

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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DATE: March 23, 2006

TO: Commissioners and Interested Persons

FROM: John Ainsworth, Deputy Director, South Central Coast District
Barbara Carey, Supervisor, Planning and Regulation
Lillian Ford, Coastal Program Analyst

SUBJECT: City of Oxnard Local Coastal Program Amendment 1-05 (Oxnard Shores) for Public Hearing and Commission Action at the April 12-14, 2006, Commission Meeting in Santa Barbara.

DESCRIPTION OF THE SUBMITTAL

The City of Oxnard is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to modify the zoning map to rezone a 1.39-acre parcel and a 1.60-acre parcel within the Oxnard Shores neighborhood from the "Resource Protection" (RP) zone to the "Single Family Beach" (R-B-1) zone. The 1.39-acre parcel is located west of Harbor Boulevard, between Reef Way and Breakers Way, and the 1.60-acre parcel is located immediately north of Whitecap Street and approximately 120 feet east of Mandalay Beach Road.

The submittal was deemed complete and filed on July 19, 2005. At its August 2005 Commission meeting, the Commission extended the 60-day time limit to act on Local Coastal Program Amendment 1-05 for a period not to exceed one year.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the amendment with one suggested modification. The project sites are located in the Oxnard Shores area of the city. The parcels are located in an area able to accommodate residential development, utilities are available, and the proposed density is consistent with the character of surrounding development. The Oxnard Shores area was previously sand dunes that were subdivided and graded prior to 1972. The subject sites are separated from the beach and from the dunes area east of Harbor Boulevard by existing development, and consist of sand and primarily non-native vegetation; however, the 1.60-acre Whitecap Street site also contains limited southern foredune vegetation and dune landforms, and is characterized as disturbed southern foredune habitat. The sites are surrounded by existing development, are moderately to highly disturbed, and are not inhabited by rare or endangered plant or animal species. Thus the sites do not meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). As such, the proposed rezoning will not result in significant adverse impacts to ESHA. However, the Whitecap Street site, although not ESHA, retains some limited habitat value- to the extent that this area can be considered an important coastal resource. In order to mitigate the loss of the disturbed southern foredune resource on this site, Suggested Modification No. 1 inserts a section into the zoning code for the RB-1 zone that requires 1:1 mitigation for loss of disturbed southern foredune habitat on the Whitecap Street site. Such mitigation must entail enhancement or restoration of disturbed southern foredune habitat within the City of Oxnard.

Substantive File Documents

City of Oxnard, City Council Ordinance No. 2684, dated March 8, 2005
City of Oxnard, City Council Resolution No. 2005-10, dated January 20, 2005
Mitigated Negative Declaration No. 98-40
Biological Resources Evaluation and Analysis, Impact Sciences, November 2005
Biological Resources Analysis of Tract Number 5063, Dudek & Associates, May 13, 2002
Biological Resources Analysis of Tract Number 5064, Dudek & Associates, May 13, 2002

Additional Information: Please contact Lillian Ford, California Coastal Commission, South Central Coast Area, 89 S. California Street, Suite 200, Ventura, CA (805) 585-1800.

A. PROCEDURAL ISSUES

1. STANDARD OF REVIEW

The Coastal Act provides that:

The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter...

The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30514)

The standard of review for the proposed amendment to the Implementation Plan (Coastal Zoning Ordinance) of the certified Local Coastal Program, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified City of Oxnard Local Coastal Program.

2. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The City held a series of public hearings (Planning Commission Hearing 1/20/05 and City Council Hearing 3/01/05) and received verbal and written comments regarding the project from concerned parties and members of the public. The hearings were noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

3. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 (b) of the California Code of Regulations, the City may submit a Local Coastal Program Amendment that will either require formal local government adoption after the Commission approval, or is an amendment that will take effect automatically upon the

Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. City Council Resolution 2005-10 states the amendment will take effect automatically upon Commission approval. However, in this case, because this approval is subject to suggested modifications by the Commission, if the Commission approves this Amendment, the City must act to accept the certified suggested modifications within six months from the date of Commission action in order for the Amendment to become effective (Section 13544.5; Section 13537 by reference). Pursuant to Section 13544, the Executive Director shall determine whether the City's action is adequate to satisfy all requirements of the Commission's certification order and report on such adequacy to the Commission. If the Commission approves the amendment as modified by the suggested modification, no further action will be necessary.

B. STAFF RECOMMENDATION, MOTIONS, AND RESOLUTIONS ON THE IMPLEMENTATION PLAN/COASTAL ZONING ORDINANCE (IP/CZO)

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

1. DENIAL AS SUBMITTED

MOTION I: *I move that the Commission reject the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard as submitted.*

STAFF RECOMMENDATION OF REJECTION:

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

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program/Coastal Zoning Ordinance Amendment submitted for the City of Oxnard and adopts the findings set forth below on grounds that the Implementation Program Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

2. CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION II: *I move that the Commission certify the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

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

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program/Coastal Zoning Ordinance Amendment for the City of Oxnard if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

C. SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PROGRAM AMENDMENT

Staff recommends that the Commission certify the following, with the modification shown below. Language proposed by Commission staff to be inserted is shown underlined. Text exclusive of the modification that locates the modification within the existing Implementation Program/Coastal Zoning Ordinance is shown in [brackets].

Suggested Modification No. 1

[Insert the following text at the end of Section 37-2.1.5 ("Special Requirements" for the R-B-1 (Single Family Beach) Zone) of the City of Oxnard Coastal Zoning Ordinance.]

4. Removal of disturbed southern foredune habitat on Assessor's Parcel No. 191-082-07 shall be mitigated by restoration or enhancement of an equivalent area of disturbed southern foredune habitat within the City of Oxnard.

D. FINDINGS AND DECLARATIONS FOR DENIAL OF THE IMPLEMENTATION PROGRAM (IP) AMENDMENT AS SUBMITTED, AND APPROVAL OF THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS

The following findings support the Commission's denial of the proposed amendment as submitted, and approval of the proposed amendment if modified as suggested below. The Commission hereby finds and declares as follows:

1. AMENDMENT DESCRIPTION

The City of Oxnard is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) to modify the zoning map to rezone a 1.39-acre parcel and a 1.60-acre parcel within the Oxnard Shores neighborhood from the "Resource Protection" (RP) zone to the "Single Family Beach" (R-B-1) zone. The 1.39-acre parcel is located west of Harbor Boulevard, between Reef Way and Breakers Way, and the 1.60-acre parcel is located immediately north of Whitecap Street and approximately 120 feet east of Mandalay Beach Road. The subject parcels are designated "Existing Residential Area" on the certified Land Use Plan Map, so no amendment to the LUP is proposed or needed. The City Council Resolution is included as Exhibit 1 and the City Council Ordinance is Exhibit 2.

In conjunction with the subject LCP amendment, the City has considered a subdivision of the subject 1.39-acre parcel and 1.60 parcel into twelve residential lots and thirteen residential lots respectively. Although the proposed subdivision is not part of the subject LCP amendment request, the proposed tentative tract maps are included for illustrative purposes as Exhibits 7 and 8.

2. NEW DEVELOPMENT, COASTAL RESOURCES, AND ESHA

The City of Oxnard Local Coastal Program requires that new development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it. Additionally, new development must be located where it will not have significant adverse impacts on coastal resources. Section 30250 (incorporated by reference into the certified LUP) states, in relevant part, that:

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

The Local Coastal Program also requires the protection of environmentally sensitive habitat areas (ESHA) against any significant disruption of habitat values. No development may be permitted within ESHA, except for uses that are dependent on the resource. Section 30240 (incorporated by reference into the certified LUP) of the Coastal Act further requires that development adjacent to ESHA is sited and designed to prevent impacts that would significantly

degrade ESHA and to be compatible with the continuance of the habitat areas. Section 30240 states that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

Section 30107.5 of the Coastal Act defines ESHA as follows:

Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The proposed LCP amendment would rezone two parcels from “Coastal Resource Protection (RP)” to “Single Family Beach (R-B-1)”. This amendment would allow for the future approval of residential development on these parcels, consistent with the density and development standards permitted in the R-B-1 zone. The subject sites are located within the Oxnard Shores neighborhood, an area between the beach and Harbor Boulevard that was subdivided prior to 1972 and is developed with single and multi-family residential structures. As such, the sites are in close proximity to urban public services such as water, sewer, electrical services, and two major public roadways. Therefore, the sites are located contiguous with and in close proximity to existing developed areas that are able to accommodate the new residential development as is required under Section 30250 of the Coastal Act.

The proposed R-B-1 zoning designation for the subject sites will be consistent with the existing land use designation that applies. The LUP Map designates the subject sites as “Existing Residential Area”. The LUP describes the Existing Residential Area designation in part as follows: “Applied only to existing, partially developed neighborhoods, this designation will allow the full buildout of these areas at existing densities.” The City proposes to modify the Coastal Zoning Map to zone the sites “Single Family Beach” (R-B-1). The R-B-1 zone allows the development of single family residences, with a minimum lot area of 4,000 sq. ft., subject to several development standards. The residential development surrounding the subject sites is also zoned R-B-1. The City of Oxnard has considered, although not given approval for the development of twenty five residences total on the subject sites. That density would be consistent with the density requirements of the R-B-1 zone.

Staff would note that the subject sites are not designated as “Resource Protection Area” under the Oxnard LUP. This land use designation is provided under the LUP and it is: “applied only to sensitive habitat areas; this designation will preserve these resources”. Nonetheless, the site is zoned “Resource Protection” (RP) by the Coastal Zoning Code, a designation that has the purpose of providing for the protection of ESHA. As such, there is a conflict between the land use designation and the zoning applied to the subject sites. The City found that the RP zone was applied to the subject parcels as an interim measure. The Coastal Act Consistency Analysis submitted by the City on June 8, 2005 states that:

The RP zoning designation of the site is an interim zoning designation. In accordance with Section 37-2.14.3 of the coastal zoning ordinance, “undeveloped

parcels of land designated with two or more zone categories shall be totally zoned RP on an interim basis until a specific development plan is approved which is consistent with both the Oxnard Coastal Land Use Plan and all applicable provisions of (the City code)."

In the 1980's the subject properties were zoned A-O for agricultural and oil drilling land uses. Since the properties were used neither for agricultural or oil drilling purposes, the RP designation was placed on the properties in the mid-1980's per the coastal zoning ordinance.

Staff would note that there is such a provision to apply an interim zoning designation contained in the "RP" zone development standards. However, there is no discussion of this provision or the specific properties that it had been applied to in the findings for the Commission's certification of the Oxnard Coastal Zoning Ordinance.

The sites that are the subject of the proposed amendment are also not identified as ESHA by the LUP. The certified LUP includes the same definition of ESHA as Section 30107.5 of the Coastal Act. The certified LCP also contains policies regarding the protection of ESHA resources, including restriction of uses, the requirement of biologic studies, and development siting and design measures, including buffers. The LUP contains a sensitive habitat map showing the known sensitive habitats (ESHA) within the coastal zone. The ESHAs identified in the LUP include wetlands, dunes, riparian, and marine habitats.

It seems clear that the western area of the City of Oxnard contained extensive dune fields stretching south from the Santa Clara River along the ocean. Most of these dunes have been disturbed, altered, and destroyed for development, as is the case across much of the state. Notwithstanding the destruction of dune habitat within the City, the LUP identifies five dune areas within the coastal zone that meet the definition of ESHA:

1. A 26-acre area at the intersection of Fifth Street and Harbor Boulevard
2. A portion of a 54-acre parcel located between Harbor Boulevard and the Edison Canal, south of Wooley Road.
3. An area at the northerly end of "The Colony" property adjacent to the Oxnard State Beach park site.
4. A chain of dunes paralleling the beach from the Santa Clara River mouth south to Fifth Street.
5. Ormond Beach dunes paralleling the beach.

The subject sites are not shown as containing dune ESHA. Staff also reviewed aerial photographs of the project sites. A 1972 photo (included as Exhibit 6) shows that the Oxnard Shores area, including the subject sites, had been graded, and paved roads and other utilities had been installed prior to the effective date of the California Coastal Zone Conservation Act of 1972 (Proposition 20). The area was sparsely developed with residences at that time. A 1979 photo shows that many more, but not all of the parcels were developed with residences. The Breakers Way site remains vacant, flat, and sparsely vegetated in the 1979 photo. The Whitecap Street site is largely unvegetated but appears to have recovered some dune topography.

By comparison, the dunes located east of Harbor Boulevard (south of its intersection with Wooley Road), have clearly maintained their dune geomorphology. Past photos of the area do indicate that these dunes were subject to disturbance, but it does not appear that the site was graded. The 1972 and 1979 photos show that some of the vegetation on this site had been

disturbed or removed and tracks or trails made by vehicles are visible. Nonetheless, later photos show that this site maintained its dune landforms and that the site was recolonized with vegetation. In recognition of the dune landforms and habitat present, this site was designated as ESHA on the LUP Sensitive Habitats Map and the site was zoned Resource Protection.

Although the subject sites are not designated ESHA by the LUP, it is critical to evaluate whether the sites should nonetheless be considered to contain habitat that is consistent with the definition of ESHA, in order to ensure that the proposed LCP amendment is consistent with the resource protection policies of the Oxnard LUP. The two sites are considered in turn below.

Breakers Way Site

The Breakers Way site is a flat, vacant, approximately 1.39-acre parcel located on the eastern edge of the Oxnard Shores neighborhood, just west of Harbor Boulevard. The City has provided a Biological Resources Analysis, dated May 13, 2002, prepared by Dudek & Associates, Inc. that addresses the biological resources on the subject site.

The report identifies one soil type on the site (sand), and two vegetation types (annual grassland and disturbed habitat). According to the report, the majority of the site (1.2 acres) contains annual grassland, and the remaining 0.19 acres contain disturbed habitat. The report states:

Annual grassland occupies the majority of the project site. Where native plant communities have been subject to repeated or severe disturbance, the habitat frequently reverts to annual or non-native grassland. These areas usually are dominated by annual grasses, such as bromes (*Bromus* spp.) and wild oats (*Avena* spp.) and other disturbance-tolerant species such as filarees (*Erodium* spp.). Annual grassland onsite is dominated by red-stemmed filaree (*Erodium cicutarium*), pineapple weed (*Camomilla suaveolens*), California burclover (*Medicago polymorpha*), slender oat (*Avena Barbara*), and barley (*Hordeum* sp.).

Disturbed habitat occurs in two areas along the northern and southern project boundaries. These areas are nearly entirely lacking in vegetation, apparently due to vehicle use. At the time of the survey a vehicle was parked in the southern patch of disturbed habitat, and tire tracks were present within both the southern and northern disturbed habitat patches.

The biological report identified no rare, endangered, or special status plant or animal species on the site.

Staff has also visited the site in August 2005 and March 2006. The visits confirmed that while the soils are primarily sand, there are no dune landforms present. The level of disturbance on the site was also very clear. It was apparent that vehicles, including heavy equipment, have been driven onto and across the site, and that people and pets have walked across the site. Additionally, construction materials and other debris have been dumped on the site, and a portion of the site is currently being used as a staging area for construction of a residence immediately north of Breakers Way. The eastern and northern portions of the parcel are largely denuded and contain significant amounts of gravel and debris. The western portion of the parcel contains annual grassland. The site abuts existing single family residences on the west, and streets fronted by single family residences to the north and south. To the east, the site abuts a two-lane frontage road. East of the frontage road, there is a block wall and further east there is a four-lane road (Harbor Boulevard). Across Harbor Boulevard to the east, there is a large area

of dune habitat. The Commission's biologist, Dr. John Dixon, has reviewed photos of the site, including aerial photos of the surrounding area, and the biological reports described above.

Given the rarity of dune habitats across the state, the Commission has considered dunes, even those that are significantly degraded, to meet the definition of ESHA, if they retain some connection to the beach or other dune areas, or if they are inhabited by plants or animals that are rare, endangered, or have other special status. In this case, based on the available information, staff concludes that the subject site does not meet the definition of ESHA. As described above, there has been ongoing disturbance on the subject site since before 1972. The mass grading and development of the suburban-level subdivision that was carried out in the Oxnard Shores area prior to 1972 resulted in the loss of dune topography across this entire area, including the subject site. Most of the parcels created in this area have been developed with residential or commercial structures. The subject site has not been developed. No dune landforms have ever reformed on the site. This is apparently the result of the continuing disturbance of the site, as well as the fact that the site has been physically cut off from the beach and any other source of sand by the surrounding development. The site has been disturbed by vehicles, dumping and storage of construction material and debris, and human intrusion. There is a larger, better developed, dune habitat area to the east, but it is separated from the subject site by two roads and a wall. There is no dune vegetation or dune topography on the site and there are no rare or endangered plants or animals.

The site does not meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA), and does not contain any other coastal resources. Therefore, the proposed zoning map amendment to zone the site from "Resource Protection" to "Single Family Beach" will not result in impacts to ESHA or coastal resources, consistent with the policies of the certified Land Use Plan.

Whitecap Street Site

The Whitecap Street site is a vacant, approximately 1.60-acre parcel with rolling terrain located in the western portion of the Oxnard Shores neighborhood, approximately 120 feet east of Mandalay Beach Road, the first road paralleling the beach. The City has provided two reports (Biological Resources Analysis, dated May 13, 2002, prepared by Dudek & Associates, Inc., and Biological Resources Evaluation and Analysis, dated November 2005, prepared by Impact Sciences) that address the biological resources on the subject site.

The reports identify one soil type on the site (sand). The Dudek & Associates report identifies three vegetation types (disturbed southern foredune, ornamental land, and disturbed habitat) on the site as follows:

Disturbed southern foredune occupies the majority of the project site. The dunes onsite are classified as disturbed due to the dominance of hottentot-fig (*Carpobrotus edulis*), a non-native species, and the abundant human, canid, and felid use the site receives. Hottentot-fig covers approximately 50% of the dune areas onsite. The remainder of the dune vegetation is composed of typical native dune species, such as beach bur (*Ambrosia chamissonis*), sea rocket (*Cakile maritime*), pink sand verbena (*Abronia umbellata*), and beach evening primrose (*Camissonia cheiranthifolia*).

Ornamental land is located in the northeast corner and along the north-central border of the study area. This land cover type is generally composed of non-native species planted by humans for decorative or ornamental purposes. Ornamental

species onsite include Nichol's willow-leafed peppermint (Eucalyptus nicholii), Monterey cypress (Cupressus macrocarpa), Sydney golden wattle (Acacia longifolia), pink melaleuca (Melaleuca nesophila), lemon bottlebrush (Callistemon citrinus), and smooth-tipped agave (Agave attenuate).

Disturbed habitat refers to areas which lack vegetation entirely. These areas generally are the result of severe or repeated mechanical perturbation. Onsite, disturbed habitat is present in two narrow strips, both trending in an east-west direction. The southern swath consists of a narrow footpath, while the northern strip is covered by a thin layer of gravel which has prevented the growth of vegetation.

The Impact Sciences report identifies the entire site as disturbed southern foredune. The report states:

Plant species, topography, and substrate of the site are characteristic of disturbed Southern Foredunes (California Department of Fish and Game [CDFG], 2003). This community is moderate-to-heavily disturbed, having been invaded, either accidentally or intentionally, with non-native species. The species present on the site can be divided into three groups: native dune scrub species, non-native invasive grasses and forbs, and landscape materials from adjacent residences, all of which can be included within the disturbed southern foredune community.

The report notes that invasive grasses and forbs, primarily iceplant (*Carpobrotus edulus*) cover approximately 50% of the site; native dune scrub species cover approximately 30% of the site; landscape or ornamental species cover approximately 5% of the site; and the remaining 15% of the site is unvegetated. The report notes:

Other disturbances to the site include deposition of some gravel on the northwest part of the site, scattered broken building tiles and glass, some asphalt and the washings of a concrete truck in evidence, and considerable pet wastes.

The biological reports identified no rare, endangered, or special status plant or animal species on the site. The Impact Sciences report notes:

Wildlife on the site is limited by the surrounding existing development (with residences on three sides, a public walkway and a street and a sidewalk), the size of the undeveloped lot, lack of cover, the use of the area for walking and exercising pets by the surrounding residents, and the lack of any connectivity to other open space habitat. There is the potential use of the site by various insects and small lizards....but any populations of these species are likely restricted by the size of the site and by adjacent land use, and none were observed on the site. One bird species, a Mourning dove (*Zenaida macroura*), was observed on the site, and other transient birds can be expected to land on the site occasionally. Birds adapted to urban conditions and shore birds can be expected to be observed, due to the proximity of the shoreline. No nesting or significant use of the site is likely due to the lack of cover and proximity to and continued disturbances from adjacent residents.

The Impact Sciences report concludes:

The Whitecap Street site is situated on an isolated remnant of southern foredunes. The site is bounded on three sides by existing residential development and on the fourth side by Whitecap Street...This disturbed site is physically separated from other large intact open space dune areas, specifically the beach to

the west, the dunes between Reliant Energy Canal and Harbor Boulevard to the east. In general, the dunes on this site have a very limited potential to support a common or special-status species.

In this case, the subject site does not amount to an environmentally sensitive habitat area due to isolation and alteration of the biota and natural functions. The site has been modified by various kinds of impacts, from vehicle use, deposition of gravel, and the introduction of non-native plants. The plant community is largely exotic and depauperate. As indicated, the annual, non-native forbs on site have invaded and dominated much of the remaining foredunes habitat. No special-status species were found by either Impact Sciences or by the earlier study by Dudek & Associates. Normal processes of dune communities and prevailing winds, which functions in the replenishment and sculpting of the sand topography are precluded due to isolation or blockage from sources of material by residential development. Finally, this small fragment is spatially isolated from natural communities by residential development, and the divided streets bordering the site.

The Dudek & Associates Report concludes:

The proposed subdivision would impact the entire project site: 1.06 acres of disturbed southern foredune, 0.21 acre of ornamental land, and 0.19 acre of disturbed habitat.

Impacts to 1.06 acres of disturbed southern foredune are considered significant, and mitigation is recommended. Due to the disturbed and isolated nature of the habitat, mitigation should occur offsite and at a ratio of 1:1. Mitigation could be in the form of dune enhancement or restoration through removal of exotic plant species at a location to be determined in coordination with the U.S. Fish and Wildlife Service, California Department of Fish and Game, City of Oxnard, and/or California State Parks. Impacts to ornamental land and disturbed habitat are not considered significant and do not require mitigation.

Staff visited the site in August 2005 and March 2006. In addition, the Commission's biologist, Dr. John Dixon, has reviewed photos of the site, including aerial photos of the surrounding area, and the biological reports described above. The site visits confirmed that although the site is disturbed, it retains some limited habitat value. The site abuts existing single family residences on three sides (west, north, and northeast), and streets fronted by single family residences to the south and southeast. It was apparent that people and pets have walked across the site, as evidenced by two footpaths that traverse the site from east to west. In addition, ornamental plants and lawn furniture were observed along the concrete walkway that runs along the northern border of the site, adjacent to the back fences of several residences that front on Seabreeze Way. Some construction debris (such as chunks of concrete and asphalt) and other discarded items were also found on the site. Vegetation on the site largely conformed to the descriptions provided in the submitted biological analyses. In contrast to the Breaker's Way parcel, the site contains areas of dune topography, vegetated with both native and non-native invasive species. In addition, although the submitted reports noted that there no rare or endangered plants or animals were observed on the site, staff observed two Long-billed Curlews (*Numenius americanus*) foraging on the site during the March 2006 site visit. Long-billed Curlews are listed as a Species of Special Concern by the California Department of Game.

Long-billed Curlews do not breed in southern California, and tend to flock on their wintering grounds, so it is likely that the birds use the site solely as a foraging area. The Impact Sciences report notes that

...shorebirds can be expected to be observed on the site, due to the proximity of the shoreline. No nesting or significant use of the site is likely due to the lack of cover and proximity to and continued disturbances from adjacent residents.

Nonetheless, although they do not likely inhabit the site, the presence of the Long-billed Curlews indicates that the site retains some habitat value for special status coastal wildlife.

Given the rarity of dune habitats across the state, the Commission has considered dunes, even those that are significantly degraded, to meet the definition of ESHA, if they retain some connection to the beach or other dune areas, or if they are inhabited by plants or animals that are rare, endangered, or have other special status. As described above, there has been ongoing disturbance on the subject site since before 1972. The mass grading and development of the suburban-level subdivision that was carried out in the Oxnard Shores area prior to 1972 resulted in the loss of dune topography across this entire area, including the subject site. However, aerial photographs from 1979 indicate that some dune topography had been reestablished, most likely facilitated by the site's proximity to the beach and the relative sparseness of residential development at that time. Today, dune topography is still evident on the subject site, although residential development obstructs wind transport of sand from the beach, with the exception of through an approximately 30 foot wide street end (Wavecrest Way) that provides an open corridor between the site and the beach. Staff observed that a new beachfront home is being constructed opposite that street end, further limiting the potential for transport of sand onto the subject site.

In this case, based on the available information, staff concludes that because the subject site is surrounded by existing development, isolated from any nearby dune habitats and from the beach, and significantly disturbed, it does not meet the definition of ESHA. However, the site does retain some habitat value. The site consists of disturbed southern foredune habitat, and contains significant areas of dune topography. Approximately 30% of the site contains native dune vegetation. In addition, although the submitted reports stated that no rare or endangered plants or animals were observed on the site, staff observed two Long-billed Curlews (*Numenius americanus*), a California Department of Fish and Game Species of Special Concern, foraging on the site during the March 2006 site visit. Habitats such as the subject site, while not considered ESHA, provide on a cumulative level important resources for coastal wildlife, including foraging opportunities, cover, and open space. As noted above, the Dudek & Associates Report concludes that impacts to the disturbed southern foredune habitat on the site are considered significant and recommends mitigation in the form of offsite dune enhancement or restoration at a ratio of 1:1. As noted above, the Commission's biologist, Dr. John Dixon has reviewed information regarding this site, including the biology reports. He agrees that such offsite mitigation would ensure that the proposed rezone and future development of the site will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In order to ensure that future development approved on this site will be conditioned to include offsite mitigation, it is necessary to modify the proposed amendment with the language shown in **Suggested Modification No. 1**. **Suggested Modification No. 1** inserts text in the R-B-1 (Single Family Beach) Zone section of the City's Coastal Zoning Ordinance requiring removal of disturbed southern foredune habitat on the subject parcel to be mitigated by restoration or enhancement of an equivalent area of disturbed southern foredune habitat within the City of Oxnard. As noted in the submitted Impact Sciences report, landscape materials can be

considered part of the disturbed southern foredune community; therefore the area of disturbed southern foredune habitat on the site consists of the entire 1.60-acre parcel, with the exception of the 0.19 acre of disturbed habitat identified by the submitted Dudek & Associates report.

Conclusion

In summary, the two sites affected by the proposed amendment are surrounded by existing development, are moderately to highly disturbed, do not maintain viable connections to the beach or other dune communities, and are not inhabited by rare or endangered plant or animal species. Thus the sites do not meet the Coastal Act definition of Environmentally Sensitive Habitat Area (ESHA). Therefore, the proposed zoning map amendment from "Resource Protection" to "Single Family Beach" will not result in impacts to ESHA, and is thus consistent with the ESHA policies of the certified Land Use Plan. The Commission finds that while not considered ESHA, the Whitecap Street site nonetheless does retain some habitat value. In order to ensure that impacts to the coastal resources on this site are minimized, as required by the new development policies of the LUP, offsite mitigation shall be required as part of any development approved for this site, as required in **Suggested Modification No. 1**. Only as so modified, the proposed zoning map amendment from "Resource Protection" to "Single Family Beach" is consistent with the policies of the certified Land Use Plan concerning new development.

3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Local Coastal Programs for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LCPs qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LCP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(2)(A) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LCP, "...if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

The proposed amendment is to the City of Oxnard's certified Local Coastal Program Implementation Ordinance (Coastal Zoning Ordinance). The Commission originally certified the City of Oxnard's Local Coastal Program Land Use Plan and Implementation Ordinance in 1982 and 1985, respectively. For the reasons discussed in this report, the LCP amendment, as submitted is inconsistent with the applicable policies of the Coastal Act, as incorporated by reference into the Land Use Plan, and the certified Land Use Plan and feasible alternatives are available which would lessen any significant adverse effect which the approval would have on the environment. The Commission has, therefore, modified the proposed amendment to include such feasible measures adequate to ensure that such environmental impacts of new development are minimized. As discussed in the preceding sections, the Commission's suggested modifications bring the proposed amendment into conformity with the Coastal Act and certified Land Use Plan. Therefore, the Commission finds that the LCP amendment, as modified, is consistent with CEQA and the Land Use Plan.

RESOLUTION NO. 2005-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO THE LOCAL COASTAL PROGRAM (LCPA 98-1) TO CHANGE THE ZONING DESIGNATION OF TWO PARCELS, FROM RP (COASTAL RESOURCE PROTECTION) TO R-B-1 (SINGLE FAMILY BEACH). FILED BY CITY OF OXNARD, PLANNING & ENVIRONMENTAL SERVICES DIVISION, 305 WEST THIRD STREET, OXNARD, CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for LCPA 98-1 to amend the Local Coastal Land Use Program to change the zoning designation of two vacant parcels within the Oxnard Shores area, applied for by the City of Oxnard, Planning and Environmental Services Division; and

WHEREAS, the Planning Commission has held a public hearing and received and reviewed written and oral comments related to LCPA 98-1; and

WHEREAS, the Planning Commission finds, after due study and deliberation, that it is in the public interest and general welfare to adopt said amendment to the Local Coastal Program; and

WHEREAS, in accordance with the California Environmental Quality Act, the Planning and Environmental Services Manager provided public notice of the intent of the City to adopt a mitigated negative declaration for this project, and the Planning Commission has considered the proposed mitigated negative declaration before making its recommendation herein.

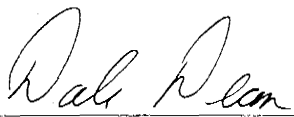
NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends that the City Council adopt an ordinance approving LCPA 98-1, as shown in Exhibit "A" attached hereto and incorporated herein by reference.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 20th day of January 2005, by the following vote:

AYES: Commissioner: Sanchez, Pinkard, Medina, Lopez, Okada, Fischer, Dean

NOES: Commissioner: None

ABSENT: Commissioner: None



Dale Dean, Chairperson

ATTEST: 

Susan Martin, Secretary

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EXHIBIT NO. 1
APPLICATION NO.
LCPA OXN-MAJ-1-05
RESOLUTION 2005-10

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2684

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD
APPROVING A ZONE CHANGE FOR PROPERTIES LOCATED ON THE
WEST SIDE OF HARBOR BOULEVARD, BETWEEN BREAKERS WAY
AND REEF WAY, AND ON THE NORTH SIDE OF WHITECAP STREET,
EAST OF MANDALAY BEACH ROAD.

WHEREAS, in accordance with the California Environmental Quality Act, the Planning and Environmental Services Manager provided public notice of the intent of the City to adopt a mitigated negative declaration for this project, and the City Council considered the proposed mitigated negative declaration, together with any comments received during the public review process, finds on the basis of the whole record before it (including the initial study and any comments received) that with the imposition of mitigation measures as conditions of approval, there is no substantial evidence that the project will have a significant effect on the environment, further finds that the mitigated negative declaration reflects the independent judgment of the City, and adopts the mitigated negative declaration; and

WHEREAS, the documents and other materials that constitute the record of proceedings upon which the decision to adopt the mitigated negative declaration is based is located in the Planning and Environmental Services Division of the City of Oxnard, and the custodian of the record is the Planning and Environmental Services Manager.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. The zoning governing vacant property consisting of 1.39 gross acres, located on the west side of Harbor Boulevard, between Breakers Way and Reef Way (APN 191-033-15), is hereby changed from RP (Coastal Resource Protection) to R-B-1 (Single Family Beach), as shown on the map attached hereto as Exhibit A and incorporated herein by reference.

Part 2. The zoning governing vacant property consisting of 1.6 gross acres, located on the north side of Whitecap Street, east of Mandalay Beach Road (APN 191-082-07), is hereby changed from RP (Coastal Resource Protection) to R-B-1 (Single Family Beach), as shown on the map attached hereto as Exhibit A and incorporated herein by reference.

Part 3. The City Council of the City of Oxnard certifies that this ordinance is intended to be carried out in a manner fully in conformity with Division 20 of the Public Resources Code (the Coastal Act).

Part 4. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. 2684 was first read on March 1, 2005, and finally adopted on March 8, 2005, to become effective automatically upon approval by the California Coastal Commission.

EXHIBIT NO. <u>2</u>
APPLICATION NO.
LCDA OXN-MAJ-105
ORDINANCE #2684

City of Oxnard
Local Coastal Program Amendment 1-05
Page 16

Ordinance No. 2684

Ordinance, Zone Change (LCPA 98-1)
Page 2

AYES: Councilmembers Flynn, Herrera, Holden and Maulhardt.

NOES: Councilmember Zaragoza.

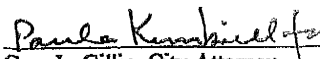
ABSENT: None.


Dr. Thomas E. Holden, Mayor

ATTEST:

APPROVED AS TO FORM:


Daniel Martinez, City Clerk


Gary L. Gillig, City Attorney

[illegible]

PZ 98-05-106 & PZ 98-05-107

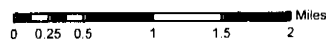
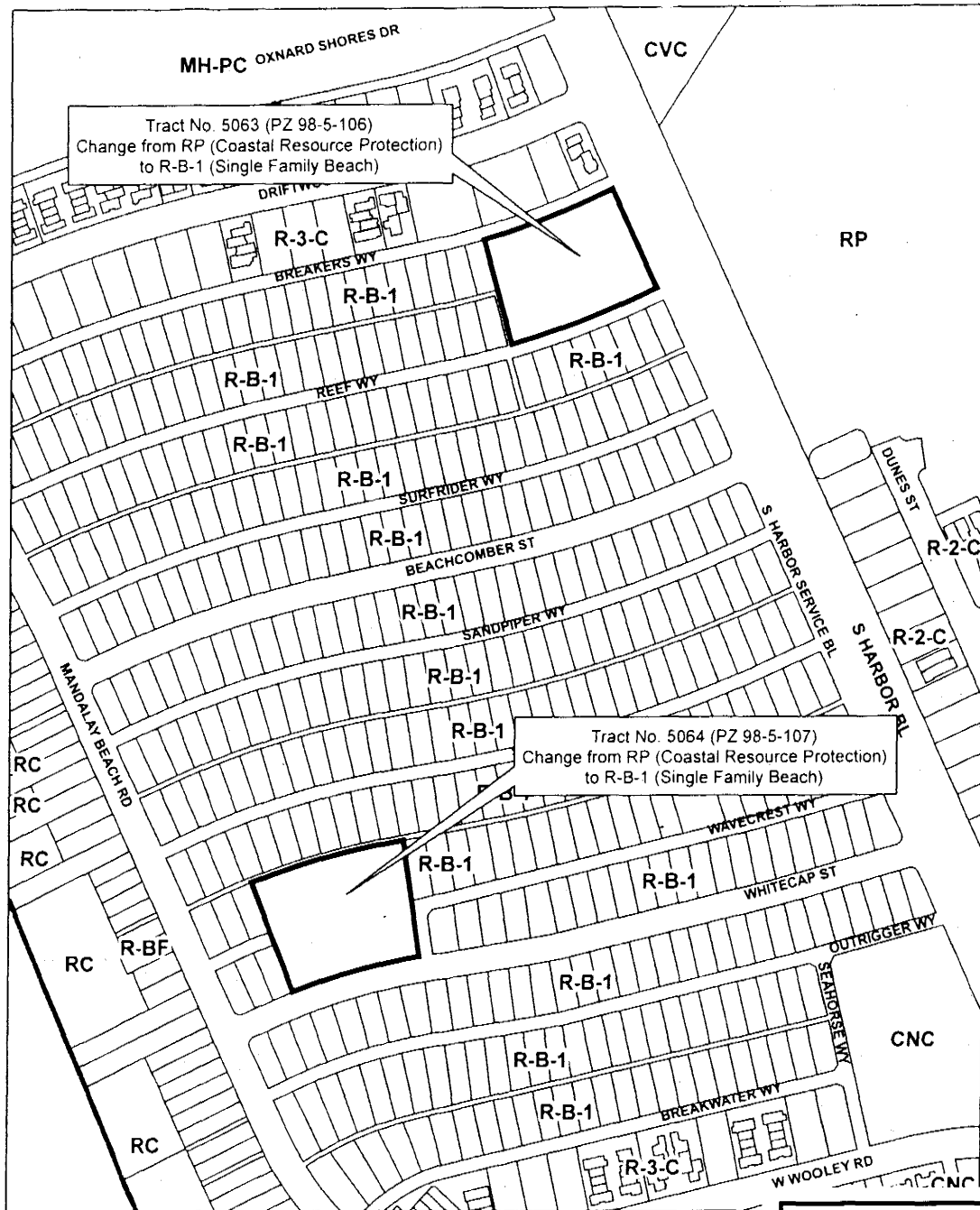


EXHIBIT NO. 3
APPLICATION NO.
LCDA OXN-MAJ-1-05
VICINITY MAP



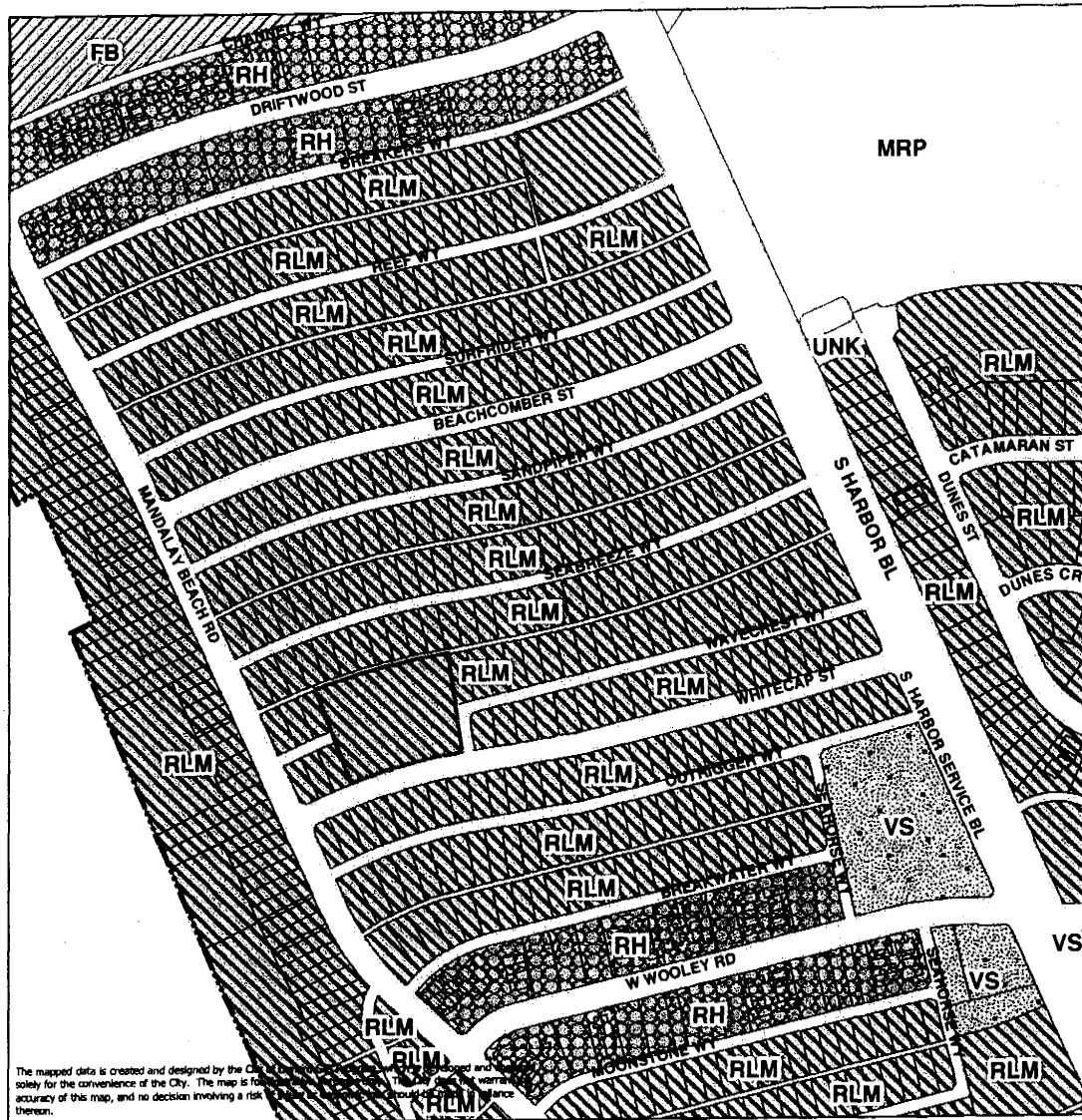
Planning & Environmental Services

EXHIBIT A
Coastal Plan Amendment

0 62.5 125 250 375 500 Feet



EXHIBIT NO. 4
APPLICATION NO.
LCPA OXN-MAJ-1-05
ZONE CHANGE MAP



PZ 98-05-106
PZ 98-05-107

General Plan Map

Legend

- MISC MR/PLANNING RESERVE
- RESIDENTIAL HIGH
- RESIDENTIAL LOW MEDIUM
- VISITOR SERVING



Planning & Environmental Services

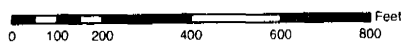
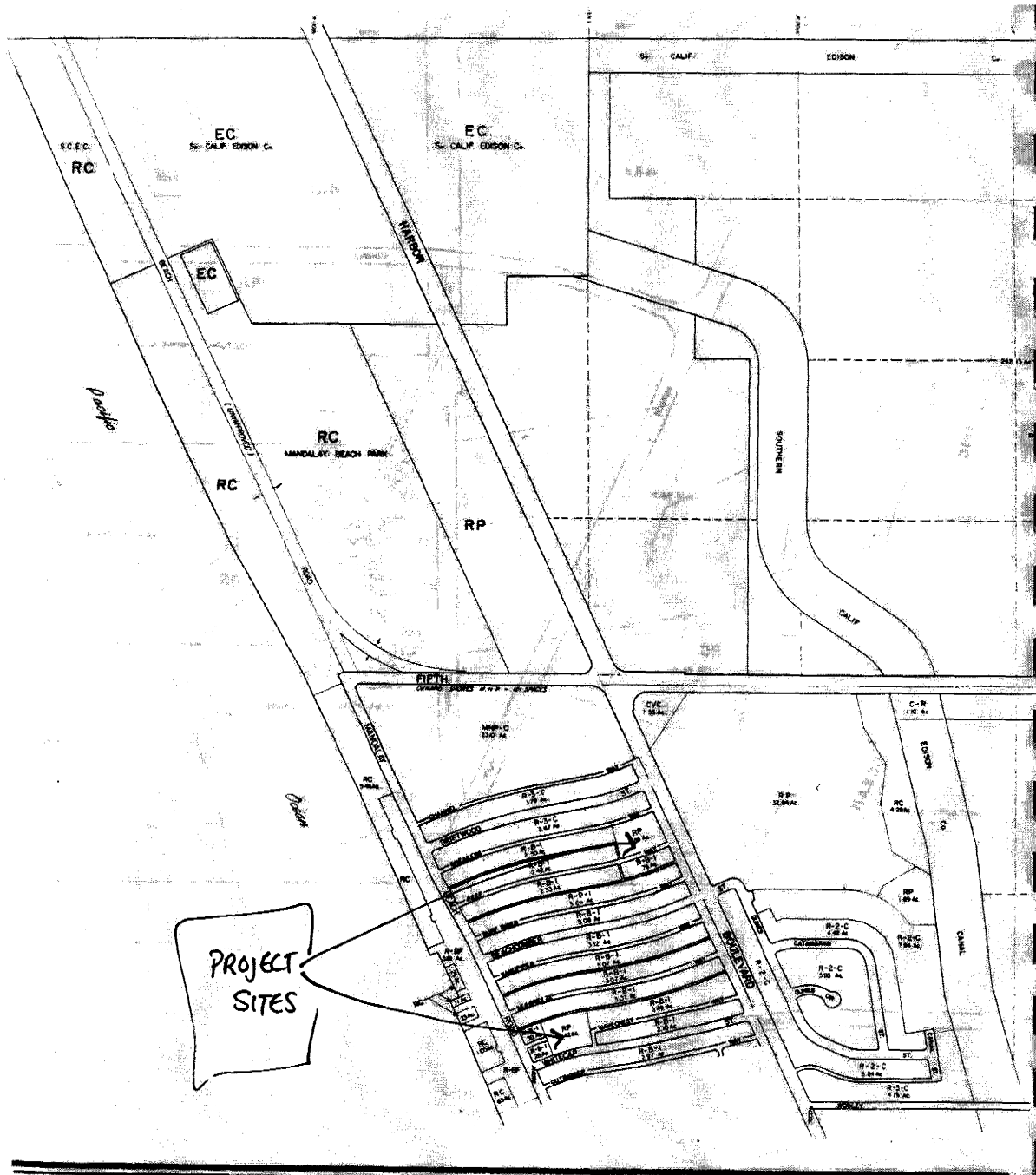
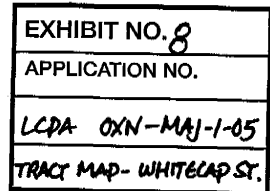


EXHIBIT NO. 5
APPLICATION NO.
LCDA OXN-MAJ-1-05
LAND USE PLAN MAP



Community Development Department

EXHIBIT NO. 6
APPLICATION NO.
LCDA OXN-MAJ-1-05
CZO ZONING MAP



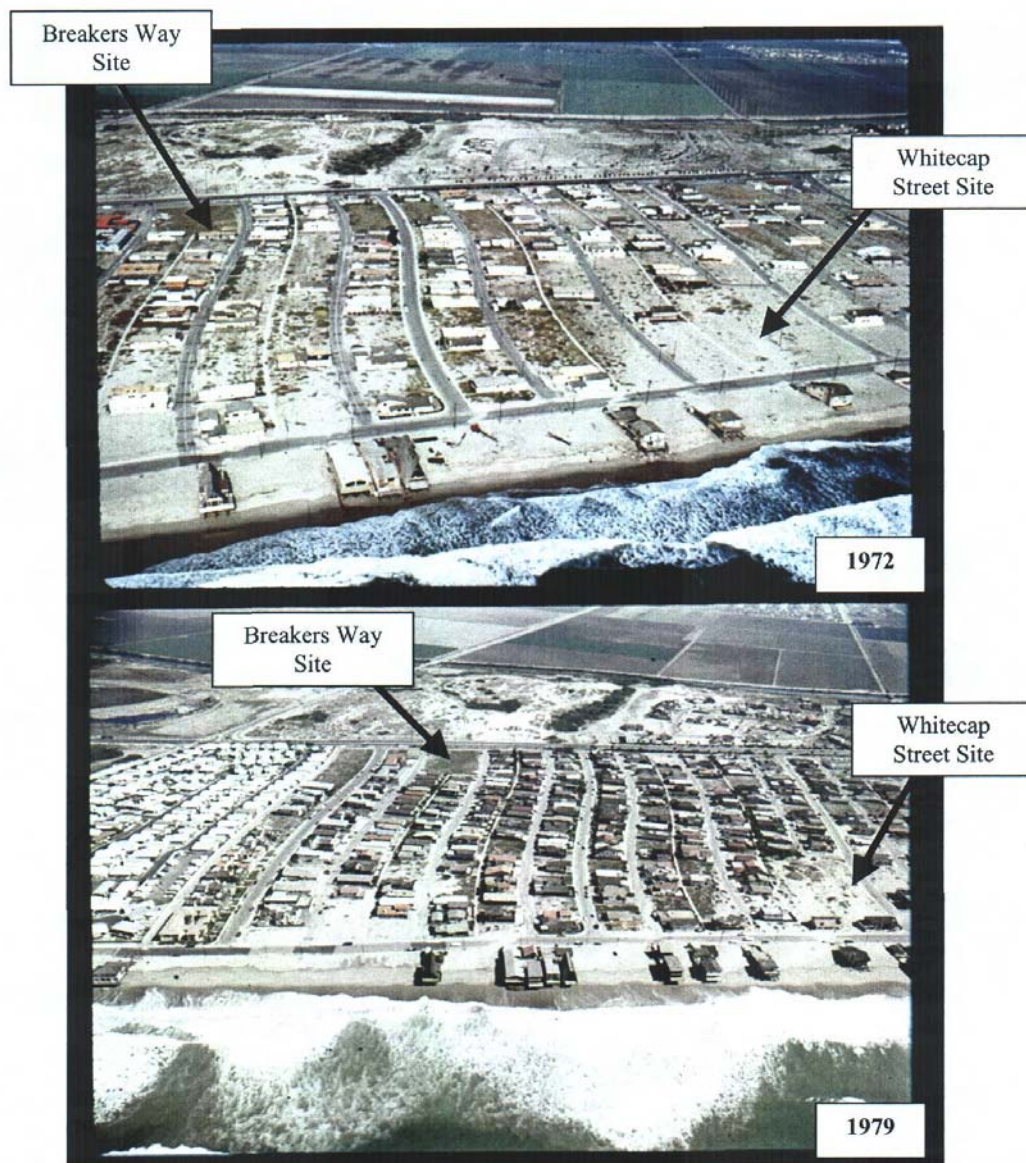
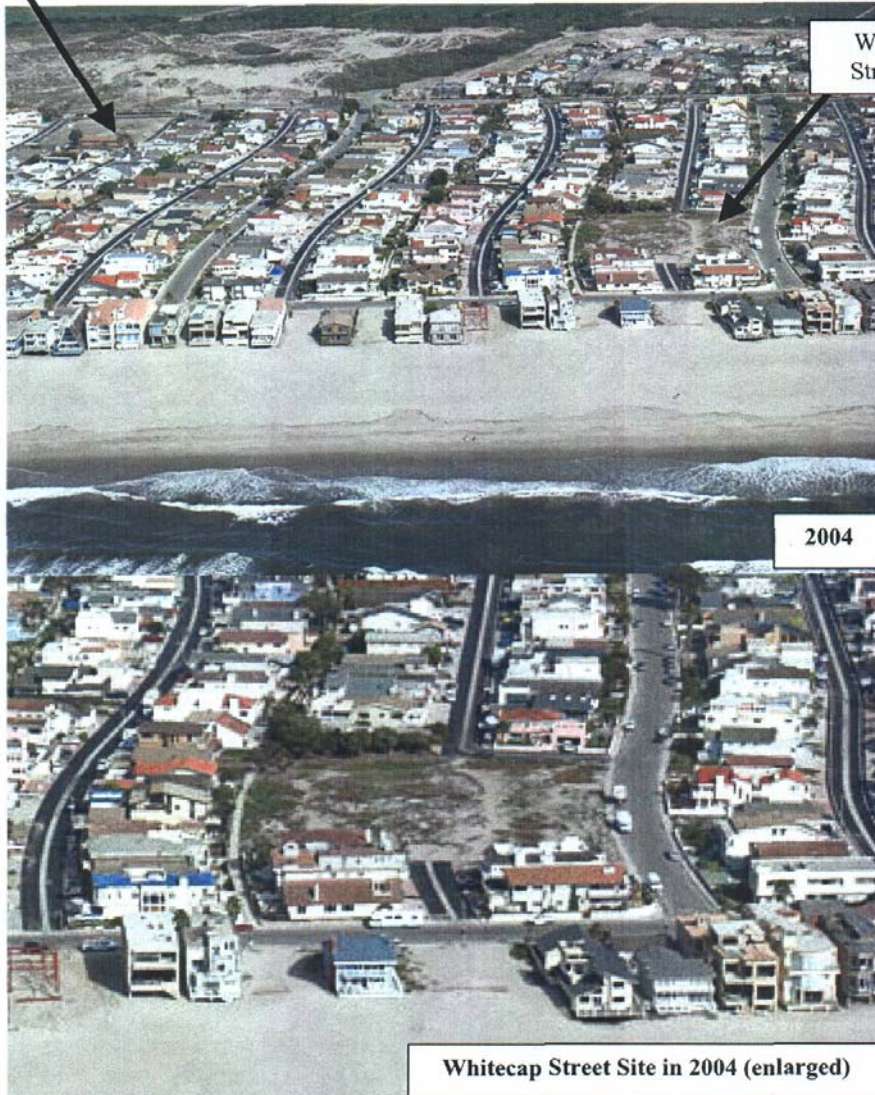


Exhibit 9
LCPA No. OXN-MAJ-1-05
Aerial Photos (2 pages)

Breakers Way
Site

Whitecap
Street Site



Whitecap Street Site in 2004 (enlarged)



PHOTO KEY

PHOTO 1: Breaker's Way Site, View is to the west
PHOTO 2: Breaker's Way Site, View is to the east
PHOTO 3: Whitecap Street Site, View is to the north
PHOTO 4: Whitecap Street Site, View is to the northeast
PHOTO 5: Whitecap Street Site, View is to the east
PHOTO 6: Whitecap Street Site, View is to the west

Exhibit 10
LCPA No. OXN-MAJ-1-05
Site Photos