

CALIFORNIA COASTAL COMMISSION

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April 16, 2001

Tue 7a**TO: COMMISSIONERS AND INTERESTED PERSONS****FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO AREA
OFFICE****SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT 6-2000-B (Implementation Plan Modifications – Second Quarterly
Update)**SYNOPSISSUMMARY OF AMENDMENT REQUEST

This report addresses a portion of the City of San Diego's third major LCP amendment request for 2000. This portion of the submittal addresses only the Implementation Plan (IP), and is identified as LCPA 6-2000-B. Part A addresses both the Land Use Plan and the Implementation Plan, with respect to the redevelopment of the former Naval Training Center; Part C addresses floodplain issues. Both of these will be covered in a separate staff report(s) and are expected to be brought before the Commission in June.

The subject IP amendments include changes to several different ordinances of the certified Land Development Code and also include the addition of a new map to the Carmel Valley Planned District Ordinance. An overview of the amendment request includes, but is not limited to, the following items: The City is enlarging the area included in its Transit and Tandem Parking Overlays to reflect expansion, or planned expansion, of transit service (bus and trolley). Procedural changes for parcel maps are proposed, as are new criteria for calculating existing grade and an increase in the allowable FAR for light industrial facilities. The existing Airport Environs Overlay is being incorporated into the LCP to reflect the addition of Lindbergh Field, and several density references are added to acknowledge different density parameters in the certified Del Mar Mesa Specific Plan area. Other proposed amendments address parking, accessory structures, communication antennas, and Planned Development Permits. Finally, the amendments would incorporate new maps/exhibits in several sections of the IP and changes in the reviewing authority for some types of local discretionary approvals (not coastal development permits).

SUMMARY OF STAFF RECOMMENDATION

The proposed Implementation Plan (IP) amendments addressed herein are all consistent with the City's certified Land Use Plans (LUPs), and with the Coastal Act policies on which the LUPs were based. Therefore, staff recommends certification of these proposed IP amendments as submitted. The appropriate resolution and motion begins on page 4.
The findings for approval of the plan, as submitted, begin on page 4.

BACKGROUND

The City's first IP was certified in 1988, and the City assumed permit authority shortly after that. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. While it is newly in operation, the City is reviewing this plan on a quarterly basis, and is expecting to make a number of adjustments to facilitate implementation; most of these will require Commission review and certification through the LCP amendment process.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP amendment 6-2000B may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan. The final segment, Mission Bay Park, was certified in November 1996.

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

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed. These have included everything from land use revisions in several segments, to the rezoning of single properties, and to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code, and associated documents, as the City's IP, replacing the original IP adopted in 1988.

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

The City has held 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 - RESOLUTION

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. Implementation Plan Amendment Approval as Submitted

MOTION: *I move that the Commission reject the Implementation Program Amendment for City of San Diego 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 Implementation Program Amendment for City of San Diego as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of, be in conformity with, and adequate to carry out, the provisions of the certified land use plans, 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 Amendment.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City has submitted a number of amendments, which include changes to several different ordinances of the certified Land Development Code (LDC) and the addition of a new map to the Carmel Valley Planned District Ordinance (PDO). The LDC applies citywide, and thus covers many areas not within the coastal zone. The ordinance

revisions described in this report are part of a larger submittal which includes LUP and IP changes addressing the former Naval Training Center property (6-2000-A), amendments addressing floodplain regulations (6-2000-C) and a number of minor clarifying and editorial corrections which were determined to be de minimus in nature. The de minimus items were addressed under LCPA 7-2000, which was reported to the Commission in March 2001. Some of the items addressed in this report were initially thought to present LCP/Coastal Act issues; however, after further review, it has since been determined that all items can be approved as submitted. Also, some of the proposed revisions, by their nature, did not qualify as de minimus items, but raise no Coastal Act issues. All of these will be addressed more fully in the following findings.

The amendment request includes, but is not limited to, the following primary items. The City is proposing to enlarge the area included in its Transit and Tandem Parking Overlays to reflect expansion, or planned expansion, of transit service (bus and trolley). Procedural changes for parcel maps are proposed, as are new criteria for defining existing grade and an increase in the allowable FAR for light industrial facilities. The existing Airport Environs Overlay is being incorporated into the LCP to reflect the addition of Lindbergh Field, and several density references are added to acknowledge different density parameters in the certified Del Mar Mesa Specific Plan area (Subarea V of the North City Future Urbanizing Area). Other proposed amendments modify definitions and terminology, and address parking concerns and Planned Development Permits.

Finally, the amendments would incorporate a new map for the Carmel Valley PDO (Section 103.0612 of the LDC). Because the PDO is part of the certified IP, any changes, additions or deletions to it technically require an LCP amendment. However, the new map, identified as B-4089, addresses only property entirely outside the coastal zone. Thus, the addition of the map is acknowledged, but requires no further analysis herein.

As previously stated, the proposed amendments to the Land Development Code (LDC) can be approved as submitted. They will be identified by code section and addressed in the following paragraphs.

Section 103.0612 Carmel Valley Planned District Ordinance (PDO)

a) Purpose and Intent of the Ordinance. This ordinance is intended to control the phased growth of the Carmel Valley Community, especially with respect to the provision of capital improvements and public facilities.

b) Major Provisions of the Ordinance. This ordinance addresses many things; the most significant provisions are as follows:

- Financing of public facilities
- Design/development criteria
- Grading regulations
- Allowed uses by zone within the PDO

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The Carmel Valley PDO is a portion of the North City LCP segment; the communities of North City contain the largest areas of undeveloped land in the City, but are rapidly converting to urban/suburban uses. The Carmel Valley PDO area is mostly built out at this time. The City is proposing to change the parking standard for business, professional, government and corporate offices, increasing the requirement from 3.0 spaces per 1,000 sq.ft. of gross floor area to 4.0 spaces per 1,000 sq.ft. This community is located east of I-5, and has no direct shoreline access. Main streets in the various communities do, however, serve as coastal access routes to transport people from further inland to the coast. The Commission finds the proposed increase in parking requirements consistent with the Carmel Valley (formerly North City West) LUP public access policy, which states: "Parking should be furnished in amounts adequate to serve new development which should be planned so as to not require on street parking." Moreover, the Commission finds the amendment adequate to carry out the certified LUP.

Section 113.0228 Determining Existing Grade

a) Purpose and Intent of the Ordinance. This code section is part of the article addressing Land Development Procedures, Rules for Calculation and Measurement. The purpose of this subsection is to clarify and define how land development terms and regulations are applied on a specific site.

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

- definitions of terms (attics, basements, setbacks, etc.)
- methods of calculation and determination
- regulations addressing density, setbacks, grade, slopes, etc.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

This ordinance addresses how to calculate the degree of proposed landform alterations based on the existing grade, meaning the grade prior to undertaking development. Existing grade is used to evaluate grading quantities, and potential impacts, and also to establish the elevation from which to measure building height. Because of the huge amount of development that has occurred over the past several decades, many properties may have been graded, excavated, developed, or otherwise altered, several times over. For this reason, the City has desired to establish a specific date in time as a reference point determining existing grade when a site has been altered.

The City is proposing to amend this section of the IP to make the date of March 4, 1972 applicable in the coastal zone as a baseline date; it is already applicable throughout all non-coastal zone portions of the City. As amended, the ordinance would state: "Existing grade is the ground elevation of the surface of a premises that has never been graded or, for a premises that has been graded, the ground elevation that existed on March 4, 1972."

The Commission had earlier expressed reservations about identifying a specific date in the ordinance and preferred to let this continue to be determined on a site-by-site basis. However, the City maintains it has to identify a specific starting point to provide certainty of how far back in time it must go to determine existing grade, and has chosen March 4, 1972 for several reasons: 1) This is the specific date identified in the Subdivision Map Act before which certain lots are presumed to have been legally created; 2) City records on lots, permits and land improvements cannot be accurately tracked prior to around 1970; 3) the City finds it important to maintain consistency between applicable state and local regulations; and 4) it will simplify implementation to apply the same regulations city-wide.

The Commission finds it is acceptable for the City to assign a specific date to determine existing grade. The reasons the City wants to do this have been adequately explained and are found to be reasonable. The Commission would caution, however, that the use of this date applies only to landform alterations, and does not preclude the application of the City's Environmentally Sensitive Lands (ESL) Ordinance to any areas of any site that currently provide sensitive wetland or upland habitat. In other words, if steep slopes were altered prior to March 4, 1972, the existing slope configuration determines the existing grade. However, if the land now supports sensitive vegetation communities, it would still require review pursuant to the ESL regulations. With this understanding, the Commission finds the proposed amendment consistent with, and adequate to carry out, the policies of the City's LUP segments.

Section 131.0112(a)(10)(B) Descriptions of Use Categories and Subcategories

a) Purpose and Intent of the Ordinance. This section is found under Base Zones, General Rules for Base Zones in the City's LDC. It is intended to assure that land uses are appropriately located and that adequate space is allocated for each use.

b) Major Provisions of the Ordinance. This ordinance includes, but is not limited to, the following provisions:

- Identification, grouping, and descriptions of use categories
- Accessory use regulations
- Use of yards and landscape areas in each zone
- Development criteria for each zone

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The City proposes to amend the description of Light Manufacturing, which currently states that the light manufacturing process cannot include the use of radioactive substances. The City did not intend to prohibit the use of radioactive materials, which are typically used in several light manufacturing applications. An example is biotechnology and research companies, which use radioactive materials to sterilize diagnostic testing equipment. Such applications were allowed in the City's old municipal code, certified by the Commission in 1988. However, the phrase not allowing radioactive

materials was inadvertently added to the LDC update that the Commission reviewed and approved last year. The City proposes to strike the language addressing radioactive materials. This raises no Coastal Act issues, and none of the City's certified LUP segments address the matter at all. Use of such materials is adequately regulated through County licensing procedures. Thus, the Commission finds that making this modification is consistent with, and adequate to carry out, the certified LUPs.

Section 131.0330 Development Regulations of Agricultural Zones

Section 131.0340 Maximum Permitted Residential Density in Agricultural Zones

a) Purpose and Intent of the Ordinances. These two code sections are found under Agricultural Base Zones. The purpose of this zone category is to provide for rural areas and areas where agriculture is currently desirable.

b) Major Provisions of the Ordinances.

- Description of allowed uses;
- Tables addressing Old Code/New Code conversion;
- Development standards: lot size, setbacks, etc.

c) Adequacy of the Ordinances to Implement the Certified LUP Segments.

Both of these ordinances are being amended to incorporate references to the Del Mar Mesa Specific Plan. The Specific Plan is the LUP component for Subarea V of the North City Future Urbanizing Area. The planning document addressed density and clustering issues on a community-wide basis, rather than property by property. In this way, the community is able to maximize its open space yet develop under existing zoning regulations addressing density. Only a small portion of the community is in the coastal zone, and most of that is designated as open space. The Coastal Commission reviewed and certified the Specific Plan in November 1996, with effective certification and delegation of permit authority occurring in August 1997.

The proposed amendments simply acknowledge that the Specific Plan is controlling in this community and the citywide density provisions are not applicable. This is fully consistent with the Commission's earlier action, and is necessary to make the IP consistent with, and adequate to carry out, the policies of the certified Del Mar Mesa Specific Plan.

Section 131.0448 Accessory Uses and Structures in Residential Zones

a) Purpose and Intent of the Ordinance. The residential zones were established to provide for residential development at varying densities throughout the city to accommodate the housing needs of all San Diegans.

b) Major Provisions of the Ordinance. This ordinance includes, but is not limited to, the following provisions:

- Description of each residential zone
- Use regulations for each zone
- Development criteria for each zone

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

As with many of the subject ordinance amendments, the proposed changes only affect one section of the ordinance as a whole. The proposed amendment would accomplish three things: 1) it would delete the words "Uses and" from the section title; 2) it clarifies that all accessory uses combined cannot represent more than 25% of a premises' allowable gross floor area; and 3) it would clarify when and how much accessory structures could encroach into required setbacks in the RE, RS and RX Zones. The first two items do not raise any issues of inconsistency with certified LUPs.

The third item, however, appears to have the potential to be inconsistent with the public view protection and enhancement policies found in most of the City's certified LUPs, by allowing accessory structures to encroach into setbacks, where such views are generally provided. To address this concern, a last sentence has been added to the ordinance, requiring that any accessory structures in the Coastal Overlay Zone must be consistent with Section 132.0403 of the LDC. That section provides the supplemental use regulations concerning existing and potential public views. The ordinance protects existing views, states that new accessory structures cannot reduce existing public views, and, on properties between the first public road and the sea, provides for the creation or retention of view corridors identified in the LUPs and present on the site. With these supplemental requirements already in the IP, the Commission finds the proposed language changes will be consistent with, and adequate to carry out, the City's certified LUPs.

Section 131.0631 (Table 131.06C) Development Regulations for Industrial Zones

a) Purpose and Intent of the Ordinance. The industrial zones were established to accommodate a range of industrial, manufacturing and research/development activities in appropriate locations to maintain a healthy economy and provide employment opportunities.

b) Major Provisions of the Ordinance. This ordinance includes, but is not limited to, the following provisions:

- Description of each industrial zone
- Use regulations for each zone
- Development criteria for each zone

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The City is proposing to make three identical amendments to the referenced table. The table identifies the four industrial zones and calls out regulations in the following

categories: lot area, minimum lot dimensions, setbacks, structure height, floor area ratio (FAR), street walls and outdoor amenities. The proposed amendment refers only to FAR; it would raise the allowable FAR in three of the four industrial zones from 1.0 to 2.0. The fourth industrial zone already has an FAR of 2.0, as did the other three under the old municipal code certified by the Commission in 1988. The FAR of 2.0 for industrial uses was found consistent with, and adequate to carry out, the certified LUPs at that time.

However, when the City approved the LDC in 1998, it lowered the FAR in three industrial zones; this modification was subsequently approved by the Commission, finding it equally consistent with the LUPs. There are now projects coming forward at the City that have caused it to reconsider the 1998 decision and change the FAR back to what it was prior to adoption of the LDC. The Coastal Act addresses overall building height, scale and bulk in relation to impacts on scenic resources. The certified LUPs and the LDC have policies and ordinances addressing visual resources which are not tied to specific FARs. Regardless of the FAR, a structure must also be consistent with community character and not adversely impact scenic viewsheds. Thus, the Commission finds the proposed amendment consistent with, and adequate to carry out, the certified LUPs.

Section 132.0301 Airport Environs Overlay Zone

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to provide supplemental regulations for development of properties surrounding the airports of the region.

b) Major Provisions of the Ordinance. There are only two major provisions in this ordinance:

- Text, table and map showing where the overlay applies
- Supplemental use regulations

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

In the past, this ordinance applied to the three smaller airports in the City of San Diego: Brown Field, Montgomery Field and the military base at Miramar. San Diego International Airport (SDIA) was not included in the overlay zone. The overlay provides regulations addressing noise and safety for the areas within and nearby the take-off and landing paths of the subject airports. This ordinance was incorporated into the old certified municipal code (prior IP) because portions of the overlay surrounding Miramar were in the coastal zone, even though the airport itself is not. Nonetheless, since none of the three airports then governed by this ordinance were in the coastal zone, the City did not include the overlay in its ordinance update, and the LDC was certified without it.

The City has now included SDIA in the overlay zone; SDIA is located adjacent to San Diego Bay on Port District property, and the surrounding overlay zone includes portions of the Centre City/Pacific Highway, Peninsula, Ocean Beach, Mission Beach and Mission

Bay Park LCP segments, as well as all, or portions, of the former Naval Training Center, which is an area of deferred certification. The City is thus proposing to incorporate the Airport Environs Overlay Zone into the certified IP. The actual amendment adds SDIA to the list of airports in several sections of the ordinance. The City is also taking this opportunity to change all references to the Naval Air Station at Miramar to the Marine Corps Air Station at Miramar, since the military base was transferred from the Navy to the Marines a couple years ago.

The overlay zone is designed to regulate both the design and type of development that occurs within certain noise contours, accident potential and flight activity zones. The ordinance requires different levels of sound attenuation depending on how close the airport is to the source of noise. It also identifies uses that are incompatible with being located in an accident potential or flight activity zone, such as elementary schools and hospitals. None of the parameters of the overlay are changed in this amendment request; it only expands the area of applicability to include the areas around SDIA. Some, if not all, of the affected LUPs identify the noise and safety concerns raised by adjacency to airports, and have adjusted their design standards accordingly. Thus, the Commission finds the incorporation of the Airport Environs Overlay Zone into the City's LCP consistent with, and adequate to carry out, the policies of the certified LUPs.

Section 132.0402 (Table 132-04A) Coastal Overlay Zone Applicability

a) Purpose and Intent of the Ordinance. The purpose of this ordinance is to protect and enhance the quality of public access and coastal resources.

b) Major Provisions of the Ordinance. There are only two provisions in this ordinance:

- Text, table and map showing where the coastal overlay zone applies
- Supplemental use regulations

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

This is one of many overlay zones in the City's LDC. The main purpose of overlays is to add specific additional controls in sensitive areas. In this particular case, the Coastal Overlay Zone establishes the requirements of the Coastal Act, including, but not limited to, the need to obtain a coastal development permit. Table 132-04A, which identifies the applicable supplemental development regulations and the type of permit required, currently indicates that no supplemental regulations are applicable if a development is exempt from coastal development permit requirements. The City has discovered this table could be misinterpreted to infer that development exempt from CDP requirements, or located in areas of mixed jurisdiction, are not subject to other supplemental development regulations, such as the Environmentally Sensitive Lands regulations. Through the proposed amendment, language is added to the table making it clear that all development in this overlay must comply with the use and development regulations of the base zone and the Environmentally Sensitive Lands regulations, whether or not a

CDP is required. As clarified through the amendment, this ordinance is consistent with the certified LUPs and adequate to carry them out.

Section 132.0902 (Diagram 132-09A) Residential Tandem Parking Overlay Zone

a) Purpose and Intent of the Ordinance. This ordinance is intended to identify where tandem parking will be counted as two parking spaces.

b) Major Provisions of the Ordinance. The provisions of this ordinance are:

- Identification of where the tandem parking overlay applies
- Supplemental development regulations
- Diagram 132-09A – Residential Tandem Parking Overlay Zone

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The City proposes to replace the existing diagram with a new one, showing expanded areas where tandem parking counts as two spaces. Diagram 132-09A is a reproduction of the City's official Map No. C-903, and is intended for illustration purposes only. Tandem parking is recognized as a valuable tool to allow redevelopment in older areas of the City, that were not planned around motor vehicles. The Commission has accepted it in several of the certified LUPs, as well as many coastal development permits. Most of the areas affected are outside the coastal zone, but portions of the La Jolla, Pacific Beach, Ocean Beach, Centre City and Otay Mesa communities include some areas where tandem parking would be permitted to count as two parking spaces. The City does not apply this practice in Pacific Beach and some non-coastal communities, however, since the local planning groups oppose the concept. In those instances, tandem parking can be part of a development, but it counts as one space instead of two towards fulfilling the parking requirement. Tandem parking is typically allowed in high density areas and areas along major transit routes. Within the coastal zone, the overlay is being expanded formally in several areas and diminished in others, resulting in an insignificant change overall; the amendment does not increase the amount of the Beach Impact Area covered by the overlay. The Commission finds the current amendment request to be consistent with the certified LUPs and able to carry them out.

Section 132.1002 (Diagram 132.10A) Transit Area Overlay Zone

a) Purpose and Intent of the Ordinance. This ordinance provides supplemental parking regulations to be applied in major transit corridors, where parking demand is expected to be less.

b) Major Provisions of the Ordinance. The only provisions of this ordinance are:

- Identification of where the transit area overlay applies (Diagram 132-10A – Transit Area Overlay Zone)
- References to the appropriate parking regulations found elsewhere in the LDC

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The City proposes to replace the existing diagram with a new one, showing expanded areas where parking may be reduced because of significant expansion of the City's overall transit system (bus and trolley). Diagram 132-10A is a reproduction of the City's official Map No. C-900, and is intended for illustration purposes only. The Commission has always been concerned with any reductions in required parking because of the potential effects this may have on public access, particularly in nearshore areas. While there are benefits to public access associated with greater transit usage, in nearshore areas within the City of San Diego, on-street parking is in such critical supply that on-site parking must be encouraged to maintain the street supply for recreational use. Likewise, the City's certified LUPs all have policies protecting public access; thus, parking standards are typically established at a level that will insure that street parking remains available for recreational access purposes, rather than being used as overflow for residential and commercial uses.

The parking regulations referred to in this ordinance identify a range of parking standards for residential uses: basic, transit area or very low income, and parking impact (Beach Impact Area – BIA). The basic parking ratios are equivalent to the BIA parking ratios of the old municipal code; transit/low income ratios are reduced by a quarter of a space per category, and parking impact areas are increased by a quarter of a space. If a residential development occurs in an area covered by both the parking impact and transit overlays, the basic ratio is applied. Thus, although transit corridors are shown in nearshore areas, these areas are also within the parking impact overlay, such that parking must be provided at the ratios historically applied by the City and Coastal Commission.

Commercial and industrial development have different parking tables/ratios (also referenced in the Transit Area Overlay Zone), but require a similar result. Again, the non-transit parking ratios are equivalent to the previously-certified code and the transit ratios are slightly less. This has only been raised as a public access concern within the BIA. Although there are several nearshore areas which are both within the BIA and covered by the Transit Area Overlay Zone, the current amendment request does not extend the Transit Area Overlay Zone into any additional portion of the BIA. Thus, the Commission finds the proposed expansion of the Transit Area Overlay Zone is consistent with the applicable LUP segments (Mission Beach, Mission Bay, Pacific Beach and La Jolla) and adequate to carry them out.

Section 141.0306(I) Guest Quarters

a) Purpose and Intent of the Ordinance. This is a subsection of the Separately Regulated Use Regulations, Residential Use Category. It allows either attached or detached guest quarters on a lot with a single dwelling unit, provided it does not provide independent living facilities and does not directly access the main house.

b) Major Provisions of the Ordinance. The major provisions of this ordinance can be summarized as follows:

- Design criteria (height, FAR, landscaping, etc.)
- Recorded agreement not to rent, lease, or sell separately
- Parking criteria

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The proposed amendment addresses only the issue of parking for guest quarters. The certified ordinance specifies where guest parking may be located and that parking for the overall site must meet current parking standards. The existing ordinance does not identify a parking requirement for guest uses, although the City does frequently require additional parking when approving guest quarters. The proposed amendment would add a specific parking standard, one space for each guest bedroom, to the ordinance. This is consistent with the public access policies of the certified LUPs as it should increase the supply of available public street parking, since houseguests will be parking on-site rather than on the street. In nearshore areas, especially those without formal beach parking lots, this could significantly benefit the beach-going public. The Commission, therefore, finds this amendment request consistent with, and adequate to carry out, the City's certified LUPs.

Section 141.0601 Adult Business Regulations

a) Purpose and Intent of the Ordinance. The ordinance is a subsection of the Separately Regulated Use Regulations, Commercial Services Use Category and regulates adult entertainment businesses.

b) Major Provisions of the Ordinance. The ordinance identifies what constitutes an adult business and where such businesses can be located in relation to other uses.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed amendment is simply to amend the terminology from "establishments" to "businesses" throughout the ordinance, to redefine adult massage businesses and change the term "adult bookstores" to "adult stores." These language and meaning clarifications do not raise any coastal issues and do not affect the ordinance's consistency with the certified LUPs. Although some of these businesses are located in coastal communities, the LCP concerns relate to design and scale, and to whether the businesses have adverse impacts on public access or public views. They are regulated as a retail commercial use for LCP purposes. Thus, the Coastal Commission finds that the ordinance, as amended, remains consistent with, and adequate to carry out, the certified LUPs.

Section 141.1004 Mining and Extractive Industries

a) Purpose and Intent of the Ordinance. This ordinance is a subsection of the Separately Regulated Use Regulations, Commercial Services Use Category, and regulates the permitting of mining and extractive operations.

b) Major Provisions of the Ordinance. The major provisions are summarized as follows:

- Exemptions from the ordinance
- Provision and content of reclamation plans
- Special Multi-Habitat Planning Area requirements

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

This ordinance addresses all mining and extractive processes throughout the City. In 1975, the California Legislature adopted the Surface Mining and Reclamation Act, and, upon adoption of appropriate regulations by the City, delegated implementation of the act to the City as lead agency. Since 1975, the act has been amended several times, and the City's current regulations are not fully consistent with the amended law. The City is therefore proposing a number of amendments to their ordinance to bring it up to date and retain lead agency status. Although many sections of the ordinance have been rewritten and augmented, the basic intent of the regulations remains the same.

No active surface mining operations occur within the coastal zone at this time. A few years ago, a previously operating mine in Carmel Valley was abandoned, the mine's reclamation plan was put into effect, and the Commission subsequently approved a major housing project at the site. Another formerly active mine in the Tia Juana River Valley was approved by the City of San Diego, operating under the certified LCP, for use as a deposition site for dredged materials generated at a nearby wetlands restoration project. Other mining and extraction operations in the Tia Juana River Valley had been abandoned previously and there is little likelihood of new mining operations in the coastal zone being proposed in the future. The proposed amendments to the ordinance strengthen it by increasing the frequency of inspections, reducing the period of time a mine can be abandoned before mining rights are lost, and similar provisions. Although these changes do not significantly change the ordinance's effect, they would be an added discouragement to undertaking new mining operations within the coastal zone. For these reasons, and because there are no active mines in the coastal zone, the Commission finds the amended ordinance consistent with, and adequate to carry out, the City's certified LUPs.

Section 142.0510(f) General Parking Regulations

a) Purpose and Intent of the Ordinance. This ordinance regulates the type, amount, design and location of off-street parking throughout the City of San Diego.

b) Major Provisions of the Ordinance. This ordinance has many provisions; key among these are the following:

- Tables of parking ratios
- Discussion of parking locations on a site
- Diagrams of parking lot layouts
- Regulations for driveways

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The City is proposing to modify this ordinance by adding language addressing the encroachment of parking into required setbacks due to the conversion of parking areas to habitable space prior to January 1, 1992. This provision had been part of the old municipal code, and had been inadvertently omitted during the LDC update process. It applies only to single-family residential properties. Moreover, any prior conversions of parking areas (garages, carports, etc.) to habitable space must have been properly permitted, if not exempt. That is, the ordinance amendment is not granting clemency to illegally converted parking areas; it simply describes when, how much, and in what configuration, required off-street parking on single-family lots may encroach into required setbacks. This accommodation is not prohibited in any certified LUP and will encourage off-street parking, thereby freeing street parking for general public use. The Commission, therefore, finds that this ordinance, as amended, will be consistent with, and adequate to carry out, the certified LUPs of the City of San Diego.

Section 143.0402

Section 143.0410(a)(3)(C)

Section 143.0450 Planned Development Permit Regulations

a) Purpose and Intent of the Ordinance. This ordinance is intended to provide flexibility in the application of development regulations to accommodate site-specific constraints or overall planning concerns.

b) Major Provisions of the Ordinance. The ordinance provisions can be summarized as follows:

- Applicability and permitted uses
- General development regulations
- Supplemental regulations by zone

c) Adequacy of the Ordinance to Implement the Certified LUP Segments.

This ordinance was primarily designed to allow site-specific constraints to be considered in applying development regulations to a proposed project. It allows flexibility in relation to several development standards, such as lot or zone boundaries, without requiring a variance, to promote clustered developments on more sensitive sites.

As currently certified, the ordinance allows increases in density only for affordable housing. The proposed amendment would allow increases in density for any mixed-use residential/commercial project if consistent with the applicable LUP. This provision will not apply in the Del Mar Mesa Specific Plan area, for example, since that LUP specifically prohibits density increases. The Commission finds it appropriate to amend this ordinance, since the standard of review for an IP, or IP amendment, is its consistency with, and ability to implement, the certified LUP. Moreover, mixed-use developments often allow employees to live near their jobs; this serves to reduce commuter time and traffic, and thus helps improve air and water quality. Also, while this process may not serve to concentrate development on a regional basis, clustering on a specific site can result in other portions of that site remaining in permanent open space.

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

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

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, all of the proposed amendments are being approved as submitted. Thus, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan, as amended, conforms with CEQA provisions.

City of San Diego
Major LCP Amendment #6-2000B

SECOND QUARTERLY
UPDATE

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Strikeout~~

NEW LANGUAGE: Underlined

(SO-2001-64)(REV. 1)

ORDINANCE NUMBER O- 18910

ADOPTED ON Jan 09, 2001

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER VI, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTION 62.0423; AMENDING CHAPTER 11, BY AMENDING ARTICLE 3, DIVISION 1, SECTION 113.0103; DIVISION 2, SECTIONS 113.0228, 113.0234 AND 113.0273; AMENDING CHAPTER 12, BY AMENDING ARTICLE 1, DIVISION 3, SECTION 121.0309; BY AMENDING ARTICLE 5, DIVISION 5, SECTIONS 125.0530, 125.0540, 125.0630, AND 125.0640; BY AMENDING ARTICLE 6, DIVISION 4, SECTION 126.0402; DIVISION 5, SECTIONS 126.0502 AND 126.0504; DIVISION 7, SECTIONS 126.0704 AND 126.0708; BY AMENDING ARTICLE 7, DIVISION 1, SECTIONS 127.0106 AND 127.0107; BY AMENDING ARTICLE 9, DIVISION 6, SECTION 129.0602; AMENDING CHAPTER 13, BY AMENDING ARTICLE 1, DIVISION 1, SECTIONS 131.0112 AND 131.0125; DIVISION 2, SECTION 131.0205; DIVISION 3, SECTIONS 131.0330 AND 131.0340; DIVISION 4, SECTIONS 131.0422 AND 131.0448; DIVISION 6, SECTIONS 131.0622 AND 131.0631; BY AMENDING ARTICLE 2, DIVISION 4, SECTIONS 132.0402, 132.0403; DIVISION 9, SECTION 132.0902; DIVISION 10, SECTION 132.1002; DIVISION 14, SECTION 132.1402; AMENDING CHAPTER 14, BY AMENDING ARTICLE 1, DIVISION 3, SECTION 141.0306; DIVISION 4, SECTION 141.0405; BY AMENDING ARTICLE 2, DIVISION 1, SECTIONS 142.0133, 142.0134 AND 142.0135; DIVISION 2, SECTION 142.0230; DIVISION 3, SECTIONS 142.0310 AND 142.0340; DIVISION 5, SECTIONS 142.0510 AND 142.0530, AND 142.0560; DIVISION 12, SECTION 142.1210; BY AMENDING ARTICLE 3, DIVISION 1, SECTIONS 143.0110, 143.0111, 143.0130, 143.0145, AND BY ADDING SECTION 143.0146; DIVISION 4, SECTIONS 143.0402, 143.0410, AND 143.0450; BY AMENDING TABLE 143-01A IN SECTION 143.0110(b) BY RENUMBERING SECTION

- PAGE 1 OF 55 -

(X portion subj. of SD LCPA #6-2000C or #7-2000)
or withdrawn

SD LCPA #1-2000B

~~Substantial improvement, for the purposes of Section 143.0146 means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which, equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.~~

~~Surface mining through Traditional cultural property [No change.]~~

~~Transit area means (1) the area within a one-quarter-mile radius of either public streets identified in Map No. C-846 on file in the office of the City Clerk as Document No. OO-17836 (or its successor maps) as having the location, mix of densities, mix of uses, and development patterns that can generate sufficient bus ridership to support a frequent and consistent level of bus service (as typified by a 10- and 15-minute frequency of service); or, (2) existing and proposed trolley stops and major bus transfer centers that have been approved for development by the Metropolitan Transit Development Board (MTDB) with identified, available funding, as identified in Map No. C-900 on file in the office of the City Clerk as Document No. OO-_____.~~

~~Unaccepted offer of dedication through Yard [No change.]~~

SEC. 113.0228 Determining Existing Grade

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

[No change to remainder of section.]

~~SEC. 113.0234 Calculating Gross Floor Area~~

~~[No change to first paragraph.]~~

- ~~(a) [No change.]~~

~~Planning and Development Review Director. The decision maker will provide informal rapid access for appellants in these matters in order to minimize unnecessary disruption of construction activities.~~

SEC. 125.0530 Decision Process for a Parcel Map

- ~~(a) A decision on a *parcel map* that includes vacations, agreements, or other conditions that require City Council approval shall be made by the City Council in accordance with the *Subdivision Map Act*. A decision on all other *parcel maps* shall be made by the City Engineer in accordance with Process One and the *Subdivision Map Act*.~~
- ~~(b) The City ~~Manager~~ Engineer may accept *dedications of public rights-of-way* and easements ~~in conjunction with~~ where required on a *parcel map*.~~

SEC. 125.0540 Approval Requirements for a Parcel Map

- ~~(a) [No change.]~~
- ~~(b) Any condition imposed as part of the approval of the *tentative map* must be satisfied before the City Engineer executes the *parcel map* Certificate in accordance with the *Subdivision Map Act*, Section 66450. ~~Where *parcel maps* are submitted to the City Council for approval, improvement conditions may be satisfied by an agreement as outlined in the *Subdivision Map Act*.~~~~
- ~~(c) The City Manager may enter into all agreements related to approval of the *parcel map*.~~

SEC. 125.0630 Decision Process for a Final Map

- (a) The City Council Engineer shall approve or deny a *final map* in accordance with the *Subdivision Map Act*.
- (b) Upon receipt of a *final map* for approval, the City Engineer shall notify the City Council that a *final map* approval is pending. The City Engineer shall docket the Notice of Pending Final Map Approval for the next regularly scheduled City Council meeting after the City Engineer receives the *final map*.
- (c) The City Clerk shall include the Notice of Pending Final Map Approval within the City Council's agenda and mail it to interested parties who request notification.
- (d) The City Engineer shall approve or disapprove the *final map* within 10 days of the City Council meeting that included the Notice of Pending Final Map Approval on the City Council's agenda.
- (e) The City Engineer's action to approve or disapprove the *final map* may be appealed to the City Council. The appeal must be filed with the City Clerk within 10 days of the date the City Engineer approved or disapproved the *final map*.
- (f) On appeal, the City Council may approve or disapprove the *final map* and any associated documents or agreements in accordance with the *Subdivision Map Act*.
- (g) The City Council shall periodically review the delegation of authority to the City Engineer.

SEC. 125.0048 Approval Requirements for a Final Map

- (a) The City Council shall ~~approve~~ a *final map* unless the *final map*

and any associated documents have been prepared in accordance with the Land Development Manual, the required fees and deposits have been paid, and all other conditions of the *tentative map* and any other associated permits have been met.

(b) The City Manager may enter into all agreements related to the approval of the *final map* in accordance the *Subdivision Map Act*. The City Manager's decision to approve or disapprove any documents or agreements may be appealed to the City Council in accordance with Section 125.0630 and the *Subdivision Map Act*.

(bc) In order to approve a *final map* for a condominium conversion, the City Council Engineer shall find that notice has been given in accordance with Section 125.0431.

SEC. 126.0402 When a Neighborhood Development Permit Is Required

(a) [No change.]

(b) A Neighborhood Development Permit is required for *single dwelling unit development* on an individual *lot* that is less than or equal to 15,000 square feet and contains *steep hillsides, 100-year floodplains Special Flood Hazard Areas, or sensitive biological resources* as described in Section 143.0110.

(c) through (i) [No change.]

SEC. 126.0502 When a Site Development Permit Is Required

(a) [No change in first sentence.]

(1) [No change.]

(2) *Single dwelling unit development* that involves any of the following:

(A) [No change.]

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

~~(c) [No change.]~~

~~SEC. 129.0602 When a Grading Permit Is Required~~

~~A Grading Permit is required for the following work:~~

~~(a) and (b) [No change.]~~

~~(c) any grading within the 100-year floodplains Special Flood Hazard Area.~~

~~(d) through (f) [No change.]~~

SEC. 131.0112 Descriptions of Use Categories and Subcategories

(a) [No change.]

(1) Open Space Use Category

[No change to first paragraph.]

(A) [No change.]

(B) Light Manufacturing -- Uses that process, fabricate, assemble, treat, or package finished parts or products without the use of explosive; or petroleum ~~or radioactive~~ materials. (This subcategory does not include the assembly of large equipment and machinery.)

(C) and (D) [No change.]

~~SEC. 131.0125 Accessory Use Regulations for All Base Zones~~

~~(a) [No change.]~~

~~(b) [No change in first sentence.]~~

~~(1) [No change.]~~

~~(2) The use must comply be consistent with any use and development regulations applicable to that use in any other base zone in the same type of zone (open space, agricultural, residential, commercial, or industrial);~~

~~(3) through (5) [No change.]~~

~~(e) [No change.]~~

SEC. 131.0205 Purpose of the OF (Open Space--Floodplain) Zone

~~The purpose of the OF zone is to control *development* within *floodplains* to protect the public health, safety, and welfare and to minimize hazards due to *flooding* in areas identified by the *FIRM* on file with the City Engineer City's floodplain administrator. It is the intent of the OF zone to preserve the natural character of *floodplains* while permitting *development* that will not constitute a dangerous condition or an impediment to the flow of *flood* waters. It is also the intent to minimize the expenditure of public money for costly *flood* control projects and to protect the functions and values of the *floodplains* relating to groundwater recharge, water quality, moderation of *flood* flows, wildlife movement, and habitat.~~

SEC. 131.0330 Development Regulations of Agricultural Zones

(a) through (c) [No change.]

(d) For development within the Del Mar Mesa Specific Plan area the development regulations identified in the Del Mar Mesa Specific Plan adopted on May 27, 1997 by Ordinance 18337 shall apply.

SEC. 131.0340 Maximum Permitted Residential Density in Agricultural Zones

(a) [No change in sentence.]

(1) through (3) [No change.]

(4) Within the future urbanizing area, except within the Del Mar Mesa Specific Plan area, an increase in *density* of up to one dwelling unit per 4 acres of lot area may be requested through a Planned Development Permit in accordance with Process

Five subject to the regulations in Section 143.0402. The remainder of the premises shall be left undeveloped in perpetuity. For development within the Del Mar Mesa Specific Plan area, the rural cluster option is not available, and the maximum permitted density is that identified in the Del Mar Mesa Specific Plan adopted on May 27, 1997 by Ordinance 18337.

(b) [No change.]

~~SEC. 131.0422 Use Regulations Table for Residential Zones~~

~~The Uses allowed in the residential zones are shown in the Table 131-04B.~~

~~Legend for Table 131-04B [No change.]~~

**Table 131-04B
Use Regulations Table of for Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																											
	1st & 2nd »	RE-	RS-														RX-	RT-												
	3rd »	1-	1-														1-	1-												
	4th »	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4						
Institutional																														
Separately Regulated Institutional Uses																														
Communication Antennas:																														
Minor Telecommunication Facility		EN	EN														EN	EN												
Major Telecommunication Facility		C	C														C	C												
Satellite Antennas		L	L														L	L												

[No change to remainder of Table.]

SEC. 131.0448 Accessory Uses and Structures in Residential Zones

- (a) Multiple accessory buildings are permitted on a premises. However Accessory uses within enclosed buildings the square footage of all accessory buildings cannot exceed are restricted to 25 percent of the permitted allowable gross floor area of the premises.
- (b) An accessory building in the RE, RS, and RX zones may have electrical, gas, and water/sewer connections to provide the following activities:
 - (1) Lighting, washing machines, dryers, laundry tubs, and hot water heater;
 - (2) A one-half bathroom, limited to a water closet and a lavatory sink; and
 - (3) A shower, provided the property owner signs an agreement recorded with the County Recorder and processed through the City Manager stating that the building will not be used for living or sleeping purposes.
- (c) Accessory buildings in RE, RS, and RX zones may encroach into required yards subject to the following conditions:

- (1) Encroachment into required yards can only occur on premises with less than 10,000 square feet of area.
- (2) Accessory buildings, not including attached or detached patio, shall be limited to 1 story.
- (3) The maximum permitted structure height of an accessory building is 10 feet for a flat roof and 15 feet for a pitched roof. If the structure contains a shed roof, the maximum structure height is 12 feet measured at the ridge. A building with a flat roof may have a roof deck, provided that all handrails and other appurtenances are limited to 42 inches in height and comply with all setback requirements.
- (4) All required visibility areas, as set forth in Section 113.0273, shall be observed.
- (5) No accessory building shall be used for living or sleeping purposes.
- (6) In the RE and RS zones, the cumulative area of all accessory buildings shall not exceed 525 square feet in gross floor area.
- (7) In the RX zones, the cumulative area of all accessory buildings shall not exceed 400 square feet in gross floor area.
- (8) The length of any accessory building dimension within the required yards shall not exceed 30 feet in any given setback.
- (9) The accessory building must be placed entirely within the rear 30 percent of the lot premises or behind the front 70 feet of the lot premises, whichever results in the accessory building being located farther from the street.
- (10) If the accessory building is used for parking and access to the structure is taken from the alley, a minimum distance of 21 feet shall be provided between the edge of the alley opposite the premises and the exterior wall of the accessory building.
- (11) Within the Coastal Overlay Zone, accessory structures are subject to the supplemental regulations in Section 132.0403.

~~For lots with less than 10,000 square feet of area, one-story accessory buildings, not including attached or detached patio structures, may encroach into the required side and rear setbacks, subject to the following conditions:~~

~~(1) The maximum permitted structure height of an accessory building is 10 feet for a flat roof and 15 feet for a pitched roof. If the structure contains a shed roof, the maximum structure height is 12 feet measured at the ridge. A building with a flat roof may have a roof deck, provided that all handrails and other appurtenances are limited to 42 inches in height and comply with all setback requirements.~~

~~(2) All required visibility areas, as set forth in Section 113.0273, shall be observed.~~

~~(3) No accessory building shall be used for living or sleeping purposes.~~

~~(4) In the RE and RS zones, the accessory building shall not exceed 525 square feet in gross floor area.~~

~~(5) In the RX zones, the accessory building shall not exceed 400 square feet in gross floor area.~~

~~(6) The length of any accessory building dimension within the required yards shall not exceed 30 feet.~~

~~(7) The accessory building must be placed entirely within the rear 30 percent of the lot or behind the front 70 feet of the lot, whichever results in the accessory building being located farther from the street.~~

~~(8) If the accessory building is used for parking and access to the building is taken from the alley, a minimum distance of 21 feet shall be provided between the edge of the alley opposite the lot and the exterior wall of the accessory building.~~

~~(9) The accessory building may have electrical, gas, and water/sewer connections to provide the following activities:~~

~~(A) Lighting, washing machines, dryers, laundry tubs, and hot water heater.~~

~~(B) A one-half bathroom, limited to a water closet and a lavatory sink; and~~

~~(C) A shower, provided the property owner signs an agreement recorded with the County Recorder and processed through the City Manager stating that the building will not be used for living or sleeping purposes.~~

~~SEC. 131.0622 Use Regulations Table for Industrial Zones~~

~~[No change in this section, except to Table 131-06B as indicated below.]~~

~~Table 131-06C
Use Regulations Table of for Industrial Zones~~

Separately Regulated Retail Sales Uses									
Agriculture Related Supplies & Equipment	-	-	-	P	P	P	P	P	P

SEC. 131.0631 Development Regulations Table for Industrial Zones

The following development regulations apply in the industrial zones as shown in Table 131-06C.

Table 131-06C
Development Regulations of for Industrial Zones

Development Regulations [See Section 131.0630 for Development Regulations of Industrial Zones]	Zone Designator	Zones							
	1st & 2nd »	IP-		IL-			IH-		IS-
	3rd »	1-	2-	1-	2-	3-	1-	2-	1
	4th »	1		1			1		1
Max Floor Area Ratio		$\underline{2.0+0}^{(7)}$		$\underline{2.0+0}^{(7)}$			$\underline{2.0+0}$		2.0

[No other changes to Table 131-06C.]

Footnotes for Table 131-06C

1 through 9 [No change.]

SEC. 132.0402 Where the Coastal Overlay Zone Applies

(a) and (b) [No change.]

**Table 132-04A
Coastal Overlay Zone Applicability**

Type of <i>Development</i> Proposal	Supplemental Development Regulations	Required Permit Type/ Decision Process
(1) <i>Coastal development</i> that is categorically excluded pursuant to order of the Coastal commission or that is exempted by Section 126.0704	None <u>See use and development regulations of the base zone and Chapter 14, Article 3, Division 1, Environmentally Sensitive Lands Regulations</u>	No permit required by this division
(2) Any <i>coastal development</i> within this overlay zone that is partially or completely within the Coastal Commission Permit Jurisdiction or the Deferred Certification Area	See use and development regulations of the base zone <u>and Chapter 14, Article 3, Division 1, Environmentally Sensitive Lands Regulations</u>	Coastal Development Permit(s) are issued by the Coastal Commission and the City for their respective jurisdictions
(3) <i>Coastal development</i> in this overlay zone that is not exempt under (1) of this table or that is not in the area described in (2) of this table	See use and development regulations of the base zone <u>and Chapter 14, Article 3, Division 1, Environmentally Sensitive Lands Regulations</u>	Coastal Development Permit/Process Two or Three

~~SEC. 132.0405 Supplemental Use Regulations of the Coastal Overlay Zone~~

~~[No change to remainder of section.]~~

SEC. 132.0902 Where the Tandem Parking Overlay Zone Applies

(a) This overlay zone applies to property located within the boundaries shown on Map No.

C-846 903, filed in the office of the City Clerk as Document No.00-17836

_____. These areas are shown generally on Diagram 132-09A.

(b) [No change to first paragraph.]

[No change to Table 132-09A.]

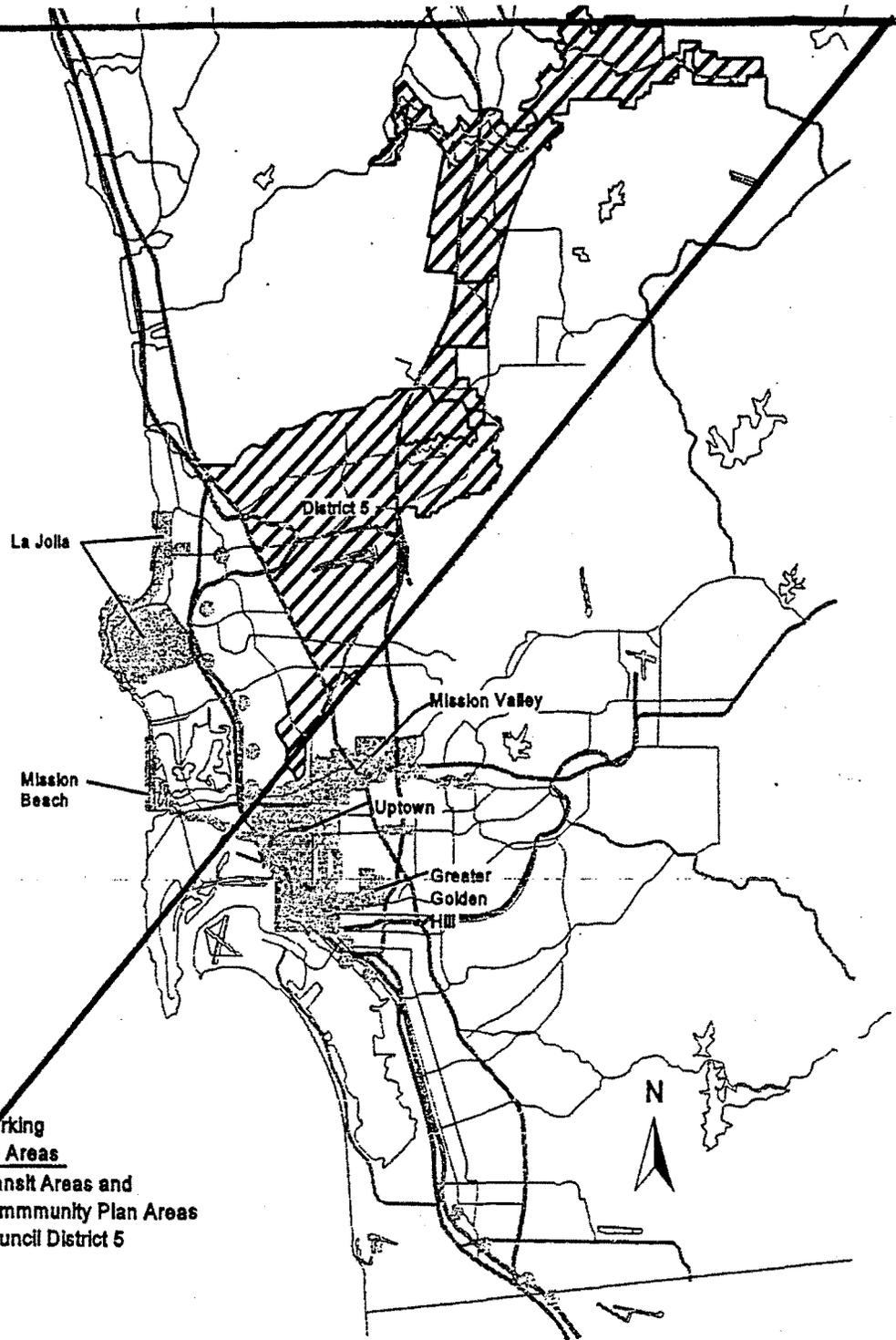


DIAGRAM 132-09A

Residential Tandem Parking Overlay Zone

This is a reproduction of Map No. C-846 for illustration purposes only.

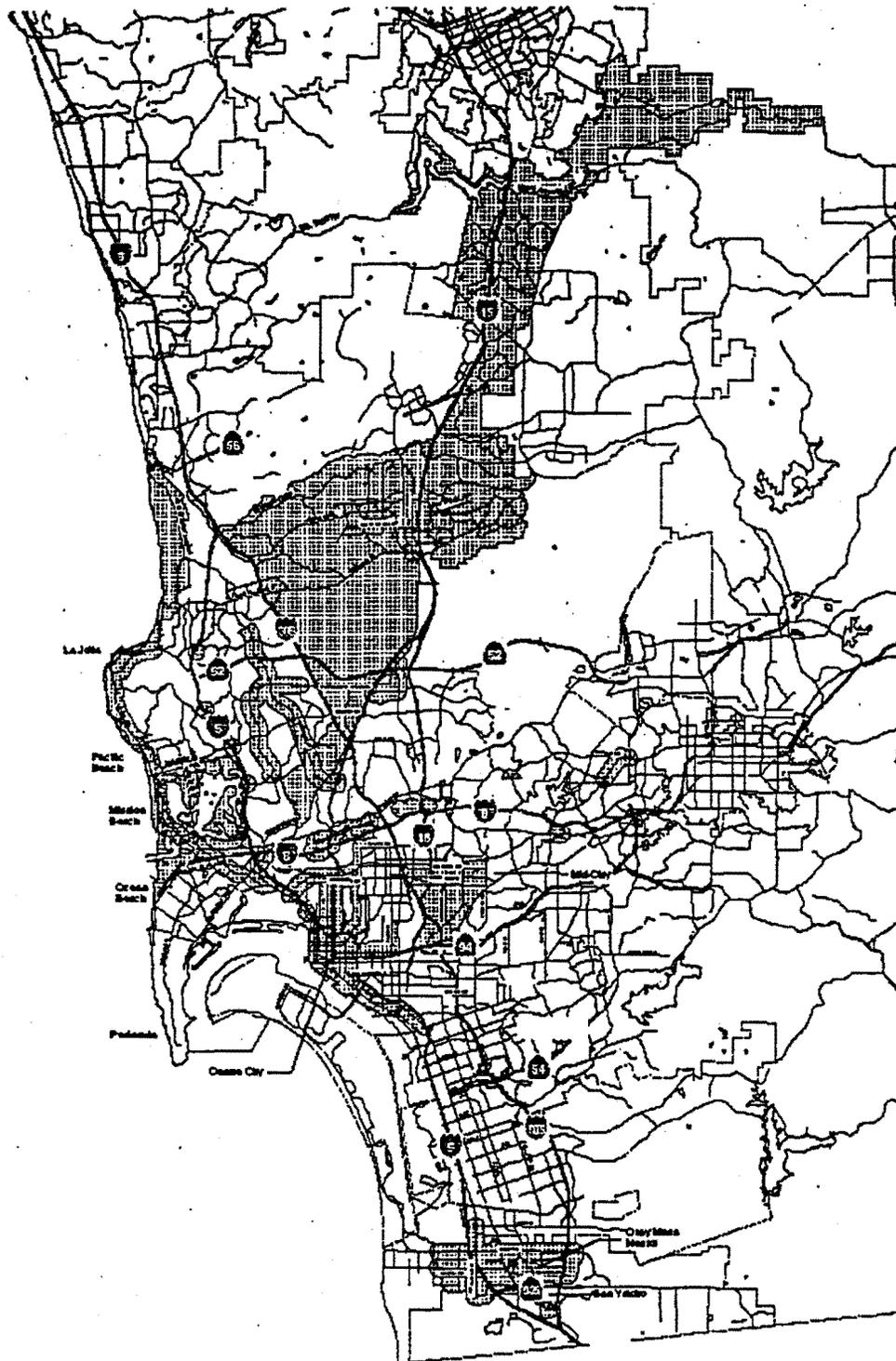


DIAGRAM 132-09A

Residential Tandem Parking Overlay Zone

This is a reproduction of Map No. C-903 for illustration purposes only.

Ch.	Art.	Div.
13	2	5

SEC. 132.1002 Where the Transit Area Overlay Zone Applies

- (a) This overlay zone applies to property located within the boundaries shown on Map No. C-846 900, filed in the office of the City Clerk as Document No. OO-17836 _____.

These areas are shown generally on Diagram 132-10A.

- (b) [No change to first paragraph.]

[No change to Table 132-10A.]

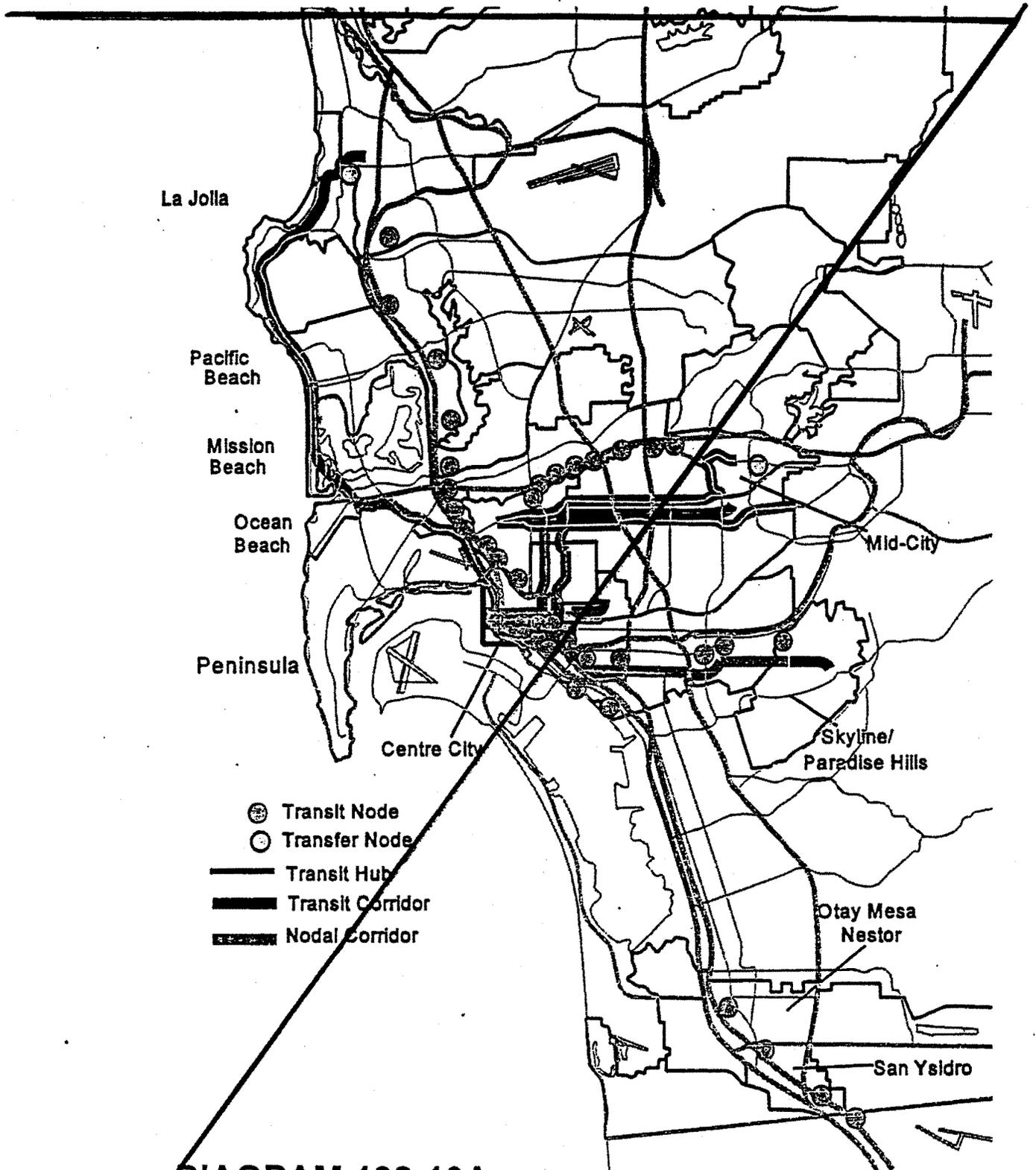


DIAGRAM 132-10A
Transit Area Overlay Zone

~~This is a reproduction of Map No. G-846 for illustration purposes only.~~

Chapter 13: Zones

§ 132.1002
Cont'd

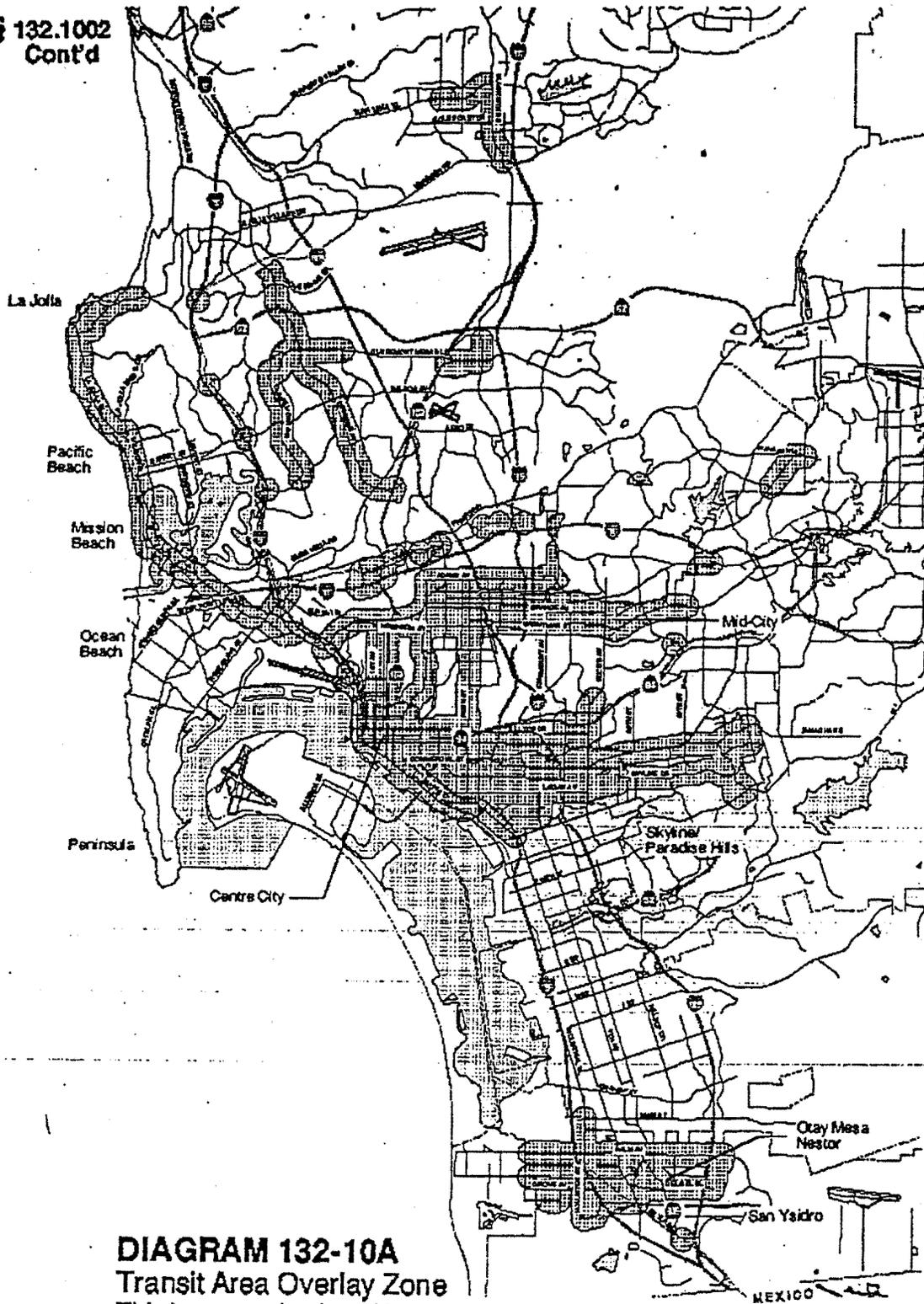


DIAGRAM 132-10A
Transit Area Overlay Zone
 This is a reproduction of Map No. C-900
 for illustration purposes only.

CP.	Art.	DW.
11	2	10

SEC. 141.0306 Guest Quarters

[No change in first paragraph.]

(a) through (k) [No change.]

(l) Off-street parking and access for a *premises* containing a guest quarters shall be provided as follows:

(1) [No change.]

(2) Off-street parking shall be provided at a rate of 1 space for each bedroom in the guest quarters.

(23) Off-street parking required for guest quarters shall not be located in the area between the *street wall* and the front *property line*.

(34) Access to the off-street parking from an unimproved *alley* is not permitted.

(m) [No change.]

SEC. 141.0405 Communication Antennas

~~(a) This Section 141.0405 regulates the following communication antennas. Amateur (HAM) radio facilities or temporary telecommunication facilities necessitated by natural or man-made disasters are not regulated as communication antennas. Section 141.0405 does not apply to single dish antennas smaller than 24 inches in diameter or to remote panel antennas less than 24 inches in length and in width, except when associated with another telecommunication facility.~~

~~(1) Minor telecommunication facilities: Antenna facilities used in wireless telephone services, paging systems, or similar services that comply with all development regulations of the underlying zone and overlay(s) and that meet the criteria in Section 141.0405(de)(1) or (2).~~

~~(2) Major telecommunication facilities: Antenna facilities that do not meet the criteria for minor telecommunication facilities in Section 141.0505(de)(1) or (2).~~

(2) [No change.]

Diagram 142-03GH
Retaining Wall Requirements
(No change to diagram)

(e) and (f) [No change.]

SEC. 142.0380 Fence and Retaining Wall Maintenance

- (a) Property owners shall maintain *fences* and *retaining walls* free from dilapidated or dangerous conditions.
- (b) Property owners shall maintain *fences* and *retaining walls* in a graffiti-free condition.
- (1) [No change.]
- (2) The following *fences* are permitted outside of required *yards* up to the maximum *structure height* specified in the zone:

(A) and (B) [No change.]

~~(C) Open and solid fences in commercial and industrial zones.~~

SEC. 142.0510 General Parking Regulations

(a) through (d) [No change.]

(e) [No change.]

(f) In RS zones, the required parking may be provided on a driveway or paved surface within the front or street side yard on premises where required parking was converted to habitable space prior to January 1, 1992; subject to the following requirements:

- (1) The area complies with the standards for required parking in Section 142.0560 utilizing a maximum of five feet of the undeveloped public right-of-way. In no

case shall the sidewalk be obstructed or encroached upon by a vehicle parked within the sidewalk area.

(2) The area is perpendicular to the *public right-of-way* and between the sidewalk adjacent to the *premises* and the *building setback*.

(3) No other on-site alternative placement options are available.

(4) The area complies with Section 142.0560(j).

(fg) [No change]

~~SEC. 142.0530 Nonresidential Uses -- Parking Ratios~~

~~(a) [No change in first paragraph.]~~

~~(E3) A registered engineer or architect must certify that the conditions of this subsection have been met. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager Engineer before final inspection approval.~~

~~(5e) Standards for Utilities~~

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

~~(A1) [No change in text.]~~

~~(B2) [No change in text.]~~

SEC. 143.0150 Deviations from Environmentally Sensitive Lands Regulations

[No change to first paragraph.]

(a) [No change.]

(b) ~~Deviations from the FEMA Special Development Regulations for *Special Flood Hazard Areas* in Section ~~143.0145(e)~~ Sections 143.0145 and 143.0146 may be granted only if the decision maker makes the *findings* in Section 126.0504(d).~~

(c) [No change.]

SEC. 143.0402 When Planned Development Permit Regulations Apply

This division applies to all *development* proposals for which a Planned Development Permit is requested, in accordance with Table 143-04A.

**Table 143-04A
Supplemental Planned Development Permit Regulations Applicability**

Type of <i>Development Proposal</i>	Applicable Sections	Required <i>Development Permit/Decision Process</i> ⁽¹⁾
Residential <i>development</i> requesting deviations from applicable zone regulations ⁽²⁾	143.0403, 143.0410, 143.0420	PDP/Process 4
Commercial and Industrial <i>development</i> requesting deviations from applicable zone regulations	143.0403, 143.0410, 143.0460	PDP/Process 4
<i>Developments</i> within <i>land use plans</i> where a Planned Development Permit is recommended when other discretionary actions are requested	143.0403, 143.0465	PDP/Process 3
Rural cluster <i>development</i> in the AR and OR zones	143.0403, 143.0410, 143.0420, 143.0440	PDP/Process 4
Rural cluster <i>development</i> with increased <i>density</i> in the AR-1-1 and OR-1-2 zones within the future urbanizing area ⁽³⁾	143.0403, 143.0410, 143.0420, 143.0450	PDP/Process 5
Residential <i>development</i> in RS zones of urbanized communities where a Planned Development Permit is requested	143.0403, 143.0410, 143.0420, 143.0430	PDP/Process 4

Footnotes to Table 143-04A

1 and 2 [No change.]

³ Rural cluster development with increased *density* is not available to properties within the Del Mar Mesa Specific Plan area. Refer to the Del Mar Mesa Specific Plan adopted on May 27, 1997, by O-18337 for the applicable development regulations.

SEC. 143.0410 General Development Regulations for Planned Development Permits

The following regulations are applicable to *developments* for which a Planned Development Permit is requested when identified in Table 143-04A.

(a) Deviations

(1) and (2) [No change.]

(3) A Planned Development Permit may not be used to request deviations from any of the following regulations:

(A) through (C) [No change.]

(D) Residential density unless the residential component is part of a mixed-use (commercial/residential) project and the applicable land use plan establishes a higher density than the base zone;

(DE) Applicable supplemental regulations identified in Table 143-04A;

(EE) The regulations in Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations); and

(FG) The regulations in Chapter 14, Article 3, Division 2 (Historical Resources Regulations).

SEC. 143.0450 Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development with Increased Density

(a) *Density*

(1) Within the AR-1-1 and OR-1-2 zones within the future urbanizing area, except within the Del Mar Mesa Specific Plan adopted on May 27, 1997 by Ordinance No. O-18337, the maximum permitted *density* with the increased *density* rural cluster alternative is one dwelling unit per 4 acres with the dwelling units clustered. The remainder of the *premises* where no *development* is proposed shall be maintained in its natural state with no future *development* potential. The utilization of this increased *density* alternative shall require the provision of housing within the *premises*, affordable to low or *very low income families*, in accordance with Section 143.0450(d). For development within the Del Mar Mesa Specific Plan area the development regulations identified in the Del Mar Mesa Specific Plan adopted on May 27, 1997 by Ordinance 18337 apply.

(2) and (3) [No change.]

(b) through (e) [No change.]

Amend Table 143-01A in Section 143.0110(b) by renumbering Section 143.0146(c)
appearing within Table 143-01A to read Section 143.0146. [It appears a total of six times.]

PD:MJL:cdk:lc
11/29/00
12/18/00 COR. COPY
Or.Dept: PDR
SO-2001-64

City of San Diego
Major LCP Amendment #6-2000 B

(O-2001-90)

ORDINANCE NUMBER O- 18911 (NEW SERIES)

ADOPTED ON JAN 09 2001

AN ORDINANCE INCORPORATING PROPERTY LOCATED IN THE THE CITY OF SAN DIEGO INTO THE RESIDENTIAL TANDEM PARKING OVERLAY ZONE AS DEFINED IN CHAPTER 13, ARTICLE 2, DIVISION 9 OF THE MUNICIPAL CODE AND THE TRANSIT AREA OVERLAY ZONE AS DEFINED IN CHAPTER 13, ARTICLE 2, DIVISION 10 OF THE MUNICIPAL CODE , AND REPEALING ALL ORDINANCES OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICT HEREWITH.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That the properties in the City of San Diego on Zone Map Drawing No. C-903, filed in the office of the City Clerk as Document No. 00-18911-1, be, and they are hereby incorporated into the Residential Tandem Parking Overlay Zone as such overlay zone is described and defined by Chapter 13, Article 2, Division 9 of the San Diego Municipal Code.

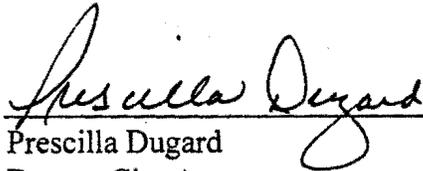
Section 2. That the properties in the City of San Diego on Zone Map Drawing No. C-900, filed in the office of the City Clerk as Document No. 00-18911-2, be, and they are hereby incorporated into the Transit Area Overlay Zone as such overlay zone is described and defined by Chapter 13, Article 2, Division 10 of the San Diego Municipal Code.

Section 3. That and all ordinances of the City of San Diego be and are repealed insofar as the same conflict herewith.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. This ordinance shall be in force and effect on the date it is effectively certified by the California Coastal Commission as a City of San Diego Local Coastal Program amendment.

APPROVED: CASEY GWINN, City Attorney

By 
Prescilla Dugard
Deputy City Attorney

PD:cdk
11/16/00
Or.Dept:Plan. & Dev. Rev.
Aud.Cert:N/A
O-2001-90

Chapter 13: Zones

§ 132.1002
Cont'd

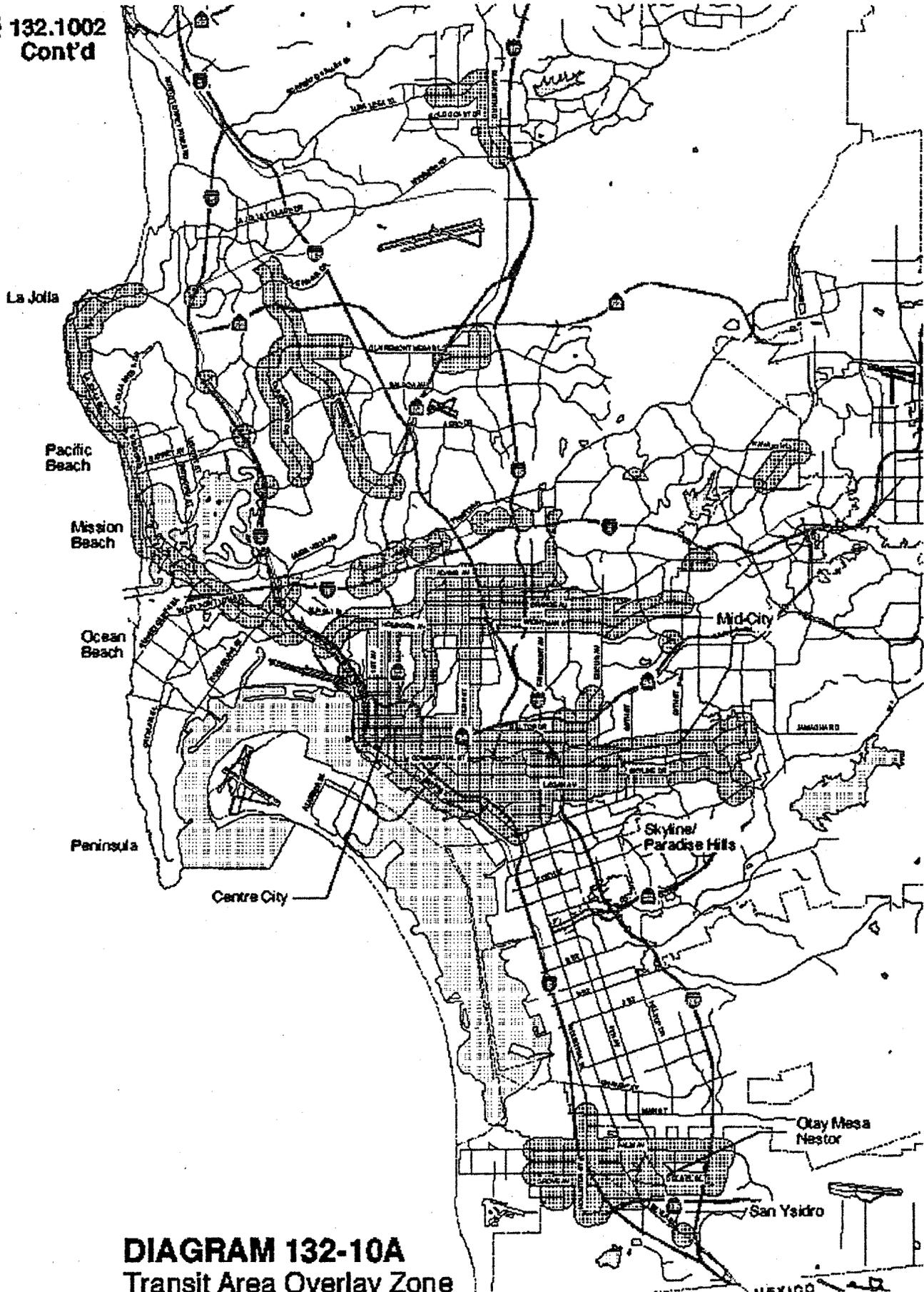


DIAGRAM 132-10A
Transit Area Overlay Zone
This is a reproduction of Map No. C-900
for illustration purposes only.

DOCUMENT NO. MEXICO 18911-2

JAN 09 2001

10/20/99 11:35 AM 9/14/99 STARTED 9/30/99
ADOPTED 9/27/99
City of San Diego Done 9/30/99
Major LCP Amendment #6-2000B
STRIKEOUT ORDINANCE

#710

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NEW LANGUAGE: ~~Redlined~~

(O-2000-26 COR. COPY)
10/01/99

ORDINANCE NUMBER O- 18686 (NEW SERIES)

ADOPTED ON SEP 27 1999

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3,
DIVISION 6, OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 103.0602 RELATING TO THE
CARMEL VALLEY PLANNED DISTRICT REGULATIONS,
AREA OF APPLICABILITY.

10/01/99

SEC. 103.0602 Area of Applicability

The regulations contained herein shall apply in the Carmel Valley Planned District which is within the Carmel Valley area in the City of San Diego. The area to which the provisions of this Division are applicable is shown on those certain Map Drawing Nos. C-670.5, C-671.2, C-676.5, C-679.3, C-683.2, C-694, C-698.3, B-4028, B-4060, B-4074, B-4062, B-4083, B-4102, B-4106, and B-4105, ~~and B-4089~~, and described in the appended boundary description filed in the office of the City Clerk.

RAD:lc
09/01/99
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Or. Dept: Plan. & Dev. Rvw.
OS-2000-26
Form=codeo.frm

City of San Diego
Major LCP Amendment #6-2000 B

STRIKEOUT ORDINANCE

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NEW LANGUAGE: Underlined

(SO-2001-65)

ORDINANCE NUMBER O-_____

ADOPTED ON _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 10 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING ARTICLE 3, DIVISION 6, SECTION 103.0612, RELATING TO CARMEL VALLEY PLANNED DISTRICT PARKING REGULATIONS.

SEC. 103.0612 Employment Center (EC)

[No change in first paragraph.]

(a) and (b) [No change.]

(c) Parking Regulations for the Employment Center Zone

Parking shall be in conformance with Land Development Code chapter 13, Article 2.

Division 5

(Parking Regulations) except as follows:

Business and Professional Office/Government/Regional and Corporate Headquarters

shall require 4.0 parking spaces per 1,000 square feet of gross floor area.

PD:MJL:cdk
11/01/2000
Or.Dept: PDR
SO-2001-65

SD LCPA #6-2000 B

JAN 09 2001

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Byron Wear	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 8 - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

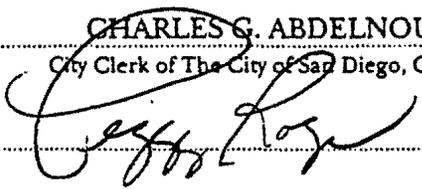
DICK MURPHY

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By  Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 12 2000

JAN 09 2001

, and on _____

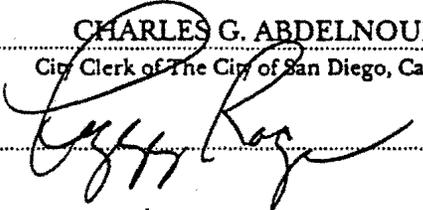
~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By  Deputy.

Office of the City Clerk, San Diego, California

This information is available in alternative formats upon request.

CC-1255-A (Rev. 11-95)

Ordinance Number 18912

Adopted

JAN 09 2001

11511 554 B 0/15/99
12571 51 B 9/14/99
City of San Diego
Major LCP Amendment #6 -
STRIKEOUT ORDINANCE 2000B

#709
SMUTED 9/2/99
DONS 9/6/99

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(99-137)(COR. COPY)

ORDINANCE NUMBER 18674 (NEW SERIES)

ADOPTED ON SEP 14 1999

99 SEP 13 00 12 02

→ AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 113.0103, RELATING TO LAND DEVELOPMENT TERMS; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 10, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 141.1004, RELATING TO THE CALIFORNIA SURFACE MINING AND RECLAMATION ACT OF 1975.

SEC. 113.0103 Definitions

Abutting property through Hotel/Motel [No change.]

Idle means to curtail for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

Important archaeological site through Open fence [No change.]

Operator means any person who is directly engaged in surface mining operations, or who contracts with others to conduct operations on his/her behalf, except a person who is engaged in surface mining operations as an employee with wages as his/her sole compensation.

Overburden means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by *surface mining* operations.

Owner, record through Public utility [No change.]

Reclamation means the combined process of ~~treating~~ land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, *flooding*, erosion, and other adverse effects from *surface mining* operations, including adverse surface effects incidental to underground mines, so that ~~they~~ mined lands are reclaimed to a usable condition which is readily adaptable ~~usable~~ for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

Record owner through Substantial conformance [No change.]

Surface mining means all, or any part, of the process involved in the mining of minerals on mined lands by removing *overburden* and mining directly from the mineral deposits, ~~by~~ open-pit mining of minerals naturally exposed, ~~by~~ mining by the auger method, ~~or by~~ dredging and quarrying, or surface work ~~that is incidental~~ to an underground mine. *Surface mining* operations include, but are not limited to:

- (a) Inplace distillation; or retorting; or leaching;
- (b) ~~T~~the production and disposal of *mining waste*; ~~or any~~

(c) Prospecting and exploratory activities.

Tentative map through Wetlands [No change.]

SEC. 141.1004 Mining and Extractive Industries

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

(a) Exemptions. The following activities and persons are exempt from the provisions of this section:

- ~~(1) Prospecting and exploration for minerals of commercial value where less than 1,000 cubic yards of overburden are removed in any single location of 1 acre or less;~~
- ~~(2) Any surface mining operation that does not involve the removal of more than 1,000 cubic yards of minerals, ores, and overburden or involve more than 1 acre in any single location;~~
- ~~(3) Surface mining operations that are required by federal law in order to protect a mining claim, if the operations are conducted solely for that purpose; and~~
- ~~(4) Any person who obtained a vested right to conduct a surface mining operation before January 1, 1976, as long as the vested right continues, provided that no substantial change is made in the operation except in accordance with the provisions of this section. A person shall be deemed to have a vested right if, before January 1, 1976, he or she has in good faith and in reliance upon a permit~~

~~or other authorization, if a permit or other authorization was required, diligently commenced *surface mining* operations and incurred substantial liabilities for work and necessary materials. Expenses incurred in obtaining the enactment of a resolution in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.~~

- ~~(5) Periodic sand removal operations in accordance with an approved flood control maintenance and management plan.~~
- ~~(b) Approval of a *reclamation* plan, in accordance with the provisions set forth in this section and as further provided in the California Surface Mining and Reclamation Act of 1975, Article 5, is required before approval of a Conditional Use Permit for mining operations.~~
- ~~(c) The State Geologist shall be notified by the City Manager of the filing of a Conditional Use Permit application to mine.~~
- ~~(d) Reclamation plans, reports, applications, and other documents submitted in accordance with this section are public records unless it can be demonstrated to the satisfaction of the City Attorney that the release of this information would reveal production, reserves, or rate of depletion that is entitled to protection as proprietary information. The City Attorney shall identify the proprietary information as a separate part of each application. A copy of all permits, *reclamation* plans, reports, applications, and other documents submitted in accordance with this section, including proprietary information, shall be furnished to the District Geologist of the State Division of Mines by the City Manager. Proprietary information shall be made available to persons other than the State Geologist only when authorized by the mine owner in accordance with Section 2778 of the~~

~~California Surface Mining and Reclamation Act of 1975:~~

~~(e) As a condition of approval for the Conditional Use Permit or the *reclamation* plan, or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the Conditional Use Permit and the *reclamation* plan, and the applicant shall agree to permit the City to enter the site for inspections. The inspections shall occur no less frequently than biennially. If the City finds that the mining operator is not following the provisions of the *reclamation* plan, the operator shall be given notice to comply within a given time not to exceed 90 calendar days. A copy of the notice shall be given to the owner of the land upon which the operations are located. If at the end of the stated time the operator is not in compliance, the City Manager may revoke or suspend the Conditional Use Permit and/or the *reclamation* plan until the operator complies or obtains approval of a revised *reclamation* plan. In addition, the City Manager may require a security to guarantee compliance that in his or her judgment is necessary to ensure compliance. The security shall be released when the City Manager determines that the operator is in compliance with the provisions of the Conditional Use Permit or the *reclamation* plan. The security to be required may be any of the following:~~

- ~~(1) A bond or bonds by one or more duly authorized corporate securities;~~
- ~~(2) A deposit of money or negotiable bonds of the kind approved for securing deposits of public moneys;~~
- ~~(3) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the plan are on deposit and guaranteed for payment; or~~

~~(4) Other security at the option of the mining operator that is acceptable to the City Manager and the City Attorney.~~

~~(f) Whenever any *surface mining* operation or portion of an operation that is subject to this section is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of the *reclamation* plan required by this section.~~

~~(g) Substantial deviations from the approved *reclamation* plan are not permitted unless amendments to the *reclamation* plan and the Conditional Use Permit have been approved by the decision maker in accordance with Process Four.~~

~~(h) In the OR-1-2 zone, the following regulations apply:~~

~~(1) Processing and other related mining activities (such as asphaltic processing) are permitted only within the allowable 25% development area.~~

~~(2) All mining and other related mining activities must be consistent with the objectives, guidelines, and recommendations in the Multiple Species Conservation Program Plan, the California Surface Mining and Reclamation Act of 1975, and the regulations in Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).~~

~~(3) Any sand removal activities should be monitored for noise impacts to surrounding sensitive habitats, and all new sediment removal or mining operations proposed in proximity to the *MHPA* or changes in existing operations, must include noise reduction methods that take into consideration the breeding and nesting seasons of sensitive bird species.~~

~~(4) All existing and future mined lands adjacent to or within the *MHPA* shall be~~

~~reclaimed pursuant to the California Surface Mining and Reclamation Act of 1975 and should be designed to contribute biologically to the MHPA. Native habitats should be restored as much as possible.~~

~~(5) Any permitted mining activity, including reclamation of sand, must consider changes and impacts to water quality, water table level, fluvial hydrology, flooding, and habitats upstream and downstream and must provide adequate mitigation.~~

(1) Prospecting for or *exploration* of minerals for commercial purposes where less than 1,000 cubic yards of *overburden* are removed in any single location of 1 acre or less;

(2) Any *surface mining* operation that does not involve the removal of more than 1,000 cubic yards of minerals, ores, and *overburden* or involve more than 1 acre in any single location;

(3) *Surface mining* operations that are required by federal law in order to protect a mining claim, if the operations are conducted solely for that purpose; and

(4) *Excavations* or *grading* conducted for farming, onsite construction, or for the purpose of restoring land following a flood or natural disaster.

(5) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(6) Onsite *excavation* and onsite earthmoving activities that are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related

excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(A) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to Public Resources Code, Division 13 (commencing with Section 21000).

(B) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Public Resources Code, Division 12 (commencing with Section 21000).

(C) The approved construction project is consistent with the general plan or zoning of the site.

(D) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(7) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(A) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(B) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial

activities by the applicable city or county.

(C) None of the minerals being processed are being extracted onsite.

(D) All *reclamation* work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(8) Emergency *excavations* or *grading* conducted by the California Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(9) *Surface mining* operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the California Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and *surface mining* operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the California Department of Water Resources adopts, after submission to and consultation with, the California Department of Conservation, a *reclamation* plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulation of the board adopted pursuant to the California Surface Mining and Reclamation Act of 1975. The California Department of Water Resources shall provide an annual report to the California Department of Conservation by the date specified by the California Department of Conservation on these mining activities.

Nothing section 141.1004 shall require the California Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a *reclamation* plan from any city or county in order to conduct *surface mining* operations specified in section 141.0114(a)(9). Nothing in section 141.1004(a)(9) shall preclude the bringing of an enforcement action pursuant to Public Resources Code Section 2774.1, if it is determined that a *surface mining* operator, acting under contract with the California Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the California Department of Water Resources or the Reclamation Board, is otherwise not in compliance with the California Surface Mining and Reclamation Act of 1975.

(10) *Excavations or grading* for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to *excavation* and *grading* that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite *excavation* or *grading* that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to *excavation* for materials that are, or have been sold for commercial purposes.

Span

(A) The exemption set forth in section 141.1004(a)(10) shall be available only if slope stability and erosion are controlled in accordance with Section 3704(f) and Section B706(d) of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the California Department of Forestry and Fire Protection.

(11) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:

(A) The operations are being conducted in accordance with Division 3 (commencing with Section 3000).

(B) The operations are consistent with any general plan or zoning applicable to the site.

(C) The earthmoving activities are within oil or gas field properties under a common owner or operator.

(D) No excavated materials are sold for commercial purposes.

(b) Any person who obtained a vested right to conduct a *surface mining* operation before January 1, 1976, shall not be required to secure a Conditional Use Permit pursuant to the provisions of this section, as long as the vested right continues and that no substantial change is made in the operation except in accordance with the provisions of section 141.1004. A person shall be deemed to have a vested right if, before January 1, 1976, that person has in good faith and in reliance upon a permit or other authorization, if a permit or other authorization was required, diligently commenced *surface mining* operations and incurred substantial liabilities for work and necessary materials. Expenses incurred in obtaining the enactment of a resolution in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials that would create a vested right. A person with vested rights who has continued *surface mining* in the same disturbed area after January 1, 1976, shall submit a *reclamation* plan to the City Manager for approval in accordance with *Process One* and

shall obtain a grading permit. Any substantial change in the *surface mining* operation subsequent to January 1, 1976, shall require the granting of a Conditional Use Permit in accordance with section 141.1004.

Any person who has obtained a vested right to conduct *surface mining* operations prior to January 1, 1976, shall submit to the City Manager, for approval, a *reclamation* plan for vested *surface mining* operations that have been conducted since January 1, 1976, and shall obtain a grading permit and be subject to the same frequency of inspection as those mining operators required to obtain a Conditional Use Permit pursuant to section 141.1004 before commencing or expanding their operation. If a *reclamation* plan is not on file and approved by the City Manager, the continuation of the *surface mining* operation shall be prohibited until a *reclamation* plan is submitted and approved. Nothing in section 141.1004 shall be construed as requiring the filing of a *reclamation* plan for, or the *reclamation* of, mined lands on which *surface mining* operations were conducted prior to, but not after, January 1, 1976. All *reclamation* plans submitted to the City Manager for vested operations that are conducted after January 1, 1976, shall be accompanied by the applicable deposit.

(c) The applicant shall submit a *reclamation* plan, financial assurances and grading plans, in accordance with the provisions set forth in section 141.1004; the California Surface Mining and Reclamation Act of 1975, Article 5; applicable provisions of Chapter 8, Division 2, Title 14 of the California Code of Regulations; and procedures established by the City Manager. The Conditional Use Permit, *reclamation* plan, financial assurance, and *grading* plan shall be processed as a consolidated action.

(d) The Director of the California Department of Conservation shall be

notified by the City Manager of the filing of a Conditional Use Permit application to mine.

(e) In accordance with Public Resources Code section 2772, any person who owns, leases, or otherwise controls or operates on all or any portion any mined lands, or who plans to conduct *surface mining* operations on the lands, shall submit a *reclamation* plan for approval by the City Manager. The *reclamation* plan shall be submitted in a format specified by the City Manager. The *reclamation* plan shall include all information and documentation set forth in Public Resources Code sections 2772 (c) and 2773(a).

(f) In accordance with Public Resources Code section 2207, or as a condition of approval for a Conditional Use Permit, the mining operator shall file an annual *surface mining* report on forms provided by the California Department of Conservation with the California Department of Conservation and the City Manager no later than the anniversary date established by the Director of the California Department of Conservation.

(g) *Reclamation* plans, reports, applications, and other documents submitted in accordance with section 141.1004 are public records unless it can be demonstrated to the satisfaction of the City Attorney that the release of this information would reveal production, reserves, or rate of depletion that is entitled to protection as proprietary information. The City Attorney shall identify the proprietary information as a separate part of each application. A copy of all permits, *reclamation* plans, reports, applications, and other documents submitted in accordance with section 141.1004, including proprietary information, shall be furnished to the Director of the California Department of Conservation by the City Manager. Proprietary information shall be made available to persons other than the State Geologist only when authorized by the *surface mining* owner in accordance with Public Resources Code section 2778.

(h) As a condition of approval for the Conditional Use Permit or the *reclamation* plan, or both, the *applicant* shall agree to allow the City, upon notice of inspection, to enter the site to inspect and evaluate continuing compliance with the Conditional Use Permit and the *reclamation* plan. The inspections shall occur no less frequently than once in any calendar year, in accordance with Public Resources Code section 2774(b). The inspection shall be conducted by a state-registered geologist, state registered civil engineer, state licensed landscape architect or state registered forester, who is experienced in land *reclamation* and who has not been employed by the *surface mining* operation in any capacity during the twelve month prior to the inspection. The inspection shall be conducted using a form provided by the California Department of Conservation and subject to review and approval by the City Manager. The completed inspection form and an inspection report shall be submitted to the City Manager within fifteen days of the inspection. All costs related to the inspections and report shall be borne solely by the operator. The City Manager shall notify the California Department of Conservation within thirty days of completion of the inspection that the inspection has been conducted; the City Manager shall also forward a copy of the notice, the completed inspection form and any necessary supporting documentation, to the applicant.

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As a result of the annual inspection, if the City Manager finds that the *surface mining* operator is not following the provisions of the *reclamation* plan, the *surface mining* operator shall be given notice to comply within a given time not to exceed ninety calendar days. A copy of the notice shall be given to the owner of the land upon which the *surface mining* operations are located. If at the end of the stated time the operator is not in compliance, the City Manager may revoke or suspend the Conditional Use Permit or the

reclamation plan or both until the *surface mining* operator complies or obtains approval of a revised *reclamation* plan.

(i) In accordance with the provisions of section 141.1004, Public Resources Code section 2773.1 and as a condition of approval of the Condition Use Permit or the *reclamation* plan or both, the *surface mining* operator shall submit financial assurances to ensure compliance with the *surface mining* operation's *reclamation* plan, including revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, annual adjustments for disturbance to new lands and those anticipated for the upcoming calendar year, inflation and other measures, as necessary. Cost estimates shall be prepared in accordance with the procedures outlined in the most recent edition of the State Mining and Geology Board's "Financial Assurance Guidelines" and shall be submitted to the City Manager for review and approval prior to the *surface mining* operator securing financial assurances. A copy of the cost estimates will be forwarded to the State California Department of Conservation for review. Revisions to financial assurances shall be submitted to the City Manager each year prior to the anniversary date for approval of the financial assurances. The annual adjustments shall take into account new lands disturbed by *surface mining* operations, changes with respect to environmental conditions affected by mining operations, new information concerning mining *reclamation* or the *reclamation* of subject mined lands, modifications of the *reclamation* plan, changes in the laws and regulations affecting *surface mining*, inflation and *reclamation* of lands accomplished in accordance with the *reclamation* plan.

(1) The financial assurances shall be made payable to the City of San Diego and the California Department of Conservation and may be any of those listed below. The financial assurances shall be released, upon written notification from the City Manager to the *surface mining* operator and the California Department of Conservation, that the *surface mining* operator is in compliance with the provisions of the Conditional Use Permit and has completed the work in accordance with the approved *reclamation* plan.

(A) A bond or bonds by one or more duly authorized corporate securities;

(B) A deposit of money or negotiable bonds of the kind approved for securing deposits of public moneys;

(C) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the plan are on deposit and guaranteed for payment; or

(D) Other security at the option of the *surface mining* operator that is acceptable to the City Manager and the City Attorney.

(2) Default of financial assurances shall comply with the procedures established by the City Manager.

(j) Whenever any *surface mining* operation or portion of a *surface mining* operation that is subject to section 141.1004 is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of the Conditional Use Permit, *reclamation* plan, the provisions of section 141.1004 and the California Surface Mining and Reclamation Act of 1975.

(k) In accordance with Public Resources Code section 2770, and as further provided in section 141.1004, whenever any *surface mining* operation becomes *idle*, the *surface mining* operator shall submit a proposed interim management plan (*IMP*) to the City Manager for review and approval. The *IMP* shall be submitted within ninety days of the operation becoming *idle* on forms provided by the City Manager. Review and approval of the *IMP* shall be carried out in accordance with Public Resources Code section 2770(h). Upon receipt of a complete proposed *IMP*, the City Manager may forward it to the California Department of Conservation for review.

(l) Deviations from the approved *reclamation* plan, including an *IMP*, are not permitted unless amendments to the *reclamation* plan, financial assurances and the Conditional Use Permit have been approved by the decision maker in accordance with *Process Four*, or the Substantial Conformance Review process where applicable.

(m) In the OR-1-2 zone, the following regulations apply.

(1) Processing and other related mining activities (such as asphaltic processing) are permitted only within the allowable 25% development area.

(2) All mining and other related mining activities must be consistent with the objectives, guidelines, and recommendations in the Multiple Species Conservation Program Plan, the California Surface Mining and Reclamation Act of 1975, the regulations in Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations) and other applicable state and local laws and regulations.

(3) Any sand removal activities should be monitored for noise impacts to surrounding sensitive habitats, and all new sediment removal or *surface mining* operations

proposed in proximity to the *MHPA* or changes in existing operations, must include noise reduction methods that take into consideration the breeding and nesting seasons of sensitive bird species.

(4) All existing and future mined lands adjacent to or within the *MHPA* shall be reclaimed in accordance with the California Surface Mining and Reclamation Act of 1975 and should be designed to contribute biologically to the *MHPA*. Native habitats should be restored as much as possible. No invasive non-native plant species shall be introduced into areas adjacent to the *MHPA*.

(5) Any permitted *surface mining* activity, including *reclamation* of sand, must consider changes and impacts to surface water and groundwater quality, water table level, fluvial hydrology, flooding, and habitats upstream and downstream and must provide adequate mitigation.

(n) The City Manager may suspend or revoke a Conditional Use Permit or *grading* permit for violation of the terms and conditions of the permit, inadequate financial assurances, or Municipal Code violations.

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O-99-137

City of San Diego
Major LCD Amendment #6-

#712

STRIKEOUT ORDINANCE

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SAN DIEGO, CALIF.

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Redlined

(O-2000-92)

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ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON FEB 22 2000

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 1,
DIVISION 6, OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 141.0601 RELATING TO
COMMERCIAL SERVICES USE CATEGORY --
SEPARATELY REGULATED USES, ADULT
ENTERTAINMENT BUSINESSES.

✓ SEC. 141.0601 Adult Entertainment ~~Establishments~~ Businesses

(a) This section regulates the following adult entertainment ~~establishments~~ businesses.

- (1) Adult body painting studios: Any ~~establishment or business~~ that provides the service of applying paint or other substance, whether transparent or nontransparent, to or on a human body whether the body is wholly or partially nude in terms of *specified anatomical areas*.
- (2) Adult bookstores: Any ~~establishment business~~ that devotes more than 15 percent of the total display, shelf, rack, table, stand, or *floor* used for the display of books and periodicals to ~~merchandise for sale or rent to~~ the display and sale of books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, DVDs, CD-Rom or other forms of visual or audio representations that are characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* or

instruments, devices, or paraphernalia that are designed for use in connection with *specified sexual activities*. ~~An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade.~~

- (3) Adult cabarets: Any nightclub, bar, restaurant, or similar establishment ~~business~~ that features live performances or features films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by an emphasis on depicting or describing *specified sexual activities* or by exposure of *specified anatomical areas* on more than 7 calendar days within any 56-consecutive-day period.
- (4) Adult ~~drive-in out-door~~ theaters: Any *premises* and appurtenant facilities that are primarily used for the presentation of motion pictures, films, theatrical productions, or other forms of visual productions to persons in motor vehicles or on outdoor seats, where the material being presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to *specified sexual activities* or *specified anatomical areas* for observation by patrons on more than 7 calendar days within any 56-consecutive-day period.
- (5) Adult massage establishments ~~businesses~~: Any establishment where ~~premise and appurtenant facilities that are primarily used for~~ massage, alcohol rub, fomentation, ~~body scrub, body shampoo~~, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless the treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of California.

~~Adult massage establishments do not include athletic clubs, health clubs, schools, gymnasiums, reducing salons, spas, or similar establishments where massage or similar manipulation of the human body is offered as an incidental or accessory service. Adult entertainment establishment businesses do not include massage establishments businesses that provide only specialized massage services that are operated in accordance with Section 141.0613.~~

- (6) Adult mini-motion picture theaters: Any establishment business with a seating capacity of more than 5 but less than 50 persons where films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown and where the material shown is distinguished or characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* for observation by patrons on more than 7 calendar days within any 56-consecutive-day period.
- (7) Adult model studios: Any establishment business open to the public where figure models who display *specified anatomical areas* are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor and who pay a consideration or gratuity. Adult model studios do not include any school of art that is operated by an individual, firm, association, partnership, corporation, or institution that is authorized under the California Education Code to issue or confer a diploma.
- (8) Adult motels: Any motel or similar establishment business offering public accommodations that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions

on more than 7 calendar days within any 56-consecutive-day period where the material is distinguished or characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* for observation by patrons.

- (9) Adult motion picture theaters: Any establishment-business with a seating capacity of 50 or more persons where motion pictures, video cassettes, slides, or similar photographic reproductions are shown on more than 7 calendar days within any 56-consecutive-day period and where the material is distinguished or characterized by an emphasis upon depicting or describing *specified sexual activities* or *specified anatomical areas* for observation by patrons.
- (10) Adult peep show establishments-businesses: Any place to which the public is permitted or invited where devices that display still or moving images are maintained in a peep booth, as defined in Municipal Code Section 33.3302(c), where the images displayed on are available for observation for more than 7 calendar days within any 56-consecutive-day period are distinguished or characterized by an emphasis on depicting or describing *specified sexual activities* or *specified anatomical areas*.
- (11) Adult sexual encounter establishments-businesses: Any establishment-business, other than a hotel, *motel*, or similar establishment-business offering public accommodations that provides a place where two or more persons may congregate, associate, or consort in connection with *specified sexual activities* or the exposure of *specified anatomical areas*. Adult sexual encounter establishments-businesses do not include establishments-businesses where a medical practitioner,

psychologist, psychiatrist, or similar professional person licensed by the State of California engages in sexual therapy.

(12) Adult theaters: Any theater, concert hall, auditorium, or similar establishment ~~business~~ either indoor or outdoor, that regularly features live performances that are distinguished or characterized by an emphasis on *specified sexual activities* or exposure of *specified anatomical areas* for observation by patrons on more than 7 calendar days within any 56-consecutive-day period.

(b) Adult entertainment establishments ~~businesses~~ are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) Adult entertainment establishments ~~businesses~~ shall not be established, enlarged, or undergo a transfer of ownership or control if the *structure* housing the establishment ~~business~~ would be located within 1,000 feet of any of the following:

- (A) Another *structure* housing an adult entertainment establishment ~~business~~;
- (B) The *property line* of a residentially zoned property; or
- (C) The *property line* of a *church* except those established in accordance with Section 141.0404(a), a *school*, a *public park*, or a *social service institution*.

(2) If a *church* other than one established in accordance with Section 141.0404(a), a *school*, a *public park*, a *social service institution*, or a residential zone is established within 1,000 feet of an adult entertainment establishment ~~business~~, the person possessing ownership or control of the adult entertainment establishment ~~business~~ is permitted to transfer ownership or control within 2 years of the date on

which the *school* begins a course of instruction for students, the *church* or *social service institution* is opened for use, the *public park* is dedicated, or the ordinance establishing the residential zone becomes effective. The person acquiring the ownership or control, however, shall be required to discontinue the adult entertainment establishment ~~business~~ within 5 years from the date of the transfer of ownership or control if the business continues to be within 1,000 feet of the uses or properties listed in Section 141.0601(b)(1).

- (3) The public health, safety, and welfare shall be preserved and protected by applying the provisions of this section in the following descending order of importance:
- (A) Proximity to other adult entertainment establishments ~~businesses~~;
 - (B) Proximity to *schools*;
 - (C) Proximity to *churches*;
 - (D) Proximity to *public parks*;
 - (E) Proximity to residential zones; and
 - (F) Proximity to *social service institutions*.

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City of San Diego
Major LCP Amendment #6-2000B

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DEC 21 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: ~~Redline~~

(SO-2000-126 COR. COPY)

6/28/00

ORDINANCE NUMBER O- _____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 2,
DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTIONS 132.0301, 132.0302, 132.0303,
132.0306, 132.0308, AND 132.0309, ALL RELATING TO THE
AIRPORT ENVIRONS OVERLAY ZONE.

SEC. 132.0301 Purpose of the Airport Environs Overlay Zone

The purpose of the Airport Environs Overlay Zone is to provide supplemental regulations for property surrounding Brown Field, Montgomery Field, ~~San Diego International Airport (SDIA) at Lindbergh Field, and Naval Marine Corps Air Station Miramar.~~ The intent of these regulations is as follows:

(a) To ensure that land uses are compatible with the operation of airports by implementing the Comprehensive Land Use Plans ~~prepared by the Airport Land Use Commission for the San Diego region (San Diego Association of Governments)~~ for Brown Field, Montgomery Field, ~~SDIA at Lindbergh Field and Naval Marine Corps Air Station Miramar~~ that have been adopted by the Airport Land Use Commission for the San Diego region; and

(b) To provide a mechanism whereby property owners receive information regarding the noise impacts and safety hazards associated with their property's proximity to airport aircraft operations; and

(c) To ensure that provisions of the California Administrative Code Title 21 for incompatible land uses are satisfied.

SEC. 132.0302 Where the Airport Environs Overlay Zone Applies

(a) This overlay zone applies to properties that are identified in the Brown Field, Montgomery Field, SDIA at Lindbergh Field or Naval and Marine Corps Air Station Miramar Comprehensive Land Use Plans as areas within a noise contour zone, accident potential zone, or flight activity zone. These properties that are located within the boundaries shown on Map Nos. C-803, C-804, and C-805, and C-885, filed in the office of the City Clerk, and are shown generally on Diagram 132-03A.

(b) Table 132-03A shows the sections that contain the supplemental regulations and the type of permit required by this division, if any, for specific types of *development* proposals in this overlay zone.

[NOTE TO CITY CLERK: The map on the next page should be replaced with the edited hard copy version (attached). The electronic version has not been edited to reflect the addition of Lindbergh Field.]

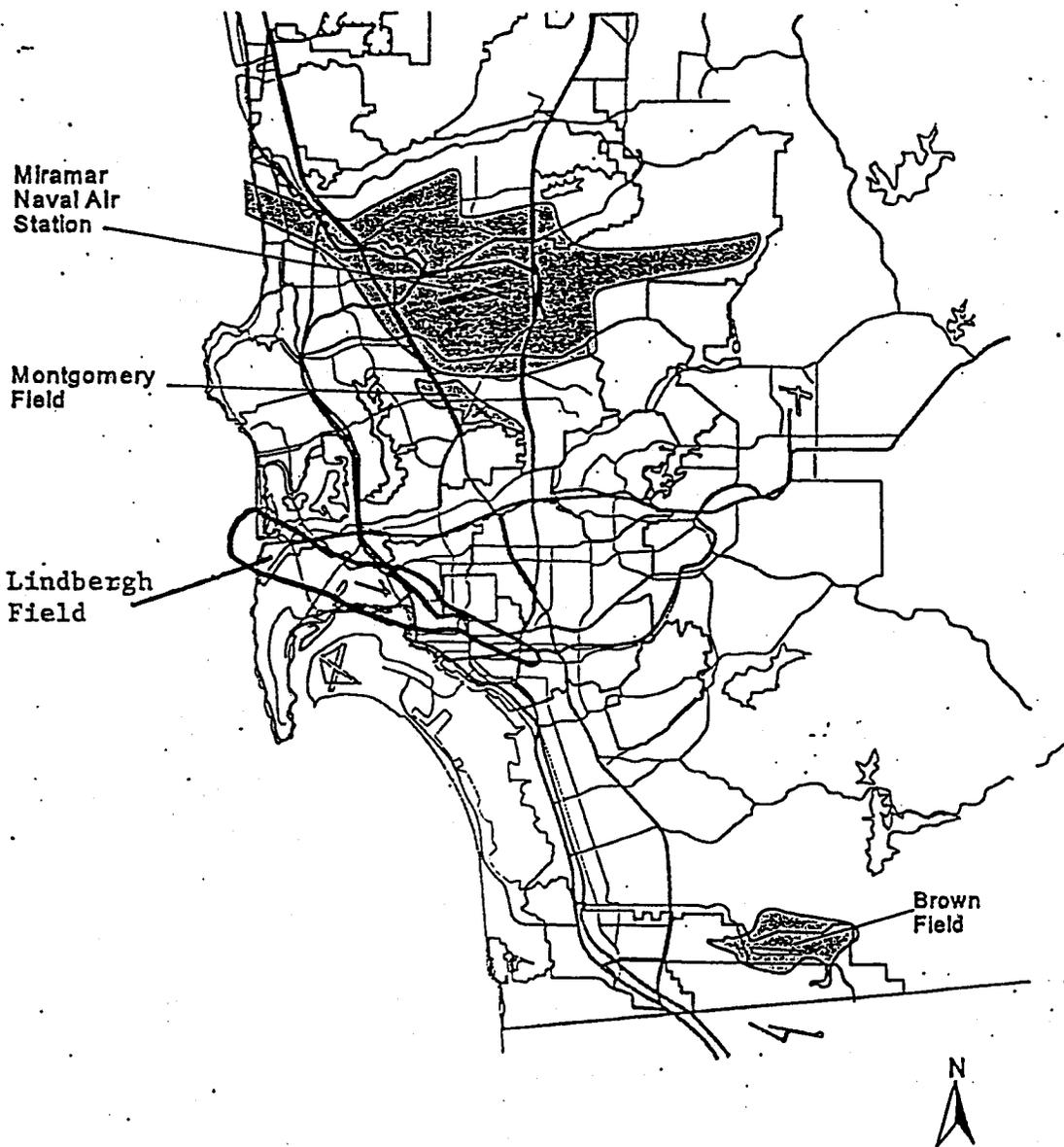


DIAGRAM 132-03A

Airport Environs Overlay Zone

This is a reproduction of map Nos. C-803, 804, and 805, and 885 for illustration purposes only.

Table 132-03A

Airport Environs Overlay Zone Applicability

Type of Development Proposal	Supplemental Development Regulations	Required Permit Type/Decision Process
(1) <i>Development for which a permit was issued before March 18, 1991 if the development would not result in a greater degree of noncompliance with this division than the previously permitted development</i>	None—Exempt from this division	No permit required by this division
(2) <i>Additions to, replacement of, or remodeling of an existing single dwelling unit</i>	None—Exempt from this division Within the SDIA-Lindbergh Field Airport Influence Area, development which exceeds a valuation of \$50,000 is subject to the requirement for sound attenuation. Lesser-valued additions to, replacements of, or remodeling of single dwelling units is exempt from this division.	No permit required by this division
(3) <i>Any change in use or development that requires a Building Permit or development permit and that is not exempt under (1) or (2) of this table</i>	See Sections 132.0306-132.0310	No permit required by this division

SEC. 132.0303 Exceptions to the Requirements of the Airport Environs Overlay Zone

The City Manager may grant an exception to the requirements of this division for proposed *development* that is minor, temporary, or incidental and is consistent with the intent of this division. The City Manager shall file a copy of the exception with the office of the City Clerk.

~~Prior to granting such an exemption, the City Manager shall provide ten days advance notice of this intent to the affected airport operator.~~

SEC. 132.0306 Supplemental Regulations of the Comprehensive Land Use Plans

(a) ~~Brown Field, Montgomery Field, and Marine Corps Air Station Miramar~~

Comprehensive Land Use Plans for Brown Field, Montgomery Field, and Naval ~~Marine Corps~~ Air Station Miramar contain community noise equivalent level contour maps, which identify areas subject to airport noise impacts, and accident potential zone maps or flight activity zone maps, which identify areas of safety hazards. The Comprehensive Land Use Plans also

provide land use compatibility matrices or tables, which specify the types of land uses that are compatible, conditionally compatible, or incompatible within specified noise contours, accident potential zones, or flight activity zones.

(a)(1) *Development* proposals shall comply with the airport noise/land use compatibility matrix or table of the applicable Comprehensive Land Use Plan. Indoor noise levels that are attributable to airport operations shall not exceed the levels indicated in the Comprehensive Land Use Plan. For uses not specifically identified, the City Manager shall determine the applicable standard.

(b)(2) *Development* proposals shall comply with the accident potential zone/land use compatibility matrix, ~~or and~~ the text regarding land use compatibility in the flight activity zones, of the applicable Comprehensive Land Use Plan.

(c)(3) Uses identified in the land use compatibility matrices as being conditionally compatible are permitted only if the noise is attenuated and the *density* is restricted as indicated in the matrices.

(6) **Lindbergh Field**

The Comprehensive Land Use Plan for SDIA-Lindbergh Field contains community noise equivalent level contour maps, which identify areas subject to potential airport noise impacts, and airport approach maps, which identify areas of potential safety hazards. The Comprehensive Land Use Plan also provides a land use compatibility table which specifies the types of land uses that are incompatible within specified noise contours.

(1) For residential development within the 60dB CNEL contour, the applicant must demonstrate that indoor noise levels that are attributable to airport operations shall not exceed 45db. For uses not specifically identified, the City Manager shall determine the standard

based upon applicable City and State statutory and regulatory requirements. The applicant will be required to spend no more than 10% of construction costs to meet noise attenuation requirements.

(2) *Development* proposals shall comply with the standards of the Runway Protection Zones and Airport Approach Overlay Zone as described by the Comprehensive Land Use Plan.

SEC. 132.0308 Acoustical Testing of Interior Noise Levels

An acoustical study may be required by the City Manager to determine if the *development* proposal meets the noise standards pursuant to this division established in the Comprehensive Land Use Plan. If noncompliance with this division is alleged and the City Manager requires a field test to resolve the complaint, the complainant shall post a bond or place adequate funds in escrow to cover the cost of testing. The testing costs shall be charged to the complainant if field tests show that the *development* proposal complies with these regulations. If the tests show noncompliance, the testing costs shall be charged to the applicant and the applicant owner or builder and the owner or builder shall take actions to comply with the sound attenuation provisions of this division. For the purposes of field testing, the typical interior noise level must demonstrate that the applicant builder or owner has complied with the appropriate Community Noise Equivalent Level established in the adopted Comprehensive Land Use Plan as required by this division.

SEC. 132.0309 Requirement for Avigation Easement

Where a prescriptive right for avigation purposes exists, a development permit or Building Permit shall not be issued for any development or use subject to the Airport Environs Overlay Zone until an avigation easement is recorded in favor of the airport owner.

(a) An aviation easement for *development* within the Airport Environs Overlay Zone is required where the *development* results in an increase in the number of *dwelling units* within the Overlay Zone, and either

(1) the *development* is identified in the approved Comprehensive Land Use Plan for Brown Field, Montgomery Field or Marine Corps Air Station Miramar, as applicable, as "incompatible" or "conditionally compatible", or

(2) the *development* is on a *premises* located within the 1999 65dB or greater CNEL contour of the Lindbergh Field Airport Influence Area.

(b) The aviation easement shall be in a form provided by the airport operator (consistent with the provisions of Section 132.0309), and shall include evidence an acknowledgment by the property owner of the existence of the easement, a description of the easement's elevation or elevations above the property, and the name or names of the property owner of the *premises* and any other information the County Recorder may require. The easement shall document the existing prescriptive rights in the airspace above the property in accordance with the standards for airspace uses as set forth in Federal Air Regulations, Part 77. The easement must permit the unconditioned right of flight of aircraft in the federally controlled air space above the property *premises* and must authorize aircraft noise impacts over the *premises* at levels established by the adopted comprehensive land use plan. Any other easement information shall be supplied in a form provided by the airport owner or operator whose prescriptive rights to airport approach paths are affected. The easement shall be recorded in the office of the County Recorder upon the title of the *premises* property.

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