

CALIFORNIA COASTAL COMMISSION

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September 20, 2001

Fri 7b

TO: COMMISSIONERS AND INTERESTED PERSONS

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

**SUBJECT: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
AMENDMENT NO. 1-2001D (Buerger Subdivision) (For Public Hearing and
Possible Commission Action at the Meeting of October 9-12, 2001)**

SYNOPSIS**Summary of Amendment Request**

The subject amendment request revises the certified Local Coastal Plan (LCP) Implementation Program. The request rezones a 5.04-acre site (Buerger) from Limited Control (L-C) to One Family Residential with a Qualified Development Overlay (R-1-7, 500-Q). On April 20, 2001, the City of Carlsbad's proposed Local Coastal Program Amendment (LCPA) #00-04 was filed in the San Diego District office, and was determined to be complete on June 22, 2001. At the August 2001 meeting, a time extension on the LCP amendment package was granted by the Commission so that the amendment request could be heard at the October 2001 meeting. A location map of the Buerger property, and a plan of the Buerger development proposal, are attached as **Exhibits 1 and 2**.

Summary of Staff Recommendation

Staff is recommending approval of the proposed LCP amendment as submitted. The Buerger rezone is consistent with the certified Mello II land use plan (LUP) underlying land use designations of Residential Low to Medium Density (RLM). The site is mostly flat and with only minor areas of steep slopes, and does not contain significant sensitive habitat or listed species in the proposed development area. Field investigation by Commission staff has confirmed the applicant's representation that some isolated and/or immature plants associated with coastal sage scrub communities are scattered randomly throughout the site, consistent with the natural recovery process of a former agriculture site that has not been actively used for agricultural purposes in the last few years. These plants, however, do not currently comprise a native vegetation community and are not considered to be part of an

environmentally sensitive habitat area (ESHA). The associated development proposal would create 12 single-family residential lots ranging from 8,750 to 20,000 square feet in size, and an open space lot of approximately 25,700 square feet.

The Buerger site lies within a "standards area" proposed by the draft Carlsbad Habitat Management Plan (HMP), and within Local Facilities Management Zone 20 (Zone 20) as defined by the City's Growth Management Plan (GMP). Standards areas in Zone 20 which are located between Linkage F and Core Area #6 in the draft HMP are intended to support preservation of sensitive habitat and enhance wildlife movement between these areas. **Exhibit 3** shows the zones and linkage areas. The proposed Buerger subdivision complies with the draft HMP standards for Zone 20. Approval of the proposed LCP amendment would not prejudice the proposed core and linkage alignment or reduce the draft HMP's protective measures for sensitive habitat and endangered species.

The appropriate resolutions and motions can be found on Page 4. The findings for approval of the Implementation Plan amendment begin on Page 5.

BACKGROUND

Major review issues and background information are summarized below, and are analyzed in greater detail in the Findings section beginning on page 5:

Carlsbad Local Coastal Program (LCP)

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

The Buerger site is currently zoned L-C (Limited Control). The purpose of the L-C zoning designation is to provide an interim zone for areas where planning for future land uses has not been completed or plans for development have not been formalized. A number of L-C properties, which were formerly used for agriculture but are now becoming ready for development, exist within the coastal zone. The LUP does not specifically address the L-C or E-A zoning designations, or provide direction for a coordinated, orderly transition of these properties from agricultural and interim uses to residential development. Commission staff previously communicated to the City in other staff reports and in a letter dated August 27, 2001, that the LCP should be amended to provide this direction for the remaining L/C

properties, particularly since many of these properties contain sensitive habitat and endangered species and are proposed for inclusion in the draft HMP. However, the proposed rezone for this particular site does not create any impacts which require additional resource planning or mitigation, such as habitat or wildlife loss.

Carlsbad Habitat Management Plan (HMP)

The Carlsbad HMP is being prepared to satisfy the requirements of a federal Habitat Conservation Plan (HCP), and as a subarea plan of the regional Multiple Habitat Conservation Plan (MHCP). The MHCP study area involves approximately 186 square miles in northwestern San Diego County. This area includes the coastal cities of Carlsbad, Encinitas, Solana Beach and Oceanside, as well as the inland cities of Vista and San Marcos and several independent special districts. The participating local governments and other entities will implement their portions of the MHCP through individual subarea plans such as the Carlsbad HMP. Once approved, the MHCP and its subarea plans will replace interim restrictions placed by the U.S. Fish and Wildlife Services (USFWS) and the California Department of Fish and Game (CDFG) on impacts to coastal sage scrub and gnatcatchers within that geographical area, and will allow the incidental take of the gnatcatcher and other covered species as specified in the plan.

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from **Keri Akers** at the San Diego Area Office of the Coastal Commission at 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402, (619) 767-2370.

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

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

B. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those 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 resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. **MOTION:** *I move that the Commission reject the City of Carlsbad Mello II Implementation Program Amendment #1-2001D as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

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

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Mello II Implementation Program Amendment #1-2001C as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP), and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

**PART IV. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD MELLO II
IMPLEMENTATION PLAN AMENDMENT #1-2001D (BUERGER
SUBDIVISION)**

A. Purpose and Intent of the Ordinance

The purpose and intent of the One Family Residential with a Qualified Development Overlay zone (R-1-7, 500-Q) is to allow for single-family residential housing and associated amenities. The L-C zone designation is given to agricultural or formerly agricultural properties which were annexed into the City, and is an interim zone for areas where planning for future land uses has not been completed or plans of development have not been formalized. The proposed R-1-7, 500-Q zone is compatible with the existing adjacent residentially zoned properties and probable future residential zones of the adjacent L-C, P-C (Planned Community), and R-1-Q zoned property.

B. Major Provisions of the Ordinance

The amendment provides for the change of zoning of the identified parcel from L-C to R-1-7, 500-Q. The R-1-7, 500-Q zone allows single-family residential housing and associated amenities, sets a minimum lot size and lot widths, and establishes development standards for setbacks and placement of buildings. If the rezone is approved, the proposed subdivision with 12 single-family lots and one open space lot will require approval of a site development plan and a coastal development permit by the City Planning Commission prior to building permit issuance. The purpose of the open space lot is to accommodate an existing SDG&E utility easement located in that area.

Chapter 21.06 of the City's zoning code provides, in part, the following requirements for the Q Qualified Overlay Zone:

21.06.10 Intent and Purpose

The intent and purpose of the Q qualified overlay zone is to supplement the underlying zoning by providing additional regulations for development within designated areas to:

(1) Require that property development criteria are used to ensure compliance with the general plan and any applicable specific plans;

...

(3) Ensure that development occurs with due regard to environmental factors;

...

(6) Promote orderly, attractive and harmonious development, and promote the general welfare by preventing the establishment of uses or erection of structures which are not properly related to or which would adversely impact their sites, surroundings, traffic circulation or environmental setting.

Chapter 21.39 of the City's zoning code provides, in part, the following requirements for L-C zoning:

21.39.10 Intent and Purpose

The intent and purpose of the L-C zone is to provide an interim zone for areas where planning for future land uses has not been completed or plans for development have not been formalized. After proper planning or plan approval has been completed, property zoned L-C may be rezoned in accord with this title.

C. Adequacy of Ordinance to Implement the Certified LUP

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP). In the case of the subject LCP amendment, the City's Municipal Code serves as the Implementation Program for the Mello II segment of the LCP.

The Mello II LUP designates the site as Residential Low Medium (RLM), which allows residential development at a range of 0-4 dwelling units per acre (du/ac). The density of the proposed single-family subdivision is 3.2 dwelling units per acre. The surrounding properties are designated R-1-Q, P-C, and L-C. Based on the developable acreage and allowable density, up to 18 residential units could be placed on the property. Therefore, the Commission finds the proposed zoning and subdivision with 12 single-family lots and one open space lot is consistent with the certified LUP land use designation.

1. L-C Zoned Property Conversions

The Buerger site is located within the Mello II land use planning area, and is zoned L-C (Limited Control). The site was formerly used for agriculture but those operations have ceased, although there are some unused greenhouse structures still remaining onsite. The purpose of the L-C zone is to provide an interim zone for areas where planning for future land uses has not been completed, or plans for development have not been formalized. A number of L-C properties, which were formerly used for agriculture but are now becoming ready for development, exist within the coastal zone. Several of these properties are included in the HMP with specified areas of onsite development and preservation that will be approved ("hardline" properties). Other properties are included in larger planning areas where general guidelines for preservation of habitat and wildlife corridor creation will apply ("standards areas" properties). Although it is anticipated that the L-C properties will be developed at urban intensities, the Mello II land use plan (LUP), which was originally certified in 1981, does not address this zoning designation or the projected urban transition and development of the L-C properties.

In order to avoid piecemeal conversion of these properties from agriculture to urban uses, Commission staff have previously recommended that the City revise the LUP to address the L-C properties and provide a comprehensive plan for their development which will take into account the cumulative impacts of these conversions. However, the proposed rezone for this particular site does not create any impacts which would normally require additional resource

planning or mitigation, such as impacts to habitat or wildlife, and Commission staff have concluded that the use, density and proposed placement of development are appropriate for the site and the surrounding area.

Unlike other L-C conversions which have previously been denied by the Commission, the Buerger rezone and proposed subdivision would not impact dual-criteria slopes (steep slope with native vegetation) which are protected by policies in the certified LUP. Additionally, the rezone will not result in removal of rare vegetation communities or other ESHA, such as wetlands or vernal pools, consistent with the certified LUP. Field investigation by Commission staff confirms the applicant's representation that the site does not contain any significant sensitive habitat, or provide nesting or foraging area for listed species such as the coastal California gnatcatcher. The site, which has been previously disced and used for agriculture, is largely flat and does not contain steep slopes. Although there are some randomly scattered plants identified with the coastal sage scrub community, these are isolated and/or immature individual plants which do not currently comprise a true native vegetation habitat and are not considered to meet the criteria for an ESHA. Therefore, the proposed rezone, which will facilitate development of the Buerger subdivision as approved by the City, is consistent with and adequate to carry out the resource protection policies of the certified Mello II LUP.

2. PRESERVATION OF AGRICULTURAL LANDS

Preservation of agricultural use has been addressed in the Mello II LUP as follows:

Section 30240 of the Coastal Act states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Amendments to the Carlsbad LCP certified by the Commission in 1985 essentially allow conversion of all of the agriculturally-designated lands within the City's Mello I and II segments. Such conversion is allowed pursuant to either (1) a determination of infeasibility of continued agricultural use based on area-wide studies, or (2) participation in a mitigation program designed to offset the loss of agricultural lands, or (3) payment of an agricultural mitigation fee.

The Buerger site is not designated in the Mello II LUP as either Prime or Non-Prime Agricultural Land. Since the property is within the Coastal Agricultural Overlay Zone The City's approval has been conditioned to ensure payment of an agricultural mitigation fee, which will mitigate the loss of agricultural resources by preserving or enhancing other coastal resources, consistent with the certified LCP. The proposed rezone is consistent with Policy B of the certified LUP pertaining to agricultural conversion.

3. Carlsbad HMP and Standards Areas

The Buerger site lies within a "standards area" proposed by the draft Carlsbad Habitat Management Plan (HMP), and within Local Facilities Management Zone 20 (Zone 20) as defined by the City's Growth Management Plan (GMP). The HMP provides that "standards areas" in Zone 20 which are located between Linkage F and Core Area #6 in the draft HMP are intended to support preservation of sensitive habitat and enhance wildlife movement between these areas. See Exhibits 3 and 4 for maps of the zones and linkage areas. The draft HMP has included several development standards for certain properties in Zone 20, such as the Buerger site. These include:

- Conserve the majority of sensitive habitats in or contiguous with biological core and linkage areas, including no net loss of wetland habitats, southern maritime chaparral, maritime succulent scrub, and coastal sage scrub in Core Area 6 and Linkage F.
- Conserve habitats in a continuous configuration through Linkage Area F, from Core Area 6 to where Linkage F crosses Palomar Airport Road.
- Conserve all riparian habitats onsite, and prohibit fill or development within the existing flood plain except where required for Circulation Element roads, Drainage Master Plan facilities, or other essential infrastructure.
- Where conversion of agricultural land to other uses is proposed, set back all development impacts at least 100 feet from existing wetland habitats and encourage habitat restoration or enhancement in the riparian and buffer areas.

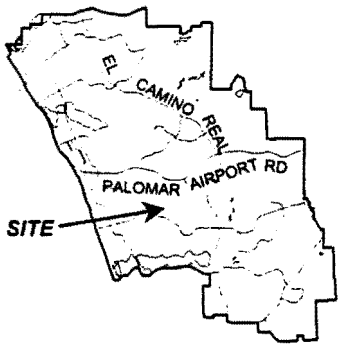
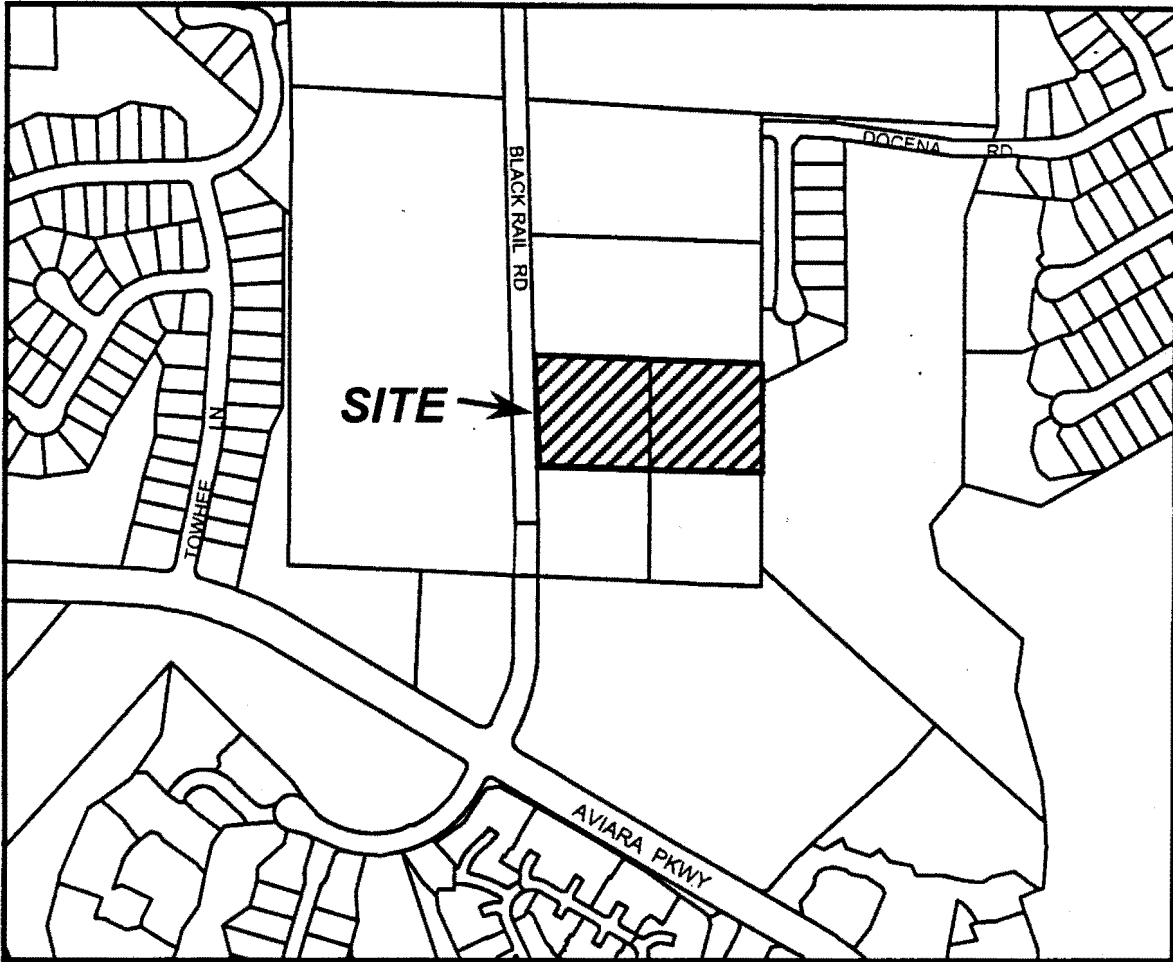
The rezone of the Buerger site, which does not contain sensitive habitat or wetlands and is located outside of the core and linkage areas, would be consistent with these draft standards. Approval of the proposed LCP amendment would not prejudice the proposed core and linkage alignment, or reduce the draft HMP's protective measures for sensitive habitat and endangered species. Primary access for the roadway and utilities is from existing Black Rail Road. Secondary access will also be provided through a north-south interior road that will be stubbed at the north and south boundaries of the property, to allow for future connection to neighboring undeveloped properties. The rezone and proposed subdivision would not require new roads or utilities to be extended through sensitive areas, and would not promote access or development for surrounding L-C properties to be undertaken in a manner which would be detrimental to sensitive resources. The proposed rezone and subdivision are also consistent with the certified LCP and the City's General Plan.

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

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

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions.

As discussed above, the LCP amendment will not cause significant adverse impacts to the environment. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the LCP amendment might have on the environment. Therefore, the Commission finds that the LCP amendment is consistent with the requirements of CEQA.



BUERGER

ZC 99-05/LCPA 99-03/CT 99-

HDP 99-08/CDP 99-17

EXHIBIT NO. 1
APPLICATION
Carlsbad LCPA
No. 1-2001-D
Location Map

A.P.N. 215-040-05

EXIST. REC. WF

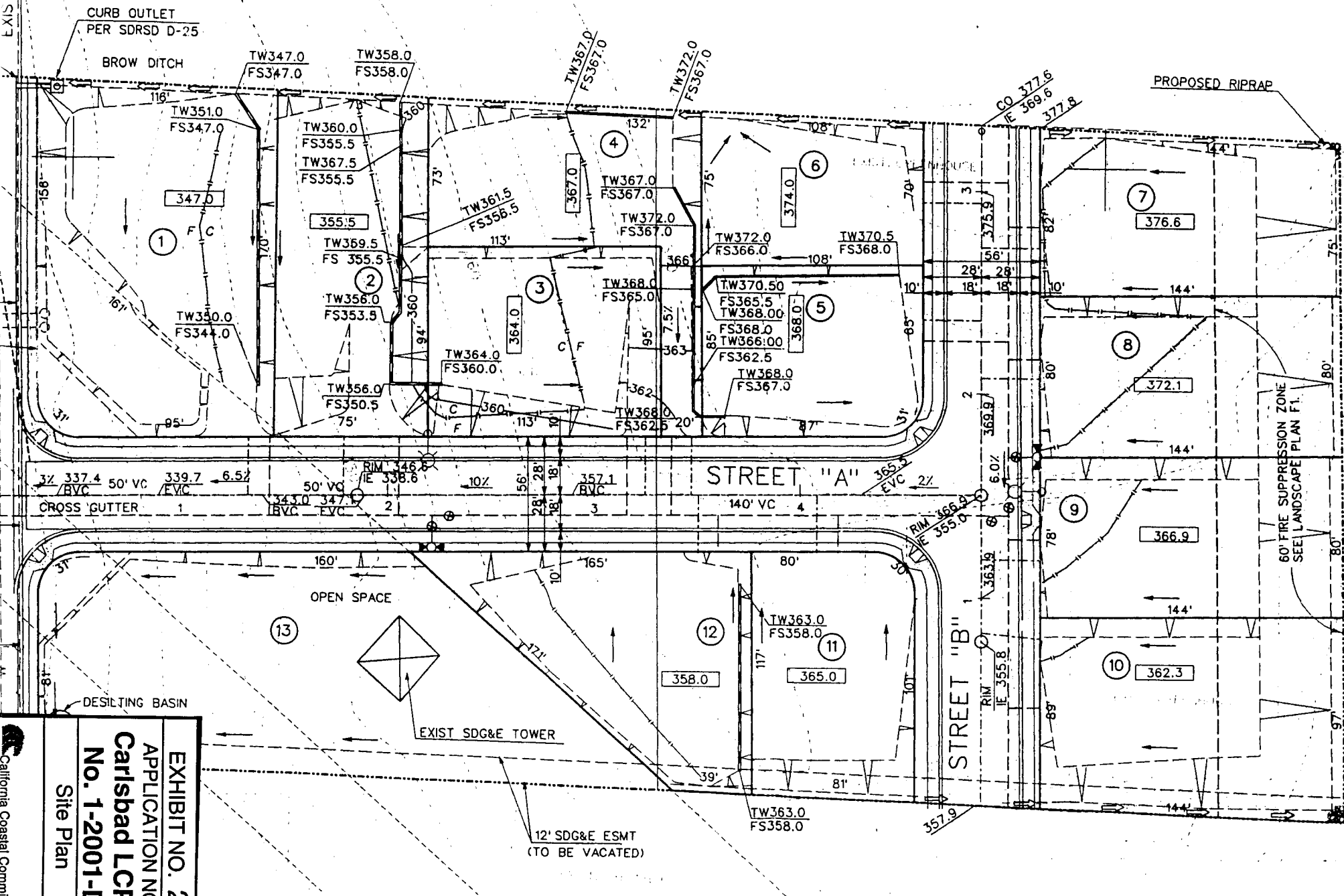


EXHIBIT NO. 2
 APPLICATION NO.
Carlsbad LCPA
No. 1-2001-D
 Site Plan

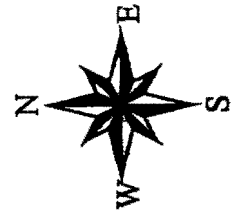
California Coastal Commission

60' FIRE SUPPRESSION ZONE
SEE LANDSCAPE PLAN FT.

HMP Core and Link Areas

 **CORE #6**

 **LINK F**



1.2 Miles

0.6

0

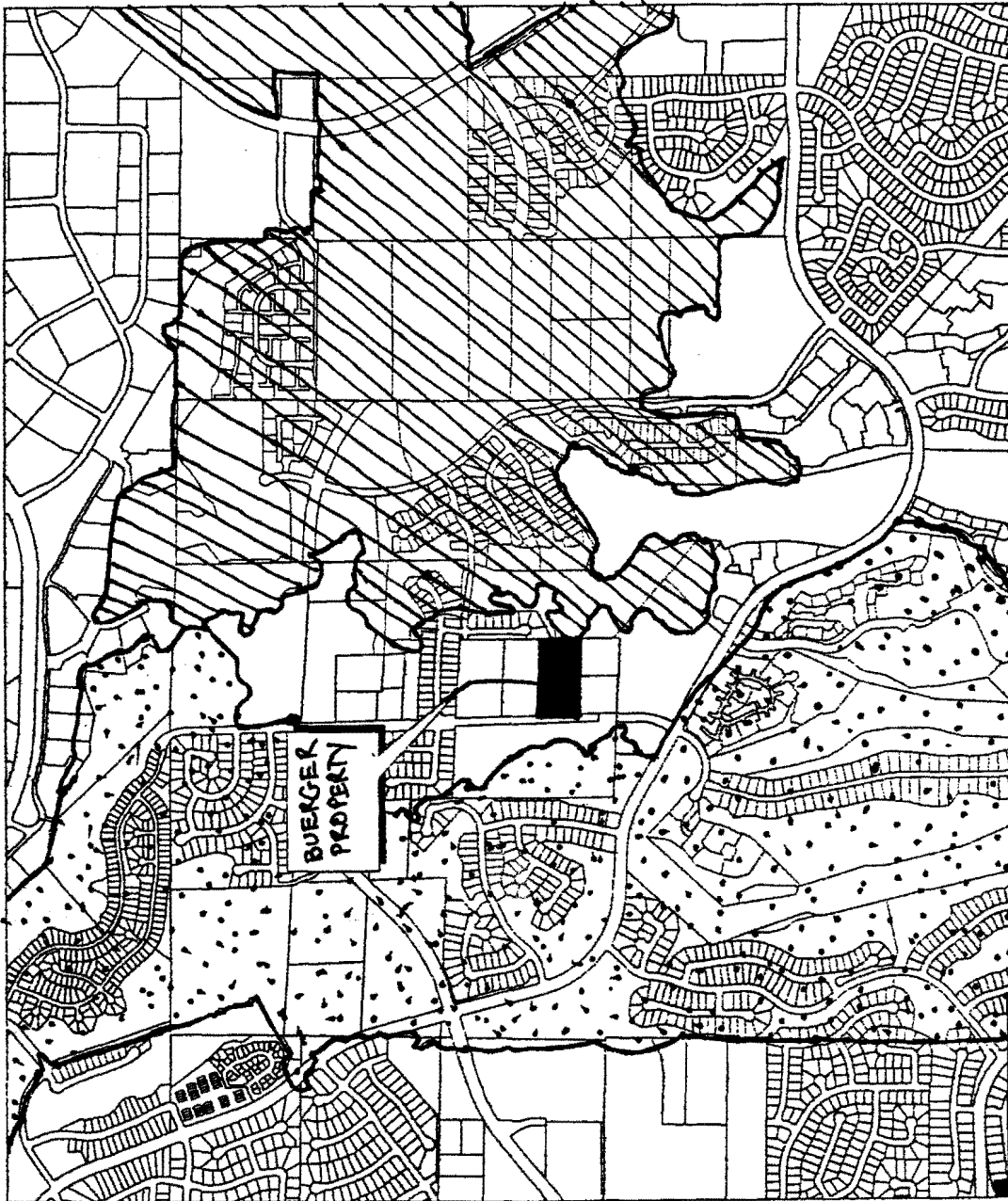


EXHIBIT NO. 3
APPLICATION NO.
Carlsbad L A
No. 1-2001-D
Carlsbad HMP Core
& Linkage Areas