finally, the proposed Planning Area F land use change is appropriate in that the reduced use intensity (from Travel-Recreation uses) will allow greater preservation of natural open space, will substantially reduce trip generation, and have less offsite impacts to the adjacent Agua Hedionda Lagoon wetlands in the form of less night lighting and less potential of unsupervised entrance and disturbance to the wetlands.

As proposed, the LCP amendment would allow for development of the Core Area of Kelly Ranch in a manner that concentrates development outside of the proposed open space corridors required by the resource agencies pursuant to the draft HMP. However, the development plan results in encroachment into environmentally sensitive habitat areas previously protected by Section 30240 of the Act and in the certified Kelly Ranch Master Plan. Therefore, the Commission finds the LCP amendment must be denied as submitted and approved with suggested modifications that acknowledge this conflict and result in an open space and development plan that is most protective of coastal resources.

V. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD AGUA HEDIONDA LAND USE PLAN AMENDMENT #2-99D - IF MODIFIED

The standard of review for LUP submittals or amendments is their consistency with and ability to carry out the provisions of Chapter 3 policies of the Coastal Act. As noted, the City found the proposed LUP redesignations are required to bring the Kelly Ranch regulations in line with modern requirements for habitat preservation, growth management, and other land use regulatory programs adopted since 1985. However, as noted above, the Commission found that the amendment must be denied for several reasons. The reasons are tied to changes that have

occurred since the Commission approved the master plan and reflect current standards of environmental review.

As noted, the emergence of the City's draft Habitat Management Plan as an important program in resource protection has resulted in a greater emphasis being placed by the City on protection of environmental resources, both wetland and upland. The Agua Hedionda LUP was approved in 1982 with no provisions specifying what uses are permitted within wetlands pursuant to Section 30233. This is a major oversight which the Commission is addressing in this action by requiring through a suggested modification that any projects that are proposed in delineated wetlands be consistent with Section 30233.

In this case, there have been changes in the wetland area over the years within and adjacent to Planning Areas A and C. Additionally, the upland vegetation on Planning Area A supports coastal sage scrub as gnatcatcher habitat. Due to this change in site conditions, the Commission finds a 50-foot buffer which would be allowed by the current LUP language, in consultation with DFG, is no longer appropriate. Additionally, prior to any development occurring on Planning Areas A and C, a wetland delineation must be completed to determine from what location the required wetland buffer should be measured. The suggested language will assure consultation with the California Department of Fish and Game to determine the appropriate width of a wetland buffer, based on the quality of the wetland resource existing on the site at the time and considering the important functions of a wetland buffer, including absorption of polluted runoff and upland transitional habitat value. However, the Commission finds in no case should the wetland buffer be permitted to be less than 100 feet in width to assure adequate protection of the resources on-site and within the adjacent Wetland Preserve.

Additionally, because the proposed density of Planning Area A would create an expectation of relatively intense development adjacent to a critical wetland area, a revised LUP map must be submitted which identifies that reduced density will occur on Planning Area from the proposed RMH (8-15 du/a) to RM (4-8 du/a). As noted, the Commission have found on many occasions that high densities associated with residential development proposals near wetland areas has resulted in adverse impacts to such resources. These resources are directly impacted by intrusion from humans and pets and indirectly impacted by the introduction of erosion and pollution (sedimentation, insecticides, pesticides etc.) into these environmentally sensitive areas. As revised, the Commission can find the proposed LCP amendment consistent with Section 30240 of the Coastal Act.

In addition, with respect to identifying an appropriate boundary between new development and coastal resources, the Commission finds a revised LCP Land Use Plan map, to replace existing Exhibit C contained in the certified Agua Hedionda LCP Land Use Plan, must be developed to include revisions to the boundaries of proposed Planning Areas A, B, and C as proposed in LCPA #2-99D Kelly Ranch. Additionally, the land use designation on proposed Planning Area B shall be Open Space. The City must prepare a revised Exhibit D as part of the LUP which delineates the boundary of the Wetland Preserve consistent with the offer of dedication to the Department of Fish and Game. Also, the exhibit must acknowledge potential wetlands existing on Planning Areas A and C and that an exact delineation of wetlands within any planning area shall be required prior to filing a coastal development permit application for future development.

As noted, the Agua Hedionda LUP recognizes the scenic nature of the area and provides that public views be maintained between the first coastal road and the lagoon. In this case, the three planning areas within the Agua Hedionda segment that were part of the Kelly Ranch Master Plan are all located between the first coastal road (Park Drive) and the lagoon and as such the LUP requires that view corridors be maintained. Of special concern is Planning Area A as it is proposed with the highest residential density and already has an artificial landform that currently blocks views over a significant portion of the planning area. To ensure that existing views will be preserved and any natural landforms are maintained, the Commission is approving a suggested modification that calls for reservation of a view corridor at the western property line (from Park Drive) and an additional view corridor in the central portion of the site. Because currently the public view is blocked across the majority of the site and unobstructed views of the lagoon exist immediately east of the planning area, the Commission finds a total width of at least 200 feet in at least two view corridors is sufficient to meet the requirements of the Coastal Act.

Regarding landform alteration and impacts to steep slopes, Policy 4.4 of the LUP shall be revised to provide that development, grading and landform alteration of natural steep slope areas (25%) grade shall be avoided, when feasible. Currently, the policy restricts development of such slopes. The revised language is more in line with accepted standards of steep slope preservation. It requires that any unavoidable disturbance shall be minimized to the extent possible and that exceptions may include encroachments by roadways and utilities necessary to reach flatter developable areas, when there is no feasible less environmentally damaging alternative.

Regarding public access concerns, based on the location of the planning areas in the Agua Hedionda segment between the first coastal road and the sea, Policy 5.9 (c) shall be revised to read that no private gates which would preclude such access shall be permitted for any residential development located between Park Drive or Cannon Road and Aqua Hedionda Lagoon. Additionally, public streets with on-street parking shall be provided within the developable portions of the planning areas, as feasible, so that a parking reservoir will be available for coastal visitors for future use as recreational and access demands increase in the area. If adequate public access can be provided through public access easements across private streets, that is also a viable alternative. Finally, although access improvements are encouraged, Policy 3.1 shall be amended to identify that access improvements shall be permitted only within the upper half of any required buffer between development and wetland resources. In this way access will be provided without adversely affecting the resource values of the identified wetland, and in consultation with the California Department of Fish and Game.

Regarding water quality concerns, Section 30231 protects the quality of coastal waters, wetlands and streams. Also, Section 30240 of the Coastal Act, cited previously, calls for the protection of sensitive habitat by, among other means, regulation of development in adjacent areas. Agua Hedionda Lagoon has been identified by the State Department of Fish and Game as one of the 19 highest priority wetland areas for acquisition and, as such, is referenced in Section 30233(c) of the Coastal Act. The amendment would allow grading and development of Planning Areas A and C located immediately upland of the north shore of Agua Hedionda Lagoon. The adverse impacts of development most often associated with wetland areas are erosion of soils within the watershed, subsequent sediment transport to the wetlands and introduction of pollutants in the runoff into the wetlands.

The Commission finds suggested modifications are necessary to the Agua Hedionda Land Use Plan to address water quality concerns associated with development of the planning areas. The Commission finds the land use plan should contain policy language which requires implementation of all applicable Best Management Practices (BMPs) consistent with Chapter 15.12 of the Carlsbad municipal code (storm water management and discharge control ordinance), and the applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board and any subsequent amendments. These recently approved standards require that new development must incorporate design elements or BMPs which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible.

The standards also require new development to maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and /or site design with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies. The standards require the use of porous materials for or near walkways and driveways where feasible; and require installation of rain gutters with orientation towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.

Regarding parking lots with 25 or more parking spaces, such lots shall incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks.

Regarding all new development, a public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs shall be instituted. Additionally, a landscape management plan that includes herbicide/pesticide management must be employed. Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. The Commission finds that as so modified, the proposed amendment can be found consistent with Section 30231 of the Coastal Act.

VI. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD MELLO II LAND USE PLAN AMENDMENT #2-99 - IF MODIFIED

1. REVISED OPEN SPACE SYSTEM

The standard of review for LUP amendments is whether they meet the requirements of, and are in conformity with, the Chapter 3 policies of the Coastal Act. As noted, the City

found the proposed LUP redesignations are required to bring the Kelly Ranch regulations in line with modern requirements for habitat preservation, growth management, and other land use regulatory programs adopted since 1985.

However, the Commission finds the above amendment must be denied for several reasons. The amendment does not adequately protect environmentally sensitive wetland and upland habitat including coastal sage scrub and chaparral vegetation and, therefore, must be modified to ensure that such environmentally sensitive habitat areas are designated and protected within the Kelly Ranch property. The LCP policies which pertain to Kelly Ranch must acknowledge that due to its location, topography and the sensitive habitat contained within wetlands and on the slopes and canyons within the 433 acres, the Kelly Ranch property is a critical linkage between significant corridors of environmentally sensitive habitat areas to the north and south of Kelly Ranch. The LCP policies should also acknowledge the goal of sustaining and enhancing a viable upland habitat connection between sensitive lands within the City of Carlsbad and recognize the need to preserve habitat supporting the California gnatcatcher and other endangered species on the Kelly Ranch property. In the Kelly Ranch/Macario Canyon area, such a connection is between the Macario Canyon watershed located to the south and Agua Hedionda Creek and Lagoon located to the north.

The proposed revisions to the Kelly Ranch Master Plan have resulted from negotiations by the property owner with the Department of Fish and Game (DFG) and the U.S Fish and Wildlife Service (USFWS) to establish what is known as a "hardline" preserve on much, but not all of the Kelly Ranch. Property designated as "hardline" preserve is property that cannot be developed. The proposed Planning Area L was not planned as part of the "hardline" preserve system and is identified as a "standards" area within Core Area 4 in the draft HMP which means that a certain percentage of the property must be preserved as open space, but the location of the open space is not yet determined. The property immediately adjacent to the southeast property corner of the Kelly Ranch is known as the Kirgis parcel and is also designated a "standards" area in the draft HMP. These two properties both contain coastal sage scrub and southern maritime chaparral habitat and are adjacent to the "hardline" preserve corridors established in the draft HMP. Because of their location and habitat, they are critical to the habitat linkage within the core area. This is why standards have been developed in the HMP to be applied to future development of those parcels when development is proposed to proceed. The "hardline" preserve boundaries are only negotiated with willing property owners at the time a site development plan is available for review. The "hardline" preserve boundaries are defined in the Agua Hedionda Land Use Plan segment by the boundaries of the "to be dedicated" Wetland Preserve. Within the Mello II segment, the "hardline" preserve boundaries have been set by the resource agencies for all of the proposed planning areas except for Planning Area L, and are reflected in the City's open space designations on the submitted LCP land use plan map.

The Commission finds the LCP amendment as submitted by the City does not contain adequate replacement policies for the certified master plan to ensure that buildout of the planning areas will be consistent with Chapter 3 policies of the Coastal Act. Additionally, the submitted land use plan and zoning maps are inconsistent and do not reflect the open space that will be required pursuant to the draft HMP. The maps are inconsistent because the land use maps designate areas as either residential or open space but the zoning map zones all of the areas as residential. Further, the

1 potable water sources; foundation drains; air
2 conditioning condensation; irrigation water
3 springs; water from crawl space pumps;
4 footing drains; lawn watering; individual
5 residential car washing; flows from riparian
6 habitats and wetlands; dechlorinated
7 swimming pool discharges; and street wash
8 water.

9 C. The prohibition of discharges shall
10 not apply to any discharge which the City of
11 Carlsbad or the county health officer, and/or
12 the Regional Water Quality Control Board
13 determine are necessary for the protection
14 of the public health and safety.

15 15.12.060 Discharge in Violation of 16 Permit

17 Any discharge that would result in or
18 contribute to a violation of California
19 Regional Water Quality Control Board
20 NPDES Permit No. CA0108758, Order 90-42
21 and any amendment, revision or reissuance
22 thereof, either separately considered or
23 when combined with other discharges, is
24 prohibited. Liability for any such discharge
25 shall be the responsibility of the person(s)
26 causing or responsible for the discharge.

27 15.12.070 Illicit Connections

28 It is prohibited to establish, use,
maintain, or continue illicit connections to
the storm water conveyance system,
regardless of whether such connections
were made under a permit or other
authorization or whether permissible under
the law or practices applicable or prevailing
at the time of the connection except as
authorized in section 15.12.050.

15.12.080 Reduction of Pollutants Contacting or Entering Storm Water Required.

A. It is unlawful for any Person not to
utilize Best Management Practices to the
Maximum Extent Practicable to eliminate or
reduce Pollutants entering the City's Storm
Water Conveyance System.

B. In order to reduce the risk of Non-
Storm Water or Pollutant discharges to the
City's Storm Water Conveyance System, the
following minimum Best Management
Practices shall be implemented:

1. Commercial and Industrial
Business-Related Activities.

a. Storm Water Pollution
Prevention Plan: When the Enforcement

Official determines that a business or
business-related activity causes or
significantly contributes to violation of the
water quality standards set forth in the Basin
Plan or California Ocean Waters Plan, or
conveys Significant Quantities of Pollutants
to Receiving Waters, then the Enforcement
Official may require the business to develop
and implement a Storm Water Pollution
Prevention Plan (SWPPP). Businesses
which may be required to prepare and
implement a SWPPP include, but are not
limited to, those which perform
maintenance, storage, manufacturing,
assembly, equipment operations, vehicle
loading, and/or cleanup activities partially or
wholly out of doors.

b. Coordination with
Hazardous Materials Response Plans and
Inventory. Any business subject to the
Hazardous Materials inventory and response
program pursuant to Chapter 6.95 of the
California Health and Safety Code, shall
include provisions for compliance with this
Chapter in its Hazardous Materials
Response Plan, including prohibitions of
unlawful Non-Storm Water discharges and
Illegal Discharges, and provisions requiring
the use of Best Management Practices to
reduce the discharge of Pollutants in Storm
Water.

c. Impervious Surfaces.
Persons owning or operating a Parking Lot
or an impervious surface (including, but not
limited to, service station pavements or
paved private streets and roads) used for
automobile-related or similar purposes shall
clean those surfaces as frequently and as
thoroughly as is necessary, in accordance
with Best Management Practices, to prevent
the discharge of Pollutants to the City's
Storm Water Conveyance System.
Sweepings or cleaning residue from Parking
Lots or impervious surfaces shall not be
swept or otherwise made or allowed to go
into any Storm Water conveyance, gutter, or
roadway, but must be disposed of in
accordance with regional solid waste
procedures and practices.

2. Activities not Otherwise Regulated
by Subsection B.1.

a. Any person engaged in
Development or other activity not covered by
Subsection B.1 in the City of Carlsbad shall
utilize Best Management Practices to
prevent Pollutants from entering the Storm

Ex C 5

1 Water Conveyance System by complying
2 with all applicable local ordinances, the
3 Standard Specifications for Public Works
4 Construction when performing public work,
5 and applicable provisions of the NPOES
6 General Permit for Storm Water Discharges
7 Associated with Construction Activity issued
8 by the State Water Resources Control Board
9 (State Board Order No. 92-08-DWQ), and
10 any subsequent amendments.

11 b. Standard for Parking Lots and
12 Similar Structures. Persons owning or
13 operating a parking lot or impervious
14 surfaces used for similar purposes shall
15 clean those structures thoroughly as is
16 necessary to prevent the discharge of
17 pollutants to the storm water conveyance
18 system to the maximum extent practicable,
19 but not less than once prior to each wet
20 season. Sweepings or cleaning residue
21 from parking lots or said impervious
22 surfaces shall not be swept or otherwise
23 made or allowed to go into the gutter or
24 roadway.

25 15.12.090 Watercourse Protection

26 Every person owning property through
27 which a watercourse passes, and such
28 person's lessee or tenant, shall keep and
maintain that part of the watercourse within
the property reasonably free of trash, debris
excessive vegetation, and other obstacles
which would pollute, contaminate, or
significantly retard the flow of water through
the watercourse; shall maintain existing
privately owned structures within or adjacent
to a watercourse, so that such structures will
not become a hazard to the use, function, or
physical integrity of the watercourse; and
shall not remove healthy bank vegetation
beyond that actually necessary for said
maintenance which shall be accomplished in
a manner that minimizes the vulnerability of
the watercourse to erosion. No person shall
commit or cause to be committed any of the
following acts, unless a written permit has
first been obtained from the Enforcement
Official, and the appropriate State or Federal
agencies, if applicable:

A. Discharge pollutants into or
connect any pipe or channel to a
watercourse;

B. Modify the natural flow of water in a
watercourse;

C. Carry out developments within thirty
feet of the center line of any watercourse or

twenty feet of the edge of a watercourse,
whichever is the greater distance;

D. Deposit in, plant in, or remove any
material from a watercourse including its
banks except as required for necessary
maintenance;

E. Construct, alter, enlarge, connect
to, change, or remove any structure in a
watercourse; or

F. Place any loose or unconsolidated
material along the side of or within a
watercourse or so close to the side as to
cause a diversion of the flow, or to cause a
probability of such material being carried
away by storm waters passing through such
a watercourse.

G. The above requirements do not
supersede any requirements set forth by the
California Department of Fish and Game
Stream Alteration Permit process.

15.12.100 Authority to Inspect

A. During normal and reasonable hours
of operation, the Enforcement Officer shall
have the authority to make an inspection to
enforce the provisions of this Chapter, and
to ascertain whether the purposes of this
Chapter are being met. An inspection may
be made after the designated representative
of the City of Carlsbad has presented proper
credentials and the owner and/or occupant
authorizes entry. If the City of Carlsbad
representative is unable to locate the owner
or other persons having charge or control of
the premises, or the owner and/or occupant
refuses the request for entry, the City of
Carlsbad is hereby empowered to seek
assistance from any court of competent
jurisdiction in obtaining entry.

After obtaining legal entry, the
representative of the City of Carlsbad may:

1. Inspect the premises at all
reasonable times.

2. Carry out any water sampling
activities necessary to enforce this Chapter,
including taking water samples from the
property of any person which any authorized
representative of the City of Carlsbad
reasonably believes is currently, or has in
the past, caused or contributed to causing
an illegal storm water discharge to the storm
water conveyance system. Upon request by
the property owner or his/her authorized
representative, split water samples shall be
given to the person from whose property the
samples were obtained.

areas shown as open space on the land use plan are only those areas that are designated as "hardline" preserve in the draft HMP. The areas designated as "standards" area in the draft HMP will be required to include open space, but this open space is not shown by the City on the LCP land use plan map. If approved as submitted, there would be no LCP map which delineates the entire open space system that will actually be in place (and required by the HMP). The Commission finds, in order to address the complex planning issues represented by development of the Kelly Ranch, and to replace the comprehensive planning effort involved in certification of the master plan, the LCP for Kelly Ranch must include an open space map and include specific policy direction addressing uses and activities which can occur in designated open space, in addition to the land use plan and zoning map.

The policies in the current Mello II LCP that protect naturally vegetated slopes of greater than 25% grade, i.e. "dual criteria" slopes, are intended to protect environmentally sensitive habitat area and scenic coastal resources, and to minimize landform alteration and grading that leads to increased erosion and downstream sedimentation. These policies carry out Sections 30240 (environmentally sensitive habitat), 30251 (scenic resources) and 30253/30231 (landform alteration/sedimentation) of the Coastal Act.

The LCP amendment as submitted would revise the previously-approved open space system to eliminate certain "dual criteria" slopes from open space and designates them for residential development; however the City has not proposed to modify the LCP language which protects "dual criteria" slopes which would serve as the standard of review to implement the proposed land use map. The City has stated to Commission staff that its intent is to allow the grading and development of those slopes, as evidenced by the City approval of the coastal development permit for the Core Area development. However, the Commission finds revisions are necessary, primarily due to an inconsistency between the requirements of the currently certified LCP and the draft HMP, and should be addressed in this comprehensive update to the LCP policies for Kelly Ranch. The Kelly Ranch Master Plan which addressed the sensitive resources of the entire property on a comprehensive basis must be replaced by policies which do the same, and which will serve as an appropriate standard of review for future development on Kelly Ranch.

The revised open space system submitted as part of the subject LCP amendment does not significantly change the amount of open space required by the master plan. In addition, the revised open space system is mostly in the same location as the system required by the master plan and, thus, it maintains essentially the same critical north/south and east/west habitat corridors retained as open space in the master plan. However, the revised open space system does shift the location of development and open space such that some encroachment by development would be allowed in several steep, naturally-vegetated canyons and hillsides currently protected. The resource impacts in these areas will be described in the following paragraphs. In addition, the proposed open space system would expand the width of the critical habitat corridors by requiring some areas to be retained as open space which were previously allowed to be developed.

With the subject LCP amendment, some of the "dual criteria" steep slopes that would be allowed to be developed are immediately adjacent to significant open space corridors proposed by the City and are within scenic public viewsheds. Grading of these areas would result in elimination of the natural landform, decrease slope stability and increase erosion potential. The elimination of these steep, naturally-vegetated slope areas is inconsistent with Sections 30240, 30251 and 30253 of the

Coastal Act and cannot be supported as consistent with Chapter 3 policies. The individual areas where development would be permitted under the proposed LCP amendment, which are protected as open space under the current LCP will be addressed in the following findings.

The primary access road proposed to serve the Core Area residential development from Cannon Road crosses the open space proposed within the southern portion of Planning Areas D and the northern portion of Planning Area G in an alignment similar to that permitted by the master plan. An existing settling basin which contains 1.4 ac. of mulefat scrub and riparian herb, is located adjacent to the north of the proposed access road in Planning Area D and would be removed by RV parking and residential development proposed for this planning area. This area was approved for development in the certified master plan. The wetland vegetation has likely established since that time as it is a collection point for drainage and runoff and the area has been modified by grading for Cannon Road which is immediately adjacent to the west. The Army Corps of Engineers is currently processing a 404 permit to allow such impacts to jurisdictional wetlands in exchange for wetland mitigation within the uplands of the Wetland Preserve. A steep, naturally-vegetated knoll is located south of the proposed access road within Planning Area G which contains coastal sage scrub. A approx. .39 acre portion of this knoll is proposed as open space, and the remainder would be impacted by the access road and development in Planning Area G. In the certified master plan approximately .95 acres of this knoll was retained in open space.

Proposed Planning Area G is adjacent to the east of Cannon Road and is immediately south of Planning Area D and G. Both planning areas are planned for multi-family development at 8-15 du, including affordable housing. In addition to the above mentioned knoll, the southern portion of Planning Area D and the northern portion of Planning Area G contain a canyon area which is environmentally sensitive habitat area including steep slopes and coastal sage scrub vegetation. A significant portion of the canyon area was retained in open space in the certified master plan; however, portions were impacted to allow for construction of the access road from Cannon Road. The northern portion of the canyon connects to the southern portion of open space proposed on the eastern slopes of Planning Area D which are part of the prominent east/west open space corridor proposed by the City. The canyon is separated from the open space corridor by an existing dirt road.

Further to the east and south on Planning Areas H and I, there is a vegetated hillside comprising the east-facing slope of the major north/south agricultural valley. This hillside is also potentially environmentally sensitive habitat area and was retained in open space as part of the master plan. This area is steep and vegetated with coastal sage scrub; however, it is isolated from the proposed primary north/south and east/west open space habitat corridors. This east-facing hillside is also not visible from Agua Hedionda Lagoon, Cannon Road or Interstate 5. As proposed, development of the canyon on Planning Area D and G and the hillside on Planning Areas H and I would concentrate development in the Core Area and allow the property owner to complete the grading plan integral to the construction of Cannon Road as approved by the City.

With the exception of encroachment on the above mentioned hillside, the residential development within Planning Areas H and I is concentrated on the floor of a north/south trending valley previously cleared for agricultural use. The proposed primary north/south habitat corridor required in the draft HMP is the steep hillside rising east up from this valley floor to the ridgeline located on Planning Area J. Residential development on Planning Area J is proposed east of and

on the ridgeline above this habitat corridor. The eastern edge of the proposed open space corridor, which consists of the steep, west-facing naturally-vegetated hillsides and canyons is proposed approximately 40 to 80 feet downslope (west of) the ridgeline. Grading and brush management for the residential development on Planning Area J would impact the upper reaches of the steep, vegetated hillside, outside the proposed open space system. The entire west-facing hillside up to and including the sensitive vegetation at the ridgeline is a significant scenic and natural landform and an environmentally sensitive habitat area protected by Sections 30240, 30251 and 30253 of the Coastal Act. Most of the hillside with the exception of the upper reaches is proposed as part of the "hardline" preserve and open space.

The confluence of the north/south and east/west trending open space corridors of the proposed open space system is northwest of Planning Area J and southeast of Planning Area K. This area is characterized as a disturbed, flatter area at the top of two converging north/south and east/west trending ridgelines with steep, naturally-vegetated hillsides descending to the north and west on either side of the ridge. At the northwestern portion of Planning Area J, encroachment by development is proposed onto the north-facing, steep slope. Development in this area results in an open space corridor of approximately 125 feet in this area. The resource agencies have indicated a goal of habitat core area protection is to provide 1000 foot wide wildlife corridors, however, for Kelly Ranch, the resource agencies have accepted corridors in most areas that are only 400 feet wide. Development on the north-facing slopes of Planning Area J would be highly visible from El Camino Real, and inland scenic highway. In addition, these slopes are directly connected to environmentally sensitive habitat area of the proposed open space system, but are located in an area that, if retained as open space, would provide a wider wildlife corridor connecting the two major components of the upland open space preserve system proposed by the City. The resource agencies required retention of approximately .54 acres of disturbed area on the west facing slope as open space to widen the habitat corridor to closer to 300 feet on the west facing slopes. This is an area that was previously approved for development in the certified master plan due to its disturbed nature and less than 25% grade.

There are other areas on the north, east and south side of Planning Area J that are "dual criteria" and, thus, would be kept in open space in the master plan, but are not proposed as open space in the LCP amendment. These include the slopes on the northern edge of Planning Area J containing southern maritime chaparral and coastal sage scrub adjacent to the preserve open space located within Planning Areas J and K; the upper reaches of canyons on the southern portion to Planning Area J containing southern maritime chaparral; and the upper reaches of a slope on the eastern side of Planning Area J containing southern maritime chaparral and coastal sage scrub. These areas represent a portion of the total acreage of environmentally sensitive habitat area (19.85 ac. coastal sage scrub and 4.90 ac. southern maritime chaparral) which would be impacted by implementation of the proposed open space plan.

In this particular case, the Commission must look at the resource value afforded on the proposed planning areas including, not only habitat value, but also the value of the natural landforms and open space in mitigating the impact of residential development on significant coastal resources. Therefore, the Commission is requiring revisions to the proposed open space system through a Suggested Modification #10 that requires the City to prepare an LCP Kelly Ranch Open Space Map to delineate all of the significant landforms and habitat which should be protected from development in order to meet the requirements of Chapter 3 of the Coastal Act. The required

revisions to the open space system will result in either protection of significant environmentally sensitive area in place because its development would result in an unacceptable conflict with Coastal Act policies; or the revised open space would result in expansion of the proposed habitat corridors to enhance connectivity and functions for long-term continuance of the resource value.

As proposed, the impacts to the habitat and scenic value of the ridgeline permitted by the proposed open space on the west facing slopes of Planning Area J cannot be found to be consistent with the Coastal Act. Preservation of the ridgeline and siting of development a sufficient distance back from the ridgeline to avoid clearance of vegetation required for fuel management is critical to preserving the scenic value of the natural landforms integral to the lagoon and its environs. These canyon and slope areas are clearly protected under the current LCP language, contain environmentally sensitive habitat protected by Section 30240 and are adjacent to preserved habitat corridors. Additionally, these areas are visible from I-5, Cannon Road and the public recreational areas surrounding Agua Hedionda Lagoon and must be protected to meet the requirements of Section 30251 and 30253 of the Coastal Act.

The Commission finds expansion of the resource value of the remaining open space system is necessary to assure connectivity and function of the habitat corridors and potentially offset the encroachment into environmentally sensitive habitat areas on Planning Areas D, G, H, I and J described above. Expansion of the open space up to the west-facing ridgeline and on the north-facing slopes to include approximately X ac. of additional open space where the Core Area development plan shows Lots 72, 73 and 74, would substantially reduce the impacts to environmentally sensitive habitat area. Such a revision would also retain the most visible and scenic portions of the natural landform in open space and significantly reduce the visual impact of residential buildout of Kelly Ranch, consistent with Sections 30240, 30251 and 30253 of the Coastal Act. The Commission finds that elimination of three residential lots and their retention in open space on the LCP Kelly Ranch Open Space Map would allow for a concentration of development which is set back from the prominent west-facing ridgeline. Such a revision would widen the wildlife corridor to only approx. 275 feet on the north-facing slopes, but achieve the desired 400 foot width on the west-facing slopes. This modification to the required open space would improve the functional value of the habitat corridor and long-term productivity of sensitive species and mitigate the impact of residential buildout of Planning Area J on the scenic and visual quality of the existing Kelly Ranch property.

There is also revision required to the proposed open space system on Planning Area D to eliminate direct wetland impacts which would be inconsistent with Section 30233, and to expand the habitat corridor to provide a direct link between the upland corridor and Agua Hedionda Lagoon. The Commission finds the revised Kelly Ranch Open Space Map should extend the southern limit of the open space proposed on the eastern portion of Planning Area D west to Cannon Road. With this revision, all of the area north of the existing dirt road would be retained in open space. This area is predominantly non-native grassland and coastal sage scrub vegetation. A 1.4 acre low-lying area supports riparian vegetation and there is a small area of disturbed agricultural land which could revegetate with native species.

The property owner has indicated this revision would result in a significant impact on the proposed development plan because the City of Carlsbad has required a daycare and RV parking facilities be provided within Planning Area D to meet some of the requirements typically included

in a master plan. The City's staff report indicates the minimum standard for RV parking is 20 sq.ft. per unit which would mean approximately 6,060 sq. ft. of RV parking for this development. The proposal includes nearly 40,000 sq.ft. for RV parking. The daycare facility would need approximately one acre. The Commission finds there is adequate area of non-native grassland, or disturbed agricultural land within the 13.39 acre of the northern portion of Planning Area D to potentially accommodate such facilities and not adversely impact the adjacent environmentally sensitive habitat areas. Also, the connectivity and function of the habitat would not be significantly disrupted because at least an 800 foot wide habitat corridor could be provided. Therefore, the suggested modifications include language which allow for the potential revision of the open space boundary to accommodate those facilities if certain criteria are met. The criteria includes that the facilities be the minimum amount required to meet zoning standards and that they are located on the least sensitive portion of the site. Also, a minimum 800 foot wide wildlife corridor must be maintained, the area will be restored and enhanced, and impacts to jurisdictional wetlands will be avoided.

The Commission finds retention of this area in open space will provide enhanced connectivity between the upland open space system and Agua Hedionda Lagoon and will further the continuance of the habitat area consistent with Section 30240. Additionally, this area should be restored through revegetation with native species in a manner similar to the restorative measures proposed for the submitted open space system. Planning Area D is also highly visible from the interpretive center site and lagoon trails on both the north and south sides of the lagoon, as well as from Cannon Road, a scenic highway and I- 5. Therefore, its retention as open space meets the requirements of Section 30251 of the Coastal Act. The potential encroachments for RV parking or a daycare facility would only be permitted if located and designed in a manner that will not result in significant disruption of the habitat value, will not degrade existing sensitive habitat and will be compatible with the continuance of the habitat consistent with Section 30240

Planning Area L was not planned as part of the proposed LCP amendment or the Core Area development plan; however, it is located within the east/west open space corridor proposed by the City. This planning area is also known as the Callahan property and is shown as a "standards area" in the City's draft Habitat Management Plan. This means the resource agencies have indicated that a portion of the area should be considered for incorporation into the habitat preserve. The draft HMP "standards" read as follows:

There are two properties within this zone that are designated as standards areas: the Kirgis property and the Callahan property. Both properties are required to avoid impacts to any identified Narrow Endemic plant populations. Impacts to coastal sage scrub and southern maritime chaparral habitats shall also be avoided, with impacts limited to smaller fragments, edges, lower quality areas, and areas devoid of sensitive species. The Kirgis property shall be allowed a maximum of 25% of the parcel for development purposes. The Callahan property shall be allowed a maximum of 50% of the parcel for development purposes. Both properties shall place their development on the least environmentally sensitive portion of the property.

The Commission finds that the northern and eastern slopes on this Planning Area L are environmentally sensitive habitat areas containing coastal sage scrub or southern maritime

chaparral vegetation and are protected by Section 30240 of the Coastal Act. These slopes and vegetation provide valuable habitat for the gnatcatcher as well as other sensitive species. In addition, these slopes are contiguous with the proposed open space system and major habitat corridors. Therefore, the Commission finds that the environmentally sensitive habitat area on the eastern and northern portion of proposed Planning Area L should be designated as open space as part of this LCP amendment.

The extreme northern portion of the planning area is a narrow, prominent ridgeline visible from I-5, Cannon Road and all the resource and recreational areas surrounding Agua Hedionda Lagoon. Its preservation as open space as a visual resource is also required to conform with Section 30251 of the Coastal Act. Preserving the northern portion of the planning area as open space will also require residential development to be setback from the ridgeline to reduce the visual impact of development on the scenic viewshed of the lagoon. Grading for development will also be minimized consistent with Section 30253.

The Commission finds the open space system on Planning Area L approved with this LCP amendment should preserve the northern and eastern portions of the planning area which contain environmentally sensitive habitat and are a significant scenic resource consistent with Chapter 3 policies of the Coastal Act. Such open space preservation would allow development on the least environmentally sensitive portion of the property and adequate developable area remains to accommodate reasonable use of the property consistent with Chapter 3 policies and the current LCP for this area. Therefore, the suggested modification requires the LCP Kelly Ranch Open Space Map to include the northern and eastern portions of Planning Area L as open space consistent with Sections 30240, 30251 and 30253 of the Coastal Act.

The Commission generally supports the approach utilized by the City with this LCP amendment which is to concentrate development and preserve large segments of open space for habitat protection. Section 30250 requires that new development be located within, contiguous with, or in close proximity to areas able to accommodate it without significant adverse effects, either individually or cumulatively, on coastal resources. However, in this particular case, even with the revisions required in the suggested modifications which serve to protect the most significant and scenic natural landforms in open space and expand the habitat corridors to provide greater connectivity between significant upland and wetland resources, some conflicts with the provisions of Section 30240 will result. Section 30240 (a) requires that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Additionally, Section 30240 (b) requires that "development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas." As submitted, the LCP amendment would allow for development of steep, naturally-vegetated slopes which is inconsistent with Section 30240, 30251 and 30253 of the Coastal Act; however, such impacts may be acceptable under Section 30250 which requires concentration of development to protect such resources.

Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve such conflicts between Coastal Act policies. This section provides that:

The legislature finds and recognizes that conflicts may occur between one or more policies of the this division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Therefore, the Coastal Act recognizes, in some cases, it may be more protective of all significant coastal resources, including scenic natural landforms, sensitive habitat and public access, to allow development within environmentally sensitive habitat areas in exchange for clustering of development that results in greater protection of other significant environmentally sensitive habitat areas. This would only be true when the approved land use plan results in a greater concentration of development and more viable open space/habitat system than if all environmentally sensitive habitat is preserved in place. The Commission finds in this particular case, with the revisions proposed through the attached suggested modifications, that such a finding can be made.

Such revisions to the proposed open space system as part of the LCP amendment would protect the most significant and visible natural landforms and mitigate the visual impact of the grading and landform alteration allowed by development of the remainder of the Core Area in areas that are highly visible from public access routes and resource areas. Additionally, the revisions would preserve significant natural landforms and thereby reduce grading and potential for erosion and downstream sedimentation. The revised habitat corridor would also enhance the resource value and function for long-term protection of sensitive species and their habitat. Further, the environmentally sensitive habitat areas that might be developed as a result of approval of the proposed LCP amendment have not been found by the resource agencies to be necessary for long-term viability of the rare and endangered species and their habitat. Therefore, on balance, the Commission finds the proposed development and open space plan, as modified, is most protective of significant coastal resources.

However, by acceptance of a revised open space system on the Kelly Ranch property described above, there results an internal conflict with the land use plan language in Policy 3-5 which prohibits development of "dual criteria" slopes. Therefore, the Commission is suggesting revisions to the Policy 3-5 to acknowledge the designated open space system as shown on the LCP Kelly Ranch Open Space Map and require preservation of the coastal sage scrub and chaparral communities in their natural state within those open space areas. Additionally, restoration of the delineated open space shall be required as a condition of subdivision approval for future buildout of the Kelly Ranch property. The disturbed areas shall be revegetated and existing vegetation enhanced with native species. The open space system will serve as upland transitional habitat and include the dedicated Wetland Preserve.

Regarding development within naturally-vegetated steep slope areas outside the designated open space system, such development would be allowed to occur only after the dedication and conservation of the designated open space is secured. In other words, at the subdivision stage for buildout of a particular planning area within Kelly Ranch, if there is any designated open space

within the planning area, such open space must be secured through a recorded offer to dedicate or fee dedication to the City of Carlsbad or other public entity, prior to approval of development which would impact "dual criteria" slope areas outside the designated open space system. The restoration required in the open space would also be required as a condition of subdivision approval. In this manner, the concentration of development envisioned within the proposed LCP amendment would only be realized upon permanent conservation and restoration of a viable open space system which will assure long-term productivity and protection of habitat for sensitive species within the City of Carlsbad consistent with the goals of Chapter 3 policies of the Coastal Act and the NCCP.

Additionally, the proposed land use map indicates two breaks in the proposed open space area presumably to accommodate access across the open space to Planning Area J. The access road from Cannon Road also would cross open space area proposed in Planning Area D. However, these access roads have not yet been determined to be in conformance with policies of the certified LCP under an approved coastal development permit. Therefore, the Commission believes it is more appropriate for the land use plan to show the area as open space to provide a contiguous habitat and open space corridor.

As noted, Policy 3-5 allows use of slopes over 25% grade to provide access to flatter areas if there is no less environmentally damaging alternative available. The existing master plan allows approximately 4 acres of impact to dual criteria slopes for the previously-approved road system. The proposed amendment proposes approximately 6 acres of impact for the road system as engineered. The road across the southern portion of the open space corridor in Planning Area J is of particular concern as it proposes significantly more impact into "dual criteria" slope areas than the previous design approved in the master plan. The City states it is the least environmentally damaging alignment based on the fact that it provides the sole access to the Kirgis parcel to the south which is also part of the HMP as a "standards" area (previously noted). As contemplated by the City, this road would stub out beyond the southern property line of the core area onto the Kirgis parcel. The alignment has been accepted by the resource agencies as consistent with the HMP and would serve development on the Kirgis parcel at the least sensitive portion of the property. The resource agencies found that although it bisects the large open space area that runs north/south on the property, each portion of open space is capable of sustaining a viable wildlife corridor for plants and animals. The sponsor of the LCP amendment also provides the following:

Considering that Village I and more directly Village "J" constitute islands of developable lands surrounded largely by dual criteria lands, and City of Carlsbad safety policies require two separate accesses for each, the locations chosen were picked specifically for their low level of environmental impact.

The Village I accesses are located in virtually the same location as in CDP 6-84-617, within areas only marginally considered dual criteria. Note that the Village "J" access however has been removed from its previous location within a valley of mature SMC vegetation (including Del Mar manzinita), to its proposed location up a more gradual slope, characterized by disturbed CSS and CSS. Further, its fill slopes are proposed for CSS revegetation, minimizing its impact. The northern

Village "J" crossing is situated at the same location in the master plan project, and this location avoids dual criteria lands almost entirely. In addition, the USF&WS, CDF&G and the City of Carlsbad have all approved these crossings specifically because they are located within the environmentally preferred location for such accesses.

However, while recognizing the approval of the above resource agencies, the Commission finds that their main charge is habitat protection, a value which can apply to hillside areas regardless of slope. The Commission, however, has considered steep, naturally vegetated hillsides worthy of protection for their scenic value and to protect natural landforms and thereby minimize erosion and downstream sedimentation, in addition to preserving habitat value. In this particular case, the Commission is requiring suggested modifications which would retain the upper reaches of the hillside in open space and avoid the landform alteration for grading and brush management currently anticipated by the property owner in the Core Area development plan. This revision will likely not only require a revised residential development plan but also require revisions to the proposed roadway design. Such revisions will result in less impact to sensitive coastal resources on this visually prominent hillside.

The Commission is suggesting an additional policy that would acknowledge an access road may be a permitted use in an open space area if approved by the resource agencies and by an approved coastal development permit (pending and subject to Coastal Commission approval on appeal). This approach keeps the option open of an access road, if there is no less environmentally damaging alternative and the road is necessary. However, the area is preserved as open space in any event. Additionally, the Commission is suggesting language which would require installation of necessary wildlife corridors if such roadways are permitted across significant habitat areas.

The same is true for the main access road proposed across open space in Planning Area D. If it is possible to accommodate necessary access to the developable portions of the Core Area, without impacting designated open space, that would be the less environmentally damaging alternative. Revisions to the development plan in Planning Area G may be possible in order to avoid significant impacts to the adjacent knoll and wetland, and still provide access. The revised LCP policy language would allow such a road in open space if found to be the least environmentally-damaging feasible alternative through the coastal development permit process.

It should be noted that any reduction in the density of development which will result from the required revisions to the open space system and/or roadway design may be accommodated within the planning areas approved for development. In other words, the Commission's revisions are not intended to reduce the intensity of development approved in Kelly Ranch. The revisions are intended to concentrate the proposed intensity in the areas able to accommodate it, without significant adverse effect, individually and cumulatively on coastal resources, consistent with Section 30250. The Commission's suggested revisions will result in an open space system that is superior to that approved in the Kelly Ranch Master Plan and the intensity of use associated with the proposed plan is significantly less.

The revised Kelly Ranch Open Space will include the 195 acre Wetland Preserve and an extensive upland habitat system which provides connectivity to significant habitat core areas to

the north and south and will enhance long-term productivity of rare and endangered species. The revisions to the plan will also result in reduced density and greater wetland buffers provided in development of the lagoon's north shore in Planning Areas A and C. Impacts to existing wetland vegetation will be avoided on Planning Area D, and development will be concentrated in the least environmentally sensitive area within Kelly Ranch. Finally, development along prominent ridgelines within Planning Areas L, K and J will be set back to reduce visibility and brush management within open space to mitigate the habitat impact and preserve the visual quality of this scenic coastal area. The revised plan will also include a public trails system and vista points, in addition to the proposed interpretive center. The Commission finds, on balance, such revisions do result in a less environmentally damaging development plan that is most protective of significant coastal resources.

2. BRUSH MANAGEMENT. Regarding brush management, the existing Kelly Ranch Master Plan text contains fire suppression guidelines that require a fuel modification zone be established between new development and native areas so that vegetation clearance will be kept to the minimum necessary for fire safety. Aside from the Master Plan, the Mello II LUP does not contain brush management provisions. Thus, the proposed amendment would eliminate the only brush management policies applicable to Kelly Ranch.

The City has adopted the fire suppression guidelines from its "Landscape Manual" as applicable to Kelly Ranch; however, the document has not been certified as part of the Carlsbad LCP. The provisions of the Landscape Manual provide that a 60-foot development setback consisting of three fire suppression zones, each 20-feet in width, be provided between residential development, including appurtenant structures, and vegetation that could pose a safety threat to development during a fire. The fire suppression requirements apply to both manufactured slopes and native slopes. The below standards apply to native slopes only (See Exhibit 18).

Within Zone 1 (closest to development) ornamental or native plantings proposed near structures must be fire retardant. All "high fuel" species must be removed because they are highly flammable; no trees or shrubs are allowed in Zone 1. According to the Landscape Manual, chamise, sagebrush, buckwheat and sage are examples of "high fuel" species.

Within Zone 2, 100% removal of high fuel species is required; "selective pruning" of 60% of "moderate fuel" species (toyon, laurel sumac, scrub oak, lemonade berry, mission manzanita) is required in Zone 2. "Low fuel" species are permitted to be planted.

Within Zone 3, 100% removal of high fuel species is required and selective pruning of 40% of the moderate fuel species is required; No plantings are permitted within Zone 3. The Landscape Manual also provides that trees which may be necessary for screening purposes can be no closer than Zone 3. The clearance between the understory of the tree must be at least 3 times the height of the understory.

Because Kelly Ranch contains significant areas of steep slopes and native vegetation, the policies applicable to development of Kelly Ranch must include updated brush

management policies. These policies should address fire safety, landform alteration, structural setbacks from open space to protect habitat and reduce visibility, impacts to habitat areas and potential erosion of cleared areas. As noted, because the LCP amendment does not include provisions for brush management, the submittal is inconsistent with Chapter 3 policies of the Coastal Act.

The Commission is suggesting modifications which require a fire suppression plan be required for all residential development adjacent to designated open space subject to approval by the City of Carlsbad Fire Department. The fire suppression plan shall incorporate a combination of building materials, sufficient structural setbacks from native vegetation and selective thinning designed to assure safety from fire hazard, protection of native habitat, and landscape screening of the residential structures. The Commission can accept the brush management zones identified in the City's Landscape Manual which area acceptable to the Fire Department but applied through site specific review at the site development and/or subdivision stage. However, the impact of the required brush management program on required natural open space areas must be addressed through specific LCP policy language to avoid adverse impacts to sensitive resources.

The Fire Department is concerned not only with providing fire protection to homes without unduly adversely affecting native vegetation through brush clearance, but also with minimizing soil erosion on steep slopes in proximity to development. It is for that reason that some vegetation is allowed to remain in Zones 2 and 3. A fire safety representative indicates that without such soil stabilizing plants, erosion can seriously affect slope stability, particularly during rainy periods, with the corresponding hazard to residential development if left unchecked or not regularly monitored. However, the Landscape Manual indicates that no plantings are allowed in Zone 3 on native slopes. (Low fuel plantings are allowed in Zone 3 on manufactured slopes.)

The Commission finds in all cases that the impacts to habitat and visual quality associated with implementation of Zone 1 and 2 as defined in the City of Carlsbad Landscape Manual cannot occur in designated open space areas. Therefore, the policies must require that development be sited and designed a sufficient distance away from the required open space to avoid such impact from Zone 1 and 2 fuel management. However, in some cases, Zone 3 may be permitted within designated open space areas, upon written approval of the Fire Department, and not result in significant impacts to visual quality and habitat value. In those cases where the fire department will allow planting of fire retardant native vegetation compatible with the adjacent habitat to replace the high and moderate fuel species required to be removed, Zone 3 may be permitted. However, if no replacement planting is approved by the Fire Department, then development must be set back a sufficient distance from the open space area to accommodate all three fuel management zones. As noted, because there is currently no policy language in the Mello II LCP land use plan to address brush management requirements, the submitted LCP amendment must be so modified in order to be found consistent with Section 30240 and other Chapter 3 policies of the Coastal Act.

3. VISUAL /PUBLIC ACCESS RESOURCES--Vista Points and Trails. Section 30251 of the Coastal Act requires that new development be sited and designed to not

adversely affect public views to scenic resources. There are several good locations for vista points within the Mello II Core Area. Both are at higher elevations and would command sweeping panoramic views in all directions. The first is within Planning Area L. As indicated herein, the northern and eastern portion of this planning area would be made part of the approved open space system because it contains environmentally sensitive habitat area. This planning area is also visually prominent and contains steep hillsides. Its northernmost inclusion within open space lands assures that habitat connectivity will be maintained between environmentally sensitive uplands and low lying wetlands associated with Agua Hedionda Lagoon. In addition, it offers particularly good views to the lagoon and ocean beyond as it is part of a prominent hillside landform that rises above Cannon Road.

Planning Area J is the other area where a vista point can be located. This vista point would be at a higher elevation and further east than the one within Planning Area L. It should be located near where the proposed trail enters Planning Area J from the Evans Point property to the east of Kelly Ranch through adjacent open space. This trail is then planned as a sidewalk along the north/south trending street within Planning Area J and continues south until it exits offsite to the south to the Kirgis property and ultimately to Macario Canyon Park. A vista point at this location not only provides outstanding views but would be located conveniently along a segment of a major City-wide trail system proposed by the City. As such, the amendment could be found consistent with Section 30251 of the Coastal Act.

However, while proposed to provide a public trail system throughout the City, the conceptual Carlsbad Trail System has not been funded to build trails and accept maintenance and liability provisions for those trails. Currently, the City requires the developer to construct trail improvements if the trail segment on the property is identified on the Conceptual Open Space and Conservation Map. The developer must also accept maintenance and liability responsibilities for the constructed segment pending funding of the Open Space and Conservation Resource Management Plan which would be funded through a special assessment district. However, this plan has been contemplated for years and may or may not go into effect in the near future, if ever.

The current Kelly Ranch Master Plan generally overlooked the provision of providing public trails within the 433-acre site. The only trail it required within the Core Area (in the Mello II segment south of Cannon Road) was a pedestrian and bicycle trail within the right of way of Cannon Road. No trail was required within the upper hillside portion of the Core Area where public views to scenic resources are outstanding. Overlook views of the low lying wetlands contiguous with the eastern portion of the lagoon, and the middle and western basins of the lagoon and the Pacific Ocean beyond are afforded at these higher elevations.

The Commission finds that a public trail and vista points on this large site, adjacent to a lagoon and one of the largest blocks of undeveloped property remaining in the Carlsbad coastal zone is necessary for the project to be found consistent with the visual resource and public access provisions of the Coastal Act. As noted, an upland trail within Planning Area J is also recognized in the City's plan for Open Space. With these

improvements recreational opportunities will be gained for not only future residents within Kelly Ranch, but the entire Carlsbad community. The Commission notes that, with buildout of the planning areas with 900+ residential units and associated infrastructure (i.e., library, parks, drainage, circulation, fire, schools, sewer and water distribution), there would be adverse cumulative impacts to area wide recreational facilities. It can also be assumed that patronage of the north shore trail on Agua Hedionda will increase dramatically as Planning Areas A and C are proposed for residential development and, even though the north shore trail is removed from the Core Area developments, it can be assumed that residents from the Core Area would regularly visit any trails provided along the lagoon shoreline. Currently the north shore of Agua Hedionda contains a large amount of development and will continue to develop as many undeveloped properties currently exist. This existing and proposed development will attract many visitors to the lagoon and its amenities. Development approved in the amendment will further increase the demand for recreational opportunities to serve the needs of the residents in Carlsbad and the region.

Additionally, Agua Hedionda Lagoon is projected as a major destination point on a regional scale for future visitor-serving use. The lagoon is the only recreational lagoon (i.e., boating and water sports are allowed) in San Diego County and for that reason it already attracts coastal visitors. Additionally, Carlsbad State Beach is located at the west end of the lagoon and is a popular destination point for coastal visitors. Clearly development approved in this LCP amendment will only increase demand of visitor serving facilities and resources in the future in this area. Thus, it is important that adequate public access and recreational opportunities and the necessary support facilities be provided and distributed throughout the area in support of the public interest shown in Agua Hedionda Lagoon.

The Agua Hedionda Interpretive Center on proposed Planning Area F is provided within the Core Area on the Kelly Ranch site. It is located on the west side of Cannon Road and overlooks low lying areas of the lagoon that are designated as open space. It is the headquarters of the Agua Hedionda Lagoon Foundation, a non-profit organization that promotes public access and the protection of resources within the lagoon.

As noted, the demand that development of the Kelly site would have on recreational facilities was largely overlooked in the Commission's earlier approval in 1985. Recreational demand today has increased since then through the near doubling of the City's population. To prevent overload of existing recreational facilities and to offset the impact of 900+ additional units, the Commission finds it is necessary to provide for additional recreational facilities/improvements in the Carlsbad LCP at the subdivision stage of development. The Agua Hedionda Interpretive Center on proposed Planning Area F together with the required public trail and vista points will meet the recreational needs of new residents and offset the impacts of the proposed development on the existing Carlsbad community.

Gated communities are also proposed at several planning areas within the Mello II LCP segment. As noted in its previous findings for denial of gated communities, the Commission recognizes the already critically short supply of parking opportunities along the coastal areas of most coastal

cities which adversely affects the public's ability to access and enjoy coastal recreational opportunities. Although the subject planning areas are not an oceanfront location, they too offer recreational and educational opportunities that will require adequate support facilities for visitors to meaningfully get to and experience the resource. Support facilities such as parking often dictate the level of future use of public amenities such as trails, because no other alternatives are available to access the resource.

In recognition of the above, the Commission must try to resolve questions regarding the future intensity of public use in the area and the need for parking reservoirs to serve public access needs. The Commission believes that parking opportunities and trail access should be maximized so that the visiting public can conveniently utilize outstanding public resources. The Commission finds that gated communities preclude public access to the recreational amenities described above and shall not be permitted.

4. WATER QUALITY. Regarding water quality concerns, Section 30231 of the Coastal Act requires:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Also, Section 30240 of the Coastal Act, cited previously, calls for the protection of sensitive habitat by, among other means, regulation of development in adjacent areas. Agua Hedionda Lagoon has been identified by the State Department of Fish and Game as one of the 19 highest priority wetland areas for acquisition and, as such, is referenced in Section 30233(c) of the Coastal Act. The amendment would allow grading and development of the 153 acre Core Area development located immediately upland of the east basin of Agua Hedionda Lagoon. The adverse impacts of development most often associated with wetland areas are erosion of soils within the watershed, subsequent sediment transport to the wetlands and introduction of pollutants in the runoff into the wetlands.

The Commission finds suggested modifications are necessary to the Mello II LCP Land Use Plan to address water quality concerns associated with development of the planning areas. The land use plan should contain policy language which requires implementation of all applicable Best Management Practices (BMPs) consistent with Chapter 15.12 of the Carlsbad municipal code (storm water management and discharge control ordinance), and the applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board and any subsequent amendments. These recently approved standards require that new development must incorporate design elements or BMPs which will effectively

prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible.

The proposed standards also require new development to maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and/or site design with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies. The standards require the use of porous materials for or near walkways and driveways where feasible; and require installation of rain gutters with orientation towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.

Regarding parking lots with 25 or more parking spaces, such lots shall incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks.

Regarding all new development, a public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs shall be instituted. Additionally, a landscape management plan that includes herbicide/pesticide management must be employed. Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. The Commission finds that as so modified, the proposed amendment can be found consistent with Section 30231 of the Coastal Act.

PART VII. FINDINGS FOR DENIAL OF THE CITY OF CARLSBAD MELLO II LCP IMPLEMENTATION PLAN AMENDMENT #2-99D, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The amendment proposes to change the existing zoning from Planned Community (PC) to R1 (Planning Area E), R-1-Q (Planning Areas C, I and J), R-3-Q (Planning Areas D, G, and H), RD-M-Q (Planning Areas A, K and L) and OS (Planning Areas B and F). The "Q" overlay, which requires Planning Commission review and approval of a Site Development Plan (SDP), is being applied to each zoning designation with the intent of insuring that future development of the Planning Areas will be visually and physically compatible with each other. Each zoning designation corresponds to a General Plan designation. The R-1-Q implements the RLM land use designation which is characterized by single family residential development, the R-3-Q and RD-M-Q zones implement the RMH General Plan designation which is characterized by attached multi-family residential development and OS implements the OS General Plan designation

which is characterized by improved and natural open space. Approval of the zone change eliminates the requirement for a master plan on this property.

The Coastal Commission approved the existing Kelly Ranch Master Plan with Planned Community (P-C) zoning. The PC zone is intended to provide a method to encourage the orderly implementation of the General Plan, allow for the comprehensive planning of all necessary public facilities, and provide a framework for phased development by the comprehensive planning and development of large tracts of land under unified ownership in accord with an adopted master plan.

The proposed changes to the zoning map would accommodate single family development, multi-family development and designate open space areas on the Kelly site. Generally, the multi-family development includes market and affordable rate apartment units concentrated near Cannon Road with the single family development proposed on the upland portion of the property. The proposed zoning for each planning area is as follows:

<u>Planning Area</u>	<u>Land Use Designation</u>	<u>Zoning</u>
D	RMH (8-15 dua)	R-3-Q (Multi-fam.)
E	RM (4-8 dua)	R-1 (One-Family)
F	OS (Open Space)	OS (Open Space)
G	RMH (8-15 dua)	R-3-Q (Multi-fam.)
H	RMH (8-15 dua)	R-3-Q (Multi-fam.)
I	RLM (0-4 dua)	R-1-Q (One-Family)
J	RLM (0-4 dua)	R-1-Q (One-Family)
K	RM (4-8 dua)	RD-M-Q (Multi-fam.)
L	RM (4-8 dua)	RD-M-Q (Multi-fam.)

However, the proposed zoning map does not correspond to the designated Open Space on the LUP map with the exception of where the entire planning area is open space i.e., B and F. That is, the submitted land use plan and zoning maps are inconsistent and misleading because "hardline" open space is the only open space that has been delineated by the City on the land use plan map. The submitted zoning map shows no open space areas.

The project also proposes to repeal Section 21.38.160 of the certified municipal code. The City found the elimination of this section was a "housekeeping" item in that with adoption of the proposed land use and implementation plan amendments, a master plan would no longer be required for the Kelly Point and Macario Canyon. Section 21.38.160 provides additional development standards for the upper Agua Hedionda watershed and implements the goals and objectives of the resource protection provisions of the Carlsbad LCP. The policy language assures resources and constraints are properly identified and incorporated into the planning process, preserves and/or enhance the aesthetic qualities of natural landforms and manufactured slopes by designing projects which relate to the slope of the land, minimizes the amount of project grading and assures that grading will be done in an environmentally sensitive manner to protect lagoons and riparian ecosystems from increased erosion, and assures no substantial impacts to natural resource

areas, wildlife habitats or native vegetation areas will occur. The deletion of Section 21.38.160 will result in Section 21.203, the Coastal Resource Protection Overlay Zone, becoming the standard of review for development within the Kelly Ranch. A discussion of this ordinance follows.

B. SUMMARY FINDINGS FOR REJECTION

1). Purpose and Intent of the Ordinance. The purpose and intent of Section 21.203 is to supplement existing resource protection regulations for development within the coastal zone to preserve, protect, and enhance the habitat resource value of lagoons and sloping hillsides. This overlay zone applies in the coastal zone and throughout the City. It provides regulation in areas which provide the best wildlife habitat characteristics. The policy language encourages proper lagoon management, deters soil erosion by maintaining the vegetative cover on steep slopes and implements the goals and objectives of Sections 30231, 30233, 30240(b) and 30253 of the Coastal Act and the certified Carlsbad Local Coastal Program. With the exception of one important standard, standards of development found in Section 21.38.160 are provided in the Coastal Resource Protection Overlay Zone. The missing standard is a provision that due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated to minimize paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site. Thus, while the Commission can support the repeal of Section 21.38.160 because its provisions exist in Section 21.203, it finds that the preceding provision must be made part of Section 21.203.

2). Major Provisions of the Ordinance. Section 21.203 identifies five areas of protection. They are 1) steep slopes and vegetation; 2) drainage, erosion, sedimentation, habitat; 3) landslides and slope instability; 4) seismic hazards; and 5) floodplain development. The ordinance provides that steep slope areas (25% or greater slopes) containing endangered plant/animal species or coastal sage scrub and chaparral plant communities are generally to be preserved in their natural state. Limited disturbance of these areas (i.e., "dual criteria" slopes) may be permitted, subject to specific findings, when their preservation would preclude any reasonable use of the property. In these cases, the encroachment may not exceed 10% of the total steep slope area. Disturbance of 25% slopes may be required to access flatter portions of the site if there is no less environmentally damaging alternative available. Any application for development within a planning area shall require a slope analysis and biological resource map during Site Development Plan review.

For all other steep slope areas, the City Council may allow exceptions to the above grading provisions provided the mandatory findings to allow such exceptions are made. These include a soils investigation has been made to determine slope stability and that grading and development impacts are mitigable for the life of the structure; that grading of the slope is essential to the design and slope disturbance will not result in substantial damage to major wildlife habitat or native vegetation areas. If the area proposed for disturbance is predominantly steep slopes and in excess of 10 acres, complete grading may only be allowed if no interruption of significant wildlife corridors occur and no grading or vegetation removal on north facing slopes is permitted unless all environmental impacts have been mitigated.

The overlay also contains drainage, erosion, sedimentation and habitat provisions relating to Buena Vista Lagoon, the Batiquitos Lagoon watershed, areas west of I-5 and all other areas in the coastal zone. Mello II hydrology standards require the drainage system to be designed to ensure that runoff resulting from a 10 year frequency storm of 6 hours and 24 hours duration under developed conditions, are less than or equal to the runoff from a storm of the same frequency and duration under existing conditions.

3). Adequacy of the Ordinance to Implement the Certified LUP Segments. 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 would serve as the Implementation Plan for the Carlsbad LCP. The Mello II LUP has a number of provisions that protect coastal resources, including naturally vegetated steep slopes. Policy 3-5 of the Mello II LUP is a site specific policy for the Kelly Ranch property. It has similar provisions as Section 21.203 which state that grading and erosion control on sensitive "dual criteria" (naturally vegetated and over 25% grade) slopes is prohibited unless the application of the policy would preclude any reasonable use of the property. Up to 10% encroachment is permitted on dual criteria slopes. The policy does not apply to the construction of roads on the City's Circulation Element or the development of utility systems.

As noted above, the proposed changes to the Mello II Implementation Plan do not adequately protect environmentally sensitive areas. Additionally, the amendment does not contain adequate replacement policies for the certified master plan to ensure that buildout of the planning areas will be consistent with Chapter 3 policies of the Coastal Act. Further, the submitted land use plan and zoning maps are inconsistent and misleading because "hardline" open space is the only open space that has been delineated by the City on the land use plan map. If approved as submitted, there would be no LCP map which delineates the entire required open space system. The submitted zoning map shows no open space areas. Additionally, the zoning map does not show the zoning of the individual planning areas. The Commission finds, in order to address the complex planning issues represented by development of the Kelly Ranch, and to replace the comprehensive planning effort involved in certification of the master plan, the LCP for Kelly Ranch must include an open space map with specific policy direction, in addition to the land use plan and zoning map. Additionally, as indicated in the previous findings, expansion of the remaining open space system is necessary to assure connectivity and functions of the habitat corridors and to potentially offset the encroachment into environmentally sensitive habitat areas which would result through implementation of the LCP amendment as submitted by the City.

The LCP amendment as submitted would revise the previously-approved open space system and allow development on "dual criteria" slopes in some areas; however the City has not proposed to modify the LCP language which protects "dual criteria" slopes which would serve as the standard of review to implement the proposed land use map. The Commission finds that revisions are necessary, primarily due to an inconsistency between the requirements of the currently certified LCP and the draft HMP. These changes should be addressed in this comprehensive update to the LCP policies for Kelly Ranch, including not only the LUP policies, but also the corresponding IP

policies. The Kelly Ranch Master Plan which addressed the sensitive resources of the entire property on a comprehensive basis must be replaced by policies which do the same, and which will serve as an appropriate standard of review for future development on Kelly Ranch.

With the subject LCP amendment, some of the "dual criteria" steep slopes that would be allowed to be developed are immediately adjacent to significant open space corridors proposed by the City and are within scenic public viewsheds. Grading of these areas would result in elimination of the natural landform, decrease slope stability and increase erosion potential. The elimination of these steep, naturally-vegetated slope areas is inconsistent with Policy 3-5 of the Mello II LUP as well as Chapter 21.203 of the certified implementing ordinances and cannot be supported as consistent with LUP policies.

As proposed, the impacts to the habitat and scenic value of the ridgeline permitted by the proposed open space on the west facing slopes of Planning Area J cannot be found to be consistent with Policy 8-1 of the Mello II LUP which requires new development be sited and designed to protect existing views and panorama. Preservation of the ridgeline and siting of development a sufficient distance back from the ridgeline to avoid clearance of vegetation required for fuel management is critical to preserving the scenic value of the natural landforms integral to the lagoon and its environs.

The Commission notes that even with the previously mentioned revisions designed to protect the most significant and scenic natural landforms in open space and expand the habitat corridors to provide greater connectivity between significant upland and wetland resources, some conflicts with the above LUP provisions will result with the LCP implementing ordinances as submitted by the City. As with the Mello II LUP policies, it is necessary to make revisions to the IP ordinances in order to allow for a concentration of development that is most protective of all significant coastal resources, including scenic natural landforms, sensitive habitat and public access.

Because Kelly Ranch contains significant areas of steep slopes and native vegetation, the policies applicable to development of Kelly Ranch must include updated brush management policies. These policies should address fire safety, landform alteration, structural setbacks from open space to protect habitat and reduce visibility, impacts to habitat areas and potential erosion of cleared areas. As noted, because the LCP amendment does not include provisions for brush management, the LUP submittal is inconsistent with Chapter 3 policies of the Coastal Act, and, additional ordinance language is necessary to carry out the LUP as revised.

The Commission is suggesting modifications to the LUP which require a fire suppression plan be required for all residential development adjacent to designated open space subject to approval by the City of Carlsbad Fire Department. The fire suppression plan shall incorporate a combination of building materials, sufficient structural setbacks from native vegetation and selective thinning designed to assure safety from fire hazard, protection of native habitat, and landscape screening of the residential structures. The Commission can accept the brush management zones identified in the City's Landscape Manual which area acceptable to the Fire Department but applied through site specific review at the site development and/or subdivision stage. However, the impact of the required brush management program on required natural open space areas must be addressed through

specific LCP implementing ordinances to avoid adverse impacts to sensitive resources.

Regarding grading within the rainy season, the City staff has acknowledged it would like to delete the existing prohibition on grading within the rainy season (April 1 to October 1) within the Coastal Resource Protection Overlay Zone. As modified, the October 1 grading season deadline may be extended without a time restriction subject to an interim erosion control plan which would address temporary and emergency erosion control measures. Such measures would be designed to prohibit discharge of sediment off-site, during and after the grading operation is completed, and with concurrence of the City engineer. Such a change is important for buildout of Kelly Ranch because the current restriction on grading during the winter season would not allow enough time for planned grading to occur. An exception is proposed to allow grading through the winter season if required by the resource agencies to protect sensitive birds. Currently, the Carlsbad LCP prohibits grading within the rainy season as a way of protecting downstream coastal resources (there are 3 lagoons within Carlsbad). from sedimentation impacts associated with grading during the time of the year when off-site erosion is most likely to occur. However, on many occasions in Carlsbad the Commission has supported proposals to grade within the rainy season if it can be found that no adverse impacts would occur to sensitive downstream resources and the approved development is subject to the above erosion control measures. Therefore, the Commission finds it can support such a modification to the LCP grading provisions.

The Commission can also accept the allowance of grading through the winter season if required by the resource agencies to protect sensitive birds. The Commission has supported proposals to grade within the rainy season in Carlsbad when it found that seasonal nesting and breeding restrictions imposed by the agencies to protect endangered avians resulted in a limited timeframe to grade. Often, when several different endangered birds inhabit an area, there is only a few months when grading can occur due to the differing breeding seasons associated with each species. The resource agencies have found that noise associated with grading and site preparation can affect whether or not offspring will occur. In recognition of this constraint, the Commission finds it can support the amendment provided erosion control measures are employed to ensure that no off-site sediment impacts would occur.

Regarding water quality concerns, as identified in the previous LUP findings for denial, the Mello II LCP does not contain recent updated language requiring compliance with applicable provisions of the NPDES General Permit for Storm Water Discharges associated with Construction Activity issued by the State Water Resources Control Board and any subsequent amendments to the NPDES permit. Thus, it cannot be found that new development will employ best management practices when developing upland of sensitive areas like Agua Hedionda Lagoon. Therefore, because the proposed amendment is not consistent with the resource protection provisions of the certified land use plan, the amendment must be denied.

As noted, with the exception of one important standard, standards of development found in the proposed for deletion Section 21.38.160 are provided in existing Section 21.203, the Coastal Resource Protection Overlay Zone. The missing standard is a provision that

due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated to minimize paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site. Thus, while the Commission can support the repeal of Section 21.38.160 because its provisions exist in Section 21.203, it finds that the preceding provision must be made part of Section 21.203.

Regarding permitted uses within the approved open space system, Policy 3-5 and Section 21.203 allow impacts to dual criteria slopes for circulation element roads and other roads if such roads are providing access to flatter areas provided there is no less environmentally damaging alternative available. The Commission has found in the subject amendment that access roads may be permitted within the designated open space system when similar findings are made and when subject to an approved coastal development permit. In addition, the Commission finds that wildlife corridors shall be required when necessary to facilitate wildlife movement through the open space area, where appropriate. Because the existing LCP does not contain the permit and wildlife corridor requirements, it must be denied.

Regarding view preservation, the current LCP policies and ordinances do not specifically address the need for landscape screening of residential development located along prominent ridgelines within Kelly Ranch. Neither do they address the importance of building colors and height to help soften the visual impact of new development from scenic resources in the area. These inadequacies must be addressed in order to find the ordinances adequate to carry out the certified LUP.

PART VIII. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LCP IMPLEMENTATION PLAN AMENDMENT #2-99D, IF MODIFIED

The standard of review for LCP implementation plans is Section 30513 of the Coastal Act. 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. As noted, the City found the proposed LUP redesignations are required to bring the Kelly Ranch regulations in line with modern requirements for habitat preservation, growth management, and other land use regulatory programs adopted since 1985. However, the Commission found above that the IP amendment must be denied for several reasons because it could not be found to be consistent with the resource protection provisions of the Mello II LUP. The City failed to provide adequate replacement policies to address requirements of the Coastal Act.

The attached Suggested Modifications would address the inconsistencies. First, standards within Section 21.203.040(A) of the Coastal Resource Protection Overlay Zone must be revised. The modifications suggested by the Commission would require that, within the Kelly Ranch property, environmentally sensitive habitat areas shall be preserved within designated open space areas shown on the LCP Kelly Ranch Open Space Map and addressed in Policy 3-5 of the certified LCP land use plan. The open space shown on the

Kelly Ranch Open Space Map shall be secured through conservation easements or dedicated in fee at the time of subdivision approval. The easements shall be granted to the City of Carlsbad or other public entity and maintained and managed as part of the LCP Kelly Ranch Open Space system. Restoration of disturbed areas within the designated open space through revegetation of disturbed areas and enhancement of existing vegetation with native upland species shall be required, in consultation with the Department of Fish and Game, as a condition of subdivision approval. Additionally, the suggested modifications acknowledge that, upon dedication of a conservation easement or in fee dedication, or upon recordation of offers to dedicate the Kelly Ranch Open Space to the City of Carlsbad or other public entity, development of steep slopes over 25% grade may occur in areas outside the designated open space. Such encroachment shall be acceptable to the Department of Fish and Game and the U.S Fish and Wildlife Service as consistent with the State and Federal Endangered Species Act. Dedication will assure preservation of a viable upland habitat corridor and scenic hillsides. Outside the Kelly Ranch property, the existing "dual criteria" slope protection provisions would remain as currently certified.

The Commission has found that preservation of "dual criteria" slopes not only results in the preservation of habitat but also preserves soil stability and reduces the visual impacts of new development. In recognition of the resource agencies goals to preserve habitat, the Commission finds development of steep slopes over 25% grade may occur in areas outside the designated open space system upon dedication of a conservation easement to assure preservation of a viable upland habitat corridor and scenic hillsides. Restoration of disturbed areas within the designated open space through revegetation of disturbed areas and enhancement of existing vegetation with native upland species shall be required, in consultation with the Department of Fish and Game, as a condition of subdivision approval.

Regarding Brush Management, new policy language is necessary to ensure that sensitive vegetation removal will be minimized to provide fire protection. The attached modification requires a fire suppression plan be implemented for all residential development adjacent to designated open space subject to approval by the City of Carlsbad Fire Department. The fire suppression plan shall incorporate a combination of building materials, sufficient structural setbacks from native vegetation and selective thinning designed to assure safety from fire hazard, protection of native habitat, and landscape screening of the residential structures. No portions of brush management Zone 1 and 2 as defined in the City of Carlsbad Landscape Manual shall occur in designated open space areas. Zone 3 may be permitted within designated open space only upon written approval of the Fire Department and only when native fire retardant planting is permitted to replace high and moderate fuel species required to be removed. As modified, the Carlsbad LCP can be found consistent with its resource protection policies.

Regarding the preservation of water quality, additional best management practices (BMPs) are necessary to update the existing certified Carlsbad Stormwater Management Ordinance and existing water quality provisions of the respective certified LUPs. The purpose of the modifications is to ensure that new development will use the most current water quality measures and standards to minimize off-site non-point pollution of coastal waters, including minimizing

runoff volume from the site. The measures and standards as required by the State Water Resources Control Board through recent NPDES General Permit amendments would apply to residential development and parking lots with 25 or more parking spaces. Regarding all development, the modification requires that a public education program designed to raise the level of awareness of water quality issues around the lagoon and a landscape management plan that includes herbicide/pesticide management be implemented with new development proposals. Only as modified can the Commission find the proposed implementation plan amendment consistent with the water quality provisions identified within the certified Mello II LCP.

As noted, with the exception of one important standard, standards of development found in the proposed for deletion Section 21.38.160 are provided in existing Section 21.203, the Coastal Resource Protection Overlay Zone. The missing standard is a provision that due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated to minimize paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site. Thus, while the Commission can support the repeal of Section 21.38.160 because its provisions exist in Section 21.203, it finds that the preceding provision must be made part of Section 21.203 for the proposed amendment to be found consistent with the current LCP.

Regarding permitted uses within the approved open space system, Policy 3-5 and Section 21.203 allow impacts to dual criteria slopes for circulation element roads and other roads if such roads are providing access to flatter areas provided there is no less environmentally damaging alternative available. The Commission has found in the subject amendment that access roads may be permitted within the designated open space system when similar findings are made and when subject to an approved coastal development permit. In addition, the Commission finds that wildlife corridors shall be required when necessary to facilitate wildlife movement through the open space area, where appropriate. As modified to include the permit and wildlife corridor requirements, the Commission finds Section 21.203 will be adequate to carry out the provisions of the certified LUP and as a replacement for Section 21.38.160.

Regarding scenic preservation, the purpose of the proposed revisions is to address the visual impact of the subsequent residential development of the Kelly Ranch. Currently, although there are visual resource provisions in the Carlsbad LCP, the City has primarily applied to them to development along El Camino Real, designated as a Scenic Roadway in the LCP. The City did not include any provisions with the amendment to assure that the visual impacts of new development on Kelly Ranch would be minimized from nearby scenic areas and major coastal access routes. Thus, to ensure that the visual impacts of new development in Kelly Ranch are addressed, it is necessary to identify measures that will accomplish that goal. Therefore, public views from Interstate 5, Cannon Road and Agua Hedionda Lagoon shall be preserved, as feasible, through landscaping and setbacks (i.e., use of trees or fire retardant vegetation with substantial height as a landscape screen and/or setbacks from the ridgelines and open space areas) and using appropriate building colors, materials and varying building height to minimize the visibility of structures from scenic public roadways ways, public vista points and public trails. As revised, development along ridgelines and/or visible from major coastal access routes and/or

designated Scenic Highways or public recreational or resource areas shall be screened or softened from public views. The suggested modification requires that these provisions be applied to the Kelly Ranch site. As revised, the Commission finds Section 21.203 will be adequate to carry out the provisions of the certified LUP and as a replacement for Section 21.38.160.

IX. 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 to CEQA provisions. The City of Carlsbad has prepared and certified an EIR (EIR 98-05) for the Kelly Ranch Core Area; however, the Commission has found that several significant impacts associated with the proposed LCP Amendment remain and has proposed suggested modifications to make the amendment request consistent with Chapter 3 policies of the Coastal Act. As a result of these modifications, the Commission finds that the proposed amendment does conform to CEQA provisions. The LCP amendment to the Agua Hedionda Lagoon and Mello II segments of the City's LCP proposes changes to the land use designations and zoning of properties within the City's coastal zone, and eliminates the existing Master Plan requirement. The changes will not result in an intensity of land use incompatible with the surrounding area or have adverse impacts on coastal resources as modified. Therefore, the Commission finds that approval of the LCP amendment will not result in any significant unmitigated adverse environmental impacts.

(Carlsbad LCPA2-99Dkellyranch7.00)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, CERTIFYING AN ENVIRONMENTAL IMPACT REPORT, FINDINGS OF FACT, STATEMENT OF OVERRIDING CONSIDERATION, MITIGATION MONITORING AND REPORTING PROGRAM AND ADDITIONAL INFORMATION APPROVING AMENDMENTS TO THE GENERAL PLAN, ZONE 8 LOCAL FACILITIES MANAGEMENT PLAN, AND APPROVING A TENTATIVE TRACT MAP, HILLSIDE DEVELOPMENT PERMIT, COASTAL DEVELOPMENT PERMIT AND PLANNED UNIT DEVELOPMENT TO CREATE A 178 LOT SUBDIVISION ON PROPERTY GENERALLY LOCATED SOUTH OF THE AGUA HEDIONDA LAGOON AND EAST OF MACARIO CANYON WITHIN LOCAL FACILITIES MANAGEMENT ZONE 8.

CASE NAME: KELLY RANCH

CASE NO.: EIR 98-05/GPA 97-07/ZC 97-07/ZCA 99-03/
LCPA 97-09/MP 174(B)/LFMP 87-08(B)
CT 97-16/HDP 97-17CDP 97-43/PUD 99-02

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

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did on April 7, 1999, hold a duly noticed public hearing as prescribed by law to consider an Environmental Impact Report, Findings of Fact, Statement of overriding Consideration, Mitigation Monitoring and Reporting Program, General Plan Amendment, Zone Change, Zone Code Amendment, Local Coastal Program Amendment, Master Plan Amendment, Local Facilities Management Zone Amendment, Tract Map, Hillside Development Permit, Coastal Development Permit, and Planned Unit Development; and

WHEREAS, the City Council of the City of Carlsbad, on the day 11th of May, 1999, held a duly noticed public hearing to consider said matters and at that time received recommendations, objections, protests, and comments of all persons interested in or opposed to the Environmental Impact Report, Findings of Fact, Statement of Overriding Consideration, Mitigation Monitoring and Reporting Program and Additional Information, General Plan Amendment, Zone Change, Zone Code Amendment, Local Coastal Program Amendment, Master Plan Amendment, Local Facilities Management Zone Amendment, Tract Map, Hillside Development Permit, Coastal Development Permit, and Planned Unit Development.

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

3 1. That the above recitations are true and correct.

4 2. That the City Council certifies Supplemental EIR 98-05, Findings of Fact,
5 Statement of Overriding Consideration, Mitigation Monitoring and Reporting Program and
6 Additional Information and approves GPA 97-07, ZC 97-07, ZCA 99-03, LCPA 97-09, MP
7 174(B), LFMP 87-08(B), CT 97-16, HDP 97-17, CDP 97-43, PUD 99-02 and that the findings
8 and conditions of the Planning Commission as amended in Resolutions No. 4491, 4492, 4493,
9 4543, 4494, 4495, 4496, 4497, 4498, 4499, and 4500 on file with the City Clerk and made a part
10 hereof by reference are the findings and conditions of the City Council in this matter.

11 3. That Planning Commission Resolution No. 4497 is hereby amended by
12 the City Council as follows:

- 13 a. That the first sentence of Condition No. 24 is revised to read "This
14 approval is for subdivision of the property into 178 lots."
15 b. That Condition No. 28 is revised to read "A deed restriction shall be
16 placed on Lot 162 limiting a portion of its use to day care and on Lot
17 167 for use by the Agua Hedionda Lagoon Foundation as a
18 Nature/Visitor Center."
19 c. That Condition No. 31 is hereby deleted.

20 4. That the Zone Change, ZC 97-07, is approved as shown in Ordinance
21 NS- 482, on file with the City Clerk and incorporated herein by reference.

22 5. That the Zone Code Amendment ZCA 99-03 and Local Coastal Program
23 Amendment, LCPA 97-09, are approved as shown in Ordinance NS- 483, on file with
24 the City Clerk and incorporated herein by reference.

25 6. That the Master Plan Amendment, MP 174(B), is approved as shown in
26 Ordinance NS- 484, on file with the City Clerk and incorporated herein by reference.

27 7. This action is final the date this resolution is adopted by the City Council.
28 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
not later than the nineteenth 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 the deposit in an
amount sufficient to cover the estimated cost or preparation of
such record, the time within which such petition may be filed in
court is extended to not later than the thirtieth day following the

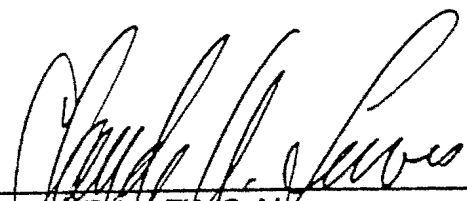
1 date on which the record is either personally delivered or mailed to
2 the party, or his attorney of record, if he has one. A written
3 request for the preparation of the record of the proceedings shall
4 be filed with the City Clerk, City of Carlsbad, 1200 Carlsbad Village
5 Drive, Carlsbad, CA 92008"

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of
Carlsbad on the 11th day of May 1999, by the following vote, to wit:

AYES: Council Members Lewis, Finnilla, and Nygaard

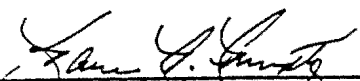
NOES: None

ABSENT: Council Members Hall and Kulchin

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CLAUDE A. LEWIS, Mayor

ATTEST:

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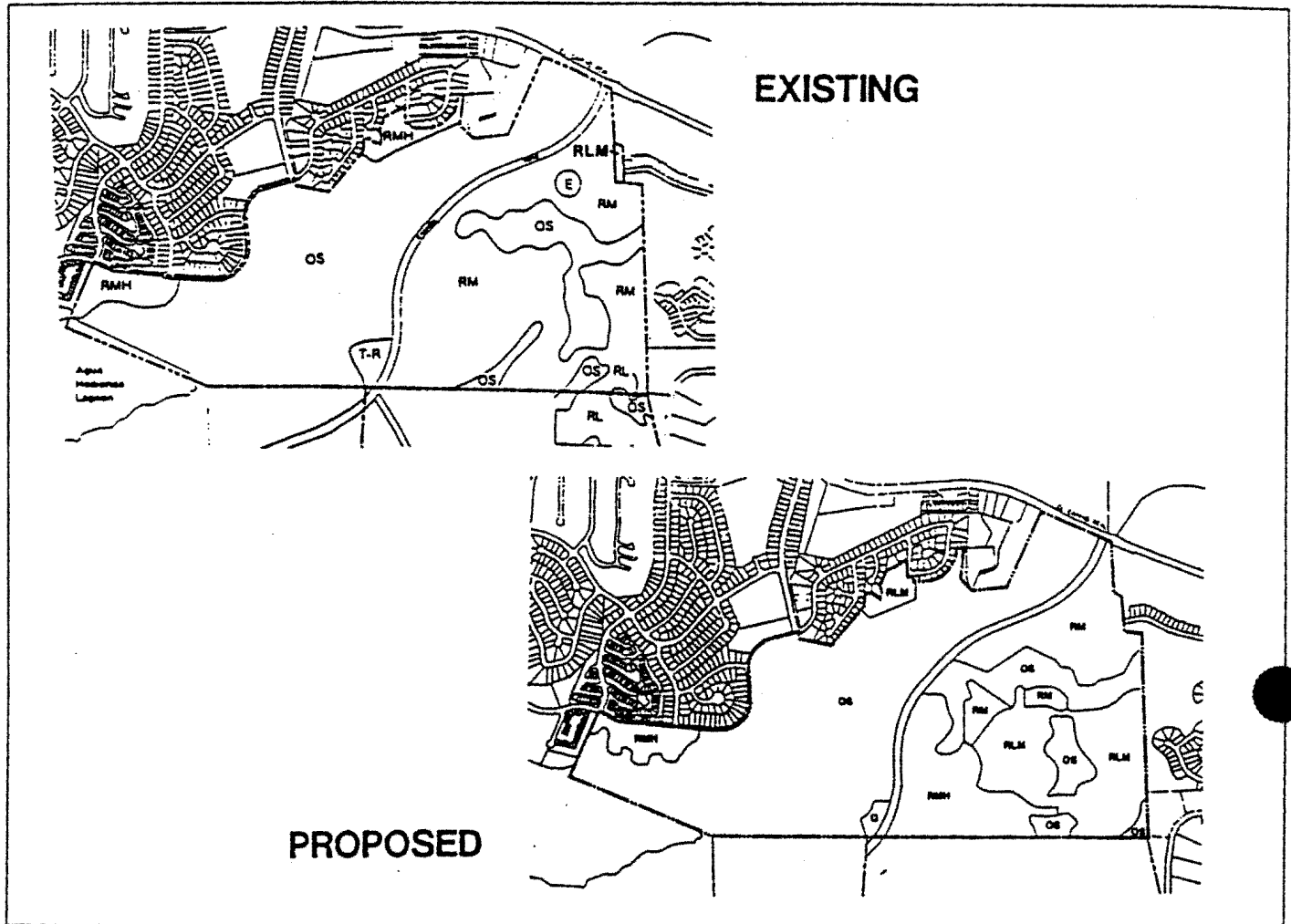
ALETHA L. RAUTENKRANZ, City Clerk
KAREN R. KUNDTZ, Assistant City Clerk
(SEAL)

LOCAL COASTAL PROGRAM

LCPA: 97-09

draft ☒

final ☐



Project Name:			Related Case File No(s):	
Property/Legal Description(s): A portion of Lot "I" of Rancho Agua Hedionda and a portion of Lot "F" of Rancho Agua Hedionda, all in the City of Carlsbad, County of San Diego, State of California, according to map thereof No. 823, filed in the office of the County Recorder of San Diego on November 16, 1896			EIR 98-05/GPA97-07/ZC97-07/ZCA 99-03/MP 174(B)/CT 97-06/HDP 97-17/CDP 97-43/PUD 99-02	
LCPA Map Designation Change			Approvals	
Property	From:	To:	Council Approval Date:	
A. 208-020-38	RM/OS/T-R	RLM/RM/RMH/OS/O	Resolution No:	
B. 208-020-17,41	RM/OS	RM/OS	Effective Date:	
C. 207-010-23	RMH/OS	RLM/RMH/OS	Signature:	
D. 208-020-40	RM/OS	RLM/OS		
E. 208-020-36	RLM	RM		

EX.A 4

LCPA 97-09 TEXT

April 7, 1999

Agua Hedionda

The Agua Hedionda LCP map Exhibit C shall be changed to reflect the modified Coastal Program Land Use Map.

Land Use policy 1.2 shall be deleted.

Mello II

Policy 3-5(a)(6) shall be revised as follows:

Residential densities in the 433 acre Kelly Ranch shall be permitted and based on the underlying General Plan Land Use designation.

Policy 3-5(a)(7) shall be revised as follows:

Approximately 2.8 acres located adjacent to Cannon Road, and as described in CDP 98-47 are designated for an interpretive center for Agua Hedionda and for child care facilities under either Residential-Professional (RP) zoning or a future Community Facilities (CF) zone if one is created.

EX. A 5

POLICY 3-5 KELLY POINT/MACARIO CANYON AREA

The Kelly Point/Macario Canyon area shall be designated for Planned Residential/Agriculture development. The area affected by this policy, and development regulations applicable to this master plan area, are described below:

(a) Maximum Density of Development

- (1) All slopes greater than 25 percent shall result in an allowable development intensity of 1 dwelling unit per ten acres;
- (2) All slopes greater than 20 percent, but less than 25 percent, shall result in a development intensity of 1 dwelling unit per five acres;
- (3) All slopes greater than 15 percent, but less than 20 percent, shall result in a development intensity of 1 dwelling unit per acre;
- (4) All slopes greater than 10 percent, but less than 15 percent, shall result in a development intensity of 2 dwelling units per acre;
- (5) All areas with a slope of less than 10 percent shall result in a development intensity of 6 units per acre.
- (6) ~~For the Kelly Ranch Master Plan area, Residential densities in the 433 acre Kelly Ranch and slope criteria shall be permitted and based on those contained in the City approved Master Plan and as approved by the Coastal Commission in Permit 6-84-617 the underlying General Plan Land Use designation;~~
- (7) Approximately ~~4~~ 2.8 acres located adjacent to the extension of Cannon Road, and as described in coastal development permit ~~6-84-617~~ CDP 98-47 are designated for ~~visitor serving or neighborhood commercial use~~ *an interpretive center for Agua Hedionda.*

(b) Coastal Commission Permit 6-84-617

Due to overriding and extensive wetland preservation and protection provisions of the Kelly Ranch Master Plan as approved by the City and Coastal Commission in permit 6-84-617, agricultural preservation policies are waived.

Agricultural preservation policies for the remaining areas covered by this policy have been deleted by LCP amendment of 2-85.

(c) Drainage and Erosion Control

Any development proposal that affects steep slopes (25% inclination or greater) shall be required to prepare a slope map and analysis for the affected slopes. Steep slopes are identified in the PRC Troups maps. The slope mapping and analysis shall be prepared during the CEQA

EX. A 6

environmental review on a project-by-project basis and shall be required as a condition of a coastal development permit.

(1) Slopes Possessing Endangered Species and/or Coastal Sage Scrub and Chapparral Plant communities: For those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chapparral plant communities, the following policy language would apply:

- a) Slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. For existing legal parcels, with all or nearly all of their area in slope area over 25% grade, encroachment may be permitted; however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads or the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.
- b) No further subdivisions of land or utilization of Planned Unit Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned Unit Development is proposed which limits grading and development to not more than 10% of the total site area.
- c) Slopes and areas remaining undisturbed as a result of the hillside review process, shall be placed in a permanent open space easement as a condition of development approval. The purpose of the open space easement shall be to reduce the potential for localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to the entire community.

(2) All Other Slope Areas: For all other steep slope areas, the City Council may allow exceptions to the above grading provisions provided the following mandatory findings to allow exceptions are made:

Ex. A 7

- a) Soils investigation conducted by a licensed soils engineer has determined the subject slope are to be stable and grading and development impacts mitigatable for at least 75 years, or life of structure.
 - b) Grading of the slope is essential to the development intent and design.
 - c) Slope disturbance will not result in substantial damage or alteration to major wildlife habitat or native vegetation areas.
 - d) If the area proposed to be disturbed is predominated by steep slopes and is less than 10 acres, complete grading may be allowed only if not interruption of significant wildlife corridors occurs.
 - f) Because north-facing slopes are generally more prone to stability problems and in many cases contain more extensive natural vegetation, no grading or removal of vegetation from these areas will be permitted unless all environmental impacts have been mitigated. Overriding circumstances are not considered adequate mitigation.
- (3) Drainage and Runoff Rates: Drainage and runoff shall be controlled so as not to exceed at any time the rate associated with property in its present state, and appropriate measures shall be taken on and/or offsite to prevent siltation of lagoons and other environmentally sensitive areas.
- (4) Installation Timing of Drainage and Runoff Control Measures: The appropriate measures shall be installed prior to onsite grading.
- (5) Required Open Space Easements on Undeveloped Slopes: All undevelopable slopes shall be placed in open space easements as a condition of development approval.

(d) Park Purposes (Marcario Canyon):

Park purposes shall be a permitted use compatible with this land use designation provided that any park construction is subject to 3-5 C above.

ORDINANCE NO.

A ZONE CODE AMENDMENT AND LOCAL COASTAL PROGRAM AMENDMENT TO REPEAL SECTION 21.38.160 OF THE CARLSBAD MUNICIPAL CODE RELATING TO DEVELOPMENT REQUIREMENTS IN KELLY POINT AND MACARIO CANYON.

CASE NAME: KELLY RANCH

CASE NO.: ZCA 99-03/LCPA 97-09

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

SECTION I: That Section 21.38.160 of the Carlsbad Municipal Code is hereby repealed.

SECTION 2: When effective, this ordinance will also constitute an amendment to the Mello II and Agua Hedionda segments of the City's Local Coastal Program according to exhibits LCPA 97-09 and LCPA 97-09 Text 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 _____ day of _____ 1999, and thereafter.

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EX. A 9

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

AYES:

NOES:

ABSENT:

ABSTAIN:

CLAUDE A. LEWIS, Mayor

ATTEST:

ALETHA L. RAUTENKRANZ, City Clerk

(SEAL)

EX. A 10
8

"21.38.160 Additional Standards - Upper Agua Hedionda Watershed.

The Contents of a Master Plan for Kelly Point and Macario Canyon area as identified by the Carlsbad Local Coastal Program shall include the following additional information required below and be approved in accordance with the following additional development standards:

(a) Permits - Required. Developments as defined in Chapter 21.04.107, (including but not limited to land divisions) require a coastal development permit subject to the requirement of this zone. All uses in this zone are subject to the procedural requirements of Chapter 21.201. Prior to or simultaneously with the approval of any division of land or any other development, a master plan of development for the property containing the requirements specified below shall be submitted and approved.

(b) Maximum Density of Development. The Master Plan shall be approved subject to a maximum density of development as follows:

(1) All slopes greater than 25 percent shall result in an allowable development intensity of 1 dwelling unit per ten acres;

(2) All slopes greater than 20 percent but less than 25 percent shall result in a development intensity of 1 dwelling unit per five acres;

(3) All slopes greater than 15 percent but less than 20 percent shall result in a development intensity of 1 dwelling unit per acre;

(4) All slopes greater than 10 percent but less than 15 percent shall result in a development intensity of 2 dwelling units per acre;

(5) All areas with a slope of less than 10 percent shall result in a development intensity of 6 units per acre;

(6) For the Kelly Ranch Master Plan area, residential densities and slope criteria shall be permitted and based on those contained in the City approved master plan and as approved by the Coastal Commission in Permit 6-84-617.

(7) Approximately 4 acres located adjacent to the extension of Cannon Road, and as described in Coastal Development Permit 6-84-617 are designated for visitor-serving or Neighborhood Commercial use.

The plan required as a part of the Master Plan shall be certified as accurate by a registered engineer or other qualified professional to be true and accurate containing reasonably accurate estimates of the amount of cut and fill. The plan shall show the existing and the finished topography of the ground to be graded and filled, including a site plan of the proposed residential or commercial development in the same scale so that it can be superimposed upon the topographic map.

The Master Plan shall include a topographic map at a scale sufficient to determine the above but no less than 1" = 100 feet having a contour interval of 5 feet with overlays delineating areas of greater than 10, 15, 20, and 25 percent slopes. A map showing the type of soil erodibility, and class based on the Land Use Capability Classification System of the Soil Conservation Service shall be submitted in the same scale as the slopes. The Master Plan shall show the computation of the densities and acreage of soils.

(c) Erosion, Drainage, Sedimentation. Subject to the modifications, additions, or exceptions expressed below, as a part of the permit application, the applicant shall submit an erosion, sedimentation and drainage plan, prepared by a qualified professional,

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including the requirements of the Model Erosion Control Ordinance reprinted in the Appendix to the June 1980 Carlsbad Master Drainage Plan, the requirements of the Master Drainage Plan, and the additional requirements specifically enumerated herein. For purposes of this zone, the June 1980 Master Drainage Plan and its appendices are herein incorporated by this reference and are a part of this zone. No subsequent amendments are a part of this zone unless certified by the Coastal Commission. The general provisions, standards, content of plans and implementation contained therein are in addition to the provisions below. Approved development shall include the following conditions, in addition to the requirement specified above:

(1) A soils map in the scale of 1" = 100 feet, showing both the erodibility of soils and the type and location of soils, using the SCS Land Use Capability Classification System and standards of erodibility developed by SCS. The soils map shall be certified by a soils engineer as true and accurate.

(2) Any development proposal that affects steep slopes (25% inclination or greater) shall be required to prepare a slope map and analysis for the affected slopes. Steep slopes are identified on the PRC Troups Maps. The slope mapping and analysis shall be prepared during the CEQA environmental review on a project-by-project basis and shall be required as a condition of a Coastal Development Permit.

(A) For those slopes mapped as possessing endangered plant/animal species and/or coastal sage scrub and chaparral plant communities, the following policy language would apply:

(i) Slopes of 25% grade and over shall be preserved in their natural state, unless the application of this policy would preclude any reasonable use of the property, in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may be permitted. For existing legal parcels, with all or nearly all of their area in slope area over 25% grade, encroachment may be permitted; however, any such encroachment shall be limited so that at no time is more than 20% of the entire parcel (including areas under 25% slope) permitted to be disturbed from its natural state. This policy shall not apply to the construction of roads or the City's Circulation Element or the development of utility systems. Uses of slopes over 25% may be made in order to provide access to flatter areas if there is no less environmentally damaging alternative available.

(ii) No further subdivisions of land or utilization of Planned Unit Developments shall occur on lots that have their total area in excess of 25% slope unless a Planned Unit Development is proposed which limits grading and development to not more than 10% of the total site area.

(iii) Slopes and areas remaining undisturbed as a result of the hillside review process, shall be placed in a permanent open space easement as a condition of development approval. The purpose of the open space easement shall be to reduce the potential for localized erosion and slide hazards, to prohibit the removal of native vegetation except for creating firebreaks and/or planting fire retardant vegetation and to protect visual resources of importance to the entire community.

(B) For all other steep slope areas, the City Council may allow exceptions to the above grading provisions provided the following mandatory findings to allow exceptions are made:

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(i) A soils investigation conducted by a licensed soils engineer has determined the subject slope area to be stable and grading and development impacts mitigatable for at least 75 years, or life of structure.

(ii) Grading of the slope is essential to the development intent and design.

(iii) Slope disturbance will not result in substantial damage or alteration to major wildlife habitat or native vegetation areas.

(iv) If the area proposed to be disturbed is predominated by steep slopes and is in excess of 10 acres, no more than one third of the total steep slope area shall be subject to major grade changes.

(v) If the area proposed to be disturbed is predominated by steep slopes and is less than 10 acres, complete grading may be allowed only if no interruption of significant wildlife corridors occurs.

(vi) Because north-facing slopes are generally more prone to stability problems and in many cases contain more extensive natural vegetation, no grading or removal of vegetation from these areas will be permitted unless all environmental impacts have been mitigated. Overriding circumstances are not considered adequate mitigation.

(3) Drainage and runoff shall be controlled so as not to exceed at any time the rate associated with property in its present state, and appropriate measures shall be taken on and/or offsite to prevent siltation of Agua Hedionda Lagoon and other environmentally sensitive areas.

(4) The appropriate measures shall be installed prior to onsite grading.

(5) All undevelopable slopes shall be placed in open space easements as a condition of development approval.

(6) A site specific technical report shall be required addressing the cumulative effects of developing each subwatershed and recommending measures to mitigate both increased runoff and sedimentation. It shall be reviewed and prepared according to the Model Erosion Control Ordinance contained in the Master Drainage Plan, with the additions and changes adopted herein, such that a natural drainage system is generally preserved for the eastern undeveloped watersheds, but that stormdrains are allowed for those western portions of the watershed which have already been incrementally developed.

(7) Mitigation measures tailored to project impacts and consistent with the control of cumulative development shall be implemented prior to development in accordance with the following additional criteria:

(A) Submittal of a runoff control plan designed by a licensed engineer qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from the developed site over the greatest discharge expected from the existing undeveloped site as a result of a 10-year frequency storm. Runoff control shall be accomplished by a variety of measures, including, but not limited to, onsite catchment basins, detention basins, siltation traps and energy dissipators and shall not be concentrated in one area or a few locations.

(B) Detailed maintenance arrangements and various alternatives for providing the ongoing repair and maintenance of any approved drainage

and erosion control facilities. If the offsite or onsite improvements are not to be accepted or maintained by a public agency, detailed maintenance agreements shall be secured prior to issuance of a permit.

(C) All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any onsite grading activities.

(D) All grading activities shall be prohibited within the period from October 1 to March 31 of each year.

(E) All areas disturbed by grading, but not completed during the construction period, including graded pads, shall be planted and stabilized prior to November 1 with temporary or permanent (in the case of finished slopes) erosion control measures and native vegetation. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins and silt traps, shall be utilized in conjunction with plantings to minimize soil loss from the construction site. Said planting shall be accomplished under the supervision of a licensed landscape architect and shall consist of seeding, mulching, fertilization and irrigation adequate to provide 90 percent coverage within 90 days. Planting shall be repeated, if the required level of coverage is not established. This requirement shall apply to all disturbed soils, including stockpiles.

(d) Agricultural Preservation. Due to overriding and extensive wetland preservation and protection provisions of the Kelly Ranch Master Plan as approved by the City of Carlsbad and California Coastal Commission in Permit 6-84-617, agricultural preservation policies are waived.

Agricultural preservation policies for the remaining areas covered by this subsection have been deleted by Local Coastal Program Amendment 2-85.

(e) Park Purposes. Park purposes shall be a permitted use compatible with this land use designation, provided that any park construction is subject to Section (C), Erosion, Drainage, Sedimentation above.

(f) Siting/Parking. Due to severe site constraints, innovative siting and design criteria (including shared use of driveways, clustering, tandem parking, pole construction) shall be incorporated in the Master Plan to minimize the paved surface area. Dwelling units shall be clustered in the relatively flat portions of the site."

Chapter 21.203

COASTAL RESOURCE PROTECTION OVERLAY ZONE

Sections:

- 21.203.010 Intent and Purpose
- 21.203.020 Applicant
- 21.203.030 Permit Required
- 21.203.040 Development Standards

"21.203.010 Intent And Purpose.

The intent and purpose of the Coastal Resource Protection Overlay Zone is to:

- A. Supplement the underlying zoning by providing additional resource protective regulations within designated areas to preserve, protect and enhance the habitat resource value of Buena Vista Lagoon, Agua Hedionda Lagoon, Batiquitos Lagoon, and steep sloping hillsides;

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OVERLAY ZONE

- 1 B. Provide regulations in areas which provide the best wildlife habitat characteristics;
2 C. Encourage proper lagoon management;
3 D. Deter soil erosion by maintaining the vegetative cover on steep slopes;
4 E. Implement the goals and objectives of Sections 30231, 30233, 30240(b) and 30253
5 of the Public Resources Code and the approved Carlsbad Local Coastal Program."

6
7 "21.203.020 Applicability.

8 This chapter implements the California Coastal Act and is applicable to all properties
9 located in the coastal zone as defined in Public Resources Code Section 30171. In case of any
10 conflict between this zone and the underlying zone, provisions of this zone shall apply."

11 "21.203.030 Permit Required.

12 Developments, including but not limited to, land divisions, as defined in Chapter
13 21.04.108 require a coastal development permit. This permit is subject to the requirements of
14 this zone and the procedural requirements for coastal development permits of Chapter 21.201
15 of this code."

16 "21.203.040 Development Standards.

17 The following specific development standards shall be applied to areas within the Coastal
18 Resource Protection Overlay Zone as part of the coastal development permit. Such standards
19 shall control, notwithstanding the provisions of the underlying zone and shall include:

20 A. Preservation of Steep Slopes and Vegetation

21 Any development proposal that affects steep slopes (25% inclination or greater)
22 shall be required to prepare a slope map and analysis for the affected slopes. Steep slopes are
23 identified on the PRC Maps maps. The slope mapping and analysis shall be prepared during
24 the CEQA environmental review on a project-by-project basis and shall be required as a
25 condition of a coastal development permit.

26 1. For those slopes mapped as possessing endangered plant/animal species
27 and/or coastal sage scrub and chaparral plant communities, the following policy language would
28 apply:

a. Slopes of 25% grade and over shall be preserved in their natural
state, unless the application of this policy would preclude any reasonable use of the property,
in which case an encroachment not to exceed 10% of the steep slope area over 25% grade may
be permitted. For existing legal parcels, with all or nearly all of their area in slope area over
25% grade, encroachment may be permitted; however, any such encroachment shall be limited
so that at no time is more than 20% of the entire parcel (including areas under 25% slope)
permitted to be disturbed from its natural state. This policy shall not apply to the construction
of roads of the City's Circulation Element or the development of utility systems. Uses of slopes
over 25% may be made in order to provide access to flatter areas if there is no less
environmentally damaging alternative available.

b. No further subdivisions of land or utilization of Planned Unit
Developments shall occur on lots that have their total area in excess of 25% slope unless a
Planned Unit Development is proposed which limits grading and development to not more than
10% of the total site area.

c. Slopes and areas remaining undisturbed as a result of the hillside
review process, shall be placed in a permanent open space easement as a condition
development approval. The purpose of the open space easement shall be to reduce the

1 potential for localized erosion and slide hazards to prohibit the removal of native vegetation
2 except for creating firebreaks and/or planting fire retardant vegetation and to protect visu
resources of importance to the entire community.

3 2. For all other steep slope areas, the City Council may allow exceptions to
4 the above grading provisions provided the following mandatory findings to allow exceptions are
made:

5 a. A soils investigation conducted by a licensed soils engineer has
determined the subject slope area to be stable and grading and development impacts mitigatable
6 for at least 75 years, or life of structure.

7 b. Grading of the slope is essential to the development intent and
design.

8 c. Slope disturbance will not result in substantial damage or alteration
to major wildlife habitat or native vegetation areas.

9 d. If the area proposed to be disturbed is predominated by steep slopes
and is in excess of 10 acres, no more than one third of the total steep slope area shall be subject
10 to major grade changes.

11 e. If the area proposed to be disturbed is predominated by steep slopes
and is less than 10 acres, complete grading may be allowed only if no interruption of significant
wildlife corridors occurs.

12 f. Because north-facing slopes are generally more prone to stability
problems and in many cases contain more extensive natural vegetation, no grading or removal
13 of vegetation from these areas will be permitted unless all environmental impacts have been
mitigated. Overriding circumstances are not considered adequate mitigation.

14 B. Drainage, Erosion, Sedimentation, Habitat

15 1. Buena Vista Lagoon: Developments located along the first row of lots
bordering Buena Vista Lagoon, including the parcel at the mouth of the Lagoon, shall be
16 designated for residential development at a density of up to four dwelling units per acre.
Proposed development in this area shall be required to submit topographic and vegetation
17 mapping and analysis, as well as soils reports, as part of the development permit application.
Such information shall be provided in addition to any required Environmental Impact Report,
18 and shall be prepared by qualified professionals and in sufficient detail to locate the boundary
of wetland and upland areas and areas of slopes in excess of 25%. Topographic maps shall be
19 submitted at a scale sufficient to determine the appropriate developable areas, generally not less
than a scale of 1" - 100' with a topographic contour interval of five feet, and shall include an
20 overlay delineating the location of the proposed project. The lagoon and wetland area shall be
delineated and criteria used to identify any wetlands existing on the site shall be those of
21 Section 30121 of the Coastal Act and based upon the standards of the Local Coastal Program
Mapping Regulations. Mapping of wetlands and siting of development shall be done in
22 consultation and subject to the approval of the Department of Fish and Game. Development
shall be clustered to preserve open space for habitat protection. Minimum setbacks of at least
23 100 feet from wetlands/lagoon shall be required in all development, in order to buffer such
sensitive habitat area from intrusion. Such buffer areas, as well as other open space areas
24 required in permitted development to preserve habitat areas, shall be permanently preserved
for habitat uses through provision of an open space easement as a condition of project approval.
25 In the event that a wetland area is bordered by steep slopes (in excess of 25%) which will act
as a natural buffer to the habitat area, a buffer area of less than 100 feet in width may be
26 permitted. The density of any permitted development shall be based upon the net developable
27
28

1 area of the parcel, excluding any portion of a parcel which is in wetlands or lagoon. A
2 specified in (a), a density credit may be provided for that portion of the parcel which is in steep
3 slopes. Storm drain alignments as proposed in the Carlsbad Master Drainage Plan which would
4 be carried through or empty into Buena Vista Lagoon shall not be permitted, unless such
5 improvements comply with the requirements of Sections 30230, 30231, 30233, and 30235 of the
6 Coastal Act by maintaining or enhancing the functional capacity of the Lagoon in a manner
7 acceptable to the State Department of Fish and Game. Land divisions shall only be permitted
8 on parcels bordering the Lagoon pursuant to a single planned development permit for the entire
9 original parcel.

10 2. Batiquitos Lagoon Watershed: Development located east of I-5 (generally
11 referred to as the Savage property) shall be designated for a maximum density of development
12 of 8 units per gross acre, excluding wetlands and constrained slopes. Development shall take
13 place according to the requirements of the P-C Planned Community zone Chapter 21.38,
14 supplemented by these additional requirements. Land divisions shall only be permitted
15 pursuant to a Master Plan for the entire original parcel subject to the requirements herein:

16 a. Drainage, Erosion and Sedimentation requirements shall be as
17 specified in subsection B.4. of this section.

18 b. Detailed topographic maps shall be prepared by qualified
19 professionals including biologists, hydrologists and engineers in sufficient detail to locate the
20 boundary of lagoon or wetland and upland areas. The scale shall not be less than 1" = 100'
21 with a contour interval of five feet, and shall include an overlay delineating the location of the
22 development. The lagoon and wetland areas shall be delineated according to the requirements
23 of Section 30121 of the Coastal Act and the Local Coastal Program mapping regulations
24 subject to the review and approval of the State Department of Fish and Game.

25 c. Development shall be clustered to preserve open space and habitat.

26 d. A minimum setback of 100 feet from the lagoon/wetland shall be
27 required.

28 e. At least 2/3 of any development shall be clustered on the half of the
property furthest away from the lagoon at the base of the bluff in order to preserve the
outstanding visual and natural resources.

f. Existing mature trees shall be preserved.

g. Public recreation facilities shall be provided as a condition of
development including picnic tables, parking, and a public access trail along the lagoon shore.
The trail shall be secured by an irrevocable offer to dedicate public access but shall be
developed and landscaped as a condition of development and shall be at least 15 feet wide with
unobstructed views of the lagoon.

h. To facilitate provision of public use areas and preservation of
environmentally sensitive lands, and to maintain the outstanding visual resources in the area
surrounding the lagoon, an additional density credit of one dwelling unit per acre of developed
land shall be provided for each two and one half percent (2 1/2%) of total lot area, excluding
wetlands, which is maintained in open space and public recreation in excess of fifty percent
(50%) of the total lot area, excluding wetlands.

3. Areas - West of I-5: For areas west of the existing Paseo del Norte, west
of Interstate 5 and along El Camino Real immediately upstream of the existing storm drains,
the following policy shall apply: A site-specific report prepared by a qualified professional shall
be required for all proposed development, identifying mitigation measures needed to avoid
increased runoff and soil erosion. The report shall be subject to the requirements of the model

1 erosion control ordinance contained in the Appendix to the Carlsbad Master Drainage Plan
2 (June, 1980), and to the additional requirements contained herein. Such mitigation shall
3 become an element of the project, and shall be installed prior to the initial grading. At a
4 minimum, such mitigation shall require construction of all improvements shown in the Master
5 Drainage Plan for the area between the project site and the lagoon (including the debris basin),
6 as well as: restriction of grading activities to the months of April through September of each
7 year; revegetation of graded areas immediately after grading; and a mechanism for permanent
8 maintenance if the city declines to accept the responsibility. Construction of drainage
9 improvements may be through formation of an assessment district, or through any similar
10 arrangement that allots costs among the various landowners in an equitable manner.

11 4. All Other Areas in the Coastal Zone: The following requirements shall
12 apply unless superseded by the more specific requirements herein and subject to the
13 modifications, additions, or exceptions detailed below, as a part of the permit application, the
14 applicant shall submit an erosion, sedimentation and drainage report prepared by a qualified
15 professional which includes the requirements of the Model Erosion Control Ordinance
16 reprinted in the Appendix to the June 1980 Carlsbad Master Drainage Plan, all requirements
17 of the Master Drainage Plan, and the additional requirements specifically enumerated herein.
18 The June 1980 Master Drainage Plan and its appendices are herein incorporated by this
19 reference. No subsequent amendments are a part of this zone unless certified by the Coastal
20 Commission. The general provisions, procedures, standards, content of plans and
21 implementation contained therein are required conditions of development in addition to the
22 provisions below. Approved development shall include the following conditions, in addition to
23 the requirements specified above:

24 a. All offsite, downstream improvements (including debris basin and
25 any other improvements recommended in the Drainage Plan) shall be constructed prior to the
26 issuance of a grading permit onsite. Improvements shall be inspected by city or county staff and
27 certified as adequate and in compliance with the requirements of the Drainage Plan and the
28 additional requirements of this zone. If the city or county declines to accept maintenance
responsibility for the improvements, the developer shall maintain the improvements during
construction of the onsite improvements.

b. If the offsite or onsite improvements are not to be accepted and
maintained by a public agency, detailed maintenance agreements including provisions for
financing the maintenance through bonding or other acceptable means shall be secured prior
to issuance of the permit. Maintenance shall be addressed in the report required to be
submitted with the permit application. The report shall discuss maintenance costs and such
costs shall be certified as a best effort at obtaining accurate figures.

c. Construction of offsite drainage improvements may use an
assessment district or any other acceptable manner. Such mechanisms shall be secured by
bonding or other acceptable means prior to issuance of a coastal development permit.

d. If a public agency agrees to accept maintenance responsibilities, it
shall inspect the facilities prior to onsite construction or grading and indicate if such facilities
assure continued maintenance. No onsite development may take place prior to acceptance of
the drainage improvements.

e. All construction activities shall be planned so that grading will occur
in units that can be easily completed within the summer construction season. All grading
operations shall be limited from April 1 to October 1 of each year. All areas disturbed by
grading shall be planted within 60 days of the initial disturbance and prior to October 1 with

1 temporary or permanent (in the case of finished slopes) erosion control methods.

2 f. Storm drainage facilities in developed areas shall be improved and
3 enlarged according to the Carlsbad Master Drainage Plan, incorporating the changes specified
4 herein. Improvement districts shall be formed for presently undeveloped areas which are
5 expected to urbanize in the future. The improvement districts shall implement the Master
6 Drainage Plan. Upstream areas in the coastal zone shall not be permitted to develop
7 incrementally prior to installation of the storm drain facilities downstream, in order to assure
8 protection of coastal resources. New drainage facilities, required within the improvement
9 districts shall be financed either by some form of bond or from fees collected from developers
10 on a cost-per-acre basis.

11 g. When earth changes are required and natural vegetation is removed,
12 the area and duration of exposure shall be kept at a minimum.

13 h. Soil erosion control practices shall be used against "onsite" soil
14 erosion. These include keeping soil covered with temporary or permanent vegetation or with
15 mulch materials, special grading procedures, diversion structures to divert surface runoff from
16 exposed soils, and grade stabilization structures to control surface water.

17 i. Apply "sediment control" practices as a perimeter protection to
18 prevent offsite drainage. Preventing sediment from leaving the site should be accomplished by
19 such methods as diversion ditches, sediment traps, vegetative filters, and sediment basins.
20 Preventing erosion is, of course, the most efficient way to control sediment runoff.

21 C. Landslides and Slope Instability: Developments within 500 feet of areas identified
22 generally in the PRC Troups Report, figure 8, as containing soils of the La Jolla group
23 (susceptible to accelerated erosion) or landslide prone areas shall be required to submit
24 additional geologic reports containing the additional information required in the Coast
25 Shoreline Development Overlay Zone.

26 D. Seismic Hazards: Development in liquefaction-prone areas shall include site-
27 specific investigations done addressing the liquefaction problem and suggesting mitigation
28 measures. New residential development in excess of four units, commercial, industrial, and
29 public facilities shall have site-specific geologic investigations completed in known potential
30 liquefaction areas.

31 E. Floodplain Development: Within the coastal zone, in the 100-year floodplain, no
32 new or expanded permanent structures or fill shall be permitted. Only uses compatible with
33 periodic flooding shall be allowed."

CHAPTER 15.12

STORM WATER MANAGEMENT AND DISCHARGE CONTROL

Sections:

- 15.12.010 Purpose and Intent
- 15.12.020 Definitions
- 15.12.030 Administration
- 15.12.040 Construction and Application
- 15.12.050 Discharge of Pollutants
- 15.12.060 Discharge in Violation of Permit
- 15.12.070 Illicit Connections
- 15.12.080 Reduction of Pollutants Contacting or Entering Storm Water Required
- 15.12.090 Watercourse Protection
- 15.12.100 Authority to Inspect
- 15.12.110 Inspection Procedures—Additional Requirements
- 15.12.120 Containment, Cleanup, and Notification of Spills
- 15.12.130 Testing, Monitoring or Mitigation Required—When.
- 15.12.140 Concealment
- 15.12.150 Administrative Enforcement Powers
- 15.12.160 Administrative Notice, Hearing, and Appeal Procedures
- 15.12.170 Judicial Enforcement
- 15.12.180 Violations Deemed a Public Nuisance
- 15.12.190 Remedies Not Exclusive

15.12.010 Purpose and Intent.

The purpose of this Chapter is to ensure the future health, safety, and general welfare of the residential, commercial, and industrial sectors of the City of Carlsbad by:

A. Prohibiting non-storm water discharges to the storm water conveyance system.

B. Eliminating discharges to the storm water conveyance system from spills, dumping or disposal of materials other than storm water or permitted or exempted discharges.

C. Reducing pollutants in storm water discharges, including those pollutants taken up by storm water as it flows over urban areas (Urban Runoff), to the maximum extent practicable.

D. Reducing pollutants in storm water discharges in order to achieve applicable water quality objectives for surface waters in San Diego County.

The intent of this ordinance is to protect and enhance the water quality of our watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act and California Regional Water Quality Control Board NPDES Permit No. CA0108758, Order 90-42 and any amendment, revision or reissuance thereof.

15.12.020 Definitions.

When used in this Chapter, the following terms shall have the meanings ascribed to them in this Section:

A. "Basin Plan" means the Comprehensive Water Quality Control Plan for the San Diego Basin adopted by the Regional Water Quality Control Board, San Diego Region (July 1975) and approved by the State Water Resources Control Board, together with subsequent amendments.

B. "Best Management Practices or (BMP)" means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce to the maximum extent practicable (MEP) the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

C. "Building Permit" shall mean a permit issued pursuant to Chapter 18.04.

D. "California Ocean Plan" means the California Ocean Plan: Water Quality Control Plan for Ocean Waters of California adopted by the State Water Resources Control Board September 1991 and any subsequent amendments.

E. "Clean Water Act" shall mean the Federal Water Pollution Control Act enacted by Public Law 92-500, as amended by

Public Laws 95-217, 95-576, 96-483, and 95-117 (33 USCA Section 1251 et seq.), and any subsequent amendments.

F. "County Health Officer" shall mean the Health Officer of the County of San Diego Department of Public Health or designee.

G. "Development" shall mean:

1. The placement or erection of any solid material or structure on land, in water, or under water;

2. The discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste;

3. The grading, removing, dredging, mining, or extraction of any materials;

4. A change in the density or intensity of the use of land, including, but not limited to, a subdivision pursuant to the Subdivision Map Act (Government Code Section 66410, et seq.) and any other division of land, except where the division of land is brought about in connection with the purchase of such land by a public agency for public recreational use;

5. A change in the intensity of the use of water, or of access thereto;

6. The construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal entity; and,

7. The removal or harvesting of major vegetation other than for agricultural purposes.

As used in this definition, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. (Source: Government Code Section 65927).

H. "Employee Training Program" means a documented employee training program for all persons responsible for implementing a Storm Water Pollution Prevention Plan. The Employee Training Program shall include, but is not limited to, the following topics:

1. Laws, regulations, and local ordinances associated with storm water pollution prevention, and an overview of the potential impacts of polluted storm water on the receiving waters of the San Diego region.

2. Proper handling of all materials and wastes to prevent spillage.

3. Mitigation of spills including spill response, containment and cleanup procedures.

4. Visual monitoring of all effluent streams to ensure that no illicit discharges enter the storm water conveyance system.

5. Discussion of the differences between the storm water conveyance system and the sanitary sewer system.

6. Identification of all on-site connections to the storm water conveyance system.

7. Preventive maintenance and good housekeeping procedures.

8. Material management practices employed by the facility to reduce or eliminate pollutant contact with storm water discharge.

I. "Enforcement Agency" shall mean the City of Carlsbad or its authorized agents charged with ensuring compliance with this Chapter.

J. "Enforcement Official" shall mean the City Manager or his or her designee.

K. "Hazardous Materials" shall mean any substance or mixture of substances which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or generates pressure through decomposition, heat or other means, if such a substance or mixture of substances may cause substantial injury, serious illness or harm to humans, domestic livestock, or wildlife.

L. "Illicit Connection" means any un-permitted or undocumented physical connection to the storm water conveyance system which has not been approved by the City of Carlsbad, or any connection which drains illegal discharges either directly or indirectly into a storm water conveyance system.

M. "Illegal Discharge" means any non-permitted or non-exempt discharge to the storm water conveyance system that is not composed entirely of storm water, or is expressly prohibited by federal, state, or local regulations, laws, codes, or ordinances, or degrades the quality of receiving waters in violation of Basin Plan and California Ocean Plan standards.

N. "Maximum Extent Practicable" shall mean, with respect to Best Management Practices (BMPs), an individual BMP or group of BMPs which address a Pollutant of

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concern, which have a cost of implementation reasonably related to the pollution control benefits achieved, and which are technologically feasible.

O. "National Pollution Discharge Elimination System (NPDES) Permit" shall mean a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board pursuant to Chapter 5.5, Division 7 of the California Water Code, to control discharges from point sources to waters of the United States, including, but not limited to:

1. California Regional Water Quality Control Board NPDES Permit No. CA0108758, Order 90-42 and any amendment, revision or reissuance thereof.

2. NPDES General Permit for Storm Water Discharges Associated with Industrial Activities'

3. NPDES General Permit for Storm Water Discharges Associated with Construction Activity; and,

4. California Regional Water Quality Control Board, San Diego Region, General De-Watering Permits (Order Numbers 91-10 and 90-31).

P. "Non-Storm Water Discharge" means any discharge to the storm water conveyance system that is not entirely composed of storm water.

Q. "NPDES General Permit" shall mean a permit issued by the State Water Resources Control Board, including, but not limited to:

1. NPDES General Permit for Storm Water Discharges Associated with Industrial Activities; and,

2. NPDES General Permit for Storm Water Discharges Associated with Construction Activity.

R. "Order No. 90-42", dated July 16, 1990, shall mean California Regional Water Quality Control Board NPDES Permit No. CA0108758, Order 90-42 and any amendment, revision or reissuance thereof, together with all amendments, and which is on file in the office of the City Clerk.

S. "Parking Lot" shall mean an open area, other than a street or other public way, used for the parking of motorized vehicles, whether for a fee or free, to accommodate clients or customers or to accommodate residents of multi-family dwellings (i.e., apartments, condominiums, townhomes,

mobile homes, dormitories, group quarters, etc.).

T. "Person" shall mean any individual, organization, business trust, company, partnership, entity, firm, association, corporation, or public agency, including the State of California and the United States of America.

U. "Pollutant" includes, but is not limited to, solid waste, sewage, garbage, medical waste, wrecked or discarded equipment, radioactive materials, dredged spoil, rock, sand, industrial waste, and any organic or inorganic substance defined as a pollutant under 40 C.F.R. 122.2 whose presence degrades the quality of the receiving waters in violation of Basin Plan and California Ocean Plan standards such as fecal coliform, fecal streptococcus, enterococcus, volatile organic carbon (VOC), surfactants, oil and grease, petroleum hydrocarbons, total organic carbon (TOC), lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides.

A pollutant also includes any contaminant which degrades the quality of the receiving waters in violation of Basin Plan and California Ocean Plan standards by altering any of the following parameters: pH, total suspended and settleable solids, biochemical oxygen demand (BOD), chemical oxygen demand (COD), nutrients, and temperature.

V. "Premises" means any building, lot, parcel, real estate, land or portion of land whether improved or unimproved.

W. "Receiving Waters" means surface bodies of water, which serve as discharge points for the storm water conveyance system, including the Batiquitos Lagoon, Agua Hedionda Lagoon and Buena Vista Lagoon and their tributary creeks, reservoirs, lakes, estuaries, and the Pacific Ocean.

X. "Storm Water" shall mean surface runoff and drainage associated with storm events and snow melt prior to contact with urban areas, agricultural areas, and/or other areas in which the natural environment has been significantly disturbed or altered, either directly or indirectly, as a result of human activity (also see definition for "Non-Storm Water").

For the purposes of this Chapter, Storm Water runoff and drainage from areas that are in a natural state, have not been

Exc 3

1 significantly disturbed or altered, either
2 directly or indirectly, as a result of human
3 activity, and the character and type of
4 Pollutants naturally appearing in the runoff
5 have not been significantly altered, either
6 directly or indirectly, as a result of human
7 activity, shall be considered "unpolluted" and
8 shall satisfy the definition of "Storm Water"
9 in this Chapter.

10 Y. "Storm Water Conveyance System"
11 includes, but is not limited to those municipal
12 facilities within the City of Carlsbad by which
13 storm water may be conveyed to waters of
14 the United States, including any roads with
15 drainage systems, municipal streets, catch
16 basins, natural and artificial channels or
17 storm drains.

18 Z. "Storm Water Pollution Prevention
19 Plan" means a document which describes
20 the on-site program activities to eliminate or
21 reduce to the maximum extent practicable,
22 pollutant discharges to the storm water
23 conveyance system.

24 A Storm Water Pollution Prevention
25 Plan prepared and implemented pursuant to
26 any NPDES Storm Water permit shall meet
27 the definition of a Storm Water Pollution
28 Prevention Plan for the purposes of this
Chapter.

AA. "Watercourse" means any natural
or artificial stream, river, creek, ditch,
channel, canal, conduit, culvert, drain,
waterway, gully, ravine, arroyo or wash, in
which waters flow in a definite direction or
course, either continuously or intermittently,
and which has a definite channel and a bed
or banks. A channel is not limited to land
covered by minimal or ordinary flow but also
includes land covered during times of high
water. "Watercourse" does not include any
surface drainage prior to its collection in a
stream, river, creek, ditch, channel, canal,
conduit, culvert, drain, waterway, gully,
ravine, arroyo or wash.

BB. "Wet Season" means October 15
through April 15.

CC. "Wetlands" shall mean areas that
are inundated or saturated by surface or
ground waters at a frequency and duration
sufficient to support, and that under normal
circumstances do support, a prevalence of
vegetation typically adapted for life in
saturated soil conditions. Wetlands
generally include swamps, marshes, bogs,
and similar areas.

15.12.030 Administration

The Enforcement Official shall
administer, implement, and enforce the
provisions of this Chapter. Any powers
granted to, or duties imposed upon, the
Enforcement Official may be delegated by
the Enforcement Official to Persons in the
employ of the City, or pursuant to contract.
When deemed necessary by the
Enforcement Official, the Enforcement
Official shall prepare and present to the City
Council for approval regulations consistent
with the general policies established herein
by the City Council. The Enforcement
Official shall enforce Council approved
regulations necessary to the administration
of this ordinance, and may recommend that
the Council amend such regulations from
time to time as conditions require.

15.12.040 Construction and Application

This Chapter shall be interpreted to
assure consistency with the requirements of
the federal Clean Water Act and acts
amendatory thereof or supplementary
thereto, applicable implementing regulations,
and California Regional Water Quality
Control Board NPDES Permit No.
CA0108758, Order 90-42 and any
amendment, revision or reissuance thereof.

15.12.050 Discharge of Pollutants

The discharge of non-storm water
discharges to the storm water conveyance
system or to any other conveyance system
which discharges into receiving water is
prohibited, except as specified below.

A. The prohibition on discharges shall
not apply to any discharge regulated under a
NPDES permit issued to the discharger and
administered by the State of California
pursuant to Chapter 5.5, Division 7, of the
California Water Code, provided that the
discharger is in compliance with all
requirements of the permit and other
applicable laws and regulations.

B. Discharges from the following
activities will not be considered a source of
pollutants to waters of the United States
when properly managed: water line flushing;
landscape irrigation; diverted stream flows;
rising ground waters; uncontaminated
ground water infiltration [as defined at 40
CFR 35.2005(20)] to storm water
conveyance systems; uncontaminated
pumped ground water, discharges from

Ex. C 4

1 potable water sources; foundation drains; air
2 conditioning condensation; irrigation water
3 springs; water from crawl space pumps;
4 footing drains; lawn watering; individual
5 residential car washing; flows from riparian
6 habitats and wetlands; dechlorinated
7 swimming pool discharges; and street wash
8 water.

9 C. The prohibition of discharges shall
10 not apply to any discharge which the City of
11 Carlsbad or the county health officer, and/or
12 the Regional Water Quality Control Board
13 determine are necessary for the protection
14 of the public health and safety.

15 15.12.060 Discharge in Violation of 16 Permit

17 Any discharge that would result in or
18 contribute to a violation of California
19 Regional Water Quality Control Board
20 NPDES Permit No. CA0108758, Order 90-42
21 and any amendment, revision or reissuance
22 thereof, either separately considered or
23 when combined with other discharges, is
24 prohibited. Liability for any such discharge
25 shall be the responsibility of the person(s)
26 causing or responsible for the discharge.

27 15.12.070 Illicit Connections

28 It is prohibited to establish, use,
maintain, or continue illicit connections to
the storm water conveyance system,
regardless of whether such connections
were made under a permit or other
authorization or whether permissible under
the law or practices applicable or prevailing
at the time of the connection except as
authorized in section 15.12.050.

1 15.12.080 Reduction of Pollutants 2 Contacting or Entering Storm 3 Water Required.

4 A. It is unlawful for any Person not to
5 utilize Best Management Practices to the
6 Maximum Extent Practicable to eliminate or
7 reduce Pollutants entering the City's Storm
8 Water Conveyance System.

9 B. In order to reduce the risk of Non-
10 Storm Water or Pollutant discharges to the
11 City's Storm Water Conveyance System, the
12 following minimum Best Management
13 Practices shall be implemented:

14 1. Commercial and Industrial 15 Business-Related Activities.

16 a. Storm Water Pollution
17 Prevention Plan: When the Enforcement

Official determines that a business or
business-related activity causes or
significantly contributes to violation of the
water quality standards set forth in the Basin
Plan or California Ocean Waters Plan, or
conveys Significant Quantities of Pollutants
to Receiving Waters, then the Enforcement
Official may require the business to develop
and implement a Storm Water Pollution
Prevention Plan (SWPPP). Businesses
which may be required to prepare and
implement a SWPPP include, but are not
limited to, those which perform
maintenance, storage, manufacturing,
assembly, equipment operations, vehicle
loading, and/or cleanup activities partially or
wholly out of doors.

18 b. Coordination with
19 Hazardous Materials Response Plans and
20 Inventory: Any business subject to the
21 Hazardous Materials inventory and response
22 program pursuant to Chapter 6.95 of the
23 California Health and Safety Code, shall
24 include provisions for compliance with this
25 Chapter in its Hazardous Materials
26 Response Plan, including prohibitions of
27 unlawful Non-Storm Water discharges and
28 Illegal Discharges, and provisions requiring
the use of Best Management Practices to
reduce the discharge of Pollutants in Storm
Water.

1 c. Impervious Surfaces:
2 Persons owning or operating a Parking Lot
3 or an impervious surface (including, but not
4 limited to, service station pavements or
5 paved private streets and roads) used for
6 automobile-related or similar purposes shall
7 clean those surfaces as frequently and as
8 thoroughly as is necessary, in accordance
9 with Best Management Practices, to prevent
10 the discharge of Pollutants to the City's
11 Storm Water Conveyance System.
12 Sweepings or cleaning residue from Parking
13 Lots or impervious surfaces shall not be
14 swept or otherwise made or allowed to go
15 into any Storm Water conveyance, gutter, or
16 roadway, but must be disposed of in
17 accordance with regional solid waste
18 procedures and practices.

19 2. Activities not Otherwise Regulated 20 by Subsection B.1.

21 a. Any person engaged in
22 Development or other activity not covered by
23 Subsection B.1 in the City of Carlsbad shall
24 utilize Best Management Practices to
25 prevent Pollutants from entering the Storm

Water Conveyance System by complying with all applicable local ordinances, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments.

b. Standard for Parking Lots and Similar Structures. Persons owning or operating a parking lot or impervious surfaces used for similar purposes shall clean those structures thoroughly as is necessary to prevent the discharge of pollutants to the storm water conveyance system to the maximum extent practicable, but not less than once prior to each wet season. Sweepings or cleaning residue from parking lots or said impervious surfaces shall not be swept or otherwise made or allowed to go into the gutter or roadway.

15.12.090 Watercourse Protection

Every person owning property through which a watercourse passes, and such person's lessee or tenant, shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the watercourse; shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy bank vegetation beyond that actually necessary for said maintenance which shall be accomplished in a manner that minimizes the vulnerability of the watercourse to erosion. No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the Enforcement Official, and the appropriate State or Federal agencies, if applicable:

A. Discharge pollutants into or connect any pipe or channel to a watercourse;

B. Modify the natural flow of water in a watercourse;

C. Carry out developments within thirty feet of the center line of any watercourse or

twenty feet of the edge of a watercourse, whichever is the greater distance;

D. Deposit in, plant in, or remove any material from a watercourse including its banks except as required for necessary maintenance;

E. Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or

F. Place any loose or unconsolidated material along the side of or within a watercourse or so close to the side as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm waters passing through such a watercourse.

G. The above requirements do not supersede any requirements set forth by the California Department of Fish and Game Stream Alteration Permit process.

15.12.100 Authority to Inspect

A. During normal and reasonable hours of operation, the Enforcement Officer shall have the authority to make an inspection to enforce the provisions of this Chapter, and to ascertain whether the purposes of this Chapter are being met. An inspection may be made after the designated representative of the City of Carlsbad has presented proper credentials and the owner and/or occupant authorizes entry. If the City of Carlsbad representative is unable to locate the owner or other persons having charge or control of the premises, or the owner and/or occupant refuses the request for entry, the City of Carlsbad is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining entry.

After obtaining legal entry, the representative of the City of Carlsbad may:

1. Inspect the premises at all reasonable times.

2. Carry out any water sampling activities necessary to enforce this Chapter, including taking water samples from the property of any person which any authorized representative of the City of Carlsbad reasonably believes is currently, or has in the past, caused or contributed to causing an illegal storm water discharge to the storm water conveyance system. Upon request by the property owner or his/her authorized representative, split water samples shall be given to the person from whose property the samples were obtained.

1 3. Stop and inspect any vehicle
2 reasonably suspected of causing or
3 contributing to an illegal discharge to the
4 storm water conveyance system.

5 4. Conduct tests, analyses and
6 evaluations to determine whether a
7 discharge of storm water is an illegal
8 discharge or whether the requirements of
9 this chapter are met.

10 5. Photograph any effluent
11 stream, material or waste, material or waste
12 container, container label, vehicle, waste
13 treatment process, waste disposal site
14 connection, or condition believed to
15 contribute to storm water pollution or
16 constitute a violation of this Chapter.

17 6. Review and obtain a copy of
18 the Storm Water Pollution Prevention Plan
19 prepared by a facility operator, if such a plan
20 is required of the facility.

21 7. Require the facility operator to
22 retain evidence, as instructed by the
23 inspector, for a period not to exceed 30
24 days.

25 8. Review and obtain copies of all
26 storm water monitoring data compiled by the
27 facility, if such monitoring is required of the
28 facility.

9. Routine or area inspections shall be
based upon such reasonable selection
processes as may be deemed necessary to
carry out the objectives of this ordinance,
including but not limited to random sampling
and/or sampling in areas with evidence of
storm water contamination, illegal
discharges, discharge of non-storm water to
the storm water system, or similar factors.

15.12.110 Inspection Procedures-- Additional Requirements.

During the inspection, the Enforcement
Official shall comply with all reasonable
security, safety, and sanitation measures. In
addition, the Enforcement Official shall
comply with reasonable precautionary
measures specified by the owner and/or
occupant or facility operator.

At the conclusion of the inspection, and
prior to leaving the site, the Enforcement
Official shall make every reasonable effort to
review with the owner and/or occupant or
the facility operator each of the violations
noted by the Enforcement Official and any
corrective actions that may be necessary. A
report listing any violation found by the
Enforcement Official during the inspection

shall be kept on file by the Enforcement
Agency. A copy of the report shall be
provided to the owner and/or occupant or
facility operator, or left at the Premises if no
Person is available. If corrective action is
required, then the occupant, facility owner,
and/or facility operator shall implement a
plan of corrective action based upon a
written plan of correction, submitted to the
Enforcement Agency, which states the
corrective actions to be taken and the
expected dates of completion. Failure to
implement a plan of correction constitutes a
violation of this Chapter.

All Enforcement Officials shall have
adequate identification. Enforcement
Officials and other authorized personnel
shall identify themselves when entering any
property for inspection purposes or when
inspecting the work of any contractor.

With the consent of the property owner
or occupant or pursuant to a search warrant,
the Enforcement Official is authorized to
establish on any property that discharges
directly or indirectly to the municipal Storm
Water Conveyance System such devices as
are necessary to conduct sampling or
metering operations. During all inspections
as provided herein, the official may take
samples of materials, wastes, and/or effluent
as deemed necessary to aid in the pursuit of
the inquiry or in the recordation of the
activities onsite.

15.12.120 Containment, Cleanup, and Notification of Spills.

It is unlawful for any Person owning or
occupying any Premises who has knowledge
of any release of Significant Quantities of
materials, Pollutants, or waste which may
result in Pollutants or Non-Storm Water
discharges entering the City's Storm Water
Conveyance System to not immediately take
all reasonable action to contain, minimize,
and clean up such release. Such Person
shall notify the City of Carlsbad of the
occurrence and/or County of San Diego
Department of Health Services/Environmental Health Services
Hazardous Materials Management Division,
and any other appropriate agency of the
occurrence as soon as possible, but no later
than 24 hours from the time of the incident's
occurrence.

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15.12.130 Testing, Monitoring or Mitigation Required—When.

A. The Enforcement Official may require that any Person engaged in any activity and/or owning or operating any facility which causes or contributes to Storm Water pollution or contamination, Illegal Discharges, and/or discharge of Non-Storm Water to the Storm Water Conveyance System perform monitoring, including physical and chemical monitoring and/or analyses and furnish reports as the Enforcement Official may specify if:

1. The Person, or facility owner or operator, fails to eliminate Illegal Discharges within a specified time after receiving a written notice to do so by the Enforcement Official.

2. The Enforcement Official has documented repeated violations of this Chapter by the Person or facility owner or operator which has caused or contributed to Storm Water pollution.

It is unlawful for such Person or facility owner or operator to fail or refuse to undertake and provide the monitoring, analyses, and/or reports specified. Specific monitoring criteria shall bear a relationship to the types of Pollutants which may be generated by the Person's activities or the facility's operations. If the Enforcement Agency has evidence that a Pollutant is originating from a specific Premises, then the Enforcement Agency may require monitoring for that Pollutant regardless of whether said Pollutant may be generated by routine activities or operations. The Person or facility owner or operator shall be responsible for all costs of these activities, analyses and reports.

B. Any Persons required to monitor pursuant to Paragraph A, above, shall implement a Storm Water monitoring program including, but not limited to, the following:

1. Routine visual monitoring for dry weather flows.

2. Routine visual monitoring for spills which may pollute Storm Water runoff.

3. A monitoring log including monitoring date, potential pollution sources, as noted in 1 and 2, and a description of the mitigation measures taken to eliminate any potential pollution sources.

C. The Enforcement Official may require a Person, or facility owner or

operator, to install or implement Storm Water pollution reduction or control measures, including, but not limited to, process modification to reduce the generation of Pollutants or a pretreatment program approved by the Regional Water Quality Control Board and/or the City of Carlsbad if:

1. The Person, or facility owner or operator fails to eliminate Illegal Discharges after receiving a written notice from the Enforcement Official.

2. The Person, or facility owner or operator, fails to implement a Storm Water Pollution Prevention Plan, as required by the Enforcement Official.

3. The Enforcement Official has documented repeated violations of this Chapter any such Person or facility owner or operator which has caused or contributed to Storm Water pollution.

D. If testing, monitoring or mitigation required pursuant to this Chapter are deemed no longer necessary by the Enforcement Official, then any or all of the requirements contained in Paragraphs A, B, and C may be discontinued.

E. A Storm Water monitoring program prepared and implemented pursuant to any State-issued NPDES General Permit shall be deemed to meet the requirements of a monitoring program for the purposes of this Chapter.

15.12.140 Concealment

Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter is unlawful and shall constitute a separate violation of this Chapter.

15.12.150 Administrative Enforcement Powers

The Enforcement Agency and Enforcement Official can exercise any enforcement powers as provided in Chapter 1.08 of this Code. In addition to the general enforcement powers provided in Chapter 1.08 of this Code, the Enforcement Agency and Enforcement Official have the authority to utilize the following administrative remedies as may be necessary to enforce this Chapter:

A. Cease and Desist Orders. When the Enforcement Official finds that a discharge has taken place or is likely to take place in violation of this Chapter, the

1 Enforcement Official may issue an order to
2 cease and desist such discharge, practice,
3 or operation likely to cause such discharge
4 and direct that those Persons not complying
5 shall:

6 1. Comply with the applicable
7 provisions and policies of this Chapter.

8 2. Comply with a time schedule
9 for compliance.

10 3. Take appropriate remedial or
11 preventive action to prevent the violation
12 from recurring.

13 B. Notice to Clean and Abate.

14 Whenever the Enforcement Official finds any
15 oil, earth, dirt, grass, weeds, dead trees, tin
16 cans, rubbish, refuse, waste or any other
17 material of any kind, in or upon the sidewalk
18 abutting or adjoining any parcel of land, or
19 upon any parcel of land or grounds, which
20 may result in an increase in Pollutants
21 entering the City's Storm Water Conveyance
22 System or a Non-Storm Water discharge to
23 the City's Storm Water Conveyance System,
24 the Enforcement Official may issue orders
25 and give written notice to remove same in
26 any reasonable manner. The recipient of
27 such notice shall undertake the activities as
28 described in the notice.

C. Storm Water Pollution Prevention
Plan. The Enforcement Official shall have
the authority to establish elements of a
Storm Water Pollution Prevention Plan, and
to require any owner or occupier of any
Premises to adopt and implement such a
plan pursuant to Section 15.12.080.B.1.a.,
as may be reasonably necessary to fulfill the
purposes of this Chapter.

D. Employee Training Program. The
Enforcement Official shall have the authority
to establish elements of an Employee
Training Program, as may be necessary to
fulfill the purposes of this Chapter, where
such a Program has been required as an
element of a Storm Water Pollution
Prevention Plan.

E. Civil Penalties. Any Person who
violates any of the provisions of this Chapter
or who fails to implement a Storm Water
monitoring plan, violates any cease and
desist order or Notice to Clean and Abate, or
fails to adopt or implement a Storm Water
Pollution Prevention Plan as directed by the
Enforcement Official shall be liable for a civil
penalty not to exceed \$1,000 for each day
such a violation exists. The violator shall be
charged for the full costs of any

investigation, inspection, or monitoring
survey which led to the detection of any
such violation, for abatement costs, and for
the reasonable costs of preparing and
bringing legal action under this subsection.

In addition to any other applicable
procedures, the Enforcement Agency may
utilize the lien procedures listed in section
15.12.160.C.6 to enforce the violator's
liability. The violator may also be liable for
compensatory damages for impairment, loss
or destruction to water quality, wildlife, fish
and aquatic life.

15.12.160 Administrative Notice,
Hearing, and Appeal
Procedures.

A. Unless otherwise provided herein,
any notice required to be given by the
Enforcement Official under this chapter shall
be in writing and served in person or by
registered or certified mail. If served by mail,
the notice shall be sent to the last address
known to the Enforcement Official. Where
the address is unknown, service may be
made upon the owner of record of the
property involved. Such notice shall be
deemed to have been given at the time of
deposit, postage prepaid, in a facility
regularly serviced by the United States
Postal Service whether or not the registered
or certified mail is accepted.

B. When the Enforcement Official
determines that a violation of one or more
provisions of this chapter exists or has
occurred, any violator(s) or property
owner(s) of record shall be served by the
Enforcement Official with a written Notice
and Order. The Notice and Order shall state
the Municipal Code Section violated,
describe how violated, the location and
date(s) of the violation(s), and describe the
corrective action required. The Notice and
Order shall require immediate corrective
action by the violator(s) or property owner(s)
and explain which method(s) of
administrative enforcement are being utilized
by the Enforcement Official: Cease and
Desist Order, Notice to Clean and Abate,
establishment of a Storm Water Pollution
Prevention Plan, and/or establishment of an
Employee Training Program. The Notice
and Order shall also explain the
consequences of failure to comply, including
that civil penalties shall begin to immediately
accrue if compliance is not achieved within

1 ten (10) days from the date the Notice and
2 Order is issued. The Notice and Order shall
3 identify all hearing rights. The Enforcement
4 Official may propose any enforcement action
5 reasonably necessary to abate the violation.

6 C. If the violation(s) is not corrected
7 within ten (10) days from the date the Notice
8 and Order is issued, the Enforcement
9 Official shall request the City Manager to
10 appoint a Hearing Officer and fix a date,
11 time, and place for hearing. The
12 Enforcement Official shall give written notice
13 thereof to the violator(s) or owner(s) of
14 record, at least ten (10) days prior to the
15 date for hearing.

16 1. The Hearing Officer shall
17 consider any written or oral evidence
18 presented to determine whether the
19 violation(s) exists, a Cease and Desist Order
20 should be required, a Notice to Clean and
21 Abate should be required, a Storm Water
22 Pollution Prevention Plan should be
23 required, an Employee Training Program
24 should be required, and/or Civil Penalties
25 should be imposed, consistent with rules
26 and procedures for the conduct of hearings
27 and rendering of decisions established and
28 promulgated by the City Manager.

29 2. In determining whether action
should be taken or the amount of a civil
penalty to be imposed, the Hearing Officer
may consider any of the following factors:

- 30 a. Duration of the
violation(s).
- 31 b. Frequency or recurrence.
- 32 c. Seriousness.
- 33 d. History.
- 34 e. Violator's conduct after
issuance of the Notice and Order.
- 35 f. Good faith effort to
comply.
- 36 g. Economic impact of the
penalty on the violator(s).
- 37 h. Impact of the violation on
the community.
- 38 i. Any other factor which
justice may require.

39 3. If the violator(s) or owner(s) of
record fail to attend the hearing, it shall
constitute a waiver of the right to a hearing
and adjudication of all or any portion of the
Notice and Order.

40 4. The Hearing Officer shall
render a written decision within ten (10) days
of the close of the hearing, including findings
of fact and conclusions of law, identifying the

time frame involved and the factors
considered in assessing civil penalties, if
any. The decision shall be effective
immediately unless otherwise stated in the
decision. The Hearing Officer shall cause
the decision to be served on the
Enforcement Official and all participating
violators or owners of record.

41 5. If the persons assessed civil
penalties fail to pay them within the time
specified in the Hearing Officer's decision,
the unpaid amount constitutes either a
personal obligation of the person assessed
or a lien upon the real property on which the
violation occurred, in the discretion of the
Enforcement Official. If the violation(s) is
not corrected as directed the civil penalty
continues to accrue on a daily basis. Civil
penalties may not exceed \$100,000 in the
aggregate. When the violation is
subsequently corrected, the Enforcement
Official shall notify the violator(s) and/or
owner(s) of record of the outstanding civil
penalties and provide an opportunity for
hearing if the amount(s) is disputed within
ten (10) days from such notice.

42 6. The Enforcement Official shall
take all appropriate legal steps to collect
these obligations, including referral to the
City Attorney for commencement of a civil
action to recover said funds. If collected as
a lien, the Enforcement Official shall cause a
notice of lien to be filed with the County
Recorder, inform the County Auditor and
County Recorder of the amount of the
obligation, a description of the real property
upon which the lien is to be recovered, and
the name of the agency to which the
obligation is to be paid. Upon payment in
full, the Enforcement Official shall file a
release of lien with the County Recorder.

15.12.170 Judicial Enforcement

43 A. Criminal Penalties. Any person who
violates any provision of this Chapter or who
fails to implement a Storm Water monitoring
plan, violates any cease and desist order or
Notice to Clean and Abate, or fails to adopt
or implement Storm Water Pollution
Prevention Plans or Employee Training
Programs as directed by the Enforcement
Official shall be punished, upon conviction
by a fine not to exceed \$1,000 for each day
in which such violation occurs, or
imprisonment in the San Diego County jail

1 for a period not to exceed six (6) months, or
2 both.

3 B. Injunction/Abatement of Public
4 Nuisance. Whenever a discharge into the
5 Storm Water Conveyance System is in
6 violation of the provisions of this Chapter or
7 otherwise threatens to cause a condition of
8 contamination, pollution, or nuisance, the
9 Enforcement Official may also cause the City
10 to seek a petition to the Superior Court for
11 the issuance of a preliminary or permanent
12 injunction, or both, or an action to abate a
13 public nuisance, as may be appropriate in
14 restraining the continuance of such
15 discharge.

16 C. Other Civil Action. Whenever a
17 Notice and Order or Hearing Officer's
18 decision is not complied with, the City
19 Attorney may, at the request of the
20 Enforcement Official, initiate any appropriate
21 civil action in a court of competent
22 jurisdiction to enforce such Notice and Order
23 and decision, including the recovery of any
24 unpaid Storm Drain Fees and/or civil
25 penalties provided herein.

26 15.12.180 Violations Deemed a Public
27 Nuisance.

28 In addition to the other civil and criminal
penalties provided herein, any condition

caused or permitted to exist in violation of
any of the provisions of this Chapter is a
threat to the public health, safety, and
welfare and is declared and deemed a public
nuisance, which may be summarily abated
and/or restored as directed by the
Enforcement Official in accordance with the
procedures identified in Chapter 6.16. A civil
action to abate, enjoin or otherwise compel
the cessation of such nuisance may also be
taken by the City, if necessary.

The full cost of such abatement and
restoration shall be borne by the owner of
the property and the cost thereof shall be a
lien upon and against the property in
accordance with the procedures set forth in
section 15.12.160.C.6.

15.12.190 Remedies Not Exclusive.

Remedies set forth in this Chapter are
not exclusive but are cumulative to all other
civil and criminal penalties provided by law,
including, but not limited to, penalty
provisions of the Federal Clean Water Act
and/or the State Porter-Cologne Water
Quality Control Act. The seeking of such
federal and/or state remedies shall not
preclude the simultaneous commencement
of proceedings pursuant to this Chapter.

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Ex C 11



LCP SEGMENT BOUNDARIES

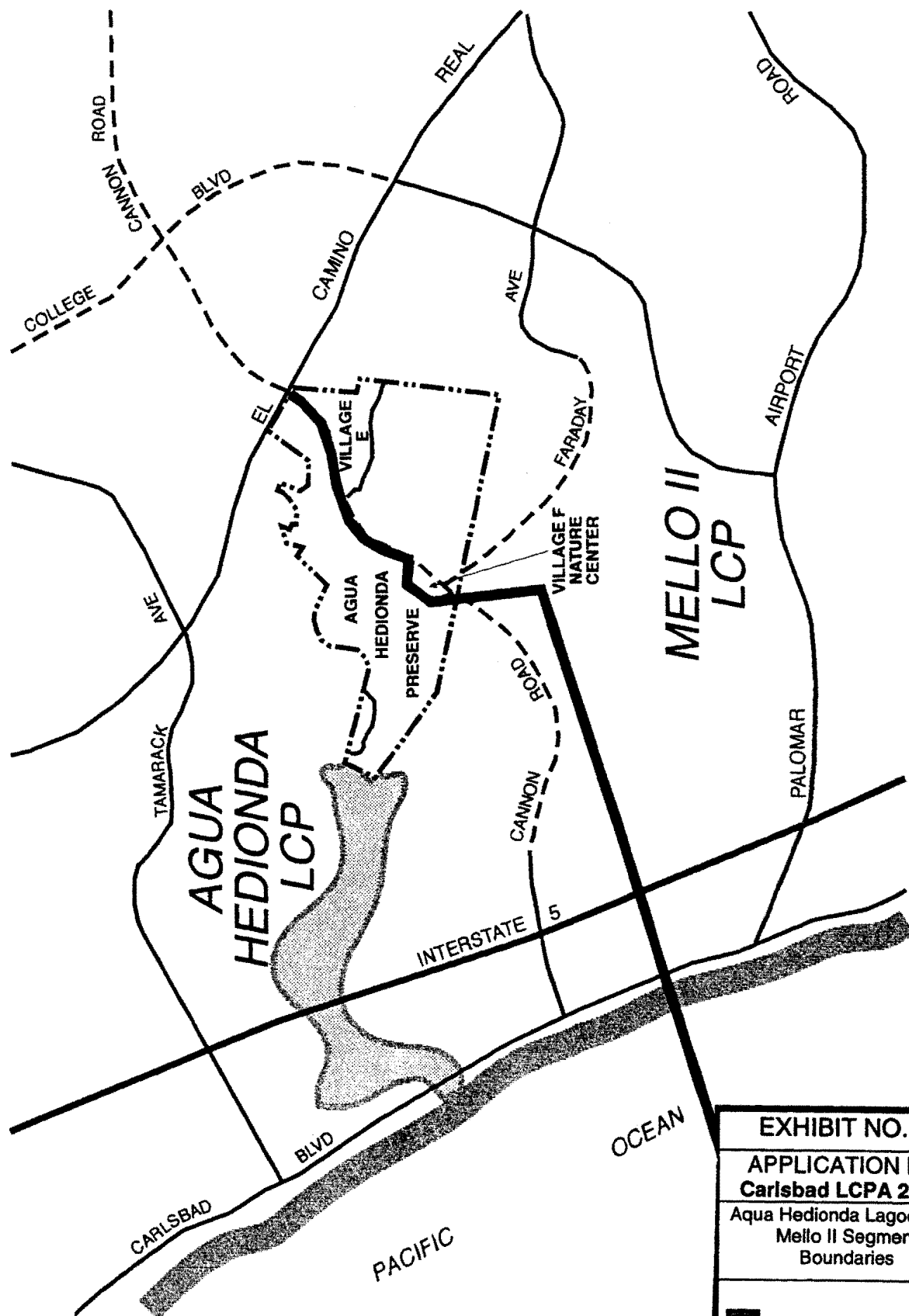
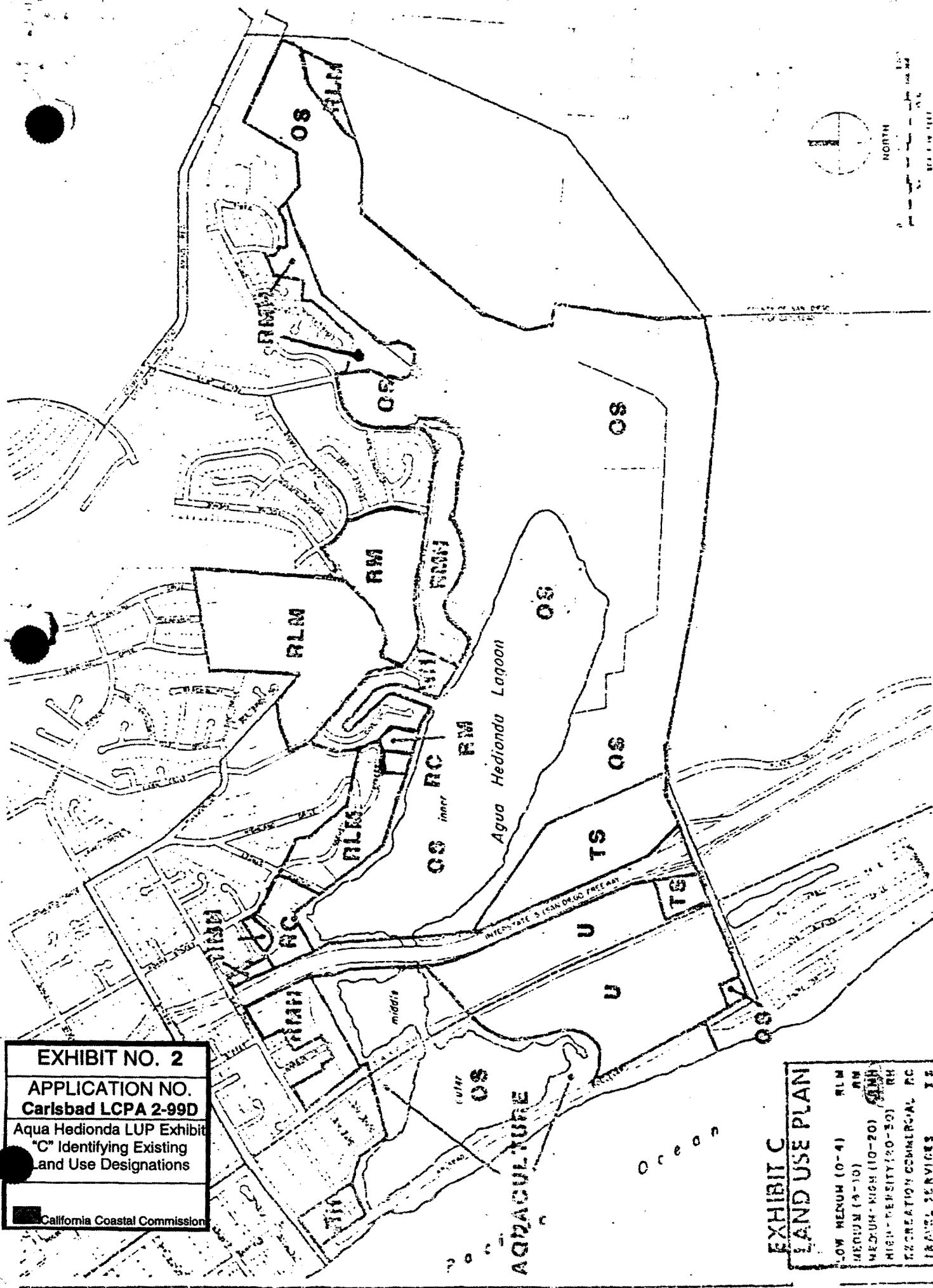


EXHIBIT NO. 1
APPLICATION NO.
Carlsbad LCPA 2-99D
Aqua Hedionda Lagoon and
Mello II Segment
Boundaries

California Coastal Commission





AGUA HEDIONDA LCP

EXHIBIT NO. 2

APPLICATION NO.

Carlsbad LCPA 2-99D

Agua Hedionda LUP Exhibit

"C" Identifying Existing

and Use Designations

California Coastal Commission

EXHIBIT C

LAND USE PLAN

LOW DENSITY (0-4)

RLM

MEDIUM (5-10)

RM

MEDIUM-HIGH (10-20)

RMH

HIGH DENSITY (20-50)

RH

RECREATION COMMERCIAL

RC

TRAVEL SERVICES

TS

OPEN SPACE

OS

UTILITIES

U

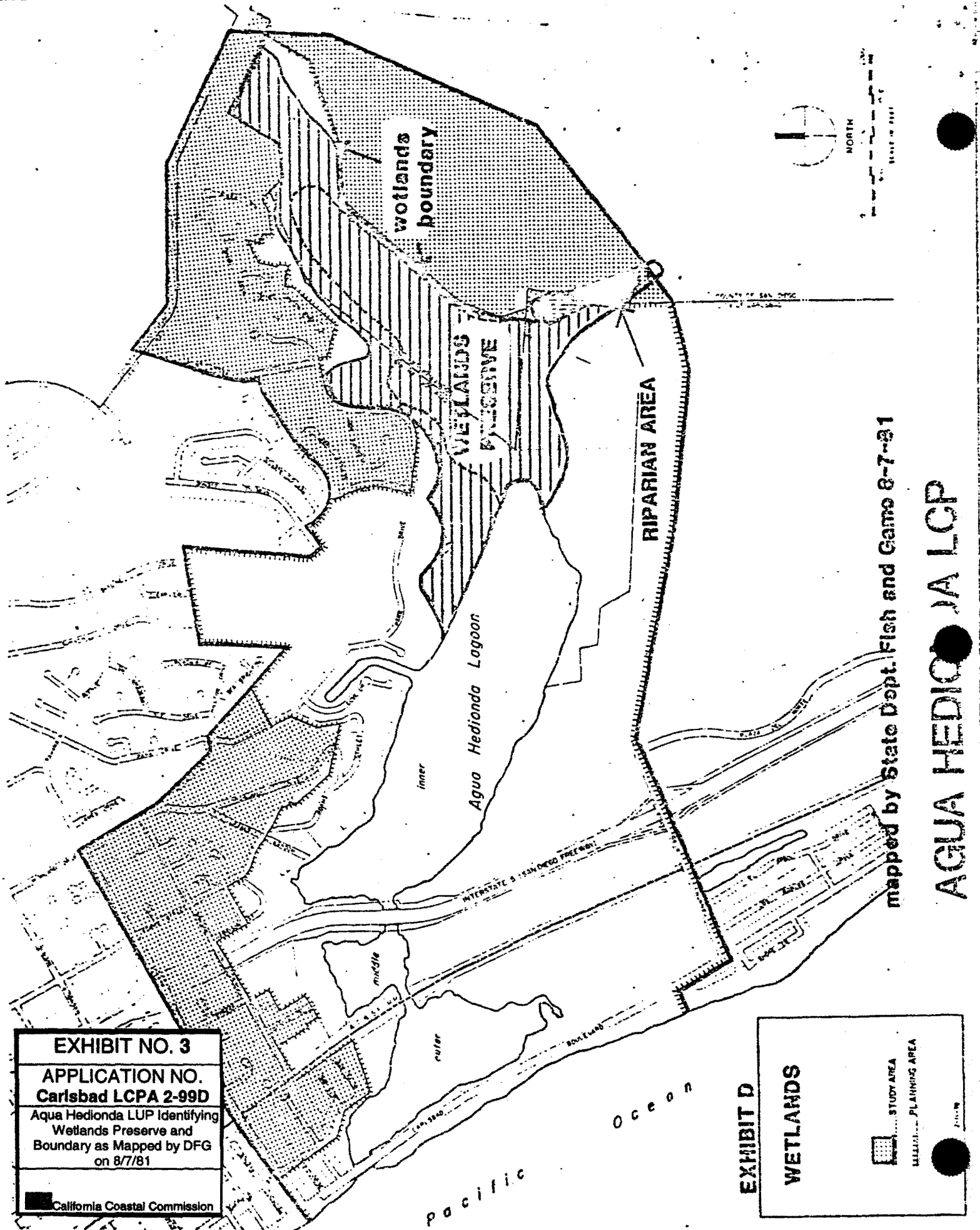


EXHIBIT NO. 3
APPLICATION NO.
Carlsbad LCPA 2-99D
 Agua Hedionda LUP Identifying
 Wetlands Preserve and
 Boundary as Mapped by DFG
 on 8/7/81

California Coastal Commission

EXHIBIT D

WETLANDS

STUDY AREA
 PLANNING AREA



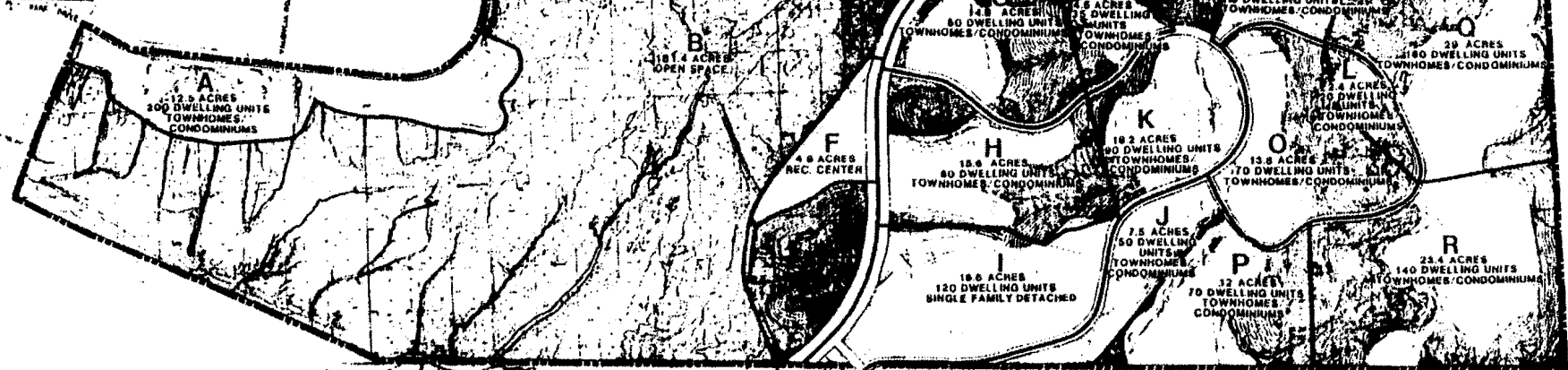
mapped by State Dept. Fish and Game 8-7-81

AGUA HEDIONDA LCP

STATISTICAL SUMMARY

PLANNING AREA	APPROX. ACRES	NUMBER OF DWELLING UNITS
A	12.5	200
B	181.4	0
C	18.1	120
D	14.0	140
E	38.4	240
F	4.8	REC. CENTER
G	14.8	50
H	15.6	80
I	18.6	120
J	7.5	50
K	18.2	90
L	2.4	20
M	5	15
N	4.5	35
O	13.8	70
P	12	70
Q	29	160
R	23.4	140
TOTAL	433	1600

OPEN SPACE



MASTER PLAN

KELLY RANCH A PLANNED COMMUNITY

BY CAL COMMUNITIES & KAUFMAN AND BROAD OF SOUTHERN CALIFORNIA

Note: See Back of Report for Full Scale Map.

EXHIBIT NO. 4

APPLICATION NO.

Carlsbad LCPA 2-99D

Existing LCP Land Use Plan
Kelly Ranch Master Plan

California Coastal Commission

California Coastal Commission

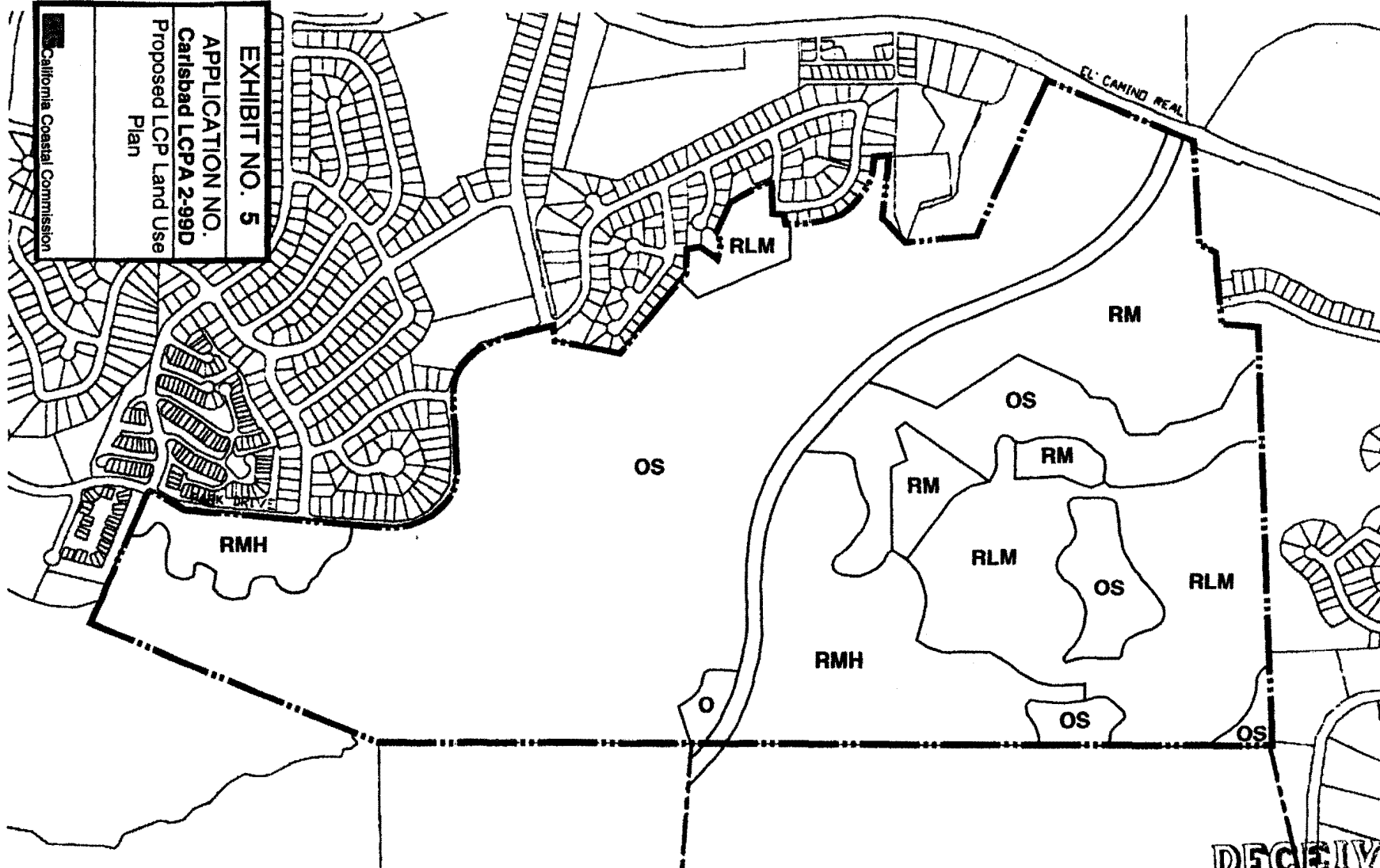
FLORIAN MARTINEZ ASSOCIATES
10000 S. D. AVE.
SUITE 100
DANA POINT, CA 92629
(714) 261-1111



JANUARY 2, 1994
MAY 26, 1994
JULY 19, 1994

California Coastal Commission

EXHIBIT NO. 5
APPLICATION NO.
Carlsbad LCPA 2-99D
Proposed LCP Land Use
Plan



LEGEND

- RL Residential Low Density
- RLM Residential Low-Medium Density
- RM Residential Medium Density
- RMH Residential Medium-High Density

- N Neighborhood Commercial
- OS Open Space
- O Office

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

PLANNING SYSTEMS

KELLY RANCH - GENERAL PLAN (PROPOSED)



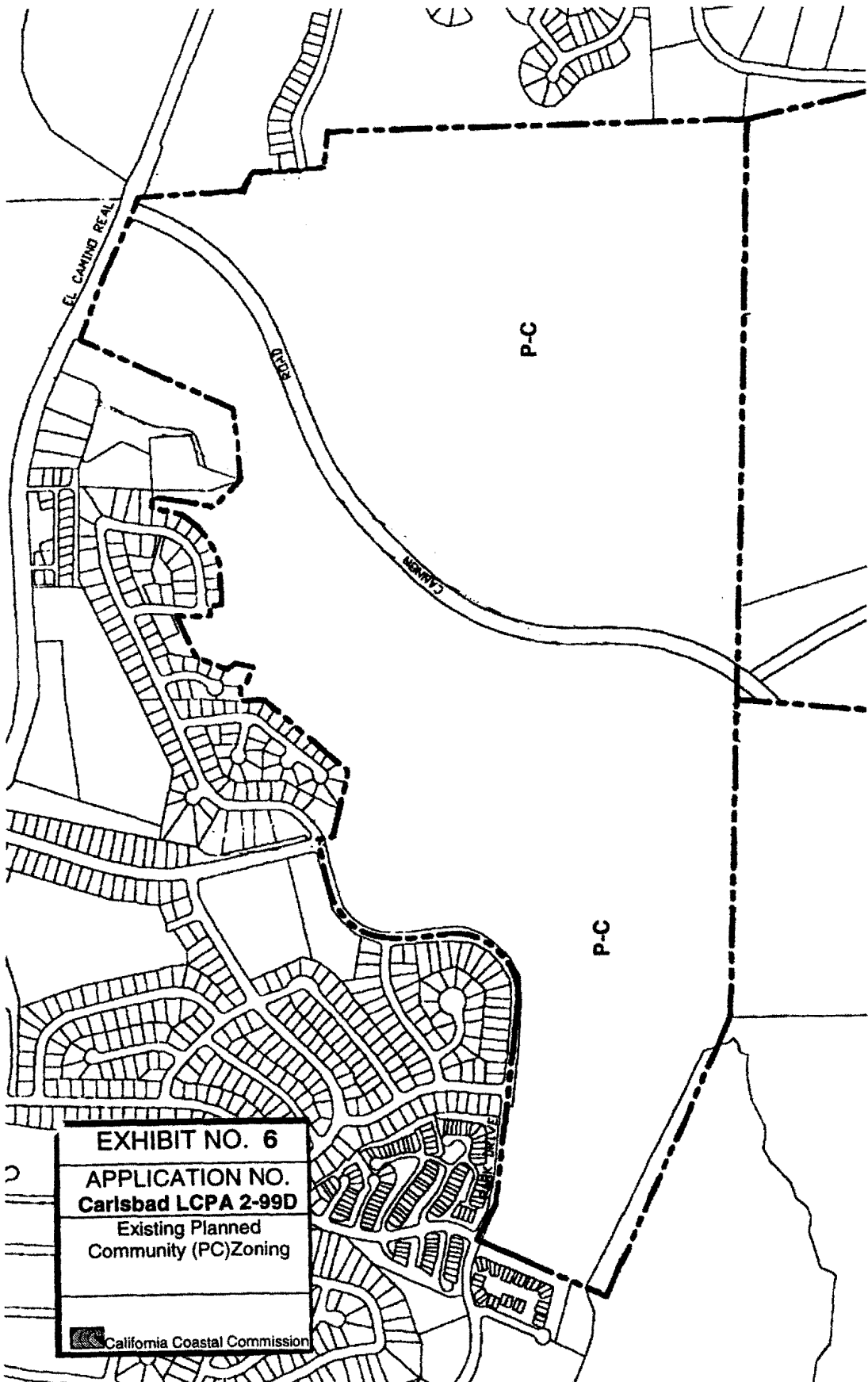


EXHIBIT NO. 6
APPLICATION NO.
Carlsbad LCPA 2-99D
Existing Planned
Community (PC) Zoning
California Coastal Commission

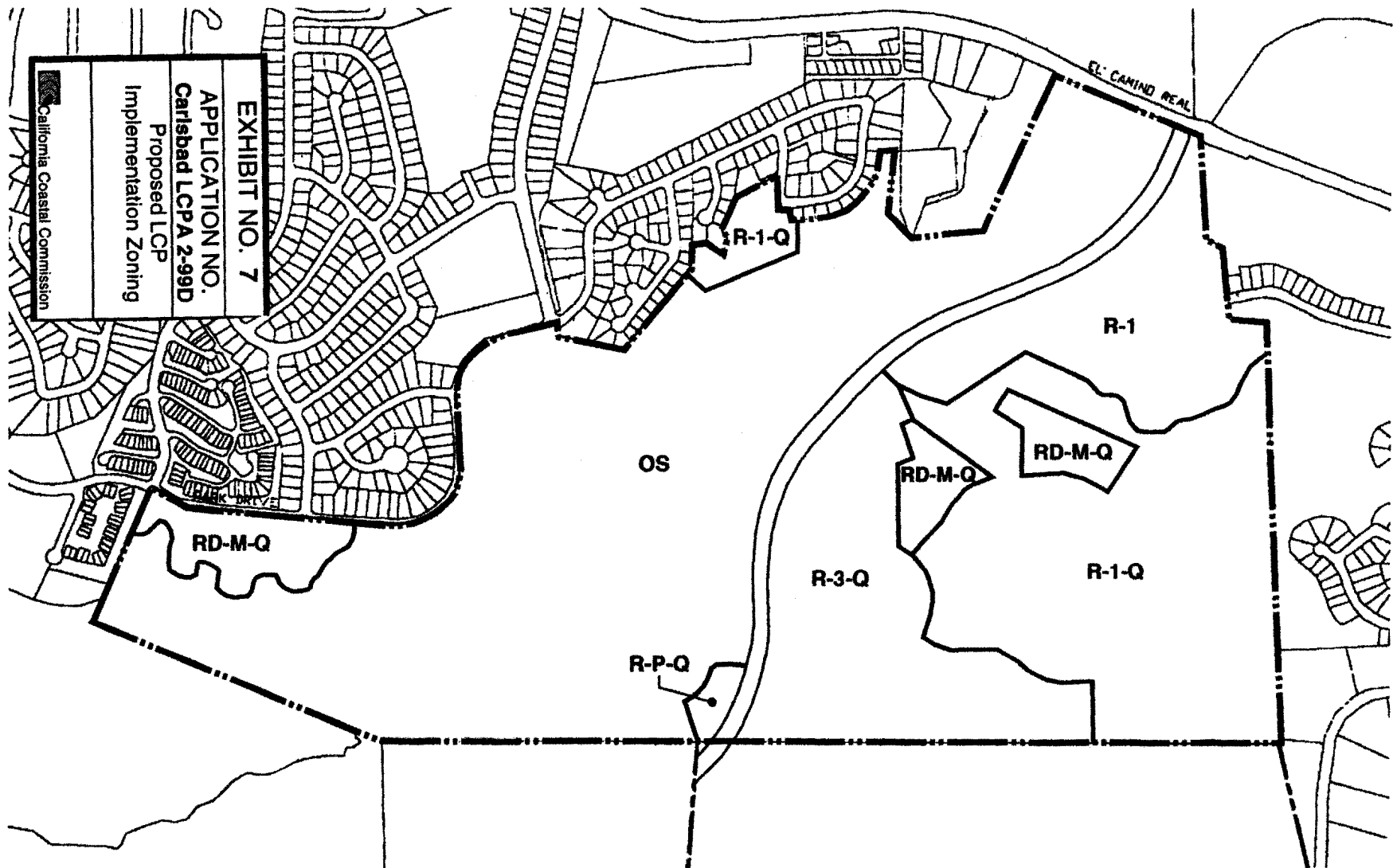
LEGEND

- OS Open Space
- P-C Planned Community



KELLY RANCH - ZONING (EXISTING)





LEGEND

R-1-Q Single Family Residential (Qualified Overlay)
R-3-Q Multiple Family Residential (Qualified Overlay)
RD-M-Q Residential Density-Multiple (Qualified Overlay)


R-P-Q Residential-Professional (Qualified Overlay)
PC Planned Community
OS Open Space

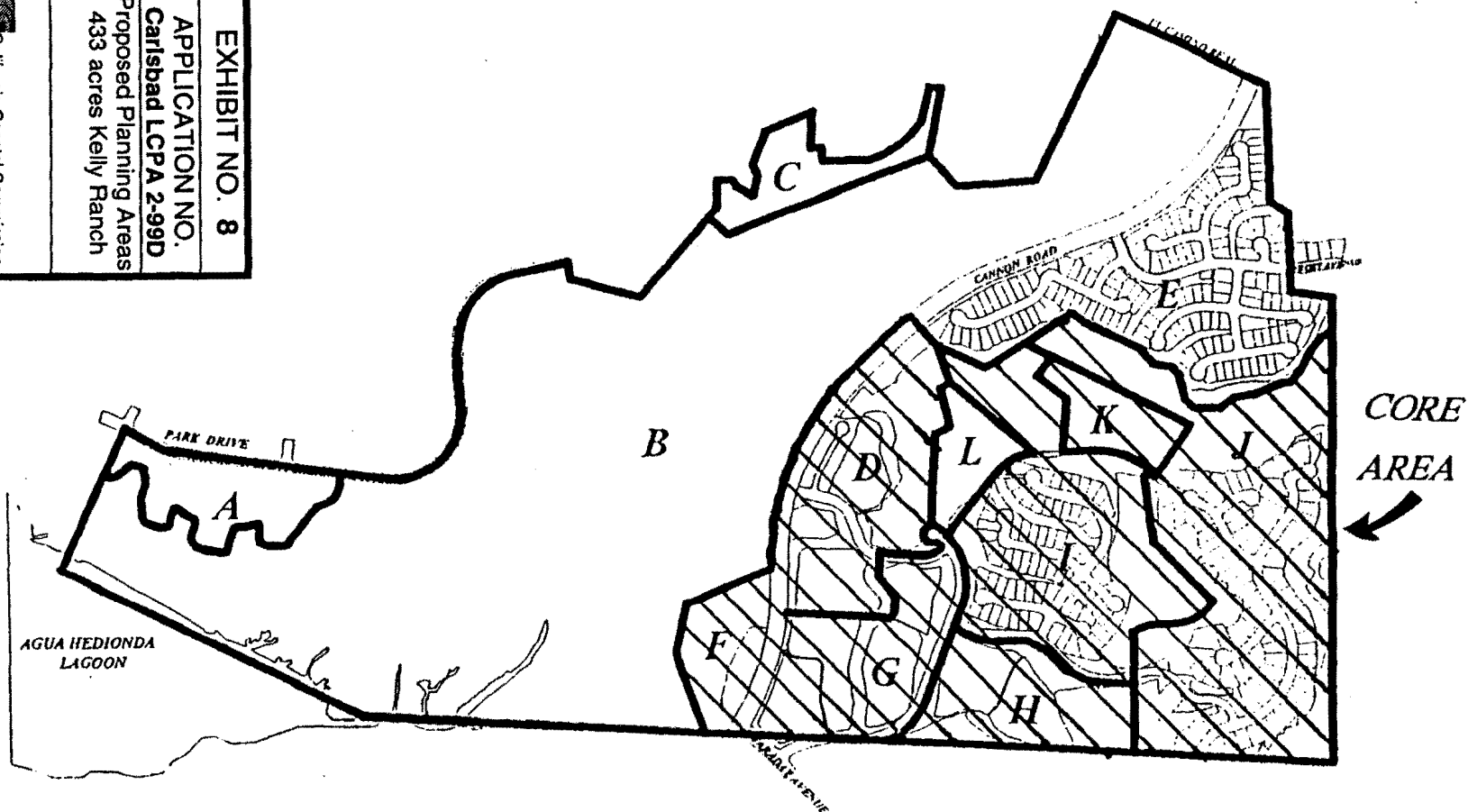
PLANNING
SYSTEMS



KELLY RANCH - ZONING (PROPOSED)



	EXHIBIT NO. 8
	APPLICATION NO.
	Carlsbad LCPA 2-99D
	Proposed Planning Areas 433 acres Kelly Ranch



NOTE: PLANNING AREA "L" NOT A PART

SOURCE: Project Design Consultants
DATE: 1997

A.D.Hinshaw Associates

Kelly Ranch

Figure 1.1.4.

Table 1.1.1
Kelly Ranch General Plan, Master Plan & Zoning Data

PROPOSED GENERAL PLAN										PROPOSED PROJECT			ZONING	
"Core Area"	Open Space				General Plan				Range of Units		# of dwelling units		Zone	
	Gross Acres	Constrained	Open Space	Net Acres	Designation	GMCP	TOR	GMCP	TOR	Market Rate	Affordable	Total	Existing	Proposed
Area D	27.0	11.9	7.7	7.4	RMH	11.5	15.0	85	111	80	0	80	PC	RDM B-3
Area G	21.3	5.7	0.0	15.6	RMH	11.5	15.0	179	234	174	0	174	PC	RDM B-3
Area H	14.6	2.5	2.2	9.9	RMH	11.5	15.0	114	148	109	0	109	PC	RDM B-3
Subtotal	62.9	20.1	9.9	32.9	-	-	-	378	493	363	0	363	-	-
Affordable (a)	-	-	-	-	-	-	-	0	115	0	132	132	-	-
Total	62.9	20.1	9.9	32.9	-	-	-	378	493	363	132	495	-	-
Area F	7.8	2.3	3.1	2.4	N	-	-	-	-	0	0	0	PC	C-1
					OS/Q									Q-S/R-P
Area I	36.3	3.9	10.3	22.1	RM	6.0	8.0	123	176	73	0	73	PC	R-1
					RLM	3.2	4.0	20	88					
Area J	55.0	8.3	18.4	28.3	RLM	3.2	4.0	90	113	87	0	87	PC	R-1
Area K	6.3	0.8	4.3	1.2	RM	6.0	8.0	7	9	1	0	1	PC	RDM
Subtotal	105.4	15.3	36.1	54.0	-	-	-	167	210	161	0	161	-	-
Area L (NAP)	5.5	1.7	0.0	3.8	RM	6.0	8.0	22	30	0	0	0	PC	RDM PC
Subtotal	110.9	17.0	36.1	57.8	-	-	-	189	240	0	0	0	-	-
Total	173.8	37.1	46.0	90.7	-	-	-	567	733	524	132	656	-	-
"Non-Core" Area														
Area A	10.2	0.5	0.0	9.7	RMH	11.5	15.0	111	145	0	0	0	PC	RDM
Area B	195.2	0.0	192.5	2.7	OS	-	-	0	0	0	0	0	PC	OS
Area C	8.0	2.7	0.0	5.3	RLM	3.2	4.0	17	21	0	0	0	PC	R-1
Area E (b)	45.0	7.3	2.0	35.7	RM	6.0	8.0	214	285	0	0	0	PC	R-1
Subtotal	258.4	10.5	194.5	53.4	-	-	-	342	451	0	0	0	-	-
TOTAL	432.2	47.6	240.5	144.1	-	-	-	910	1,184	524	132	656	-	-

EXISTING GENERAL PLAN

"Core Area"	Acres				General Plan			Range of Units	
	Gross	Con- strained	Open Space	Net	Desig- nation	GMCP	TOR	GMCP	TOR
Area F	7.8	2.3	2.9	2.6	T-R	-	-	0	0
Areas D, G - L	166.0	34.8	42.9	88.3	RM	6.0	8.0	529	706
Subtotal	173.8	37.1	45.8	90.9	-	-	-	529	706
"Non-Core" Area									
Areas A,C	20.9	3.2	0.0	17.7	RMH	11.5	15.0	203	266
Area B	192.5	0.0	192.5	0.0	OS	-	-	0	0
Area E	45.0	7.3	2.0	35.7	RM	6.0	8.0	214	286
Subtotal	258.4	10.5	194.5	53.4	-	-	-	417	551
TOTAL	432.2	47.6	240.3	144.3	-	-	-	946	1,258

General Plan Legend

N = Neighborhood Commercial
 OS = Open Space
 RM = Residential Medium Density 4-8
 RLM = Residential Low-Medium Density 0-4
 RMH = Residential Medium-High Density 8-15

Zoning Legend

C-1 = Neighborhood Commercial
 PC = Planned Community
 R-1 = One-family Residential
 RD-M = Residential Density-multiple
 OS = Open Space
 R-P = Residential Professional

KELLY RANCH MASTER PLAN

"Core Area"	Acres				General Plan			Range of Units		Master Plan Approved Units
	Gross	Con- strained	Open Space	Net	Desig- nation	GMCP	TOR	GMCP	TOR	
Area F	4.8	0.0	3.5	1.3	-	-	-	0	0	0
Areas G - R	162.8	0.0	77.9	84.9	-	6.0	8.0	508	679	900
Subtotal	167.6	0.0	81.4	86.2	-	-	-	508	679	900
"Non-Core" Area										
Areas A,C	31.6	0.0	10.1	21.5	-	11.5	15.0	247	323	320
Area B	181.4	0.0	177.0	4.4	-	-	-	0	0	0
Area D	14.0	0.0	0.0	14.0	-	6.0	8.0	84	112	140
Area E	38.4	0.0	0.0	38.4	-	6.0	8.0	230	307	240
Subtotal	265.4	0.0	187.1	78.3	-	-	-	561	742	700
TOTAL	433.0	0.0	268.5	164.5	-	-	-	1,070	1,421	1,600

EXHIBIT NO. 9

APPLICATION NO.
Carlsbad LCPA 2-99D
 Kelly Ranch General Plan
 Master Plan and Zoning
 Data

 California Coastal Commission

Notes:

(a) Per existing Kelly Ranch/City of Carlsbad Agreement.

(b) Area E has been approved for development (144 du) and is not included in the proposed Kelly Ranch "Core Area" project.

GMCP = Growth Management Control Point

TOR = Top of General Plan Density Range

NAP = Included in Kelly Ranch project area, but is "Not A Part" of Tentative Map # 97-16.

Source: Tentative Map, Sheet 2 and Kelly Ranch Master Plan (1984).

users\philip\word\leir\kelly\table111.394

BIOLOGICAL RESOURCES IMPACT AREA MAP

LEGEND

sym	plant community	impacts
AG	AGRICULTURE / DEVELOPED	50.44
B6	BACCHARIS SCRUB	0.12
CC6	COASTAL SAGE SCRUB	17.06
D16	DISTURBED / DEVELOPED	2.61
DM6C	DIST. CO. MARITIME CHAPARRAL	0.07
DP6	DIST. PERENNIAL GRASSLAND	0.30
DC66	DIST. COASTAL SAGE SCS.	2.61
SMC	SOUTHERN MARITIME CHAP.	4.83
MS	MULEFAT SCRUB	0.60
NNG	NON-NATIVE GRASSLAND	20.28
RU	RUDERAL	3.02
RH	RIPARIAN HERB	0.63

TOTAL "CORE AREA" IMPACTS INCLUDING NECESSARY OFF-SITE IMPROVEMENTS (ACRES): 102.85

DEVELOPMENT ENVELOPE ACREAGE 193.071

EXISTING VEGETATION TO REMAIN UNDISTURBED BY DEVELOPMENT. (CERTAIN NON-NATIVE PLANT COMMUNITIES MAY REMAIN UNDISTURBED.)

DEVELOPMENT ENVELOPE LIMIT LINE (Includes all fire suppression except for Kelly Homestead Property.)

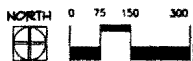
SENSITIVE SPECIES

- ◆ COASTAL CALIFORNIA GNATCATCHER
- A CALIFORNIA ADOLPHIA
- C WART-STEMMED CEANOTHUS
- D WESTERN DICKCORA
- E CLIFF SPURGE
- G PALMER'S GRAPPLING HOOK
- M SMALL-FLOWERED MICROSERIS
- O MUTTALL'S SCRUB OAK
- S ARMY SPICE-MOSS

PLANNING AREA F
(NOT A PART)

AGUA HEDIONDA LAGOON
OFFERED FOR DEDICATION TO CDFG
196 ACRES

SCALE: - 1" = 300'



California Coastal Commission

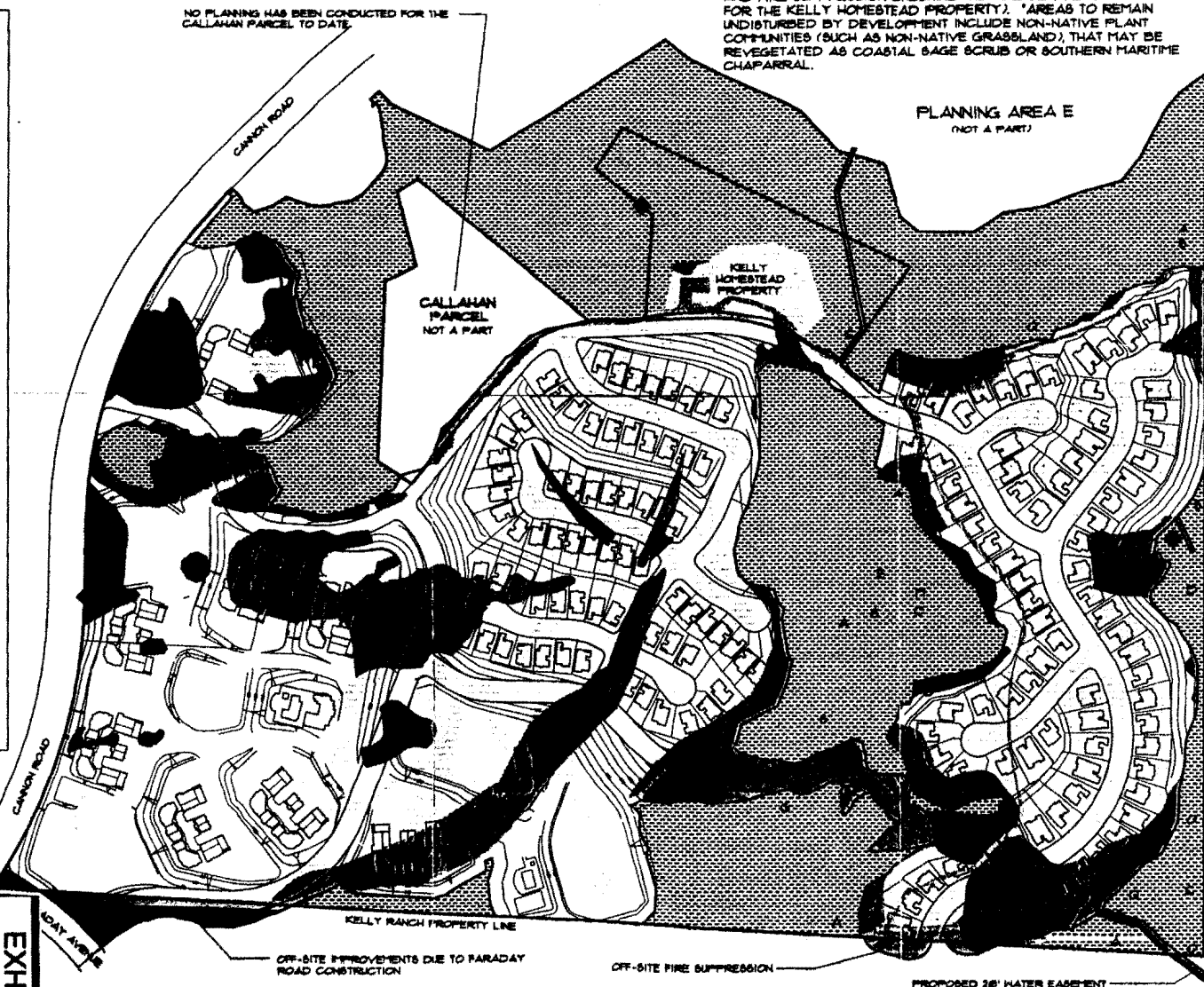
EXHIBIT NO. 10
APPLICATION NO.
Carlsbad LCPA 2-99L
Biological Resources
Impact Area Map

NO PLANNING HAS BEEN CONDUCTED FOR THE CALLAHAN PARCEL TO DATE.

PROJECT DESCRIPTION

THE PRESENT "CORE AREA" PROJECT INCLUDING NECESSARY OFF-SITE IMPROVEMENTS, AND EXCLUDING AREAS WITH PREVIOUS AGREEMENTS, TOTALS 193.071 ACRES. IMPACTS INCLUDE ALL PROPOSED GRADING ACTIVITY, INFRASTRUCTURE IMPROVEMENTS, AND FIRE SUPPRESSION BRUSHING (NO FIRE SUPPRESSION IS SHOWN FOR THE KELLY HOMESTEAD PROPERTY). AREAS TO REMAIN UNDISTURBED BY DEVELOPMENT INCLUDE NON-NATIVE PLANT COMMUNITIES (SUCH AS NON-NATIVE GRASSLAND), THAT MAY BE REVEGETATED AS COASTAL SAGE SCRUB OR SOUTHERN MARITIME CHAPARRAL.

PLANNING AREA E
(NOT A PART)



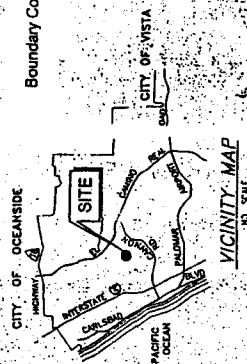
BIOLOGICAL RESOURCES IMPACT AREA MAP
KELLY RANCH HABITAT CONSERVATION PLAN
CARLSBAD, CALIFORNIA

EXHIBIT 8

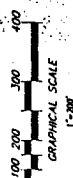
PROPOSED LAGOON PARCEL

EASEMENT PLAT

Boundary Comparison of the 1985 and 1989 Agua Hedionda Lagoon Dedication Areas



VICINITY MAP
NO SCALE



SHOWS ARE BASED ON PRELIMINARY FIELD SURVEY
AND ARE NOT TO BE USED FOR CONSTRUCTION
OR ANY OTHER PURPOSES WITHOUT THE
APPROVAL OF THE CALIFORNIA COASTAL COMMISSION.
NO OF EASEMENTS ARE FOR ILLUSTRATION PURPOSES.

CARLSBAD
TRACT
NO. 82-6
MAP 11386

POR LOT 1
RHO AGUA HEDIONDA
MAP 823

EASEMENT NOTES:

1. EASEMENT AND RIGHT OF WAY FOR PUBLIC ROAD FROM
EXISTING STRUCTURES AND SLOPES PER DEC REC IN
BOOK 1001, PAGE 324 U.S.
2. EASEMENT FOR A LINE OF POLES IN FAVOR OF SAN DIEGO
AND A LINE OF POLES IN FAVOR OF THE U.S.
3. EASEMENT FOR A LINE OF POLES IN FAVOR OF THE U.S.
AND A LINE OF POLES IN FAVOR OF THE U.S.
4. EASEMENT FOR A LINE OF POLES IN FAVOR OF THE U.S.
AND A LINE OF POLES IN FAVOR OF THE U.S.
5. EASEMENT FOR A LINE OF POLES IN FAVOR OF THE U.S.
AND A LINE OF POLES IN FAVOR OF THE U.S.
6. EASEMENT FOR A LINE OF POLES IN FAVOR OF THE U.S.
AND A LINE OF POLES IN FAVOR OF THE U.S.
7. EASEMENT FOR A LINE OF POLES IN FAVOR OF THE U.S.
AND A LINE OF POLES IN FAVOR OF THE U.S.
8. EASEMENT AND RIGHT OF WAY FOR THE ROAD AND BRIDGE
IN BOOK 1001, PAGE 324 U.S.

Current Dec	Dedication
---	---

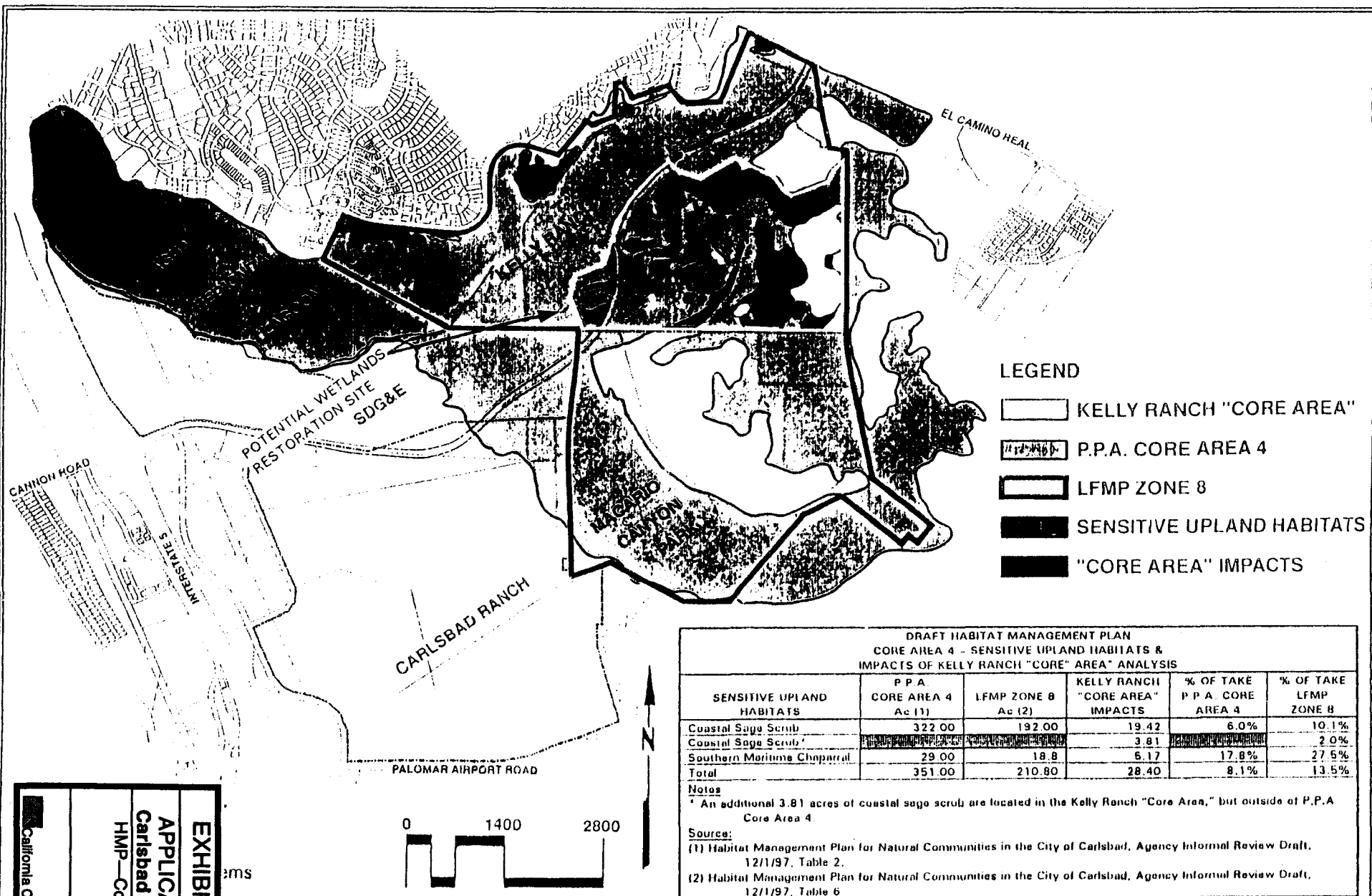
EXHIBIT NO. 11

APPLICATION NO.

Carlsbad LCPC 2-

Proposed Revisions A-1 to
be dedicated as Wetland
Preserve

California Coastal Commission



sociates

Draft Habitat Management Plan Core Area 4

Exhibit 11

Exhibit 11

EXHIBIT NO. 12

APPLICATION NO.
Carlsbad LCPA 2-99D

HMP—Core Area Map

California Coastal Commission



Revised 8/24/99

/carlsbad2/products/hmp/hmpproject/hillman.amf

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


















EXHIBIT NO. 13
Carlsbad LCPA 2-99D
HMP Hardline Preserve
 California Coastal Commission

Figure 12
Kelly Hillman Property

CARLSBAD LCPA 2-99D

-  Eucalyptus Woodland
-  Disturbed Wetland
-  Natural Floodchannel/
Streambed
-  Marine
-  Agriculture
-  Maritime Succulent Scrub
-  Coastal Sage Scrub
-  Chaparral
-  Southern Maritime Chaparral
-  Southern Mixed Chaparral
-  Southern Willow Scrub
-  Coastal Sage-Chaparral Scrub
-  Grassland
-  Southern Coastal Salt Marsh
-  Salt Water Marsh
-  Alkali Marsh
-  Freshwater Marsh
-  Riparian Scrub
-  Riparian Forest
-  Riparian Woodland
-  Oak Woodland
-  Coast Live Oak Woodland
-  Open Water
-  Disturbed Land
-  Urban/Developed

 Proposed Preserve System

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Figure 7 Vegetation Legend for Proposed Hardline Areas

EXHIBIT NO. 13a

Carlsbad LCPA 2-99D

Vegetation Legend for HMP
Hardline Preserve


 California Coastal
Commission

Open Space Recommendation Area D



--NOTE--

The information depicted on this map is subject to revision. No scale. Locations are approximate. For illustrative purposes only.

 Area Recommended as Open Space

Source: Steep Slope Analysis - Kelly Ranch, 8-21-97

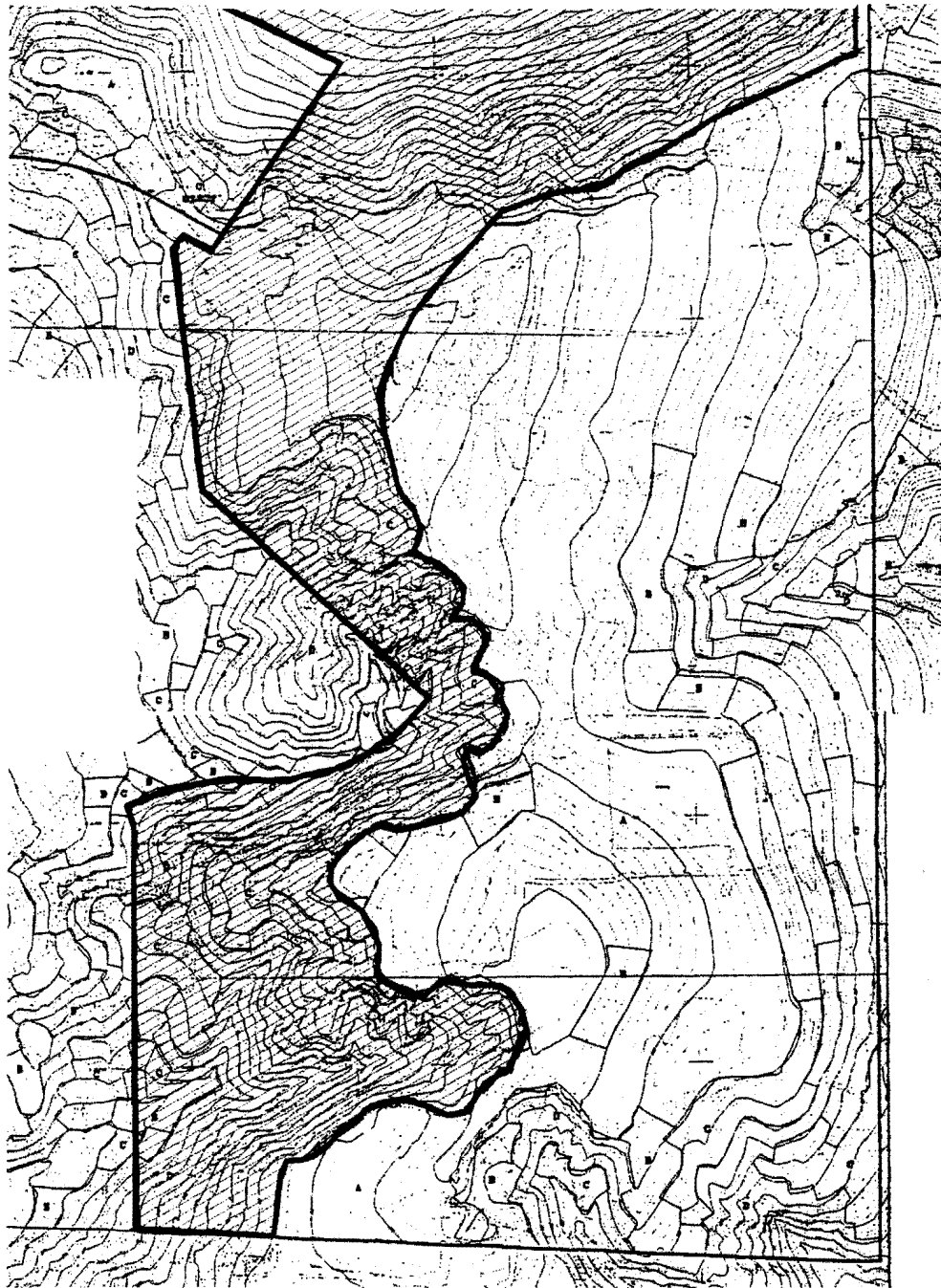


California Coastal Commission
Technical Services Unit

Exhibit No. 14
Carlsbad LCPA 2-99D

KLH 06-21-00

Open Space Recommendation Area J



Area Recommended as Open Space

Source: Steep Slope Analysis - Kelly Ranch, 8-21-97

--NOTE--

The information depicted on this map is subject to revision. No scale. Locations are approximate. For illustrative purposes only.

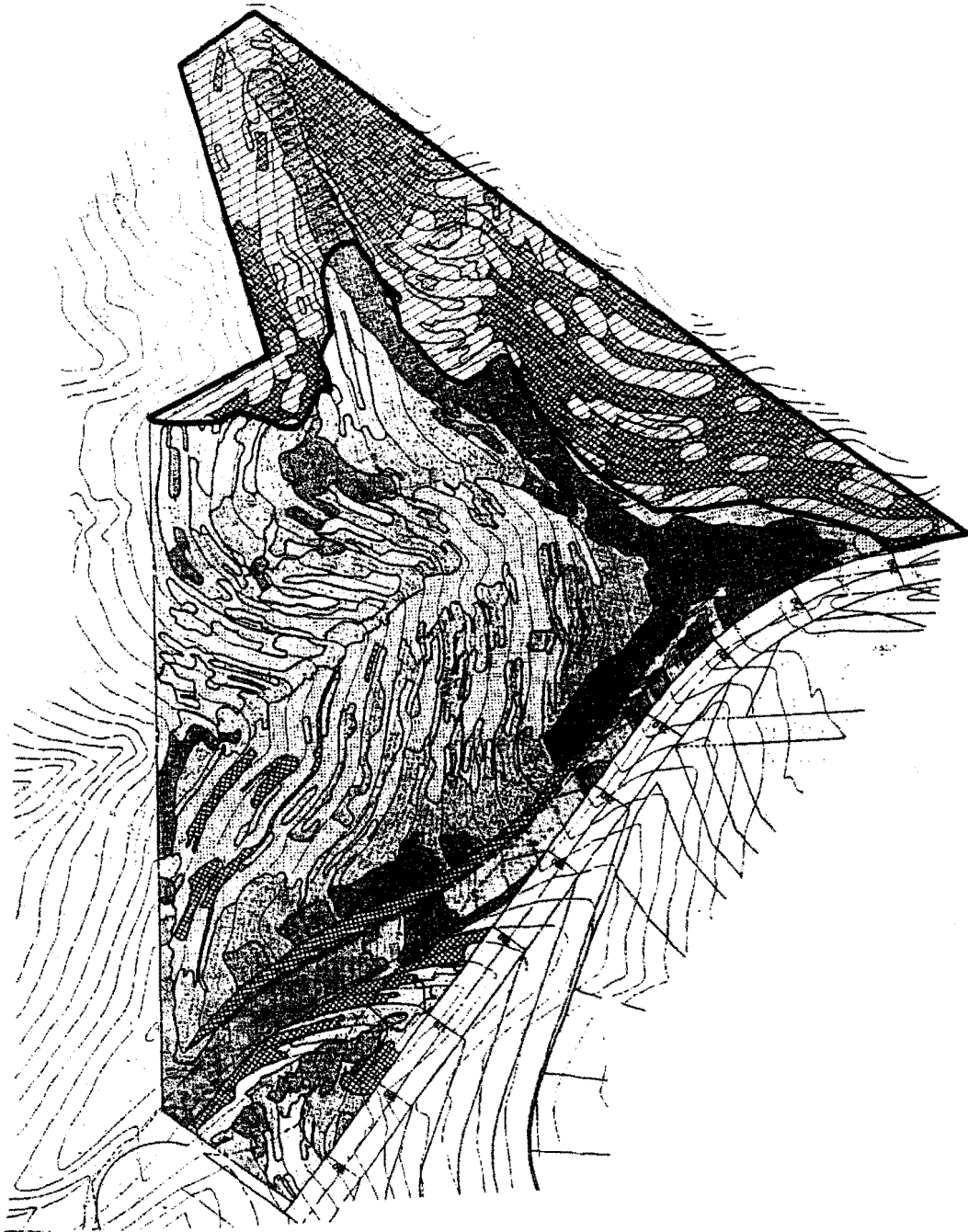


California Coastal Commission
Technical Services Unit

Exhibit No. 15
Carlsbad LCPA 2-99D

KLH 06-21-00

Open Space Recommendation Area L



Area Recommended as Open Space

Source: Slope Analysis - Area L, 9-24-99

--NOTE--

The information depicted on this map is subject to revision. No scale. Locations are approximate. For illustrative purposes only.



California Coastal Commission
Technical Services Unit

Exhibit No. 16
Carlsbad LCPA 2-99D

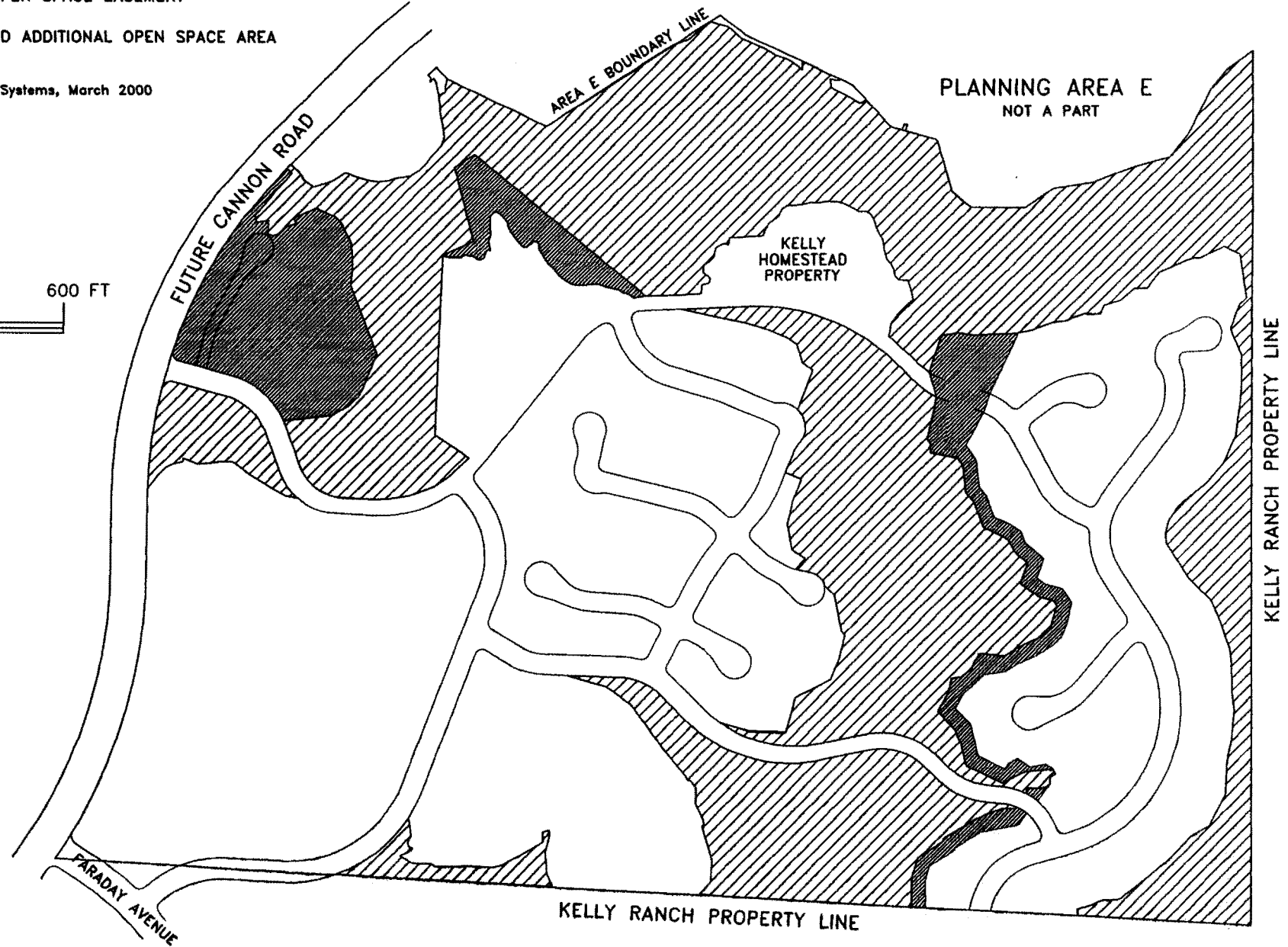
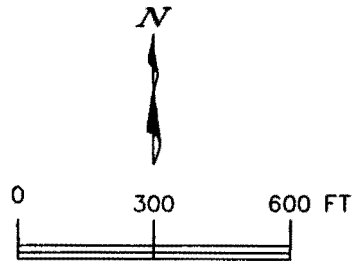
KLH 06-21-00

REVISED OPEN SPACE MAP per SUGGESTED MODIFICATION #10 - In concept only.

 PROPOSED OPEN SPACE EASEMENT

 RECOMMENDED ADDITIONAL OPEN SPACE AREA

Map Source: Planning Systems, March 2000

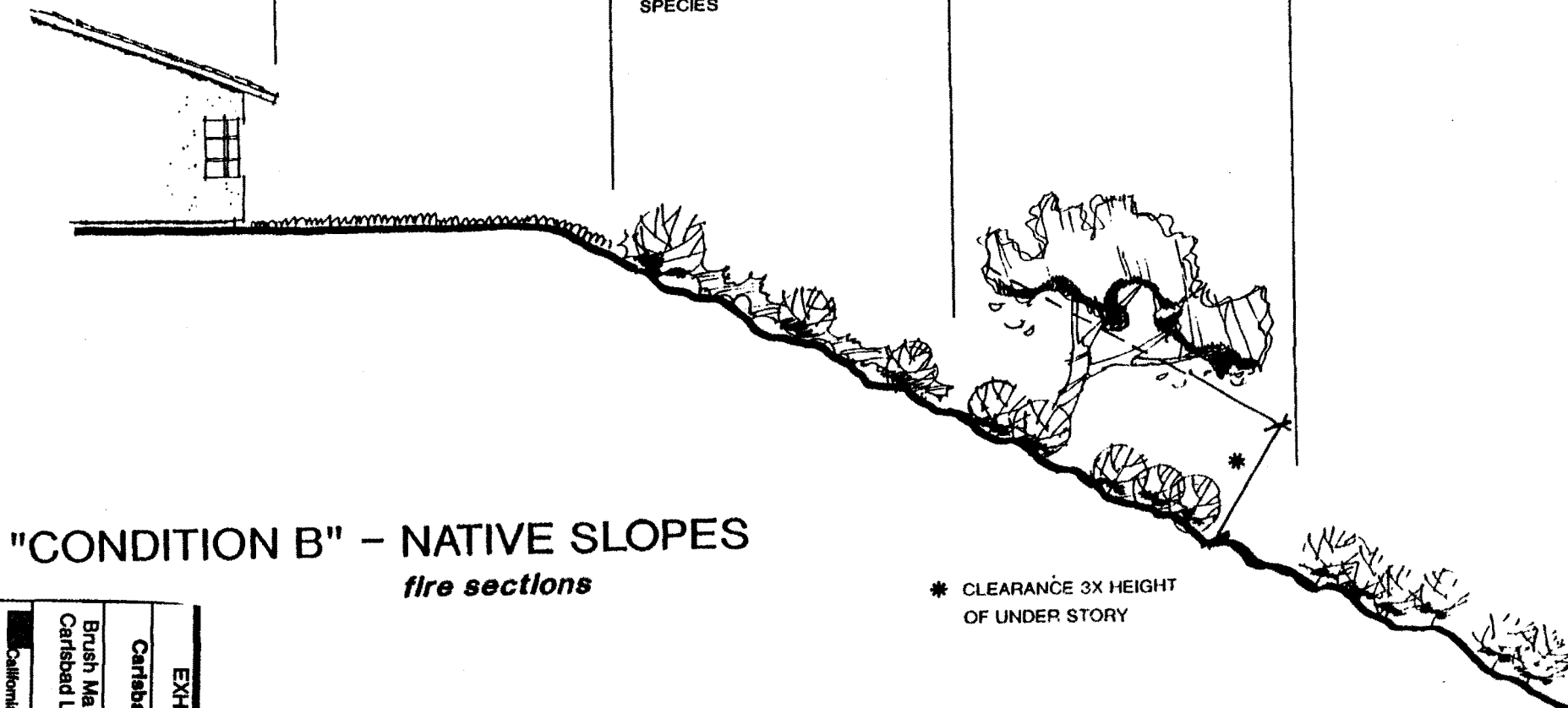


California Coastal Commission
Technical Services Division

--- NOTE ---
The information depicted on this map is
subject to revision. Scale and locations are
approximate. For illustrative purposes only.

EXHIBIT 17
CARLSBAD LCPA 2-99D

SECTION	B-1	B-2	B-3	NATIVE (UNDISTURBED)
	20'	20'	20'	
irrigation	YES	YES, TEMPORARY	NO	
planting	<ul style="list-style-type: none"> • FIRE RETARDANT • NO TREES OR SHRUBS • REMOVAL OF HIGH FUEL SPECIES 	<ul style="list-style-type: none"> • LOW FUEL SPECIES • SELECTIVE PRUNING OF 80% OF THE MODERATE FUEL SPECIES VOLUME • 100% REMOVAL OF HIGH FUEL SPECIES 	<ul style="list-style-type: none"> • SELECTIVE PRUNING OF 40% OF THE MODERATE FUEL SPECIES VOLUME • 100% REMOVAL OF HIGH FUEL SPECIES 	N/A



"CONDITION B" – NATIVE SLOPES fire sections

* CLEARANCE 3X HEIGHT
OF UNDER STORY

CARLSBAD TRAIL SYSTEM

CITY OF CARLSBAD

Open Space & Conservation
Resource Management Plan

JUNE 1992

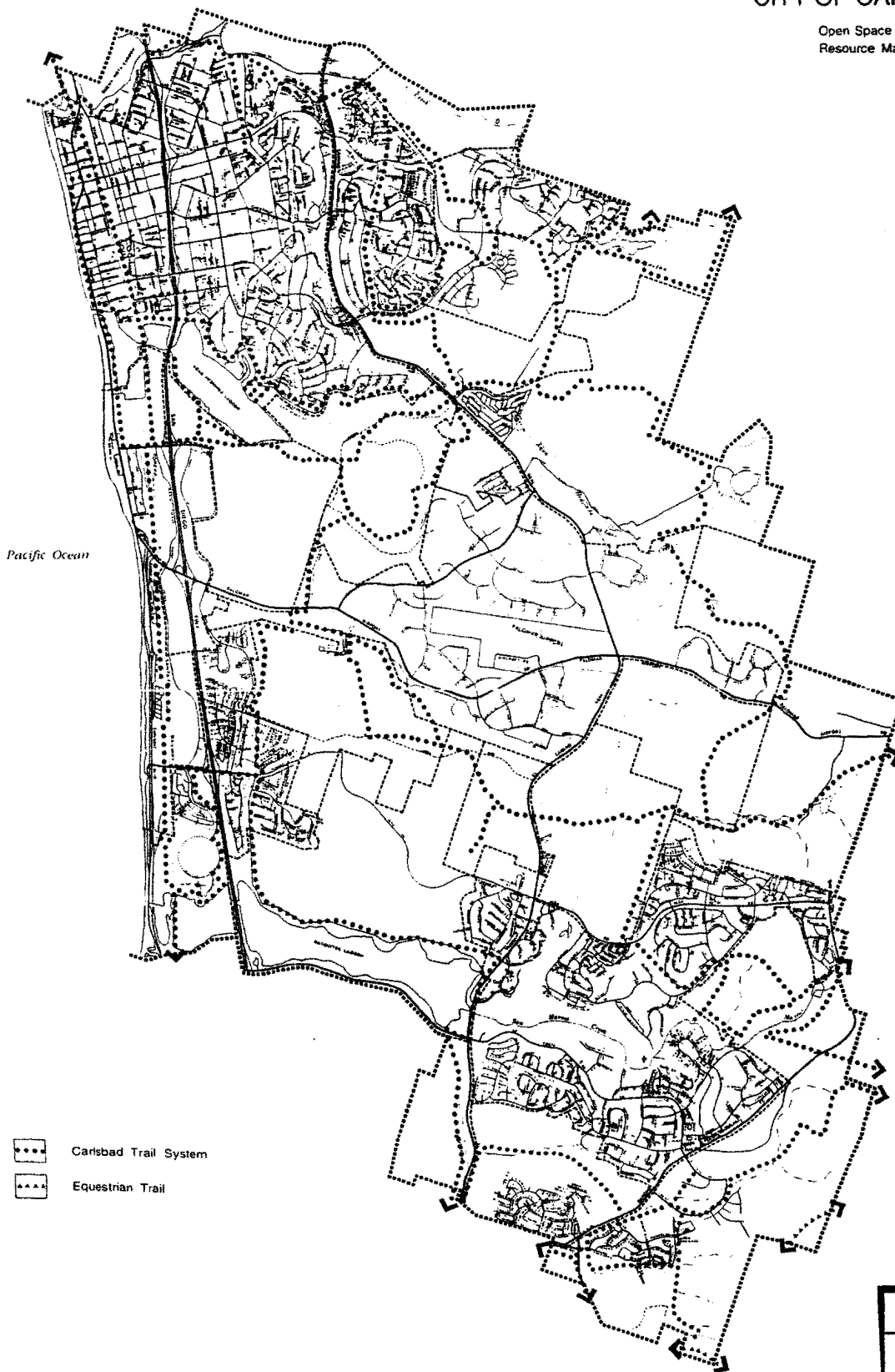


FIGURE 4

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COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 19

Carlsbad LCPA 2-99D

Trail Maps from Open Space
and Conservation Resource
Management Plan

California Coastal Commission

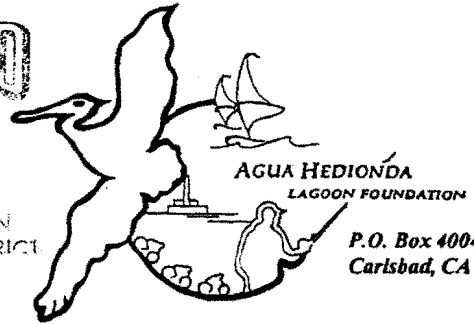
57
June 15, 2000

Sherilyn Sarb
California Coastal Commission
311 Camino Del Rio North, Suite 200
San Diego, CA 92108

RECEIVED

JUN 21 2000

CALIFORNIA
COASTAL COMMISSION
3001 DIEGO COAST DISTRICT



P.O. Box 4004
Carlsbad, CA 92018

Subject: Kelly Ranch Local Coastal Program Amendment

Dear Ms. Sarb;

Once again, the Agua Hedionda Lagoon Foundation wishes to express its support for the Kelly Ranch project and the City of Carlsbad proposals related to that project, including the extension of Cannon Road. We previously wrote to Chairman Wan on September 16, 1999, but that letter did not appear in the staff report prepared for the October 13, 1999 hearing in Oceanside, so we attach at herewith.

Our biggest concern is the extended delay the project has undergone since last fall, and the effect of that delay, including:

- The Carlsbad Habitat Management Plan ("HMP") agreed to by the City, California Fish & Game and the U.S. Fish & Wildlife Service is not in effect, nor will it go into effect until the subject project is approved by the Coastal Commission. Opportunities to preserve large habitat blocks and corridors can not yet be executed. We endorse the HMP, particularly the sections relating to the Kelly Ranch and the Agua Hedionda Lagoon.
- The 186 acre parcel of the Kelly Ranch offered to California Department of Fish & Game has not been accepted by Fish & Game, partly due to the delays and unknowns resulting from over 7 months of negotiations with the Coastal Commission. The result is that proposed Ecological Reserve property is not receiving the protection Fish & Game plan to provide, and extensive damage continues to be done to the property by four-wheel drive vehicles and other intruders.
- The Agua Hedionda Lagoon Foundation's Nature Center (a gift from the Kelly Land Company and associates) has been sitting exposed with marginal fire and police protection, for over a year. It has already experienced considerable vandalism in its unprotected state, all of which has resulted in additional cost. We are not able to connect to utilities until Cannon Road is completed, and Cannon Road is held up pending Coastal Commission approval of the Kelly Ranch project. The delay has resulted in our building permit expiring, also at additional cost. But most important,
- This wonderful facility is not yet providing public access and educational opportunities as a result of the delays. The location of the facility, on the lagoon side of Cannon Road, and the view of the wetlands and lagoon, is superb, but not available to the public.

CARLSBAD LCRA 2-951
UPDATED LETTER FROM
LAGOON FOUNDATION

We are sure that there may yet be slight improvements to the project, but the overall effect of the delays appears to compromise a good project, the HMP, the 186 acre Ecological Reserve, our Nature Center and public access.

We hope the Coastal Commission can approve this important environmental project at the July, 2000 meeting.

Sincerely,



Bob Richards, President

ahlfmelloIltr2

attachment: AHLF letter dated September 16, 1999

September 16, 1999

Ms. Sara Wan, Chairperson
California Coastal Commission
22350 Carbon Mesa Rd.
Malibu, CA 90265

and

Commissioners, Alternates and Staff



Subject: LCP Segment Major Amendment, Mello II, City of Carlsbad 2-99D

Dear Chairperson Wan,

The Agua Hedionda Lagoon Foundation (Foundation) has been involved in the Kelly Ranch and Cannon Road planning process from the outset. We have commented on and spoken before the Commission and the City of Carlsbad.

Although the Kelly Ranch project lays across two LCP segments, one which is certified (Mello II) and one which is not (Agua Hedionda), the planning process has encompassed the entire Kelly property. Sections of Kelly Ranch that have been planned and permitted by the City and the Commission in the last few years include Area E (a residential area) and Area F (upon which our Lagoon Foundation Nature Center sits), all within Mello II, as is Cannon Road (Reaches 1 and 2), a major arterial east/west roadway.

The current project, called the upland or "core" area of the Kelly Ranch is also entirely within Mello II. The City of Carlsbad has approved a Coastal Development Permit (CDP) for the core area. The Foundation has participated in all of these actions.

The Foundation views the current plan by the City and Kelly Ranch as significantly better than the project permitted under the preceding CDP 6-84-617, approved in 1985. Since that time, there have been extensive changes in City, State and Federal environmental regulations, all for the good of the environment. The listing of the California Gnatcatcher, Carlsbad's Growth Management Ordinance and the jointly created Habitat Management Plan (HMP) have created a new level of review and standards. The Agua Hedionda Lagoon, its wetlands on the Kelly Ranch and other properties in the Mello II LCP segment constitute a major HMP area and linkage. In the Foundation's view, these standards result in developments far more friendly to the environment than those approved in 1985.

We support the City of Carlsbad's plan, and urge the Commission to support it. We look forward to attending the hearing and offering our support for the plan presented to the Commission.

Sincerely,


Bob Richards, President

ahlfmelloIItr

Add'l cc: Claude Lewis, Mayor, City of Carlsbad; Larry Clemens, Kelly Land Co.

PLANNING
SYSTEMS

LAND USE / COASTAL PLANNING
LANDSCAPE ARCHITECTURE • LA3901
POLICY AND PROCESSING
ENVIRONMENTAL MITIGATION

August 19, 1999

Bill Ponder
COASTAL COMMISSION
3111 Camino del Rio North
Suite 220
San Diego, CA 92108-1725

RECEIVED

AUG 20 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RE; CITY OF CARLSBAD LCP 2-99
KELLY RANCH

Dear Bill:

I received your telephone message of yesterday evening indicating that the additional informational materials submitted last Friday did not satisfy Coastal Staff requirements for detailed analysis of the City-issued coastal permit for the Kelly Ranch Core Area. It is now more clear to me that Coastal Staff is undertaking a full re-analysis of the conclusions drawn by all previous [Federal, State and Local] agencies involved in the project. We had provided Coastal Staff with copies of the results of the final analyses conducted during the earlier multi-level reviews, but I understand now however that these results are not acceptable for the level of review desired by Coastal Staff, and that much of this information must be re-created for detailed examination by Coastal Staff.

To this end, enclosed please find the following information:

1. Slope analysis and vegetation information as identified in the format stipulated in model letter provided by Coastal Staff. Specifically;
 - a. Slope analysis graphic exhibit [to be delivered 8/20] demonstrating recently-flown topographic contours, identifying areas of 0-25% grade, and 25% and greater grade. Analysis also demonstrates areas where grading will occur, and also fire protection brush management.
 - b. Vegetation survey graphic analysis which indicates the nature of the current vegetation [from Figure 2.2.1 of the Core Area EIR].

CARLSBAD LCPA 2-99 D
LETTER FROM PROPERTY
OWNER

c. Steep slope analysis figures as follows;

Total area of 25% and greater [steep] slopes: ¹	73.3 ac.
Native vegetated steep slopes:	61.6 ac.
Non-native vegetated steep slopes:	11.7 ac.
Total area of steep slope grading	24.3 ac.
Grading on steep slopes with native vegetation ²	13.7 ac. ³
Grading steep slopes with non-native vegetation	10.6 ac. ⁴

d. Landscape Plans for the Core Area, including fire protection Brush Management Areas.

2. You requested clarification regarding the open space table shown on page 2.2.2 of the Core Area Final EIR. I am informed that this analysis, which was conducted by A. D. Hinshaw Associates, reflects information as follows:

"Constrained" Open Space is defined as area meeting the "constrained" definition pursuant to the City of Carlsbad Growth Management Plan, including steep slopes, easements, arterial roadways, and six other minor "constraint" categories.

"Biological" Open Space identifies the total of preserve areas of coastal sage scrub [CSS], southern maritime chaparral [SMC] and native grassland [NG] vegetation [46.0 total acres]. The Kelly Ranch Master Plan analysis for "Biological" Open Space reflects only the fact that these habitats were not considered sensitive, or worthy of preservation in and of themselves, during the 1985 period when the Master Plan project was analyzed and approved.

One of the problems inherent in the present requirement for project review by a growing multitude of agencies and departments is that they each have their own method and formula for analysis of open space. And although this subject EIR table [pg. 2.2.2] does result in a positive open space tabulation for the Core Area project, it does not appear to reflect a preferred Coastal Commission method of analysis. The "dual criteria" analysis would seem to be more applicable to the Coastal Commission.

¹ From PDC Engineering. Does not include Cannon Road or Callaghan parcel.

² From "dual criteria" analysis previously provided.

³ 6.1 acres for access roads; 7.6 acres for development grading.

⁴ Balance of 24.3 acres and 13.7 acres. Note that development grading predominately placed on non-native slopes (exempting roads for access to otherwise developable parcels).

Of course the problem with this is that this level of analysis has been replaced over the last few years with criteria established by state and federal environmental agencies reflective of protection of endangered species. The dual criteria method is somewhat arbitrary compared to the complex criteria currently employed by Cal Fish and Game, Federal Fish and Wildlife and the Corps of Engineers. Extensive analysis and discussion has taken place with these agencies to reach the proposed open space configuration.

3. You requested an analysis of how the proposed steep slope [I presume dual criteria] grading for access to otherwise developable areas has been situated in the least environmentally damaging locations. Considering that Village 'T' and more directly Village 'J' constitute islands of developable land surrounded largely by dual criteria lands, and City of Carlsbad safety policies require two separate accesses for each, the locations chosen were picked specifically for their low level of environmental impact.

The Village 'T' accesses are located in virtually the same location as in CDP 6-84-617, within areas only marginally considered dual criteria. Note that the Village 'J' access however has been removed from its previous location within a valley of mature SMC vegetation [including Del Mar Manzanita], to its proposed location up a more gradual slope, characterized by disturbed CSS and CSS. Further, its fill slopes are proposed for CSS revegetation, minimizing its impact. The northern Village 'J' crossing is situated at the same location as in the Master Plan project, and this location avoids dual criteria lands almost entirely.

In addition, the USF&WS, CDF&G and the City of Carlsbad have all approved these crossings specifically because they are located within the environmentally preferable location for such accesses. Please see Figure 2.1.2 of the Core Area EIR. Far more environmental analysis of these crossings has occurred on the Core Area project than occurred on the 6-84-617 project.

4. You also requested an analysis of why development is currently proposed in those areas where it was not previously approved in the Master Plan. A good amount of give-and-take has occurred during the modification from the Master Plan to the Core Area project. These changes reflect design of a project fully in compliance with the new, updated rules and regulations regarding coastal development in Carlsbad, including HMP, Growth Management, Hillside Protection, and other requirements. All of these regulations more strictly regulate development than those adopted in conjunction with 6-84-617. The Core Area project was designed upon identification of habitat preserve corridors defined by USF&WS and CDF&G. For example, the narrowest point in habitat linkage per 6-84-617 was 140 feet wide. The Core Area project is designed at a minimum 400 feet.

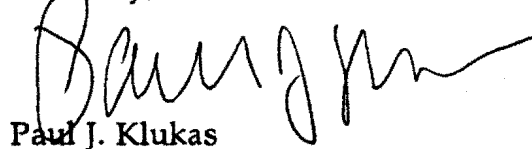


In addition, it has been acknowledged by the other agencies involved, that some increase in developable area, in areas that are not considered important to the habitat corridor program, must be allowed in order to provide trade-off of development rights, in order to achieve the HMP goals. All areas of expansion of development envelope beyond the Master Plan limits are in areas considered acceptable to the City of Carlsbad, and the Resource Agencies. These are the reasons why development is currently proposed in areas not previously approved in the Master Plan.

We continue to be hopeful that the reduction in dwelling units, the increase in quality of vegetation preserve and open space, the significant revegetation effort, the elimination of the commercial land use and replacement with a community nature center and the public trails program will allow the Coastal Staff to make the necessary findings that the City-proposed LCP Amendment results in a far superior project than 6-84-617.

Please call if you wish to discuss any of these matters further.

Sincerely,



Paul J. Klukas
Director of Planning

cc: D. L. Clemens
Christer Westman



Wed 17a

Ryan Green
1714 Camassia Lane
Carlsbad, CA 92009

July 19, 1999

REC-108

JUL 20 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COUNTY DISTRICT

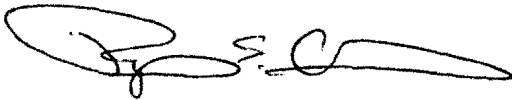
Ms. Sherilyn Sarb
District Manager
California Coastal Commission
3111 Camino del Rio North
Suite 200
San Diego, CA 92108

Dear Ms. Sarb,

I am currently a resident of Carlsbad and with the opening of Legoland, traffic on the existing streets has become very congested. The opening of Cannon Road would be very helpful to relieve this congestion.

I would appreciate anything you could do to ensure that the Kelly Ranch project gets put on the August agenda for the Coastal Commission.

Sincerely,



Ryan Green

CARLSBAD LCPA 2-99D
LETTERS OF SUPPORT

Wed 17a
RECEIVED

Cynthia Roush
2231 Corte Cicuta
Carlsbad, CA 92009

JUL 20 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 19, 1999

Ms. Sherilyn Sarb
District Manager
California Coastal Commission
3111 Camino del Rio North
Suite 200
San Diego, CA 92108

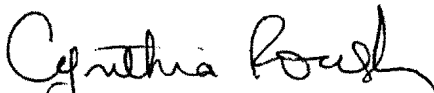
Re: Kelly Ranch

Dear Ms. Sarb,

As being a resident of Carlsbad, traffic has become a real problem since the opening of Legoland. I would greatly appreciate it if Cannon Road could be put on the August agenda for the Coastal Commission to enable the opening of Cannon Road.

This would alleviate a lot of headaches for a tremendous amount of people, including myself.

Thank you for your understanding,


Cynthia Roush

Wed 17a

**Chuck Gasperson
3007 Greenwich St.
Carlsbad, CA 92008**

July 16, 1999

RECEIVED

JUL 21 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Ms. Sherilyn Sarb
District Manager
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

Re: Kelly Ranch

Dear Ms. Sarb,

We need Cannon Road!!!

The Kelly Ranch project was recently unanimously approved by both the City of Carlsbad Planning Commission and the City Council. It is an excellent project with much careful thought given to balancing new development and open space.

But most importantly, Kelly Ranch will construct an important link in Carlsbad ... Cannon Road. Cannon Road will finally give the Carlsbad community another means of traveling west and avoiding the traffic on Palomar Airport Road.

Please act quickly on this important matter and approve this much needed project.

Thank you for your time.

Best regards,

Chuck Gasperson



Wed 17a

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JUL 21 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 20, 1999

Sherilyn Sarb, District Manager
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

Dear Ms. Sarb:

As a business leader in the community of Carlsbad and representing a number of employees using both the Palomar Airport and El Camino Real corridors in their daily commute to work and as a resident of Carlsbad, I strongly request that the Kelly Ranch project be part of the Coastal Commission's August agenda.

It is my understanding that the Commission has a heavy workload with many important issues to discuss, but the delay in reviewing the Kelly Ranch project will have far-reaching consequences.

Kelly Ranch is very important to the city of Carlsbad, its residents and businesses. The completion of Cannon Road from El Camino Real to the Macario Canyon Bridge is essential to the city's circulation system as a primary relief to Palomar Airport Road and the provision of a much-needed east-west thoroughfare. Additionally, Kelly Ranch has contributed the Nature Center at Agua Hedionda Lagoon, dedicated 200 acres of wetland to the State of California, provided nature trails, set aside 100 acres of upland habitat as part of the Habitat Management Plan and reduced the density from 1600 units to 950 units including affordable housing.

Delaying Coastal Commission review of this project will delay the opportunity to complete Cannon Road in a timely fashion and we urge you to put Kelly Ranch on the agenda in August.

Thank you for your consideration and I look forward to a favorable reply.

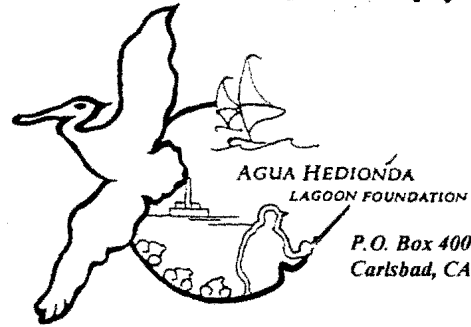
Sincerely,

A handwritten signature in cursive script that reads "Luz E. Gonzales".
Luz E. Gonzales
Vice President

RECEIVED

JUL 21 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COASTAL DISTRICT



P.O. Box 4004
Carlsbad, CA 92018

July 19, 1999

Ms. Sherilyn Sarb, District Manager
California Coastal Commission
3111 Camino Del Rio North, Ste. 200
San Diego, CA 92108-1725

REF: Carlsbad LCP Amendment #2-99
(Including Kelly Ranch Master Plan approved under CDP 6-84-617)

Dear Ms. Sarb:

The Agua Hedionda Lagoon Foundation (Foundation) notes that the referenced application may be on the Coastal Commission August 1999 agenda. As this amendment affects land near Agua Hedionda Lagoon and includes the Kelly Ranch, we feel it appropriate to comment, and thank you for the opportunity to do so.

With respect to the Kelly Ranch, we recognize that the application differs somewhat from the project approved by the Coastal Commission in 1985 (CDP 6-84-617), but we see these differences as positive, with regard to the impact on the lagoon. Some highlights important to the Foundation:

- The developer is working closely with the California Department of Fish & Game to transfer to DFG approximately 186 acres of key open space on the Kelly Ranch. The Foundation supports this transfer, and has participated in meetings and field trips toward that end.
- The developer is donating a 3800 square foot building and approximately 2 1/2 acres of open space to the Foundation, to become the Foundation's Nature Center for education and promoting care of the environment and habitat. The site, near the above-mentioned 186 acres, overlooks the wetlands and the lagoon.
- Elements of the Kelly Ranch, including the above-mentioned 186 acres, are an important inclusion in the City of Carlsbad's proposed Habitat Management Program.
- The proposed development includes trails that provide public access consistent with the goals of the Foundation.
- The proposed development includes fewer residences than originally approved, thereby lessening any impact on the lagoon.

In general we believe the proposed development is consistent with goals and objectives of the Foundation, is consistent with Coastal Commission policies and represents an improvement over the original Commission action. The Foundation previously supported the Kelly Ranch project when it was reviewed by the Carlsbad Planning Commission and the Carlsbad City Council.

Sincerely,



Bob Richards, President

ahlf sarb1

cc: Coastal Commission/fax (619) 521 9672
AHLF Secretary - Gene Huber
City of Carlsbad - Michael Holzmilller
Kelly Land Company - Larry Clemens/fax (760) 918-6663

Wed 17a

RECEIVED

JUL 20 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Steve Wheeler
2930 Via Pepita
Carlsbad, CA 92009

July 16, 1999

Ms. Sherilyn Sarb
District Manager
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

RE: Kelly Ranch - Carlsbad

Dear Ms. Sarb:

It is my understanding that you are currently processing the application for the Kelly Ranch in Carlsbad.

I am very supportive of this project. As a long-time resident of Carlsbad, I have watched our community grow, and for the most part, believe that the City of Carlsbad has done a very good job in their planning efforts.

The Kelly Ranch project is a great example of development improving our city's infrastructure and thereby improving our quality of life. The Kelly project is responsible for construction Cannon Road to connect to the existing portion west of the project. Cannon Road is badly needed to relieve the traffic congestion on Palomar Airport Road and to provide better access to the coast.

Your favorable recommendation on the Kelly Ranch project will certainly help this new community become a reality.

Thank you for your consideration.

Sincerely,



Wed 17a

RECEIVED

July 21, 1999

JUL 21 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Ms. Sherilyn Sarb
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

Subject: Kelly Ranch - Carlsbad

Dear Ms. Sarb,

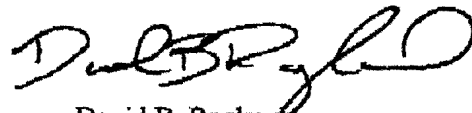
I understand you are processing the Kelly Ranch application at this time. *I support this project.* Your recommendation of Kelly Ranch will help make it a reality.

As I watched our community grow over the years, I've found City of Carlsbad planning to be beneficial.

Kelly Ranch will improve our City's infrastructure and thus our quality of life. Further construction of Cannon Road as part of this project will ease traffic on Palomar Airport Road and allow greater access to the coast.

Thank you for reading this letter.

Sincerely,



David B. Ragland
6415 Merlin Drive
Carlsbad, CA 92009

wed 17a



RECEIVED

JUL 19 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

July 15, 1999

Sherilyn Sarb, District Manager
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

Dear Ms. Sarb:

The Carlsbad Chamber of Commerce, representing more than 1650 businesses, requests that the Kelly Ranch project be part of the Coastal Commission's August agenda.

The Chamber understands that the Commission has a heavy workload with many important issues to discuss, but the delay in reviewing the Kelly Ranch project will have far-reaching consequences.

Kelly Ranch is very important to the city of Carlsbad, its residents and businesses. The completion of Cannon Road from El Camino Real to the Macario Canyon Bridge is essential to the city's circulation system as a primary relief to Palomar Airport Road and the provision of a much-needed east-west thoroughfare. Additionally, Kelly Ranch has contributed the Nature Center at Agua Hedionda Lagoon, dedicated 200 acres of wetland to the State of California, provided nature trails, set aside 100 acres of upland habitat as part of the Habitat Management Plan and reduced the density from 1600 units to 950 units including affordable housing.

Delaying Coastal Commission review of this project will delay the ability to complete Cannon Road in a timely fashion. The delay could mean the difference between getting Cannon Road built and opened by June, 2000 or having to wait until June, 2001. The city of Carlsbad desperately needs this thoroughfare as soon as possible. We urge you to put Kelly Ranch on the agenda in August.

Thank you for your consideration and we look forward to a favorable reply.

Sincerely,

A handwritten signature in cursive script that reads 'Jan Sobel'. Below the signature, the name 'Jan Sobel' and the title 'Chief Executive Officer' are printed in a serif font.
Jan Sobel
Chief Executive Officer



MALLINCKRODT

Wed 17a

Mallinckrodt Inc.

2200 Faraday Avenue Phone: 760.603.5300
Carlsbad CA 92008 Fax: 760.603.5901
www.mallinckrodt.com

July 19, 1999

Sherilyn Sarb, District Manager
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

RECEIVED

JUL 19 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Ms. Sarb:

Mallinckrodt Inc., a major employer in Carlsbad, requests that the Kelly Ranch project be part of the Coastal Commission's August agenda.

We understand that the Commission has a heavy workload with many important issues to discuss, but the delay in reviewing the Kelly Ranch project will have far-reaching consequences.

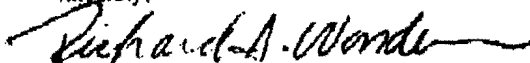
Kelly Ranch is very important to the city of Carlsbad, its residents and businesses. The completion of Cannon Road from El Camino Real to the Macario Canyon Bridge is essential to the city's circulation system as a primary relief to Palomar Airport Road and the provision of a much-needed east-west thoroughfare.

Our company is a participant in the Palomar Corridor Transportation Pilot Program which is working on resolutions to traffic congestion in the area. We have a very large number of employees traveling from the Oceanside area to our location on Faraday Avenue and the completion of this project is vital to help alleviate congestion in the Palomar Airport Road Corridor.

Delaying Coastal Commission review of this project will delay the opportunity to complete Cannon Road in a timely fashion and we urge you to put Kelly Ranch on the agenda in August.

Thank you for your consideration and we look forward to a favorable reply.

Sincerely,

Richard A. Wonders
Plant Manager

Wed 17a
RECEIVED

July 26, 1999

Ms. Debra Lee
California Coastal Commission
3111 Camino Del Rio North, Suite 200
San Diego, CA 92109

JUL 28 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Kelly Ranch - Carlsbad

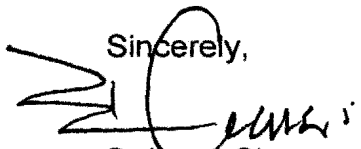
Dear Ms. Lee:

Thank you for our recent telephone conversation regarding the Kelly Ranch project and the special effort made by the Coastal Commission staff to try to place the project on your August agenda. Although there are still some remaining issues to be discussed and finalized, I am quite sure that between your staff, the City of Carlsbad, and the Kelly team we can finalize your review for the September agenda. Our first combined meeting to work through the project is scheduled for July 28 at 12:30 P.M.

As we discussed, I would like to formally request that the Kelly Ranch project be scheduled for Tuesday, September 14, 1999 in Eureka. This schedule will accommodate arrangements for those who need to be involved with the presentation to the Commission, and if approved, provide valuable time in the remaining days of the week in which to arrange and commence grading.

Your consideration of our scheduling request will be greatly appreciated.

Sincerely,


D. Larry Clemens

cc: Sherilyn Sarb



Wed 11a

City of Carlsbad

Office of the Mayor

September 17, 1999

RECEIVED

SEP 21 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Honorable Christine Kehoe
California Coastal Commissioner
City of San Diego
202 "C" Street
San Diego, CA 92101

KELLY RANCH - LCPA (CARLSBAD)

Dear Commissioner Kehoe:

Thank you for meeting recently with Larry Clemens, representing Kelly Ranch.

As Mr. Clemens may have explained, the City of Carlsbad recently approved the Kelly Ranch tentative map and a variety of other legislative matters, and has been very supportive of the Kelly Ranch. Importantly, the Kelly Ranch project will be instrumental in completing Cannon Road (a much-needed east-west arterial connecting from El Camino Real to Interstate 5). Additionally, the project has done an extraordinary job in preserving and dedicating vast acreages of both uplands and wetlands (approximately 100 acres of upland and 200 acres of the Agua Hedionda Lagoon wetland), and is a participant in the City's HMP. The Kelly Ranch project is also proposing to construct approximately 490 rental apartments, of which 132 are available under the provisions of the City's Affordable Housing Program. It is not often that "for rent" housing is available in the coastal zone, and it is very unusual indeed to have an affordable housing project with no public subsidy involved.

The Issues

Coastal staff has recommended certain modifications to the City's LCPA application that are not acceptable to the City or the project proponent. The following is a short synopsis of the issues:

- ♦ Preservation of two ravines (as a carryover from the 1984 approved coastal permit CDP 6-84-617). The two small ravines at issue within Area G (apartment site) were discussed with both the City and the State and Federal Resource Agencies in the early planning stages of the current project and it was agreed that the quality of habitat and locations of these areas were not significant in light of other natural areas being offered for dedication. The quality of habitat and "connectivity" of these natural areas are of paramount importance. In order to balance reasonable development, including suitable access to the site, with preservation and enhancement of the highest quality natural areas, these two ravine areas were allowed for development. This was not a developer decision alone, it was a collaborative decision made through the HMP planning process and the Environmental Impact Report process.
- ♦ During the biological analysis and land planning efforts on Kelly Ranch, a variety of development opportunities and environmental protection priorities were analyzed. Many decisions were made and priorities identified in terms of balancing protection of the most important natural areas and reasonable development. This is precisely the type of analysis done by the Coastal staff in 1985 and supported by the Coastal Commission through permit 6-85-617. Coastal staff's/Commission's permit findings memorialize the fact that a balance

of priorities must be set in complex projects such as Kelly Ranch. Clearly, the current Kelly Ranch Plan has achieved this environmental balance in the regulatory opinions of the City of Carlsbad, California Department of Fish and Game, and the Federal Fish and Wildlife Service. Evidence of this fact is the certified EIR and the integration of the Kelly Ranch planned open spaces into the citywide HMP document that emphasizes "regional" viability of natural habitats. It would be ironic that a single land use regulatory agency, after two years of environmental planning and agreement, would decide that those efforts are unacceptable based upon land use policies set in 1985 prior to virtually all of the now in-place environmental regulations.

- ◆ Private roads/gated communities are being suggested by Coastal staff as not acceptable. Private streets within apartment sites are in conformance with the City's Planned Development Ordinance. The PUD ordinance permits cluster development that is generally more environmentally sensitive (promotes more open space through cluster development and less asphalt). Community gates should be allowed as long as the public access to coastal resources is not prevented and there is adequate public access provided. The Kelly Ranch has voluntarily contributed over \$1 million of improvements to the Agua Hedionda Lagoon Foundation in the provision of a 3800 sq. ft. Nature Center on over one acre of land (Village "F"). Additionally, the Kelly Ranch Plan provides nature trails in both the upland areas as well as the north and south shorelines of the Agua Hedionda Lagoon.
- ◆ Planning Area "L" should not be determined to be 100% open space as recommended by Coastal staff. Planning Area "L" should be approved as a separate parcel on the proposed tentative map and the development potential should be decided at such time when the property owner submits an application for a land use decision. However, it may be in both City and Coastal Commission's best interests to establish it as a "standards" area so that the development conditions are set at the time of the LCPA approval.
- ◆ Coastal staff has questioned the legitimacy of the proposed access road that is planned to serve Village "J" and an off-site parcel (known as the Kirgis property). The secondary access road must be provided to serve both the Kelly Ranch Village "J" and the Kirgis property. The City's cul-de-sac policy which was developed for emergency services and safety purposes, permits cul-de-sacs only if their length does not exceed 600 feet, the traffic volume at the entrance does not exceed 500 ADT and the number of dwelling units does not exceed 50. Without the secondary access, neither Village "J" nor Kirgis can be developed. The Federal and State Resource agencies have already reviewed and approved the subject secondary access. Additionally, mitigation for the impacts caused by the road have been included in the Kelly Ranch project and approved in the certified EIR.
- ◆ The Coastal staff has recommended to lower the zoning designation of Village "A" from RMH (8-15 du/a) to RLM (0-4 du/a). The RMH designations are consistent with the approved LUP designations for properties located lagoonward of Park Drive from Bristol Cove eastward. CDP 6-84-617 issued by the California Coastal Commission approved the Village "A" site for 200 dwelling units. Subsequently, the City's Growth Management Ordinance reduced this site development to 111 dwelling units. An application is currently being processed by the City to consider a proposal for 71 dwelling units (at a density of approximately 7 dwelling units per acre).

- ♦ The Kelly Ranch project was designed to be consistent with the City's HMP. It incorporates certain environmental trade-offs in order to preserve the best quality habitat. Some of these trade-offs are in conflict with the City's LCP protections for dual criteria steep slopes. Protection of the dual criteria slopes would not protect the best quality habitat on the site. In order to justify these trade-offs the Commission's staff wants to incorporate the City's HMP into the LCP. This poses a very large problem for us. The City Council has not taken formal action on the HMP. Also, once the City acts on the HMP, it will require another 4 to 6 months of processing with the wildlife agencies. Therefore, the City cannot accept any modifications that cause the HMP to be incorporated into the LCP. As an alternative, the Commission could allow the trade-off by using §30007.5 (PRC) to resolve the policy conflict and protect the most environmentally sensitive resources on the site. The Commission established this precedent when it approved the Pacific Rim (Aviara) master plan and allowed for the development of dual criteria slopes in exchange for the preservation of non-protected slopes containing high quality coastal sage scrub.

As you can see, as is the case with most coastal projects, the Kelly Ranch is a complex project. But this development proposal is high-quality and environmentally sound. It is a project that was planned with the good advice of the City of Carlsbad, and the State and Federal Resource agencies. And, importantly, it has survived the public hearing process and received abundant community support. The issues that I described above need to be resolved with Coastal staff immediately so that this project can be heard at the October Coastal Commission hearing and provide the Commission with the recognition that both the City and the Coastal staff are in mutual agreement with the LCPA and the suggested modifications.

Thank you for your time and consideration in reading this lengthy letter.

Sincerely,



CLAUDE A. "BUD" LEWIS
Mayor

mhs

c: City Council
City Manager
Planning Director
Assistant Planning Director
Sherilyn Sarb
Bill Ponder
Larry Clemens

WAYNE CALLAGHAN

38 REDHAWK, IRVINE, CA 92604

Tel: (949) 559-6200 Fax: (949) 559-6215

E-mail: calgroup@regroup.NET

September 6, 1999

Mr. Bill Ponder
California Coastal Commission
3111 Camino del Rio North, Suite 200
San Diego, CA 92108-1725

RE: LCP A 2-99; Kelly Ranch Draft Staff Suggested Modifications

Dear Bill:

We have reviewed your 'draft' Staff Suggested Modifications to the Kelly Ranch LCP Amendment, and are highly opposed to several of your suggested modifications. I am in agreement with the City of Carlsbad and Kelly Land Company's additional items of concern they have communicated to me as being in support of both their and my position and having been sent to you, some of which are attached and all are incorporated herein. My most pressing concern is with, but not limited to your recommendations regarding Planning Area "L" of the Kelly Ranch. Specifically issues 1, 2 & 3 below.

The previous two pages were an effort to try and obtain some reasonable understanding or basis for your actions before delving further into the issues in this letter. However, said two pages should be considered part of the official record and be forwarded to California Coastal Commission ("CCC") Commissioners with this letter.

Issue 1: The boundary line and residential zoning for proposed Parcel L shall be eliminated

Mello II 1. Revised Land Use Plan Map - The City shall prepare a revised LCP Land Use Plan map, to replace the approved Kelly Ranch Master for the Mello II LCP segment, which shall incorporate the following changes:

- a. The map shall include a revised Open Space boundary that shall include the "hardline preserve" areas as shown on Figure 12 of the draft Habitat-Management Plan dated 3/4/99 as Open Space. The boundary line for proposed Parcel L shall be eliminated.

Mello II 2. Revised Zoning Map — The City shall prepare a revised zoning map as component of the LCP Implementation Plan which shall incorporate the following changes:

- b. The parcel lines and residential zoning for proposed Parcel L shall be eliminated.

NOTE: The City states it has informed you the site is in a "Standards Area" NOT a "hardline Preserve Area" on the Habitat Management Plan.

Issue 2: Site to be used as a public access / public vista point

Mello II 8) A public vista point shall be provided on the Callahan parcel and at another location on the ridgeline within Planning Areas I or J

Issue 3: No private Streets or gates

Mello II 9) Public streets with on-street parking, as feasible, shall be required and no private gates shall be permitted for any residential development located in the Core Area.

Carlsbad LCPA 299D
Letter of Comment

ISSUE 1 The boundary line and residential zoning for proposed Parcel L shall be eliminated

- 1) **'Draft' Carlsbad Habitat Draft Management Plan.** PAL is not within a "hardline preserve". PAL is within a "Standards Area" since development information was not yet available. The City states it has clearly communicated this to you. The Kelly Ranch project (including "Planning Area L") is within "PPA Core Area 4" and has contributed to establishment of a preserve within Core Area 4 by contributing 240.3 acres of open space.

- 2) **Subdividing PAL to create a legal parcel is independent of land uses.** Covenants, Conditions and Restriction ("CC&R") recorded in the Official Public Records of San Diego County against all of Kelly Ranch in addition to verbal communications as well as this and prior correspondences, has provided CCC both direct and indirect notice regarding the constructive transfer of PAL having taken place and of all Kelly Ranch owner's requirement to create a legal lot for PAL per the map act.

Kelly Ranch owners and successors in interest (including owners of open space) are subject to these documents. Those requirements obligate Kelly Land Company (as present owner) to create legal lots, concurrent with recordation of Kelly Land Company's final map.

Kelly Land Company has no right to make any decision regarding PAL. It has merely designated PAL as a legal lot. Its planning for the Kelly Ranch ignores all aspects of PAL's future development.

- 3) **History:** Planning Area "L" ("PAL") has gone through (see History Exhibit for more details):

Annexation into the City	General Plan amendment
Master Plan approval	Zone change
Coastal approval	Tentative Map approval
City Growth Management Plan	Revised City Hillside Grading Ordinance
Inclusion in a City wide Mello Roos District	Many other new regulations adopted by City

In addition to participating in entitlements, PAL has participated in wetland restoration, rough grading, weed abatement, erosion control, farming, and was an integral part of the Irrevocable Offer to dedicate approximately 200 acres of Open Space as well as additional slope easements. In fact, I was responsible for and personally executed the initial Offers to Dedicate Open Space.

- 4) **Site Characteristics:** As part of development, Planning Area "L" ("PAL") was graded under the rough grading permit in mid 1980's. The following aerial photo was taken shortly after rough grading on the Kelly Ranch. After grading, PAL underwent extensive erosion control, planting and irrigation for an extended period.



The majority of the site is comprised of Non-native grassland. Non-native grasslands are not classified as a "sensitive" habitat by the draft HMP. However, the state and federal resource agencies are requesting that non-native grasslands be mitigated at a 0.5:1 ratio to maintain raptor foraging areas. Broad tracts of non-native grassland occupy most of the property. The dominant plants here are Eurasian grasses that have substantially displaced the native flora.

5) Vesting

- My wife and myself have placed almost all our assets into developing PAL; costs which could easily exceed \$2,000,000.
- In 1980 my firm Cal Communities, Inc. was General Partner of the partnership which owned Kelly Ranch, processed entitlements, graded, installed millions in infrastructure and millions more in wetland and Habitat enhancements as well as dedication of wetland and slope areas of approximately 200 acres.
 - I incurred extensive costs to acquire, process and develop the Kelly Ranch and PAL.
 - Since 1980 PAL has been assigned as a personal asset in all agreements to compensate me for my initial costs and in addition the public has had public notice.
- Federal taxes have already been paid for constructive receipt of the property.
- The permits are now "vested" as acknowledged by the California Coastal Commission ("CCC") on January 6, 1987. Required property owner provisions of the deal have been fully accomplished. Development activities undertaken pursuant to the Master Plan and CCC permit included
 - i) Fifty-three percent (181 acres) of the site encompassing Agua Hedionda Lagoon was offered for dedication as open space in 1985. Dedication through an *Irrevocable Offer to Dedicate Fee Title* and an *Irrevocable Offer to Dedicate Open Space Easement and Declaration of Restriction* (Instrument No. 85-301299 and 85-301298).
 - ii) An open space easement was recorded in 1985 and 1986, for slopes over 25 percent. Dedicated by *Irrevocable Offer to Dedicate Open-Space Easement and Declaration of Restricts* (Instrument 85-301301) and *Amendment No. 1* (Instrument 86-004362).
 - iii) Some of the grading and other construction activities done to vest approvals
 - (1) Rough grading, site preparation and erosion control within the Kelly Ranch including Planning Area "L".
 - (2) Installation of drainage and run-off control facilities and sedimentation basins.
 - (3) Restoration and enhancement of the lagoon, including major desiltation basin.
 - (4) Completed construction of Park Drive and El Camino Real.
 - (5) Construction of Cannon Road, and other internal roads.
 - (6) Installation of Utility construction within Cannon Road and El Camino Real.
 - (7) Subdivision (CT 96-07) was approved in April 1998, for a 45-acre portion (Area "E") of the Kelly Ranch pursuant to the adopted Master Plan and Coastal Permit. Construction of this subdivision commenced in 1998.
- PAL's specific, land planning, civil engineering and architecture have been prepared on three occasions for processing with the city. This also included initial City's review several years ago.
- PAL has undergone expense of grading, erosion control, planting, irrigation, and weed abatement under Coastal and City permits. Your agency has acknowledged this as well as PAL's vesting.
- PAL has paid property taxes as a separate Assessor Parcel, which includes payment towards Mello Roos/Assessment Districts, Public Facility, and Community Facility District for the purposes of providing public facilities prior to development to assure such facilities would be available for PAL development.
- Planning Area L has already paid over \$250,000 in cash directly for construction costs related to Cannon Road and other off-site improvements to serve the development of PAL.

ISSUE 2 Site to be used as a public vista point *-and-* **ISSUE 3** No private Streets or gates

We strongly oppose requirement that: private drives within the project must be public streets, privacy/security gates are prohibited, or that PAL is used for public vista point.

- 1) **PAL** is over one mile inland from the coastline, and on the inland side of the first public roadway. *It should be remembered this site is on the inland side of the first public street, and that public access policies dictate the access provision "where no otherwise adequate coastal access exists".*

There is no reason for redundant public access within the residential area of PAL.

- a) Within a few hundred feet [on the lagoon side of public street] there is a full public nature center.
- b) There is adequate public access to view the lagoon wetlands in various locations.
- c) City has required in addition to original Coastal Permit public pedestrian trails and sidewalks in two significant locations crossing the site and public views from these locations are plentiful.
- d) Although there is more than adequate access and viewpoints proposed, the State has significant Open Space areas within the Kelly Ranch to create such viewpoints if it wishes to exceed its own policies. I am not sure why this entire site was selected over several others that are at a higher elevation, or part of the proposed project, or preferably within the dedicate open space that is non-native grasses? For example there is an Open Space area of non-native grasses at the end of PAL's access knuckle at Hemmingway Drive.
- e) Access into PAL's residential common area will defeat our extreme effort to open units into shared common area to enhance feeling of a community or village instead of focus on private exterior spaces.

We are not aware of any substantive rationale; whatsoever, that would necessitate full public access into the residential common area or to use it as a public vista point.

- 2) Imposing public street requirements will render the project difficult to design. Especially this site that already proposes a single loaded street, as well as homes designed to step with topography. City public street requirements [street widths, turning radii, etc.], is inconsistent with proposed Planned Development standards, which allow site to deviate for clustering within developable areas versus more rigid detached project with long, wider streets.
- 3) **Kelly Ranch/PAL has already contributed in excess of original CCC Permit.** PAL is vested, trade offs were completed in prior approvals and the revised application exceeds these early trade offs.

CCC staff recommended approval and the CCC Commission unanimously approved the Project in 1985 as memorialized in CDP 6-84-617. Commission findings associated with this permit indicate their conclusion that;

"The Master Plan thus encompasses significant enhancement and preservation of the sensitive resources of the site above and beyond what the applicable LCP documents currently require. When combined with the offer to dedicate in fee title to a resource agency the majority of these sensitive areas, and to restrict the uses allowed on others, these measures provide a mechanism for long-range preservation of one of the state's highest priority wetland resources."

The section conclusion states, "The Commission finds that in order to accomplish this objective and allow reasonable use of the property, modifications to the Planned Community Zone regarding agriculture, maximum residential and commercial development, and prohibitions of grading on steep slopes are appropriate. The Commission thus finds the proposed amendments, as part of the overall development package, to be in conformance with Section 30007.5 of the Coastal Act."

I may not have understood your statement or intent, however, I have had a bad experience related to third parties interfering with my business activities, and I need to sort through the following.

- 1) Regarding your suggested modification and Kelly Land Companies' letter to you dated August 31, 1999. I assume your suggested modification did not intend to infer that Planning Area "L" could not be subdivided, but rather that you wanted the property to be designated as open space. If this is the case, I would appreciate before we step into my letter's concerns, that this issue be clarified.
- 2) If the above is not correct then given that land is subdivided (i.e. divided into parcels) which is independent from land use (e.g. residential vs. commercial vs. open space). I need to understand
 - i) Why you made that jump?
 - ii) Who on your staff as well as outside your organization was involved in such discussions and, which of these persons were involved in the decision regarding parcel lines?
 - iii) Under your Mello II 8) recommendation, "A public vista point shall be provided on the Callahan parcel" appears to reflect knowledge of ownership. I then need to also know who discussed ownership with you and did this person also discuss land use, or my parcel?

Since Planning Area "L" belongs to myself (not involved in the Coastal process) of which Coastal staff has notice as well as it being on the public record regarding my interests, I am totally confused how Coastal staff even jumped to land use let alone land division and now to a taking of the property for a vista point that far exceeds Coastal policy? It should be remembered this site is one mile inland from the coastline and on the inland side of the first public street, and that public access policies dictate the access provision "where no otherwise adequate coastal access exists". There are more than adequate access and viewpoints proposed,

- Within a few hundred feet [on the lagoon side of a public street] is a full public nature center.
- There is adequate public access to view the lagoon wetlands in various locations.
- City has required (in addition to the original CCC Permit) public pedestrian trails and sidewalks in two significant locations crossing the site and public views from these locations are plentiful.
- State has significant Open Space areas within the Kelly Ranch to create such viewpoints if it wishes to exceed its own policy. Not sure why this entire site was selected over several others that are at a higher elevations, part of the proposed project or preferably within dedicate open space that is non-native grasses? For example there is an Open Space area of non-native grass at the end of PAL's access knuckle.

Also the City states it has informed CCC the site is in a "Standards Area" not a "hardline Preserve Area" on the Habitat Management Plan. PAL has been graded, is heavily vested, has been part of numerous millions of dollars in habitat and infra-structure under my prior ownership of Kelly Ranch when California Coastal Commission achieved their benefit from the bargain and acknowledged such and vested rights, as well as millions more spent recently and that are proposed. See letter for details.

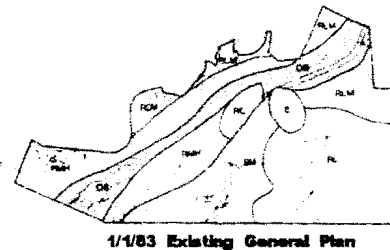
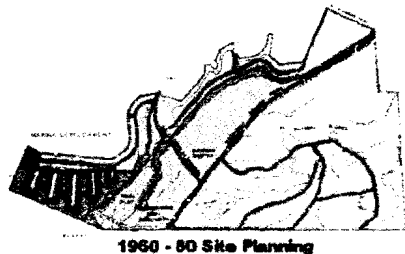
Again I assume some of this confusion is due to your not having been provided adequate information.

I did not know of this issue until last Friday afternoon, nor is it reasonable to have expected such issues regarding the Coastal application and Area "L". I assume since my notice was late last Friday (less than two weeks from the hearing) we could discuss early Tuesday.

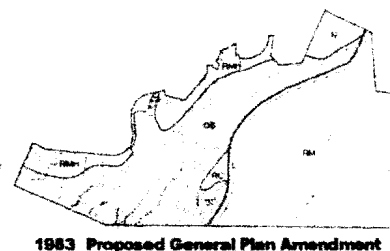
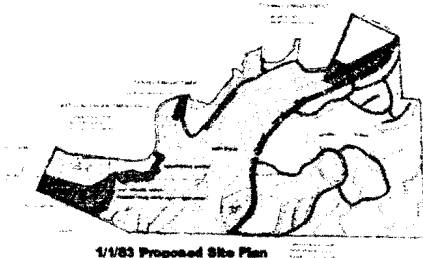
In any case, I am not agreeable to any actions on Planning Area "L" that will erode my rights. Nor, am I willing to participate in any action that might jeopardize my existing vesting.

HISTORY EXHIBIT

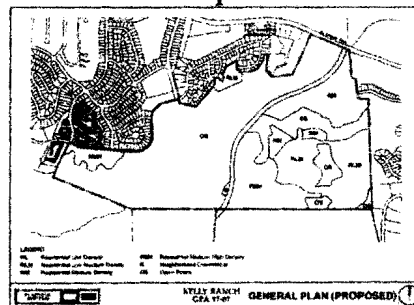
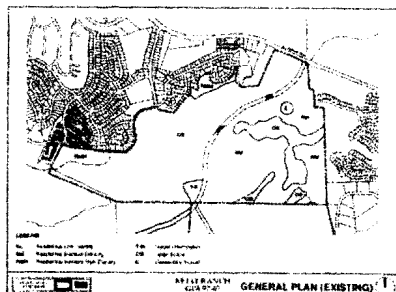
- 1) **Early History:** With taxes and farming costs rising, development began in 1960. The following reflects this early planning.



- 2) **1980:** Cal Communities, Inc. developed an initial / new concept reflected below with input from:
- Initial Environmental Studies
 - Mello II Local Coastal Plan (LCP) and Agua Hedionda Land Use Plan.
 - California Coastal Commission and California Department of Fish and Game
 - United States Corps of Engineers, and United States Department of Fish and Wildlife
 - County of San Diego, City of Carlsbad and numerous other Public and Quasi Public Groups



- 3) **1983:** City approved an application to bring its plans into conformance with the Coastal Plan related to the Agua Hedionda and Mello II Plans. The General Plan and zoning was revised.
- 4) **1984-85:** Kelly Ranch was approved for 1600 units.
- City of Carlsbad approved** the Master Tentative Map (CT 83-30) and Master Plan (MP-174) on September 18, 1984
 - Coastal Commission unanimously approved** the Coastal Permit (#6-84-617) on April 15, 1985. This permit is now "vested" as acknowledged by the Coastal Commission on 1/6/87.
 - Mello II Land Use Plan amended** on October 24, 1985. Policy 3-5 of the LCP established development provisions "due to overriding and extensive wetland preservation and protection.



- 5) **1999:** In 1998 the property was sold to Kelly Land Company, which submitted applications to revise the plan. The new Plan included all the restrictions of the initial approval and Master Plan, but also reduced density and included significant additional constraints on development.

Los Angeles Times

Friday, April 12, 1985

Local News
Editorial Pages

CC-Part II

Carlsbad Development Along Lagoon Wins OK of Coastal Commission

By JENNIFER WARREN, Times Staff Writer

SANTA BARBARA — With little comment and no hesitation, the State Coastal Commission on Thursday unanimously approved a 1,600-unit residential development on the eastern shore of Carlsbad's Agua Hedionda Lagoon.

Although letters of opposition from the Sierra Club and the League for Coastal Protection were presented, no one spoke against the project, which won the commission's endorsement after less than 30 minutes of testimony.

The approval paves the way for the developer, Cal Communities of Irvine, to complete plans for construction of the subdivision—which will be among the largest ever built near to any of North San Diego County's salt lagoons—and a small shopping center. It also represents the final green light necessary for the extension of Camino Road, a major four-lane route, eastward from Interstate 5 to El Camino Real.

"We're delighted and very proud to have won a unanimous vote from the commission," said Wayne Callaghan, president of Cal Communities. "I think this vote shows that the commission appreciates the work we've done to address their concerns and put together a first-class project."

The commission's action comes after months of negotiations between the commission and commission staff members in San Diego, who recommended approval of the development and its associated conditions. Commission members unanimously endorsed a project of such magnitude and complexity.

Commissioner George Shipp III called the vote the beginning of "a new era" in relations between the commission and the developer.

"I'm absolutely delighted to see that the City of Carlsbad and our staff and the developer have worked together on this," Shipp said. "I remember sitting here at other times and seeing something quite different."

(Shipp was referring to the ongoing battle between the commission and Carlsbad over development and preservation of agricultural land in the coastal zone. In 1982, Carlsbad officials refused to prepare a required local coastal plan, and the state Legislature ordered the Coastal Commission to do the job for them.)

In order to receive the commission's nod of approval, however, Cal Communities had to agree to a rather hefty list of conditions. Among them are:

- In exchange for the right to build on more than 300 acres of wetland, the developer must turn over about 200 acres in the wetland plan on the eastern fringe of the lagoon to the state Department of Fish and Game, which will preserve the parcel in perpetuity.

- Cal Communities must construct a large siltation basin at the mouth of the lagoon to trap sediment that is currently swept downstream by Agua Hedionda Creek and dumped into the ocean.

- Numerous lagoon restoration efforts must be undertaken and financed by the developer. These include the removal of

Please see CARLSBAD, Page 1

CARLSBAD: Development on Lagoon Wins Approval

Continued from Page 1

nearly 25,000 cubic yards of fill and landfill from the wetland, the extension of tidal channels at the eastern corner of the lagoon, and the creation of nesting habitat for the California least tern and other endangered birds that frequent Agua Hedionda.

- The developer must construct an interpretive center, to include benches, a walkway, landscaping and parking spaces, on the northern edge of the lagoon, and must fence in a large portion of shoreline to protect bird habitat from homes, pets and off-road vehicles.

- Because the argument of the newly extended Camino Road will destroy about 13 acres of wetland, the developer must provide "mitigation," or create an equal number of acres of new wildlife habitat.

Callaghan and that, overall, he felt the conditions represented a fair compromise.

"We're pleased," he said. "It's been a long road, and this project is a lot different today than it was when we started in 1982. But generally I think we got a fair deal."

Carlsbad Councilman Richard Chuck, who spoke at the meeting, also praised the outcome, calling it "something we're all content with." Chuck said that city officials were particularly anxious to see Camino Road, which runs Interstate 5 to Car Country Carlsbad, extended eastward.

"We desperately need that road to serve the growth that's under way and will continue for the next 20 years in the eastern portion of the city," Chuck said. The road is also expected to serve the growing industrial and business sectors of the city and the proposed Carlsbad Airport and the proposed Carlsbad Canyon Regional Park.

Canyon Regional Park.

By far the most critical aspect of the plan, in the eyes of commission staff members, is the donation to the state of a 1,600-unit wildlife habitat, which will be designated a state ecological reserve when the project is turned over to the agency by Cal Communities, probably near the end of the year.

Protecting that property into public ownership and under local control was very crucial," Lauppe said. "I think we got a good package, although it took a lot of work."

Despite the commission's approval, Callaghan said the Kelly Ranch project is in a sense held hostage by a general plan review under way in Carlsbad. A citizens committee is evaluating the city's general plan and is expected to suggest modifications to the document by July 1. New policies could change permissible densities in the city or institute new regulations governing development in Carlsbad.

Theoretically, even though the city approved our master plan, the project is still in limbo. If the project is approved, the whole project could die if they come up with a whole new general plan," Callaghan said. "Whether or not to be willing—or financially able—to start over again on this, I don't know."

Callaghan said he and another developer assisting on the project, Kaufman and Broad of Southern California, have invested more than \$1 million in the Kelly Ranch over the last two years.

The development will consist of white-family homes and town-

houses, with the density ranging from 4 to 10 units per acre on the eastern shore and up to 20 units per acre on the northern shore, Callaghan said. He said roughly 75% of the site will remain in open space and a small commercial complex will be built on 6 acres alongside Camino Road. Cal Communities had hoped to build a tennis college and recreation facility on the edge of the wetland, but commission staff planners said no.

Two other developers proposing

projects on the shore of another lagoon in Carlsbad—Baltique—were also at the meeting Thursday. Bill Henry, Clement local representative for the Baltimore Hunt brothers of Texas, was on hand looking for clues as his company continues planning for the Pacific Rim Country Club and Resort on 1,300 acres near Baltique.

Joe Briggs was there as well, representing San Diego-based Summit Properties, which hopes to

Please see CARLSBAD, Page 1

CARLSBAD: Project OK'd

Continued from Page 2

build a graduate school, hotel and research park on 160 acres on the northwestern shore of the lagoon.

And sitting quietly in the back of the Santa Barbara County Superior Court chambers was a graying, bearded man in cowboy boots—W. Alan Kelly, whose family has owned the 433-acre site of Kelly

was part of a Mexican land grant made in the early 19th Century.

"This is kind of the end of the line for us," Kelly said somewhat wistfully after the meeting. "We made a decision to allow develop-

ment of this piece a few years ago because we couldn't afford to hold it and pay the taxes any longer. We don't necessarily like it, but there wasn't much we could do."

Earl Lauppe, a wildlife biologist with the California Department of Fish and Game, said

... "Getting that property into public ownership and under lock and key was very critical," Lauppe said. "I think we got a good package, although it took a lot of work."

... commissioners, noting that it is rare that they unanimously endorse a project of such magnitude

... after months of negotiations between Cal Communities and commission staff members in San Diego, who recommended approval

SANTA BARBARA — With little comment and no hesitation, the State Coastal Commission unanimously approved ... Kelly Ranch

Commissioner George Shipp III... called the vote the beginning of "a new era" in relations

"I'm absolutely delighted to see that the City of Carlsbad and our staff and the developer have worked together on this and actually agreed on something," Shipp said

... to obtain the commission's nod, Cal Communities had to agree to a rather hefty list of conditions. Among them are:

- Turn over 200 acres
- Construct a large siltation basin ... to trap sedimentation that is currently swept downstream by Agua Hedionda Creek
- Numerous lagoon restoration efforts must be undertaken and financed by Developer. Includes removal of ... silt and landfill from wetland, extension of tidal channel ... and creation of nesting habitat for California Least tern and other endangered...
- Construct an interpretive center, ...
- Create wildlife habitat...

VEGETATION AND

WHICH "CORE AREA" INCLUDED BIOLOGICAL EXHIBIT DUPLICATES THE EIR PLANT COMMUNITY FINDINGS FOR THE PROJECT ONLY. REFER TO EXHIBIT 1 "VEGETATION AND PLANT ASSOCIATES, FOR THE ORIGINAL EIR PRESENT "CORE AREA" PROJECT INCLUDING PLANT COMMUNITIES, AND EXCLUDING AREAS WITH 154.37 ACRES.

LEGEND

sym	plant community
AG DEV	AGRICULTURE / DEVELOPED
BS	BACCHARIS SCRUB
CCS	COASTAL SAGE SCRUB
DIS	DISTURBED
DMC DIST. SO. MARITIME CHAPARRAL	
DPG	DIST. PERENNIAL GRASSLAND
DCSS	DIST. COASTAL SAGE SCRUB
SMC	SOUTHERN MARITIME CHAP.
MS	MULEFAT SCRUB
NNG	NON-NATIVE GRASSLAND
PG	PERENNIAL GRASSLAND
RU	RUDERAL
RH	RIPARIAN HERB

TOTAL "CORE AREA" INCLUDING NECESSARY OFF-SITE IMPROVEMENTS (ACRES).

DEVELOPMENT ENVELOPE ACREAGE
(Includes fire suppression and remedial grading)

SENSITIVE SPECIES

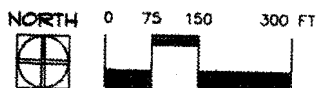
◆ COASTAL CALIFORNIA GNATCATCHER LOCATIONS
(A. D. HENSHAW AND ASSOCIATES, 1998).

- A CALIFORNIA ADOLPHIA
- C WART-STEMMED CEANOTHUS
- D WESTERN DICONDRA
- E CLIFF SPURGE
- G PALMER'S GRAPPLING HOOK
- M SMALL-FLOWERED MICROSERIS
- O NUTTALL'S SCRUB OAK
- S ASHY SPIKE-MOSS

PLANNING AREA E
(NOT A PART)

AGUA HEDIONDA LAGOON
OFFERED FOR DEDICATION TO CDF#6
186 ACRES

SCALE: - 1" = 300'



Rev. July 28, 1999
May 3, 1999

PLANNING AREA E
(NOT A PART)

CORE AREAS* DISTURBED DURING GRADING
OF AREA E ARE TO BE MITIGATED FOR
DURING A SEPARATE REVIEW PROCESS.



PLANNING AREA E
(NOT A PART)

PLANNING AREA E
(NOT A PART)

1000 KARADAY AVE. SUITE 200, CARLSBAD, CA 92008
(760) 938-0700 FAX (760) 938-0701
jshelton@sheltonassociates.net

"CORE AREA" VEGETATION AND SENSITIVE SPECIES MAP
KELLY RANCH HABITAT CONSERVATION PLAN
CARLSBAD, CALIFORNIA

Exhibit 6

MITIGATION / PRESERVE

PLANNING HAS BEEN CONDUCTED FOR THE
LAHAN PARCEL TO DATE

OPEN SPACE DESCRIPTION

THE "CORE AREA" OF KELLY RANCH, INCLUDING NECE
OFF-SITE IMPROVEMENTS, AND EXCLUDING PREVIOUSLY
AREAS, EQUALS APPROXIMATELY 154.37 ACRES. HAS OCCUR WITHIN THE EXISTING DEVELOPMENT
TO REMAIN UNDISTURBED IN THE "CORE AREA" TOTAL
48.98 ACRES. UPLAND HABITAT TO BE REVEGETATED
APPROXIMATELY 10.93 ACRES. TOTAL ACREAGE TO
FOR OPEN SPACE PRESERVE DEDICATION EQUALS 61.

ACRES OF EXISTING VEGETATION ALLOTTED
MITIGATION DURING AREA E PERMIT PROCESS.

AS DISTURBED DURING GRADING OF
AREA E ARE TO BE MITIGATED FOR
A SEPARATE REVIEW PROCESS.

LEGEND

PRESERVATION

APPROXIMATE LIMITS OF EXISTING NATIVE
VEGETATION TO REMAIN UNDISTURBED

COASTAL SAGE SCRUB - 37.14 acres
SO. MARITIME CHAPARRAL - 7.41 acres
OTHER HABITAT - 4.52 acres

HABITAT REVEGETATION

APPROXIMATE LIMITS OF COASTAL SAGE SCRUB
REVEGETATION PROPOSED FOR MANUFACTURED
SLOPES OR EASEMENT REVEGETATION.

APPROXIMATE LIMITS OF SO. MARITIME
CHAPARRAL REVEGETATION PROPOSED FOR
SLOPES, EASEMENTS, & CERTAIN FLAT AREAS.

TOTAL PRESERVE / REVEGETATION AREA
(TO BE OFFERED FOR DEDICATION AS A
BIOLOGICAL OPEN SPACE EASEMENT DURING
THE "CORE AREA" PERMITTING PROCESS).

FIRE SUPPRESSION ZONES

FIRE SUPPRESSION ZONE REVEGETATED
WITH MODERATE AND LOW FUEL COASTAL
SAGE SCRUB SPECIES.

FIRE SUPPRESSION ZONE REVEGETATED
WITH MODERATE AND LOW FUEL SO. MARITIME
CHAPARRAL SPECIES.

TOTAL FIRE SUPPRESSION ACREAGE

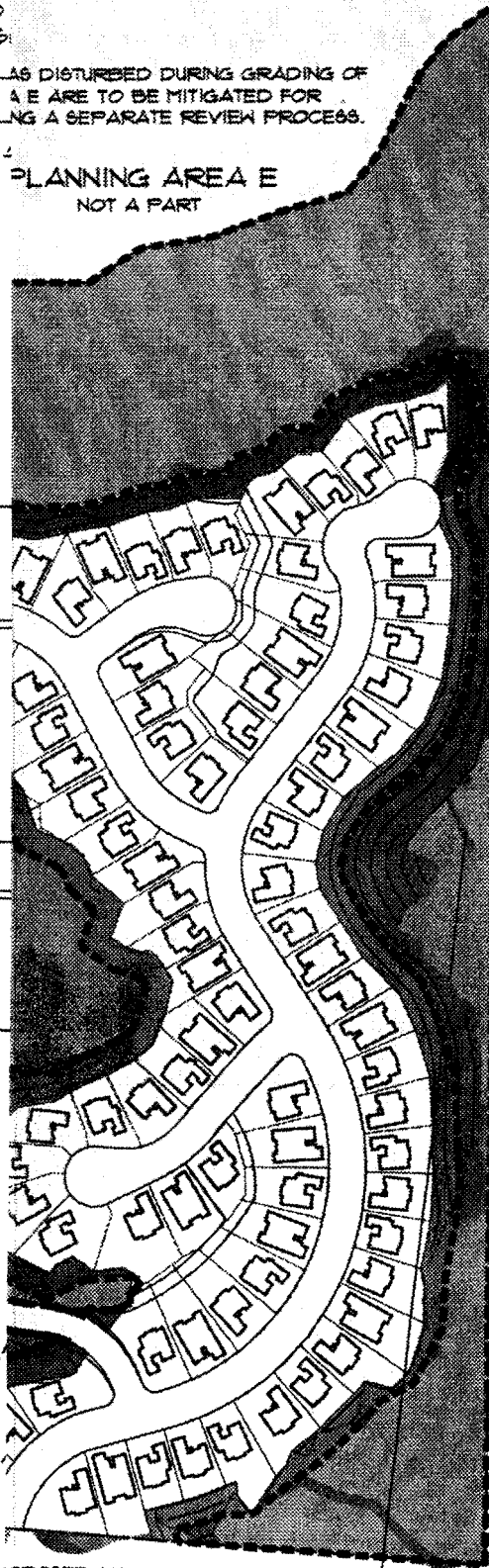
TOTAL HABITAT ACREAGE

PRESERVATION - 49.67 acres
REVEGETATION - 10.93 acres
FIRE SUPPRESSION - 9.59 acres

PRESERVE HABITAT

AGRICULTURE / DEVELOPED
COASTAL SAGE SCRUB
DISTURBED
DIST. SO. MARITIME CHAPARRAL
DIST. PERENNIAL GRASSLAND
DIST. COASTAL SAGE SCRUB
SOUTHERN MARITIME CHAP.
NON-NATIVE GRASSLAND
PERENNIAL GRASSLAND

PLANNING AREA E
NOT A PART



KELLY RANCH PROPERTY LINE

"CORE AREA" MITIGATION / PRESERVATION PLAN
KELLY RANCH HABITAT CONSERVATION PLAN
CARLSBAD, CALIFORNIA

LAND USE CONSULTING
PLANNING SYSTEMS
1830 PARADISE AVE. SUITE 100 CARLSBAD, CA 92008
(760) 931-0780 FAX (760) 931-0744
planning@landuseconsulting.com

EXHIBIT II

SCALE: - 1" = 100'

NORTH 0 75 150 300 FT



Rev. MARCH 3, 2000 (minor)
Rev. JULY 30, 1999
MAY 3, 1999

PS: 056238 FILE NAME: 056MIT48.DWG

PROPOSED 10' DRAINAGE EASEMENT
(REVEGETATED)

PROPOSED 20' WATER EASEMENT
(TEMPORARY IMPACT)

State of California
Coastal Commission

San Diego District

MEMORANDUM

TO: Commissioners and
Interested Parties

July 7, 2000

FROM: Staff

SUBJECT: LCP Addendum to Commission Meeting for Tuesday, July 11, 2000
San Diego District

LOCAL COASTAL PROGRAMS

DESCRIPTION

PAGE

Tues 8b City of Carlsbad LCPA #2-99D
Kelly Ranch

Revision to Staff Report
Additional and Revised Exhibit
Letter from Dept. of Fish & Game

1 - 11
12 - 14
15 - 16

100

Tue 8b

Addendum

July 7, 2000

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Tue 8b**, City of Carlsbad Agua Hedionda and Mello II LCP
Amendment #2-99D - Kelly Ranch, for the Commission Meeting of July
11, 2000

Staff recommends the following changes be made to the above-referenced staff report (language to be deleted is ~~struck out~~ and language to be added is underlined or **bold** if previously added):

On Page 5, add the following language which was inadvertently omitted from the last sentence at the end of the page:

Areas that were previously designated for residential development are proposed for residential development; however, proposed open space boundaries have changed in recognition of the City of Carlsbad's draft Habitat Management Plan (HMP) which the City and developed pursuant to the Natural Community Conservation Planning Act (NCCP). In addition, the commercial use designation would be eliminated.

On Page 6, add the following and the numerical value which was omitted from the fourth sentence in the first full paragraph:

The amount of open space in the proposed plan for the 154 acre Core Area (excluding Planning Area L) is 60.6 acres compared to approximately 75 acres of open space in the currently approved master plan (including Planning Area E and L). The proposed open space (hardline preserve) includes 49.67 acres (37.74 ac. coastal sage scrub, 7.41 acres southern maritime chaparral and 4.52 ac. other) of existing native vegetation to remain undisturbed. There is also 7.94 acres of coastal sage scrub revegetation proposed for manufactured slopes or easement revegetation, and 2.99 acres of southern maritime chaparral revegetation proposed for slopes, easements and some flat areas.

Add the following corrections and revisions to the identified Suggested Modifications:

Add the following to the Agua Hedionda LCP Land Use Plan as an additional Suggested Modification:

Landscaping Requirements. - Add new Section 3.12 to read:

Landscaping shall be utilized as a visual buffer and be compatible with the surrounding native vegetation and preserved open space. All development shall be required to identify and implement a landscaping plan that provides for installation of plant species that are native or non-invasive and drought tolerant to the maximum extent feasible. Ornamental (non-invasive) vegetation shall be permitted within the interior of residential subdivisions only;

Page 15, revise Suggested Modification #7 to read as follows:

7. Water Quality - Add Section 5.10 to read:

All new development, substantial rehabilitation, redevelopment or related activity, shall be designed and conducted in compliance with all applicable local ordinances including Chapter 15.12 of the Carlsbad Municipal Code Stormwater Management and Discharge Control Ordinance, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments, and the San Diego NPDES Municipal Storm Water Permit issued to San Diego County and Cities by the California Regional Water Quality Control Board (Regional Board Order No. 90-42) and any amendment, revision or re-issuance thereof.

In addition the following shall apply:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or Best Management Practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the following specific requirements shall be applied to development of type and/or intensity listed below:

Residential Development

Development plans for, or which include residential housing development with greater than 10 housing units shall include a drainage and polluted runoff control plan prepared by a licensed engineer, designed to infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event, prior to conveying runoff in excess of this standard to the stormwater conveyance system. The plan shall be reviewed and approved by the consulting soils engineer or engineering geologist to ensure the plan is in conformance with their recommendations. The plan shall be designed in consideration of the following criteria, and approved prior to issuance of a coastal development permit:

- a. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and /or design site with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- b. Use porous materials for or near walkways and driveways where feasible;
- c. Incorporate design elements which will serve to reduce directly connected impervious area where feasible. Options include the use of alternative design features such as concrete grid driveways, and/or pavers for walkways. Install rain gutters and orient them towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.
- d. Runoff from driveways, streets and other impervious surfaces shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices, where feasible. Selected filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner.
- e. Selected BMPs shall be engineered and constructed in accordance with the design specifications and guidance contained in the California Stormwater Best Management Practices Handbook (Municipal).
- f. The plan must include provisions for regular inspection and maintenance of structural BMPs, for the life of the project.

Parking Lots

Development plans for, or which include parking lots greater than 5,000 sq.ft. in size and/or with 25 or more parking spaces, susceptible to stormwater, shall:

- a. Incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed to collectively infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. BMPs shall be engineered and constructed in accordance with the guidance and specifications provided in the California Stormwater Best Management

Handbooks Handbooks (Commercial and Industrial) and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks

All Development

- a. A public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs;
- b. A landscape management plan that includes herbicide/pesticide management.

Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision and/or development stage, as appropriate.

On Page 9, correct the first paragraph of Suggested Modification #9 as follows:

9. Revised Land Use Plan and Zoning Maps - The City shall prepare revised LCP Land Use Plan and Zoning maps, to replace the approved Kelly Ranch Master Plan, for the Mello II LCP segment. The revised maps shall delineate the proposed Planning Areas D through J L and the residential land use designation and zoning assigned to each area as follows:

On Page 17, revise Suggested Modification #10 as follows:

10. Revised Open Space Map - The City shall prepare a revised LCP Kelly Ranch Open Space map for the entire Kelly Ranch which shall include Planning Area boundaries and topography and shall delineate the following areas, shown in concept on Exhibit 17 20, as open space. The exact location of the open space boundary shall be determined utilizing a recent topographic survey and aerial photography, to be prepared by the City for review and written approval by the Executive Director, prior to submittal to the City Council.

- a. Planning Areas B and F in their entirety, as proposed;
- b. Revise the open space delineation in Planning Area D to extend the southern limit of the proposed open space west to Cannon Road such that all of Planning Area D northern of the southern limit of the "hardline" is open space (shown in concept on Exhibit 14); however, this open space delineation may be modified to accommodate daycare facilities and RV parking which meet the following criteria, subject to an approved coastal development permit: a) In no case shall the designated open space corridor be less than 800 feet including the desiltation basin on Planning Area E; b) No development shall encroach into jurisdictional wetlands mapped by the ACOE; c) The facilities shall be located on the least environmentally sensitive portion of the site, and within non-native

grassland and/or disturbed agricultural area to the maximum extent possible; and, d) The area utilized for these uses shall be the minimum size necessary to satisfy the requirements of the City of Carlsbad Zoning Code.

- c. Planning Areas H and K, open space boundaries as proposed;
- d. Revise the open space delineation in Planning Area I to include the proposed access roads;
- e. Revise the open space delineation in Planning Area J to include the proposed access roads, proposed lots 72, 73 and 74 and the north-facing slopes adjacent to those lots. Also, the eastern limit of the open space delineation on the west-facing slopes of Planning Area J shall extend up to the ridgeline and include the slopes greater than 25% grade as shown on the Steep Slope Analysis-Kelly Ranch dated 8-21-97 and shown in concept on Exhibit 15; and,
- f. The open space delineation on Planning Area L shall include the northern and eastern portion of the planning area including the east and north facing slopes greater than 25% grade ~~and the flat, disturbed area south of the approximate 195-foot contour, as shown on the Slope Analysis – Area L submitted 9-24-99, the Diegan Coastal Sage Scrub as shown on the Vegetation Mapping prepared by Planning Systems attached as Exhibit 21, and the flat, disturbed ridgeline north of the approximate 195 foot contour.~~ This open space is shown in concept on Revised Exhibit 16.

On Page 22, revise Suggested Modification #13 to read as follows:

13. Water Quality - Add the following as new subsection Policy 3-5 (i):

All new development, substantial rehabilitation, redevelopment or related activity, shall be designed and conducted in compliance with all applicable local ordinances including Chapter 15.12 of the Carlsbad Municipal Code Stormwater Management and Discharge Control Ordinance, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments, and the San Diego NPDES Municipal Storm Water Permit issued to San Diego County and Cities by the California Regional Water Quality Control Board (Regional Board Order No. 90-42) and any amendment, revision or re-issuance thereof.

In addition the following shall apply:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or Best Management Practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the

following specific requirements shall be applied to development of type and/or intensity listed below:

Residential Development

Development plans for, or which include residential housing development with greater than 10 housing units shall include a drainage and polluted runoff control plan prepared by a licensed engineer, designed to infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event, prior to conveying runoff in excess of this standard to the stormwater conveyance system. The plan shall be reviewed and approved by the consulting soils engineer or engineering geologist to ensure the plan is in conformance with their recommendations. The plan shall be designed in consideration of the following criteria, and approved prior to issuance of a coastal development permit:

- a. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and /or design site with the capacity to convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- b. Use porous materials for or near walkways and driveways where feasible;
- c. Incorporate design elements which will serve to reduce directly connected impervious area where feasible. Options include the use of alternative design features such as concrete grid driveways, and/or pavers for walkways. Install rain gutters and orient them towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.
- d. Runoff from driveways, streets and other impervious surfaces shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices, where feasible. Selected filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner.
- e. Selected BMPs shall be engineered and constructed in accordance with the design specifications and guidance contained in the California Stormwater Best Management Practices Handbook (Municipal).
- f. The plan must include provisions for regular inspection and maintenance of structural BMPs, for the life of the project.

Parking Lots

Development plans for, or which include parking lots greater than 5,000 sq.ft. in size and/or with 25 or more parking spaces, susceptible to stormwater, shall:

- a. Incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed to collectively infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. BMPs shall be engineered and constructed in accordance with the guidance and specifications provided in the California Stormwater Best Management Handbooks Handbooks (Commercial and Industrial) and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks

All Development

- a. A public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs;
- b. A landscape management plan that includes herbicide/pesticide management.

Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision and/or development stage, as appropriate.

On Page 23, add the following to Suggested Modification #14 (in bold):

14. Vista Points – Add the following as new subsection Policy 3-5 (j f) and develop a Scenic Resource map indicating the designated vista point(s) within Kelly Ranch:

(f) Public vista points shall be provided at two locations, one each in Planning Areas J and the other either entirely within Planning Area L or including portions of Planning Area L and the disturbed high points of adjacent Planning Area D, to provide views of the Pacific Ocean, Agua Hedionda Lagoon and its environs, and shall be accessible to the public at large. Vista points may be located in disturbed open space areas subject to approval by the Department of Fish and Game. Support parking shall be provided and may be located either on-street or off-street within close proximity to the vista point(s). Dedications necessary to provide the vista points and access to the vista

points shall be a condition of coastal development permit approval at the subdivision stage.

On Page 24, in Suggested Modifications #15 and 16, revise the reference to Policy 3-5 to sections (k) and (l) resp.

On Page 27, add the following to Suggested Modification #19:

19. Water Quality - Add the following as new Section 21.203.040 (B) 4) j):

All new development, substantial rehabilitation, redevelopment or related activity, shall be designed and conducted in compliance with all applicable local ordinances including Chapter 15.12 of the Carlsbad Municipal Code Stormwater Management and Discharge Control Ordinance, the Standard Specifications for Public Works Construction when performing public work, and applicable provisions of the NPDES General Permit for Storm Water Discharges Associated with Construction Activity issued by the State Water Resources Control Board (State Board Order No. 92-08-DWQ), and any subsequent amendments, and the San Diego NPDES Municipal Storm Water Permit issued to San Diego County and Cities by the California Regional Water Quality Control Board (Regional Board Order No. 90-42) and any amendment, revision or re-issuance thereof.

In addition the following shall apply to development within Kelly Ranch:

New development and significant redevelopment of private and publicly owned properties, must incorporate design elements and/or Best Management Practices (BMPs) which will effectively prevent runoff contamination, and minimize runoff volume from the site in the developed condition, to the greatest extent feasible. At a minimum, the following specific requirements shall be applied to development of type and/or intensity listed below:

Residential Development

Development plans for, or which include residential housing development with greater than 10 housing units shall include a drainage and polluted runoff control plan prepared by a licensed engineer, designed to infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event, prior to conveying runoff in excess of this standard to the stormwater conveyance system. The plan shall be reviewed and approved by the consulting soils engineer or engineering geologist to ensure the plan is in conformance with their recommendations. The plan shall be designed in consideration of the following criteria, and approved prior to issuance of a coastal development permit:

- a. Maximize the percentage of permeable surfaces and green space to allow more percolation of runoff into the ground and /or design site with the capacity to

- convey or store peak runoff from a storm and release it at a slow rate so as to minimize the peak discharge into storm drains or receiving water bodies;
- b. Use porous materials for or near walkways and driveways where feasible;
 - c. Incorporate design elements which will serve to reduce directly connected impervious area where feasible. Options include the use of alternative design features such as concrete grid driveways, and/or pavers for walkways. Install rain gutters and orient them towards permeable surfaces rather than driveways or impermeable surfaces in order to facilitate percolation of rainfall into the ground instead of flowing off site.
 - d. Runoff from driveways, streets and other impervious surfaces shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices, where feasible. Selected filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner.
 - e. Selected BMPs shall be engineered and constructed in accordance with the design specifications and guidance contained in the California Stormwater Best Management Practices Handbook (Municipal).
 - f. The plan must include provisions for regular inspection and maintenance of structural BMPs, for the life of the project.

Parking Lots

Development plans for, or which include parking lots greater than 5,000 sq.ft. in size and/or with 25 or more parking spaces, susceptible to stormwater, shall:

- a. Incorporate BMPs effective at removing or mitigating potential pollutants of concern such as oil, grease, hydrocarbons, heavy metals, and particulates from stormwater leaving the developed site, prior to such runoff entering the stormwater conveyance system, or any receiving water body. Options to meet this requirement include the use of vegetative filter strips or other media filter devices, clarifiers, grassy swales or berms, vacuum devices or a combination thereof. Selected BMPs shall be designed to collectively infiltrate, filter or treat the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. BMPs shall be engineered and constructed in accordance with the guidance and specifications provided in the California Stormwater Best Management Handbooks Handbooks (Commercial and Industrial) and sized in accordance with the guidance provided in the California Stormwater BMP Handbooks

All Development

- a. A public education program designed to raise the level of awareness of water quality issues around the lagoon including such elements as catch basin stenciling and public awareness signs;
- b. A landscape management plan that includes herbicide/pesticide management.

Such measures shall be incorporated into project design through a water quality/urban runoff control plan and monitoring program to ensure the discharge from all proposed outlets is consistent with local and regional standards. Such measures shall be required as a condition of coastal development permit approval at the subdivision stage.

On Page 29, modify the first section of Suggested Modification # 21 as follows (in bold and ~~strikeout~~):

21. Landscaping Requirements – Add the following as new Section 21.203.040 (H):

H. Within the Kelly Ranch, landscaping shall be utilized as a visual buffer and be compatible with the surrounding native vegetation and preserved open space by incorporation of the following measures:

- a. All residential development shall be required to identify and implement a landscaping plan that provides for installation of plant species that are native or ~~naturalizing~~, non-invasive and drought tolerant to the maximum extent feasible. Ornamental (**non-invasive**) vegetation shall be permitted in the interior of residential subdivisions only;

On Page 56, the following corrections should be made at the end of the first paragraph and beginning of the second paragraph:

A steep, naturally-vegetated knoll is located south of the proposed access road within the southern portion of Planning Area D G which contains coastal sage scrub. A-approx. .39 acre portion of this knoll is proposed as open space, and the remainder would be impacted by the access road and development in Planning Area D G. In the certified master plan approximately .95 acres of this knoll was retained in open space.

Proposed Planning Area G is adjacent to the east of Cannon Road and is immediately south of Planning Area D ~~and G~~.

On Page 58, add the following numerical value to the second sentence of the second paragraph which was omitted:

Expansion of the open space up to the west-facing ridgeline and on the north-facing slopes to include approximately .82 ac. of additional open space where the Core Area development plan shows Lots 72, 73 and 74, would substantially reduce the impacts to

environmentally sensitive habitat area.

On Pages 59 and 60, the last paragraph on page 59 and the first two paragraphs on page 60 should be revised to read as follows:

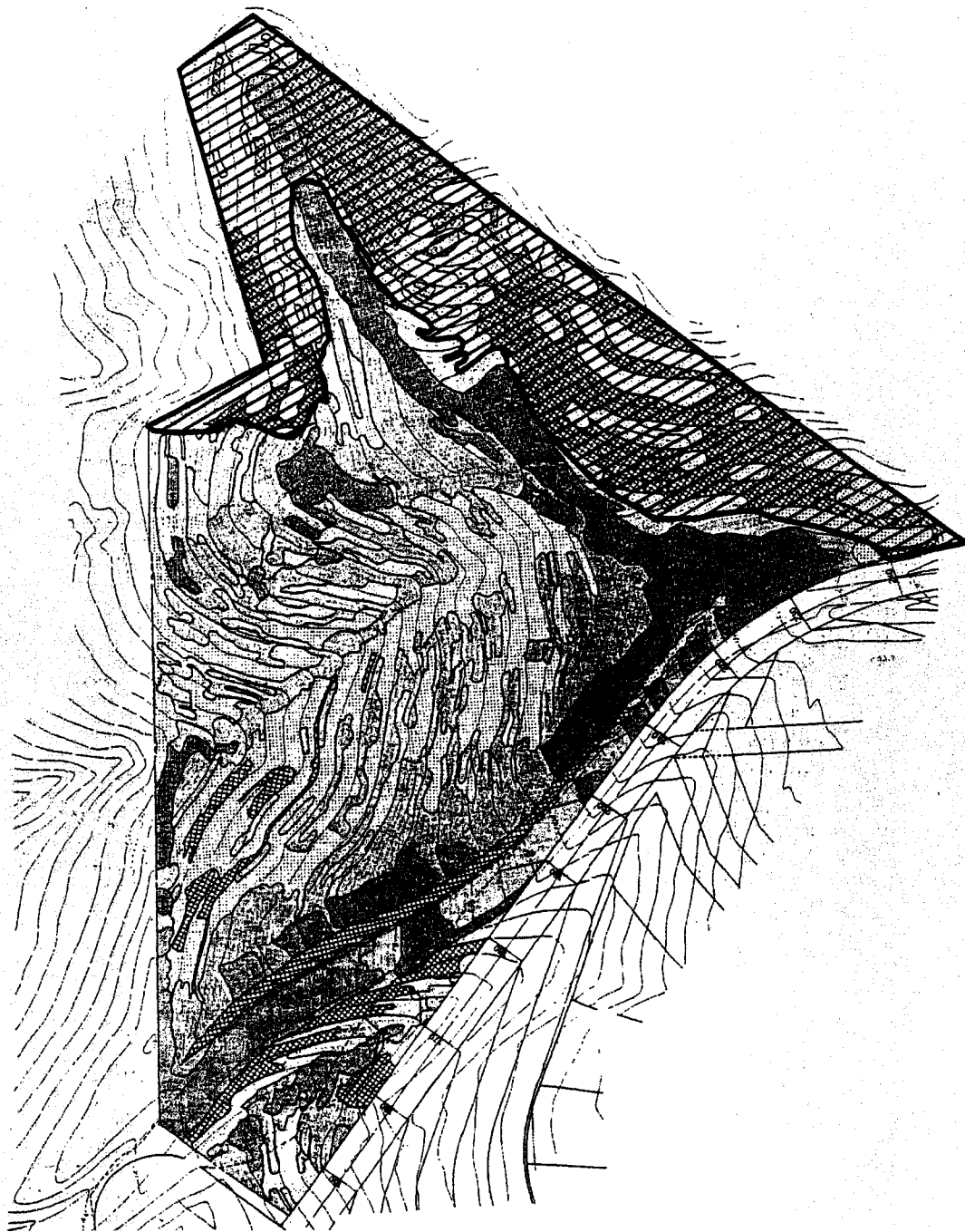
The Commission finds that the northern and eastern slopes on this Planning Area L are environmentally sensitive habitat areas containing coastal sage scrub or southern maritime chaparral vegetation and are protected by Section 30240 of the Coastal Act. These slopes and vegetation provide valuable habitat for the gnatcatcher as well as other sensitive species. In addition, these slopes are significant natural landforms which are contiguous with the proposed open space system and major habitat corridors. Therefore, the Commission finds that the environmentally sensitive habitat area and steep slopes on the eastern and northern portion of proposed Planning Area L should be designated as open space as part of this LCP amendment.

Additional and Revised Exhibits:

Add Revised Exhibit No. 16 to reflect minor changes to the open space on Planning Area L to reflect the vegetation mapping prepared for Area L by Planning Systems attached as new Exhibit No. 21.

Add New Exhibit No. 20 to show the difference between Planning Area L open space in the 1985 Master Plan compared to the staff recommended open space for LCPA #2-99D.

Open Space Recommendation Area L



Area Recommended as Open Space

Source: Slope Analysis - Area L, 9-24-99

--NOTE--

The information depicted on this map is subject to revision. No scale. Locations are approximate. For illustrative purposes only.



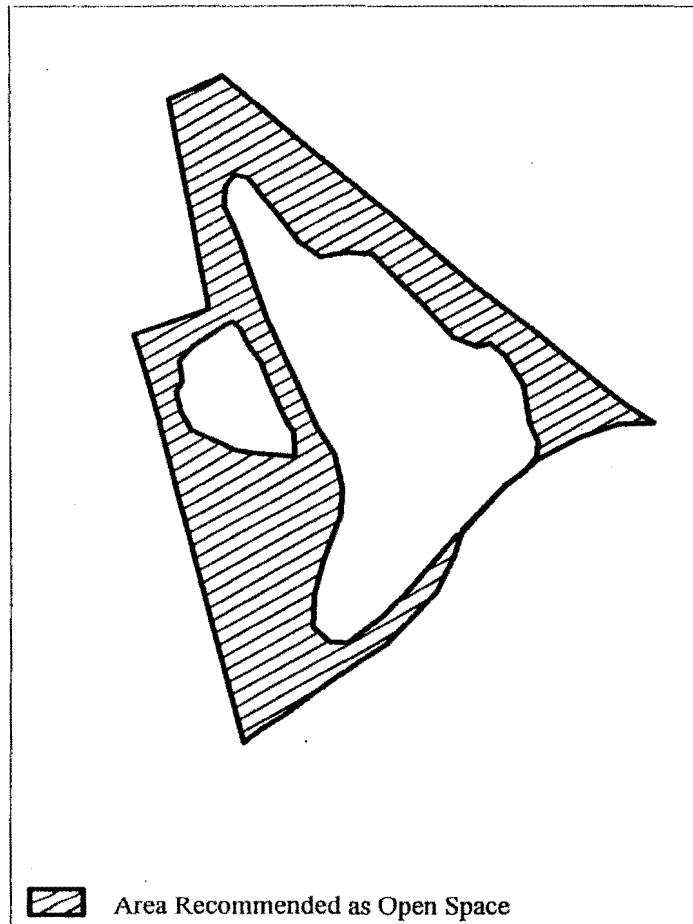
California Coastal Commission
Technical Services Unit

Revised Exhibit No. 16
Carlsbad LCPA 2-99D

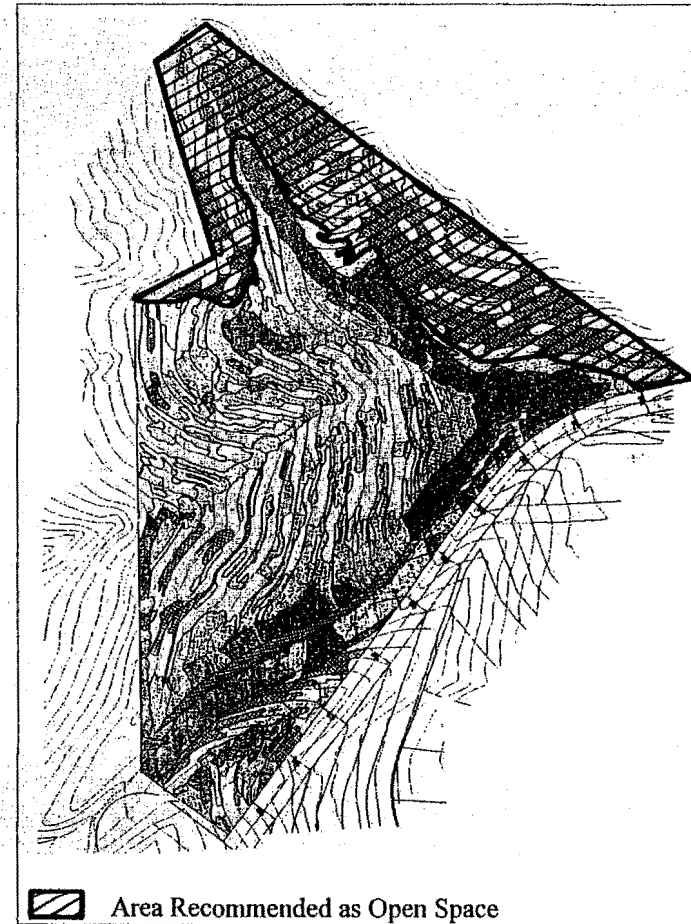
KLH 07-07-00

Area L Open Space Comparison

13



1985 Plan



Current Recommendation

Exhibit No. 20
Carlsbad LCPA 2-99D



California Coastal Commission
Technical Services Unit

Exhibit No. 20
Carlsbad LCPA 2-99D

--NOTE--

The information depicted on this map is subject to revision. No scale. Locations are approximate. For illustrative purposes only.

Source: Slope Analysis - Area L, 9-24-99

KLH 07-07-00

PLAN NOTE:

This map is a reduced reproduction of the 40 scale Vegetation Mapping generated by Pacific Southwest Biological Service(PSBS), on February 14, 2000. Hand written plan text and vegetation boundary lines are by PSBS. Abbreviated plant community symbols and Area Calculations, by digital planimeter, are by Planning Systems.

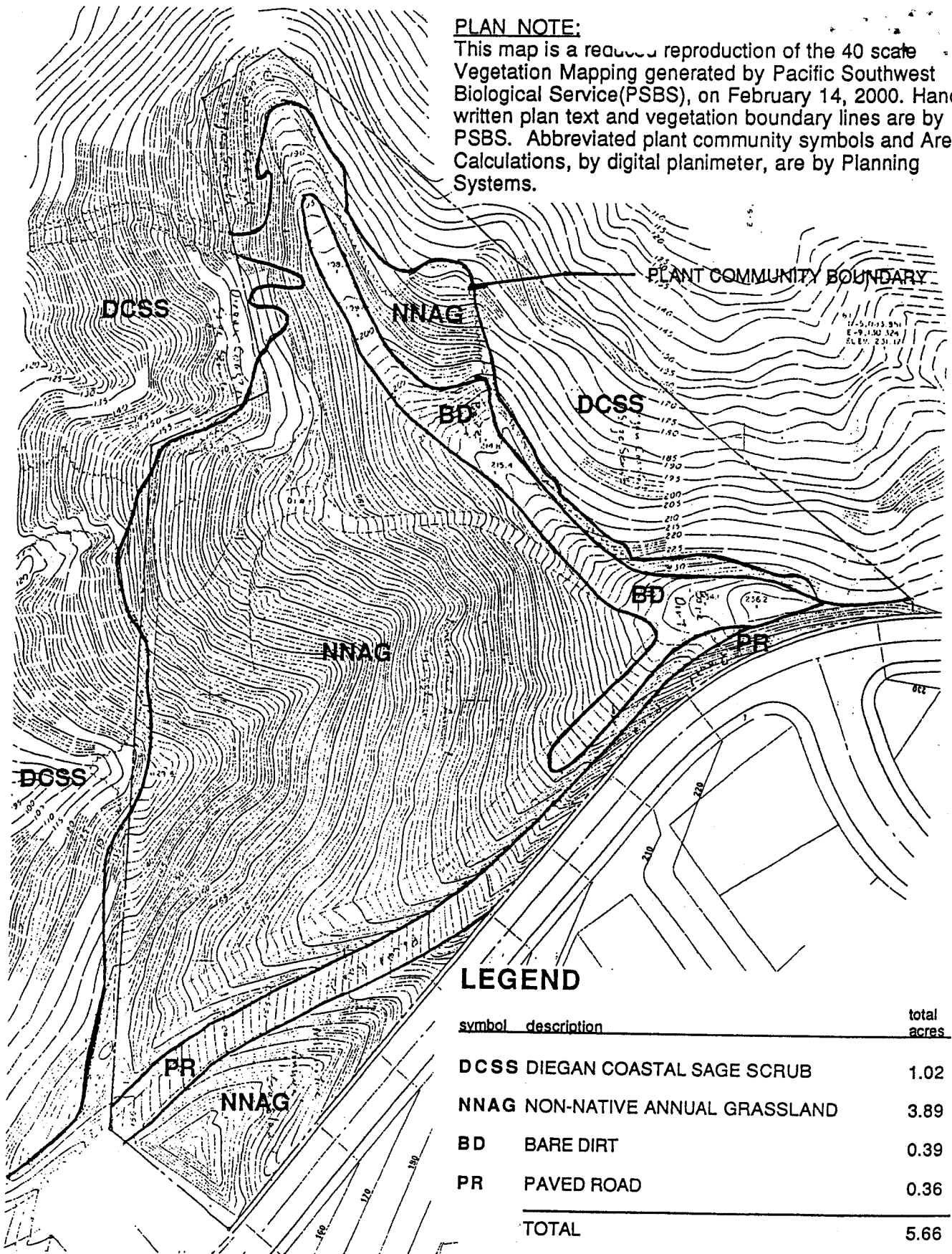


EXHIBIT 4
VEGETATION MAPPING
AREA L - KELLY RANCH
CARLSBAD, CALIFORNIA

Impacts / Mitigation Program - Planning Area L at Kelly Ranch



#991144



100 SCALE

0 25 50 100



EXHIBIT NO. 21

Carlsbad LCPA 2-99D

Planning Area "L"
Vegetation Mapping by
Planning Systems 2/2000

California Coastal Commission

14

DEPARTMENT OF FISH AND GAME

South Coast Region
4942 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4239



RECEIVED

July 3, 2000

JUL 06 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Ms. Sara Wan, Chairperson
California Coastal Commission
22350 Carbon Mesa Rd.
Malibu, California 90265

Dear Chairperson Wan:

Carlsbad LCP Amendment 2-99D, Kelly Ranch

As you know, the Department of Fish and Game has worked extensively with the U.S. Fish and Wildlife Service, the Resources Agency, local governments and private landowners, to prepare conservation plans under the California Natural Community Conservation Planning (NCCP) Act. We have worked diligently over the last several years with the City of Carlsbad and participating Carlsbad landowners to prepare their Habitat Management Plan (HMP), which constitutes an NCCP subarea plan within the Multiple Habitat Conservation Program (MHCP) for northwestern San Diego County.

The goal of NCCP is to establish an ecosystem conservation program with a regional scope to conserve sensitive and diverse biological resources, including endangered species, while allowing reasonable development consistent with the adopted NCCP and local land use policies. The conservation strategy addresses protection of core habitat areas, functional wildlife corridors and habitat linkages which will support the full array of native vegetation and animal species over time.

The basic tenets of conservation biology form the foundation of the NCCP approach to ensuring biological diversity. The preserve system should focus on protecting large blocks of contiguous habitat to serve as core reserves for wildlife. The plan should avoid protecting isolated, "postage stamp" sized habitat blocks as these have greater edge effects from adjacent human uses and can actually result in higher mortality rates resulting in a net loss to species. Small reserve areas are only effective for speciality preserves for highly endangered species that are found nowhere else. Core reserves should be close together and connected through habitat linkages that are of sufficient size to provide liveable wildlife habitat, not a narrow, tenuous connection. Establishing preserves on a regional basis is much more effective than protecting parcels on an individual, case-by-case basis. A regional preserve system should contain a diverse representation of physical and environmental conditions, and should largely be protected from significant human disturbance.

The City of Carlsbad HMP and the active participation by Kelly Ranch exemplify how the NCCP program is intended to work. It is a cooperative effort among federal, state and local

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governments along with property owners to balance sound resource preservation, protection and enhancement with development. Large projects, such as the Kelly Ranch and other coastal zone projects, fit well with the region-wide MHCP. The Kelly Ranch plan as agreed to by the City of Carlsbad, the property owner, and the wildlife agencies results in a far superior biological conservation program than the previously approved 1985 plan.

Prior to review by the Coastal Commission, the participating groups have conducted lengthy negotiations resulting in a consensus-based resolution of biological and development issues for a regional preserve system that fully meets the NCCP conservation standards. We respectfully urge the Commission to participate in and support the development of regional preserve systems through the NCCP process.

If you have any questions regarding these comments, please feel free to contact Mr. Bill Tippetts, at (858) 467-4212 for more information.

Sincerely,



C. F. Raysbrook
Regional Manager

cc: California Resources Agency
Mary Nichols
Sacramento

Department of Fish and Game
Robert Hight
Sacramento

California Coastal Commission:
Peter Douglas, San Francisco
Chuck Damm, San Diego

Planning Systems
Tom Hageman

GPresley:gp/sl
File:Chron
file: kelly ranch ltr