

CALIFORNIA COASTAL COMMISSION

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July 22, 2010

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT
TONI ROSS, COASTAL PROGRAM ANALYST, SAN DIEGO COAST
DISTRICT**

SUBJECT: REVISED FINDINGS FOR CITY OF CARLSBAD LCP AMENDMENT NO. 3-07B (Ponto Beachfront Vision Plan) for Commission Meeting of August 11-13, 2010

SYNOPSIS

On July 9, 2009, the Coastal Commission voted to deny Local Coastal Program (LCP) Amendment No. 3-07B (Ponto Beachfront Vision Plan) as submitted by the City of Carlsbad. The City proposed to update its certified Land Use Plan (LUP) to include a guidance document outlining development standards and infrastructure plans for the Ponto Beach region of the City.

In its action, the Commission denied the land use plan amendment as submitted by the City of Carlsbad. However, staff was recommending approval of the LCP amendment with several suggested modifications. The Coastal Commission determined, through the public hearing process, that the amendment as proposed, or as revised by staff, could not be found consistent with the Chapter 3 policies of the Coastal Act.

DATE OF COMMISSION ACTION: July 9, 2009.

COMMISSIONERS ON PREVAILING SIDE: Commissioners Achadjian, Blank, Clark, Secord, Mirkarimi, Shallenberger, Wan, and Chairman Neely

SUMMARY OF THE AMENDMENT REQUEST

City of Carlsbad LCP Amendment No. 3-07 included two components. Component A (Village Master Plan and Design Manual Amendments) included revisions to the Village Master Plan and Design Manual to correct or clarify implementation policies and to amend development standards. Component A (Village Master Plan and Design Manual Amendments) was certified, with suggested modifications, at the June, 2009 meeting.

Component B (subject amendment) proposed to amend two segments within the City's Land Use Plan to include a reference to a document titled "Ponto Beachfront Village

Vision Plan" in the certified Local Coastal Program. The City intends for the Ponto Beachfront Village Vision Plan (Vision Plan) to provide guidance for development of the Ponto area (ref. Exhibits #1, 4). The plan presents goals and objectives for development, and provides an implementation strategy and design guidelines for the projects which will implement the vision.

The Vision Plan is intended for use by prospective developers and their consultants, City of Carlsbad staff, and those performing design review on individual projects. The conceptual plan contains a level of detail necessary to visually depict the desired land uses, circulation, and major design components; however, it is recognized that actual development site plans will change.

The City has expressed numerous goals in the Vision Plan, the most important of which include:

- Accommodate a balanced and cohesive mix of local and tourist serving commercial, medium- and high-density residential, mixed use, live/work, and open space land use opportunities that are economically viable.
- Establish a pattern of pedestrian and bicycle accessibility that links the planning areas internally as well as with adjacent existing and planned pedestrian and bicycle facilities.
- Provide expanded beach access
- Establish a mixed use district that encourages local and tourist-oriented retail, commercial, recreational, and residential uses

The Ponto area is located in the most southwesterly portion of the city near the city's southern entrance along Carlsbad Boulevard. It presently contains older homes and businesses, most of which were developed in the county before the city incorporated.

The Ponto Beach area is an approximately 130-acre narrow strip of land, approximately 1/8 mile wide and 1-1/2 miles long, located between Carlsbad Boulevard and the San Diego Northern railroad tracks. Portions of the plan area extend north to Poinsettia Lane and south to La Costa Avenue. The southern boundary includes coastal bluffs that transition to the waters of Batiquitos Lagoon. Approximately 50 of the 130 acres are considered viable for future development.

In order to implement the plan, it is necessary for the City to amend its LCP, in the Mello II and West Batiquitos Lagoon/Sammis Properties segments, to incorporate references to the Vision Plan. However, it is important to note that the plan does not include amendments to the Zoning Ordinance, or modifying any existing land use or zoning within the Ponto Beach region. Individual development projects may still require a combination of changes to the certified land use plan and zoning, require the additional review and approval by the Coastal Commission of possible project specific LCP amendments, as well as individual environmental review and permitting.

The appropriate resolution and motion to adopt the revised findings are found below. The findings for denial of the LCP amendment begins on Page 5.

PART II. RESOLUTION FOR REVISED FINDINGS

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

I. MOTION: *I move that the Commission adopt the following revised findings in support of the Commission's action on July 9, 2009 concerning certification of City of Carlsbad LCP Land Use Plan Amendment No. 3-07B (Ponto Beachfront Vision Plan).*

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the July 9, 2009 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

Commissioners Eligible to Vote: Commissioners Achadjian, Blank, Clark, Secord, Mirkarimi, Shallenberger, Wan, and Chairman Neely

RESOLUTION TO ADOPT REVISED FINDINGS :

The Commission hereby adopts the findings set forth below for City of Carlsbad LCP Land Use Plan Amendment No. 3-07B (Ponto Beachfront Vision Plan) on the grounds that the findings support the Commission's decision made on July 9, 2009 and accurately reflect the reasons for it.

PART III. SUGGESTED MODIFICATIONS

STAFF NOTE: The Commission's action on July 9, 2009, through denial of the LCP Amendment, effectively removed all of the suggested modifications as recommended by staff, and; as such, they have been removed from the staff report and attached to this revised findings document as Exhibit #3.

PART IV. FINDINGS FOR DENIAL OF CERTIFICATION OF THE LCP LAND USE PLAN AMENDMENT

A. AMENDMENT DESCRIPTION

Recognizing its potential for redevelopment and its prime coastal location across from the state campgrounds and near new single-family neighborhoods, the City of Carlsbad

decided to create a "vision plan" for the area to direct future development in the Ponto area the full vision plan is available online at:

<http://www.carlsbadca.gov/services/departments/redevelopment/aouth-coastal/Pages/PontoBeachfrontVillage.aspx>.

With input from property owners, nearby residents, and other interested persons, the Vision Plan was prepared. The City is therefore proposing to amend its certified Land Use Plan, to include a reference to a document titled "Ponto Beachfront Village Vision Plan" in two segments of the certified Local Coastal Program. The City intends for the Vision Plan to provide guidance for development of the Ponto Area (ref. Exhibit #'s 1 & 4). The plan presents goals and objectives for development, and provides an implementation strategy and design guidelines for the projects which will implement the vision.

The Ponto Beach area is an approximately 130-acre narrow strip of land, approximately 1/8 mile wide and 1-1/2 miles long, located between Carlsbad Boulevard and the San Diego Northern railroad tracks. Portions of the plan area extend north to Poinsettia Lane and south to La Costa Avenue. The southern boundary includes coastal bluffs that transition to the waters of Batiquitos Lagoon at the southern end. Approximately 50 of the 130 acres are considered viable for future development.

The 50 acres (ref. Exhibit #1) consist of the older Ponto area which is also included in the South Carlsbad Coastal Redevelopment area, one small, vacant parcel located within the boundaries of the Poinsettia Properties Specific Plan, and several vacant properties located in the Poinsettia Shores Master Plan. Both the Poinsettia Properties Specific Plan and the Poinsettia Shores Master Plan have been previously reviewed and certified by the Coastal Commission via an amendment to the City's LCP.

The intent of the Vision Plan is to create a mixed use, active pedestrian and bicycle oriented area with a strong sense of place, village atmosphere, and unique character of design. Because of its prime location at the southern gateway to the city and across from the beach and campgrounds, it could become a vibrant part of the city, providing amenities for city residents as well as visitors.

The Vision Plan breaks up the Ponto area into three sections (ref. Exhibit #4). The northern-most section is comprised of two hotels and a live-work neighborhood. The central portion of the development is comprised of a townhouse neighborhood and a mixed use center with a public recreation component. This is the only portion of the Vision Plan that would have required additional review by the Commission. Currently, this area has an Unplanned Area land use designation. In order to facilitate any type of development in this portion of the Ponto area, an LCP amendment modifying the land use will have to be brought forward to the Commission for review and approval.

The southernmost portion of the area is envisioned as a beachfront resort, including both hotel and timeshare units. Both of these would be considered permitted uses based on the

existing land use and zoning, however, this portion of the Vision Plan is adjacent to wetlands, and located between the first coastal road and the sea, and therefore any Coastal Development Permit issued by the City for this location would be appealable to the Coastal Commission.

C. NONCONFORMITY OF THE LAND USE PLAN AMENDMENT WITH CHAPTER 3

1. General Findings for Denial

The City of Carlsbad is proposing to include by reference a document that includes goals, permitted uses, design guidelines, and collaborative public improvements (utilities, realignment of Coast Highway) for the Ponto Beachfront area. The document, as included in the LCP only by reference, does not supersede or replace any previously approved components of the City's certified LCP, including both land use policies, master plan standards, specific plan standards, or zoning ordinances. The document does, however, include additional development standards and goals for the Ponto Beach area.

This area is west of Interstate-5, and east of Coast Highway, located directly inland of South Carlsbad State Beach. The Vision Plan separates the Ponto Beachfront area into three regions. The northernmost region includes three major land uses: Live-work mixed use development, Hotel/Commercial, and Hotel or Residential uses, these recommended land uses are all consistent with the underlying land use designations: Medium-High Residential/Travel/Recreational Commercial, Travel/Recreational Commercial, and Medium High Residential respectively (ref. Exhibit #5).

The central portion of the Vision Plan includes mixed uses and townhome developments as the recommended uses. The existing land use designation carries a Non-Residential Reserve (NRR) General Plan designation, and is considered an "Unplanned Area" (ref. Exhibit #5).

The southern portion of the area includes a large scale Resort Hotel. This use has been identified at this location in the two previous Master Plans approved for this area (Batiquitos Lagoon Educational Park and Poinsettia Shores Master Plans).

The general Vision Plan promotes a diverse mix of land uses, some of which are visitor serving and thus can be considered high priority. If future development follows the Vision Plan, there will be an addition of three hotels, a comprehensive trail system, and potential commercial tourist uses on this 50-acre coastal area. Again, the Ponto Beachfront Village Vision Plan does not change any land use designations or underlying zoning, and does not supersede the previously approved Master Plans/Specific Plans; all previously approved policies remaining relevant. The new Vision Plan will be used solely as a guidance document for the City and developers to consider appropriate types of development in this area. That being said, a number of concerns remain regarding some of the recommendations included in the Vision Plan.

There are ~~seven~~ ~~six primary~~ concerns raised for the Ponto Beachfront Village Vision Plan: The primary concern relates to the City's identification of preferred development types on land that currently contains no certified land use or zoning designations. Additional concerns include ~~L~~lack of low cost visitor-serving uses, potential impacts to wetlands, mass transit amenities, landscaping, geological setbacks, and associated City projects.

2. Specific Findings for Denial

A. Identified Development on Unplanned Lands

Again, the primary concern associated with the proposed vision plan is that it identifies, and lists a specific type of development (townhomes and mixed use) for an area that is currently unplanned. The area once carried a specific land use and zoning designation; however, through a previous Commission action, those designations were removed. Thus, identifying development types should only be determined after land use and zoning designations have been re-designated and then approved by the City and the Coastal Commission.

While a possible interpretation of the City's adoption of this Vision Plan might be to conclude that the City wants to designate uses in this area now, City representatives have specifically indicated this is not the case and the Vision Plan does call for a future LCP amendment to define permitted uses. To the general reader, this can be confusing. In addition, if the City had indicated that it was seeking to identify permitted uses at this time, the Commission would reject such proposed uses because there has been no evidence presented that would support the elimination of these areas for some lower cost overnight accommodations or public recreational amenities in the future. The Commission's past action of the Poinsettia Shores Master Plan specifically called for such an assessment, and none has been submitted to date. The concerns related to the lack of lower cost overnight accommodations in Area F (ref. Exhibit #7) are further discussed in the findings later.

Historically, the previously certified Master Plan for this location that was included in the City's original LCP in 1985 designated this site for Travel Service Commercial. In 1996, the Poinsettia Shores Master Plan was certified as part of the City's LCP, and replaced the land use designation as an "Unplanned Area." The language in the Poinsettia Shores Master Plan, for this location, "Area F," is listed below:

Planning Area F - Planning Area F is located at the far northwest corner of the Master Plan area west of the AT&SF Railroad Right-of-way. This Planning Area has a gross area of 11 acres and a net developable area of 10.7 acres.

Planning Area F carries a Non-Residential Reserve (NRR) General Plan designation. Planning Area F is an "unplanned" area, for which land uses will be determined at a later date, when more specific planning is carried out for areas west of the railroad right-of-way. A future Major Master Plan Amendment will be required prior to

further development approvals for Planning Area F, and shall include an LCP Amendment with associated environmental review, if determined necessary.

The intent of the NRR designation is not to limit the range of potential future uses entirely to non-residential, however, since the City's current general plan does not contain an "unplanned" designation, NRR was determined to be appropriate at this time. In the future, if the Local Coastal Program Amendment has not been processed, and the City develops an "unplanned" General Plan designation, then the site would likely be redesignated as "unplanned." Future uses include, but are not limited to: commercial, residential, office, and other uses, subject to future review and approval.

The concern with identifying a specific type of land use for this area is by doing so the City is inadvertently sending a message to potential developers that 1) the identified development (townhouses) is the primary type of use the City will support, or 2) that development type is consistent with the current land use and zoning designations. Neither of those assumptions is correct. As the previously certified Poinsettia Shores Master Plan states, *any* type of development at this location would first require an LCP amendment to establish the land use and zoning, which would have to be certified by both the City and the Coastal Commission. Additionally, the Master Plan further states that some component of the development at this location must consider the need for the provision of lower cost accommodations or recreational facilities. Potential developers could interpret the Vision Plan as establishing that a townhouse development at this location would be considered a "high-priority" use. As discussed, this area was first designated for Travel Service Commercial and then later as an "unplanned area". While residential use is one of the land uses listed for this area in the Poinsettia Shores Specific Plan, it may not be the most appropriate designation. As previously stated, the project will at least need to consider the incorporation of some kind of lower cost accommodations, and any proposed zoning designation for the site will have to be found consistent with the policies contained in the Poinsettia Shores Master Plan. Furthermore, the standard of review for any change to the current land use designation is the Coastal Act, and thus will also have to be found consistent with all its applicable policies. Recently, the Commission has become concerned with the lack of lower-cost accommodations statewide. Thus, the establishment of a residential land use at this location may not be what is ultimately determined to be certified as consistent with the Poinsettia Shores Master Plan, or the Coastal Act.

An additional concern of the Commission is that if the proposed Vision Plan is approved by the Commission, and thus becomes a certified component of the City's LCP, then when the City comes forward with an LCP amendment to identify and certify land use and zoning designations at this location, the Commission might feel obligated to approve a residential land use designation, even though such a land use might not be consistent with Chapter 3.

A more suitable approach would be for the City to first process an LCP amendment certifying the land use and zoning for this site, and then certify the Ponto Beachfront

Vision Plan as part of its LCP. Therefore, as this time, the project is premature and shall be rejected.

BA. High-Priority Uses - Lower Cost Visitor Accommodations in "Area F"

The Coastal Act has numerous policies promoting public access to the beach and state:

Section 30210

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

Section 30213

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

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The City of Carlsbad has included a policy directly addressing the Ponto Beach area, and its future uses, and states:

Mello II Policy 6-9

The South Carlsbad State Beach Campground should be considered for conversion to a day use beach and upland park if other adequate campground facilities can be developed nearby.

Mixed use development (i.e. residential and recreational-commercial) shall be permitted by right on properties fronting Carlsbad Boulevard across from South Carlsbad State Beach (See exhibit 4.9, Page 76). This policy applies only where not in conflict with the agricultural policies of the LCP.

As stated above, "Area F" of the Master Plan is currently designated as an "unplanned, area" and there is no certified land use established. In addition, the previously certified Master Plan included language to protect and provide some kind of lower-cost accommodations at this site. Thus tThe second primary concern raised is also associated with the central segment of the Vision Plan (ref. Exhibit #'s 4, 5, 7). At this location, recommended uses include townhomes and mixed-use developments. In the mixed use area, ground floor uses are required to be retail or service type uses that generate pedestrian traffic, while office or multi-family residential uses may be located on the upper floors. Some non-retail may occupy the ground floors but is limited to a community amenity such as arts/nature/activities center. In the townhouse portion of the segment, the permitted uses are limited to multiple dwelling structures, and accessory buildings. The concern raised is that this area is designated "Unplanned" in the LUP and the Vision Plan does not replace this existing designation, thus; no specific uses should be *required*, as that would be inconsistent with the applicable LUP designation.

~~While a possible interpretation of the City's adoption of this Vision Plan might be to conclude that the City wants to designate uses in this area now, City representatives have specifically indicated this is not the case and the Vision Plan does call for a future LCP amendment to define permitted uses. To the general reader, this can be confusing. In addition, if the City had indicated that it was seeking to identify permitted uses at this time, the Commission would reject it because there has been no evidence presented that would support the elimination of these areas for some lower cost overnight accommodations or public recreational amenities in the future. The Commission's past action of the Poinsettia Shores Master Plan specifically called for such an assessment and none has been submitted to date.~~

~~As further background, the Master Plan for this location that was certified during initial review of the City's LCP in 1985 designated this site for Travel Service Commercial. In 1996, the Poinsettia Shores Master Plan was certified as part of the City's LCP, and replaced the land use designation as an "Unplanned Area." In an attempt to maintain a lower cost visitor serving component at this location the Commission, through a suggested modification, required language within the Master Plan that would serve to protect this type of use. The language in the Poinsettia Shores Master Plan, for this location, "Area F," is listed below:~~

~~Planning Area F—Planning Area F is located at the far northwest corner of the Master Plan area west of the AT&SF Railroad Right of way. This Planning Area has a gross area of 11 acres and a net developable area of 10.7 acres.~~

~~Planning Area F carries a Non-Residential Reserve (NRR) General Plan designation. Planning Area F is an "unplanned" area, for which land uses will be determined at a later date, when more specific planning is carried out for areas west of the railroad right of way. A future Major Master Plan Amendment will be required prior to further development approvals for Planning Area F, and shall include an LCP Amendment with associated environmental review, if determined necessary.~~

~~The intent of the NRR designation is not to limit the range of potential future uses entirely to non-residential, however, since the City's current general plan does not contain an "unplanned" designation, NRR was determined to be appropriate at this time. In the future, if the Local Coastal Program Amendment has not been processed, and the City develops an "unplanned" General Plan designation, then the site would likely be redesignated as "unplanned." Future uses include, but are not limited to: commercial, residential, office, and other uses, subject to future review and approval.~~

As previously discussed, in 1996, the Poinsettia Shores Master Plan was certified as part of the City's LCP, and replaced the land use designation as an "Unplanned Area." In an attempt to maintain a lower-cost visitor-serving component at this location, the Commission, through a suggested modification, required language within the Master Plan that would serve to protect this type of use. The language in the Poinsettia Shores Master Plan, for this location, "Area F," included:

As part of any future planning effort, the City and Developer must consider and document the need for the provision of lower cost accommodations or recreational facilities (i.e. public park) on the west side of the railroad.
[Emphasis added]

Furthermore, tThe Ponto Beachfront Village Vision Plan, as proposed by the City, includes some similar language in its introduction, stating:

In the "Unplanned Area" of Ponto, which roughly corresponds to the vacant land area north of Avenida Encinas, specific planning efforts are required. The intent is not to limit uses to entirely non-residential. Future uses could include commercial, residential, office and others. **Consider the need for lower cost visitor or recreational facilities on west side of the rail road tracks.** [Emphasis Added]

The two sets of language are similar; however, there is a distinct difference. The Poinsettia Shores Master Plan area includes "lower cost accommodations" in the language and the Vision Plan does not. Furthermore, the Vision Plan does not list any type, including lower cost visitor accommodations, as a permitted use in this area. The need for lower cost accommodations has been well documented by the Commission, and is promoted in Sections 30210, 30213, 30221, and 30222 of the Coastal Act. The

removal of the above stated language, including removal of lower cost accommodations as a "permitted use," is inconsistent with the Coastal Act.

Moreover, of the three areas within the Vision Plan recommended for visitor accommodations, none contain a lower cost component, or a lower cost accommodations recommendation. The Ponto Beachfront area is an area that could be considered as a high-priority location for lower cost overnight accommodations. While located across the street from a State Park (South Carlsbad State Park) containing camping facilities, during peak summer months, the campground is consistently at capacity. Developing additional lower cost accommodations such as a youth hostel would further promote budget-minded travelers to this location. Moreover, Policy 6-9 in the Mello II Segment of the City's certified land use plan, states that the South Carlsbad State Beach should be converted to day use. If at any time in the future, this State Beach campground is converted to day use sites, the market and the need for low cost overnight accommodations will be significantly amplified. Thus the Vision Plan, as proposed by the City, cannot be found consistent with the Coastal Act.

CB. Potential Impacts to Wetlands

The Coastal Act has numerous policies that serve to protect marine based biological resources and state:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial recreational, scientific, and educational purposes.

Section 30231

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

Section 30240

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

The City of Carlsbad Mello Segment Land Use Plan also contains policies pertaining to sensitive habitat that state:

Mello II Policy 3-1.2 - Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Mello II Policy 3-1.7 - Wetlands

Pursuant to California Public Resources Code Section 30121 and Title 14, California Code of Regulations Section 13577 (b), 'wetland' means lands within the coastal zone, which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetland shall include land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions.

Wetlands shall be delineated following the definitions and boundary descriptions in Section 13577 of the California Code of Regulations.

[...]

Mello II Policy 3-1.12 Buffers and Fuel Modification Zones

Buffers shall be required between all preserved habitat area and development. Minimum buffer widths shall be provided as follows:

- a. 100 ft. for wetlands
- b. 50 ft. for riparian areas

c. 20 ft. for all other native habitats

[...]

West Batiquitos Lagoon/Sammis Properties Policy 3 - Environmentally Sensitive Habitats

(1) Batiquitos Lagoon Special Treatment Overlay - The wetlands as defined and determined by CDFG and FWS shall be constrained from development. Pursuant to Section 30233 (c) (Public Resources Code) any alteration of the wetlands shall be limited to minor incidental public facilities, restorative measures, and nature studies. Furthermore, any alteration of the wetlands must be approved by the City of Carlsbad and the Coastal Commission. The latter because it will retain Coastal Development Permit jurisdiction. In addition, any wetland alteration will require federal approval through an Army Corps of Engineers (COE) permit.

(2) Wetlands Buffer - The Lagoon Special Treatment Overlay shall include a buffer area outside the wetlands boundary as mapped by CDFG and FWS. The buffer shall be of sufficient width (minimum 100 feet unless approved by the Coastal Commission or its successor as part of the Coastal Development Permit) so as to provide a transition habitat as well as provide a protective area to reduce possible disruptive impacts to the lagoon's wildlife and habitats. No development shall occur within the wetlands buffer except for the lateral public access trail described in Policy A1C above.

The ~~third~~ ~~second~~ significant concern associated with the proposed Vision Plan relates to potential impacts to wetlands. The Coastal Act as well as the City's certified Land Use Plan, contains several policies protecting wetlands. These policies prohibit impacts to wetlands associated with private development. The proposed Vision Plan does include language protecting "jurisdictional" wetland habitats and makes reference to a biological survey/report completed for the area. The biological report identified areas of jurisdictional wetlands, as defined by the US Army Corps of Engineers, and California Department of Fish and Game's "three parameter method." The three parameter method requires that all three of the common indicators of wetland habitat (hydric soils, hydrophytes, and the presence of surface water or saturated substrate at some time during each year) be present. However, the Coastal Act employs the "one parameter method," and therefore, only requires that one of these common wetland indicators be present at any given time. The discrepancy between the two methods usually results in drastically dissimilar wetland delineations. This would be further exacerbated when attempting to determine an adequate buffer area. Without surveying the potential wetland habitats using the methodology endorsed by the Commission, impacts to wetlands, both direct and indirect, may be caused in this area, inconsistent with the Coastal Act.

DC. Use of Mass Transit Facilities

The Coastal Act Section 30253 pertains to transit and states:

Section 30253

New Development shall:

- (1) Minimize risk to life and property in areas of high geologic, flood, and fire hazard
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...
- (4) **Minimize energy consumption and vehicle miles traveled**
[Emphasis added]

The City of Carlsbad's Mello II land segment, Policy 7-9 directly relates to mass transit facilities on Carlsbad Boulevard and states:

Mello II Policy 7-9 South Carlsbad State Beach: Parking

Parking facilities are entirely inadequate in the vicinity of the South Carlsbad State Beach. To remedy this problem, the 20-acre site (APN 210-09-7) located between Carlsbad Boulevard and the railroad at the junction of Palomar Airport Road shall be developed for parking facilities of approximately 1,500 spaces. When this facility becomes heavily utilized, jitney service should be initiated between the parking area and designated points along Carlsbad Boulevard.

The Ponto Beachfront Village Vision Plan includes numerous improvements associated with maximizing pedestrian- and bicycle-oriented travel. Bikes lanes and walking paths are an integral component of the Vision Plan. Both of these potential improvements would promote people getting out of their cars, thus reducing vehicle miles driven, consistent with Section 30250 of the Coastal Act. However, the Vision Plan fails to address the potential linkage to mass transit, or the incorporation of ancillary mass transit uses. The Ponto Area is located in close proximity to Interstate-5, the Pacific Coast Highway/Carlsbad Boulevard, and the Poinsettia Rail Station, thus opportunities to link residential, commercial and recreational developments to mass transit should be promoted. Furthermore, Mello II Policy 7-9, requires the construction of a 1,500 space parking lot to be developed just a few miles north of the Ponto region. The policy further requires that when this facility becomes heavily utilized, "jitney service", a multi-passenger public transportation vehicle, should be initiated between the parking area and designated points along Carlsbad Boulevard.

The Vision Plan does not incorporate shuttle drop-off points or bus stops. The Vision Plan does not recommend that visitor accommodations, or retail/commercial developments provide transit information to visitors. No signage for bus stops or travel

linkages are proposed. The Ponto Beachfront Area is located in close proximity to visitor destinations such as Legoland, the Flower Fields, and the biannual Village Street Fair in downtown Carlsbad, resulting in a large potential for mass transit use by visitors. Thus, while the plan does promote pedestrian and bicycle travel, it fails to adequately promote the use of mass transit, inconsistent with section 30250 of the Coastal Act and Mello II Policy 7-9.

ED. Landscaping

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial recreational, scientific, and educational purposes.

Section 30231

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

Section 30240

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

The City of Carlsbad also has included policies for the protection of sensitive habitat that state:

Mello II Policy 3-1.2 - Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

Mello II Policy 3-1.13 Invasive Plants

The use of invasive plant species in the landscaping for developments such as those identified in Table 12 of the HMP shall be prohibited.

West Batiquitos Lagoon/Sammis Properties Policy 5 - Landscaping

In order to guard against introduction of any species which are inherently noxious to or incompatible with adjacent lagoon habitat, drought tolerant plants and native vegetation shall be used in areas of proximity to the wetland, to the maximum extent feasible.

The Vision Plan includes a list of the types of landscaping recommended for developments within the Ponto Region. Mexican Fan Palm is one of the listed types of promoted vegetation. However, the California Native Plant Society lists Mexican Fan Palms as an invasive species. Coastal Act section 30240 protects environmentally sensitive habitat areas and requires that they be protected against significant disruption. In addition, Policy 5 of the West Batiquitos Lagoon/Sammis Properties (a previously approved segment of the Land Use Plan) states:

In order to guard against introduction of any species which are inherently noxious to or incompatible with adjacent lagoon habitat, drought tolerant plants and native vegetation shall be used in areas of proximity to the wetland, to the maximum extent feasible.

By allowing invasive species to be included in the recommended plant palette, the City risks that these species will become established near the lagoon and other areas with sensitive habitat, causing significant disruption in the health of these native habitat areas. The Vision Plan does include language that promotes the planting of native habitat, but without prohibiting the invasive species, the potential for impacts to sensitive habitats is significant, inconsistent with Section 30240 of the Coastal Act.

FE. Geological Setbacks

The Coastal Act Section 30253 pertains to geological setbacks and bluff stability and states:

Section 30253

New Development shall:

- (1) Minimize risk to life and property in areas of high geologic, flood, and fire hazard
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...
- (4) Minimize energy consumption and vehicle miles traveled

The southern portion of the Ponto Area is bounded by a coastal bluff transitioning to Batiquitos Lagoon. Both previously certified Master Plans for this area (Batiquitos Lagoon Educational Park, and Poinsettia Shores) included that there would be a geological setback required to separate and protect the coastal bluffs from development. A 45 foot minimum setback was certified as a part of the Poinsettia Shores Master Plan. The Environmental Impact Report (EIR) includes a number of options for setbacks and open space areas associated with these coastal bluffs. The City of Carlsbad certified the EIR with the incorporation of an increased blufftop setback. This option requires a structural setback of generally 75 feet from the bluff edge, with only trails and other low-impact developments such as signage and benches to be allowed in this setback. However, the Vision Plan fails to identify a minimum geological setback or permitted development within the setbacks for the area closest to the lagoon bluffs. In addition, the City's Master Plan only requires a 45 foot setback. Thus, the EIR considered a 75 foot setback, the Master Plan requires a 45 foot setback, and the Vision Plan is silent with respect to a numerical setback. Further, it is not possible at this time to guarantee that even the 75 foot setback will still be considered adequate when an actual project comes forward for review. The inconsistencies in the different setback requirements and the lack of language requiring a site-specific analysis of geological issues result in potential impacts to geological stability, inconsistent with Section 30253 of the Coastal Act.

GF. City Projects

The Coastal Act, Section 30250, addresses impacts associated with public services and states:

Section 30250

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 City of Carlsbad Mello II Segment Policy 3-1.2 addressing impacts to sensitive habitat and states:

Mello II Policy 3-1.2 - Environmentally Sensitive Habitat Areas (ESHA)

Pursuant to Section 30240 of the California Coastal Act, environmentally sensitive habitat areas, as defined in Section 30107.5 of the Coastal Act, shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas

As previously stated, because the implementation of the Vision Plan will result in a much higher density of development than currently exists, upgrades to infrastructure, utilities, and flow of traffic were also considered by the Vision Plan. As part of this process, the City reviewed the realignment of Coast Highway/Carlsbad Boulevard and the relocation of utilities. The City should, however, look at the upgraded infrastructure requirement cohesively instead of improving them on a piece-meal basis. However, the goals for upgraded infrastructure within the Vision Plan fail to protect impacts to coastal resources associated with such projects. The Vision Plan does indicate that the highway realignment will result in impacts to coastal sage scrub and the need for mitigation. It does not, however, include that the impacts should be minimized to the extent practicable, the required mitigation ratio, nor does the plan require mitigation to be located in the coastal zone. Further, while the plan includes three alternatives for alignment, and recommends one specific alternative, it does not provide the opportunity to select a different alternative, or modify the realignment to a location not included in the listed alternatives. Again, it is unclear what the time scale will be for these projects to be completed, and, as such, circumstances may change between the certification of the Vision Plan, and the projects' completion.

Further, the proposed utility upgrades, including sewer, gas fuel lines, storm drains, and dry utilities do not include language that would protect any coastal resources that presently exist or that may exist in the future, from potential impacts. While the City may legitimately feel that the other policies in the City's certified land use plans would be applicable and would address possible impacts, the adoption of the Vision Plan without clarifying language would be misleading.

HG. Conclusions

In conclusion, the Commission finds that the Ponto Beachfront Village Vision Plan will result in significant and widely varying improvements to coastal access. Such improvements include public pedestrian and bicycle trails, three proposed hotel developments, shops, restaurants, a potential nature center, artist studios, and mixed uses resulting in high-density developments promoting alternative transit. However, some concerns regarding the determination of preferred land uses in an “unplanned” area, the lack of provision of lower-cost accommodations and recreational uses, impacts to wetlands, lack of linkage to mass transit opportunities, landscaping, geological setbacks, and City projects remain. All of these oversights could result in impacts to public access and recreation and other coastal resources and, therefore, the Vision Plan, as submitted, is therefore inconsistent with the Coastal Act, and therefore, shall be denied as submitted.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF CARLSBAD LAND
USE PLAN AMENDMENT, IF MODIFIED**

As previously stated, the Ponto Beachfront Village Vision Plan, as proposed by the City raises six primary concerns. These concerns include: lack of lower cost visitor serving uses, impacts to wetlands, mass transit amenities, landscaping, geological setbacks, and proposed City projects. The Commission has included several suggested modifications. Only with these modifications, the Vision Plan can be found consistent with the Coastal Act.

A. High Priority Uses - Lower Cost Accommodations in "Area F"

The primary concern raised by the City's Vision Plan is associated with the central portion of the Ponto Beachfront area proposed for townhome and mixed use developments. The area is currently designated and zoned as an "Unplanned Area". However, the Vision Plan recommends two distinct uses on the site, and lists the associated permitted developments. The history at this location is that it was previously designated for visitor serving uses (Baticuitos Lagoon Educational Park Master Plan). Subsequently, the Poinsettia Shore Master Plan then redesignated the area as an "unplanned area" with the stipulation that the City and Developer must consider and document the need for the provision of lower cost accommodations or recreational facilities (i.e. public park) on the west side of the railroad. The Vision Plan includes that development must be consistent with the Poinsettia Shores Master Plan; however, it includes no discussion of lower cost accommodations.

The Commission has therefore included nine modifications to address this concern. Suggested Modification #5 adds lower cost accommodations, such as a youth hostel, to the list of visitor serving uses that are included as a general use recommended in the Ponto Beachfront area. Currently, the language simply states that hotel/motel and restaurant uses should be established. As modified, a mix of low, moderate, and higher cost accommodations are included and lower cost accommodations are encouraged. The second related Suggested Modification #6, modifies a visual rendering of the Mixed Use Center to include a note that the land use has not been designated at this site; and, as such, a Local Coastal Program amendment will be required with any proposed development. The note goes on to state that as part of this planning effort, the provision of lower cost accommodations or recreational uses shall be considered. Suggested Modification #7 mirrors the language of Suggested Modification #6 and is included as a note to the visual rendering for the townhouse development area. Both of these suggested modifications were included to make it clear that while the rendering indicates townhome and mixed use developments at this location, those use recommendations are not final and further planning work is necessary.

In the Vision Plan, various permitted uses associated with the townhome and mixed use developments are listed. Suggested Modifications #8 and #9 modify the lists of uses from "permitted" to "recommended," given that uses cannot be defined if no land use

~~designation has been established. Again, these modifications will make it clear that while the Vision Plan includes the types of developments the City is most likely to support, there has been no final land use determination at this point. An additional benefit to these modifications is that higher priority uses (such as a youth hostel, low cost accommodations) must now be considered for potential development, as directed by the Commission previously. Suggested Modifications #14, 16, 19, and 20 add that any proposed development will include the processing of a Local Coastal Program Amendment to the administrative process for proposed development within the "Unplanned Area." Suggested Modifications #14 and #16 further state that any LCP amendment to facilitate development on these sites, will be required to be found consistent with the Poinsettia Shores Master Plan, including the consideration of lower cost accommodation or recreational uses.~~

~~All of these suggested modifications are intended to make clear to any interested party that the central portion of the Ponto Beachfront Village area does not have a designated land use at this time. The suggested modifications further provide that the policies and standards previously approved within the certified LCP and the Poinsettia Shores Master Plan are still prevailing, and as such the need for low cost accommodations and/or recreational uses at this location must be considered. Therefore, the LCP amendment as modified promotes the opportunity to support broader public access to the coastline, consistent with the Chapter 3 policies of the Coastal Act.~~

B. Impacts to Wetlands

~~Ponto Beach is located immediately north of Batiquitos Lagoon, and contains a previously constructed drainage ditch that may now support wetland indicator species, such that the potential for onsite wetland habitat is high. The proposed Vision Plan includes, by reference, a biological report delineating any potential wetland habitat. The report utilized the three parameter method, consistent with US Army Corps of Engineers (ACOE) and California Department of Fish and Game (CDFG) requirements for determining jurisdictional waters and the presence of wetlands. However, wetlands are determined using a one parameter method in the coastal zone, consistent with the Coastal Act. Therefore, while the report accurately identified wetland habitats for the ACOE and CDFG, it failed to delineate wetlands using standards required by the Coastal Act and its associated regulations. As such, Suggested Modification #'s 1, 18, and 21 have been included to address these concerns. Suggested Modification #1 expands on the plan's provisions for the ACOE/CDFG delineations and adds section, "Wetlands as Defined by the California Coastal Act", and includes language describing how wetlands are delineated consistent with the Coastal Act. The modification also requires that additional biological surveys/reports be completed for any proposed development that may include wetland habitats on site, consistent with the Coastal Commission methodology discussed. Suggested Modification #1 also prohibits impacts to wetlands and requires adequate buffering consistent with the City's certified LCP policies for the Mello II and West Batiquitos Lagoon/Sammis Properties segments.~~

~~Suggested Modification #18 requires that areas of private development that contain wetlands within the Coastal Commission's original jurisdiction obtain a Coastal Development Permit from the Coastal Commission. Suggested Modification #20 includes that the development located adjacent to the lagoon and south of Avenida Encinas, is in the Coastal Commission's appeals jurisdiction. All three of the modifications will serve to adequately identify, buffer, and therefore protect all wetland habitats located within the Ponto Beachfront area, consistent with the Coastal Act.~~

C. Mass Transit Opportunities

~~The Vision Plan highly promotes and facilitates non-vehicular travel through recommendations for public pedestrian and bike trails throughout the Ponto Beachfront area, connections to the Coastal Rail Trail, and connections to other portions of public trails around Batiquitos Lagoon. However, the Vision Plan fails to incorporate mass transit opportunities into the plan itself. The Ponto Beachfront area is located near Interstate 5, Coast Highway/Carlsbad Boulevard, and the Poinsettia Rail Station. Connections and ancillary facilities should be promoted, given the project's location and it's proximity to already established mass transit services. As such, Suggested Modification #11 adds a new Section to Section 2.3 Circulation System. The new section, 2.3.3, titled "Connection with Mass Transit" provides language that encourages measures to support alternative transit opportunities. Recommendations for bus stops, availability of bus schedules, and shuttle connections to the Poinsettia Train Station are all identified as potential methods to further promote the reduction of vehicular miles traveled, and the increase in use of alternative transportation, consistent with section 30250 of the Coastal Act.~~

D. Prohibition of Invasive Species

~~As previously discussed, the Ponto Beachfront Village Vision Plan includes invasive species as recommended landscaping plants. The Ponto Beachfront area is located adjacent to Batiquitos Lagoon. The Vision Plan includes invasive plants in the recommended plant palette, such as the Mexican Fan Palm. Vegetation such as the Mexican Fan Palm often out competes native lagoon vegetation. As such, three modifications are recommended to be included in the Vision Plan. Suggested Modification #12 includes language that limits permitted landscaping to native or non-invasive plants. Further, the language specifies that the use of native, drought-tolerant species are highly encouraged. Suggested Modification #13 requires that the list of acceptable landscaping plants provided in the Vision Plan update, removing any recommended trees, plants, shrubs, or flowers that are considered invasive by the California Native Plant Society. Suggested Modification #15 mirrors that of Suggested Modification #13, but is located in another section of the Vision Plan where landscaping requirements are also discussed. All of these three suggested modifications will promote the viability of the sensitive habitat located surrounding Batiquitos Lagoon, consistent with Section 30240 of the Coastal Act and promote water conservation.~~

E. Geotechnical Setbacks

~~Coastal lagoon bluffs are located on the southern extent of the area included in the Ponto Beachfront Vision Plan. The Vision Plan includes a large scale resort development in the area closest to the existing lagoon bluffs. Standards approved previously through the certification of the Poinsettia Shores Master Plan include a geological setback of 45' for any development. The City Council, through certification of the Ponto Beachfront Village Vision Plan EIR, approved a design that included a 75' geological setback, and permitted only public trails, benches, signage, and other low impact development within this setback area. The Vision Plan itself is silent on the required setback for the resort development. It is therefore unclear, when reviewing the Vision Plan, whether the standard of review is the Poinsettia Shore Master Plan, (45'), or the certified EIR (75').~~

~~Suggested Modification #3 resolved this ambiguity by requiring that all development proposals include a geological setback of at least 75'. The suggested modification further requires that only public trails, benches, signage and other low impact development be permitted within the 75' setback area. The intent of the modification is to make clear that the required setback associated with any future development proposal must be at least 75'. Given that the time line associated with development at this site is unknown, circumstances may change, and along with possible impacts related to sea level rise, the more conservative setback is most consistent with Section 30253 of the Coastal Act.~~

F. City Projects

~~During the Vision Plan process, the City also reviewed the realignment of Coast Highway/Carlsbad Boulevard, and the upgrading of existing utilities including sewer, gas, storm drain, and dry utilities. The Vision Plan includes language requiring the City to review these projects cohesively and not on a piece-meal basis. The section addressing these projects includes language and figures identifying the location of the upgraded facilities. The section, titled "Infrastructure," however, fails to include any language that requires impacts to sensitive resources be minimized. As such, Suggested Modification #10 requires that when these projects are ultimately reviewed, the plans ensure the minimization of potential impacts to coastal resources, and the suggested modifications also requires the projects are consistent with the certified Local Coastal Program. By requiring that the projects be consistent with the certified LCP, not only are impacts required to be minimized, but mitigation values and standards that have already been certified by the Commission as part of this LCP, will be applied to these project. As modified, the Vision Plan can therefore, be found consistent with the Coastal Act.~~

G. Conclusion

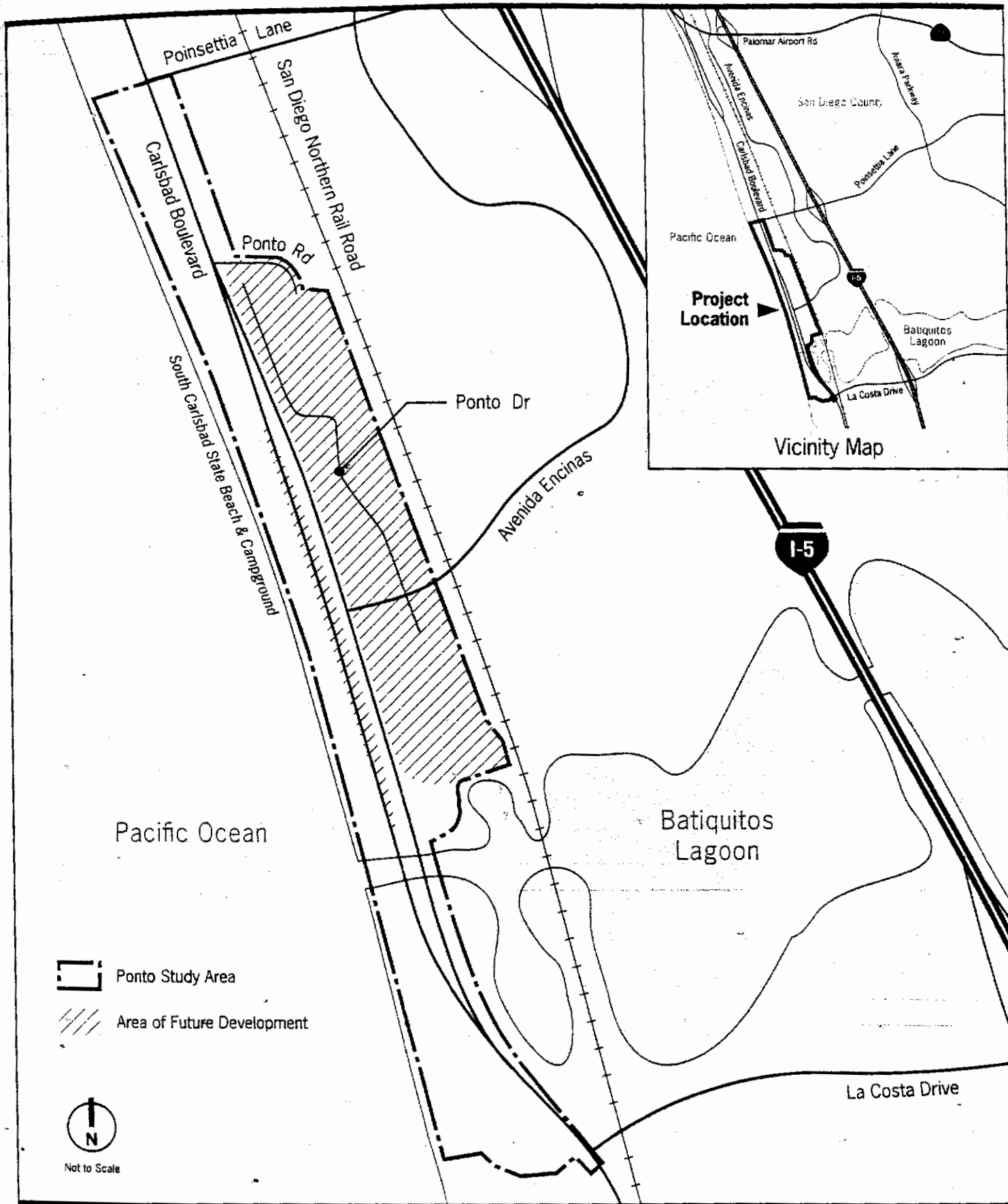
~~In conclusion, the City has made a noteworthy effort to create a plan that will promote an increase in public access and amenities, and create a uniform character in the development of one of the last large vacant coastal areas left in the southern California coastal zone. However, six areas of concerns were raised with respect to the Vision Plan's consistency with the Coastal Act. These six concerns have been discussed above, and several suggested modifications have been recommended to address these concerns.~~

~~Only with the modifications can coastal resources remain protected to a level consistent with the applicable policies of the Coastal Act.~~

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. Nevertheless, the Commission is required, in a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed 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. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

The Commission finds that approval of the proposed LCP amendment, as submitted, would result in significant impacts under the meaning of the California Environmental Quality Act. ~~However, with the inclusion of the suggested modifications and implementation of the revised land use plan provisions, the adoption would not result in significant impacts to the environment within the meaning of the California Environmental Quality Act. Therefore, the Commission finds that approval of the LCP amendment, as modified, will not result in any significant adverse environmental impacts.~~ Specifically, the vision plan identifies specific types of development for an area that is currently designated and zoned “unplanned”. Additional concerns included lack of low cost visitor-serving uses, potential impacts to wetlands, mass transit amenities, the inclusion of potentially invasive landscaping, inadequate geological setbacks, and concerns associated with specified City projects. Many of these impacts are avoidable, however, the City failed to identify alternatives that would eliminate or minimize the above stated impacts to the maximum extent practicable. The City also failed to identify the mitigation required for such impacts. Therefore, the Commission finds that the proposed vision plan document identified future development plans that cannot be considered the least environmentally damaging feasible alternative and must be denied.



RESOLUTION NO. 2007-303

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, CERTIFYING PROGRAM ENVIRONMENTAL IMPACT REPORT, EIR 05-05, APPROVING THE CANDIDATE FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING GENERAL PLAN AMENDMENT GPA 05-04, LOCAL COASTAL PROGRAM AMENDMENT LCPA 05-01, AND DISCUSSION ITEM DI 05-01 FOR THE PONTO BEACHFRONT VILLAGE VISION PLAN FOR THE AREA GENERALLY LOCATED BETWEEN CARLSBAD BOULEVARD AND SAN DIEGO NORTHERN RAILROAD, NORTH OF BATIQUITOS LAGOON AND SOUTH OF PONTO ROAD.

CASE NAME: PONTO BEACHFRONT VILLAGE VISION PLAN

CASE NO.: EIR 05-05/GPA 05-04/LCPA 05-01/DI 05-01

WHEREAS, pursuant to the provisions of the Municipal Code, the Planning Commission did, on September 5th and 19th, 2007, hold a duly noticed public hearing as prescribed by law to consider certification of Environmental Impact Report (EIR 05-05), General Plan Amendment (GPA 05-04), Local Coastal Program Amendment (LCPA 05-01) and Discussion Item (DI 05-01); and

WHEREAS, the City Council of the City of Carlsbad, on the 13th day of November, 2007, held a duly noticed public hearing to consider said Environmental Impact Report, General Plan Amendment, Local Coastal Program Amendment, and Discussion Item and at that time received recommendations, objections, protests, comments of all persons interested in or opposed to EIR 05-05, GPA 05-04, LCPA 05-01, and DI 05-01.

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

1. That the above recitations are true
 2. That the recommendation of the
- CERTIFICATION** of EIR 05-05 and **ADOPTION** of

EXHIBIT #2

Resolution of Approval

LCPA 3-07B Ponto Beachfront Village Vision Plan

1 Statement of Overriding Considerations, and Mitigation Monitoring and Reporting
2 Program and **APPROVAL** of GPA 05-04 is hereby accepted, approved in concept and shall
3 be included in the third General Plan Amendment of 2007, and LCPA 05-01 and DI 05-01 is
4 **APPROVED** by the City Council and that the findings and conditions of the Planning
5 Commission as set forth in Planning Commission Resolution No. 6338, 6339, 6340, and
6 6341 on file with the City Clerk and made a part hereof by reference are the findings
7 and conditions of the City Council with the following amendments and/or additions to
8 said conditions:

9 a. Mitigation Measure T-1 of the Final Environmental Impact Report for said
10 project shall be revised to read as follows:

11 "T-1: Impacts to the affected intersection shall be mitigated by
12 implementation of the following improvements:

13 La Costa Avenue / Vulcan Avenue: Install traffic signal with La Costa
14 widening to facilitate intersection improvements.

15 Prior to the issuance of a building permit, developers within the Ponto Area
16 shall pay a pro-rata fair share contribution to the La Costa Avenue/Vulcan
17 Avenue improvement. The pro-rata fair share contribution shall be paid to
18 the City of Carlsbad City Engineer prior to the issuance of building permits.
19 The pro-rata fair share contribution may be adjusted by the City of Carlsbad
20 to reflect any changes in estimated construction and land costs (as
21 described in Appendix G-2). The City of Carlsbad will retain the Ponto
22 developers' allocated pro-rata fair share contribution until the City of
23 Encinitas is required to collect said contributions. Developers with existing
24 ADT credits within their Ponto property will be given offsets against their
25 projected ADT's.

26 This intersection is located within the jurisdiction of the City of Encinitas and
27 the improvements to this intersection are already required mitigation as part
28 of the City of Encinitas adopted North 101 Corridor Specific Plan and have
been included in the City of Encinitas Capital Improvement Program (CIP).
Future developers within the Ponto Beachfront Village shall be required to
make a proportionate fair share contribution towards the improvements
listed in Mitigation Measure T-1.

Based on cost estimates from the City of Carlsbad, the proposed road
improvements associated with improving La Costa Avenue from Highway
101 through Vulcan Avenue, including the La Costa Avenue/Highway 101
and La Costa Avenue/Vulcan Avenue intersections, would cost
approximately \$7,352,505. This dollar amount is an estimate based on
current information. Annual adjustments shall be made as described in
Appendix G-2. Calculations for the cost estimate are provided in Appendix
G-2. As shown in Figures 5.6-8 and 5.6-9 the project would contribute 5,003
ADT to this intersection. The future development within the Vision Plan area
shall contribute 27 percent ($5,003 \text{ ADT} / 18,300 \text{ ADT} = 27\%$) of the total cost,
or \$1,985,176 ($\$7,352,505 \times 0.27 = \$1,985,176$). This amount would be
divided up among the future developments within the Ponto Beachfront

1 Village Vision Plan area based on the traffic they contribute to the
2 intersection. "

3 b. The following development guidelines as recommended by the Planning
4 Commission in Planning Commission Resolution No. 6338 are not
5 approved by the City Council and shall not be added to the Ponto
6 Beachfront Village Vision Plan:

7 "2b. Parking Garages shall be underground unless proven to be
8 technically or financially infeasible."

9 "2g. Any hotel on the southernmost Resort Hotel Character Area parcel
10 shall incorporate an ocean view restaurant."

11 c. The following development guideline as recommended by the Planning
12 Commission in Planning Commission Resolution No. 6341, Condition 2h
13 shall be amended to read as follows:

14 ~~"The Character Areas within the Ponto Beachfront Village Vision Plan
15 shall be revised to reflect the enhanced structural setback of generally 75
16 feet from the southerly bluff edge as referred to in the "Increased
17 Recreational Amenities/Green Space Alternative (Figure 6-6)" of the Ponto
18 Beachfront Village Vision Plan Final Environmental Impact Report with
19 the inclusion of a 10 to 12 foot public trail and with approval of the precise
20 structural setback to be determined with approval of future development
21 permits."~~

22 d The following amendment is approved to the permitted accessory uses
23 language for the Beachfront Resort within the Ponto Beachfront Village
24 Vision Plan to read as follows:

25 "Accessory uses developed as an integral part of the hotel to serve hotel
26 guests, but accessible to the public, and generally small in scale (ie., less
27 than 2500 to 3000 square feet per accessory use), such as apparel and
28 accessories, beauty and barber shops, dry cleaning, laundry pickup
service only, florist, novelty and/or souvenir store, travel agency."

e. The Introduction Section (Chapter 1) of the Ponto Beachfront Village
Vision Plan shall be amended to read as follows:

23 "CHAPTER 1: INTRODUCTION

24 SECTION 1.1: INTENT & BACKGROUND

25 The Ponto Beachfront Village Vision Plan is intended to provide
26 guidance for development of the Ponto area, as directed by the
27 City of Carlsbad's General Plan and the South Carlsbad Coastal
28 Redevelopment Area Project Redevelopment Plan. The Plan sets
forth a Vision of what Ponto could be; presents goals and
objectives that support the Vision; and provides an implementation

1 strategy and design guidelines for the projects that will implement
2 the Vision.

3 The Vision Plan is intended for use by prospective developers and
4 their consultants, City of Carlsbad staff, and those performing
5 design review on individual projects. The conceptual site plan
6 contains a level of detail necessary to visually depict the desired
7 land uses, circulation, and major design components; however, it is
8 recognized that actual development site plans will change, which is
9 acceptable if the goals and objectives of the Vision Plan are still
10 achieved.

11 PROJECT GOALS & OBJECTIVES

12 The City recognizes the importance of the Ponto area relative to
13 the City of Carlsbad. Its prime coastal location at the City's south
14 edge, across from a State Park beach campground and near new
15 single-family neighborhoods, offers the opportunity for the Ponto
16 area to become an integral and vibrant part of Carlsbad, providing
17 amenities for both tourists and City residents.

18 The City's Goals and Objectives for the Ponto Beachfront Village
19 Vision Plan are:

- 20 ○ Establish the Southern Coastal Gateway to the City.
- 21 ○ Accommodate a balanced and cohesive mix of local and tourist
22 serving commercial, medium- and high-density residential,
23 mixed use, live/work, and open space land use opportunities
24 that are economically viable and support the implementation of
25 these goals.
- 26 ○ Provide site design guidelines that require street scenes and
27 site plans to respect pedestrian scale and express a cohesive
28 and high-quality architectural theme.
- Establish a pattern of pedestrian and bicycle accessibility that
links the planning areas internally as well as with adjacent
existing and planned pedestrian and bicycle facilities.
- Provide expanded beach access.
- Establish a mixed use district that encourages local and tourist-
oriented retail, commercial, recreational and residential uses.
- Require landscape architecture that celebrates the historic past
and horticultural heritage of the City.
- Assure that public facilities and services meet the requirements
of the Growth Management Plan.

- Conform with the General Plan, Amended Zone 9 and 22 Local Facilities Management Plans (LFMP), applicable City ordinances, regulations and policies

STUDY AREA

The Ponto study area is an approximately 130-acre relatively narrow strip of land, approximately 1/8 mile wide and 1-1/2 miles long, located between Carlsbad Boulevard and tracks for the San Diego Northern Railroad. Portions of the Plan area extend north to Poinsettia Lane and south to La Costa Avenue. For purposes of this Ponto Beachfront Village Vision Plan, however, the area considered viable for future development is much smaller. It consists of approximately 50 acres, with its northern limit at Ponto Drive and its southern limit at the Batiquitos Lagoon (Figure 1.1).

GENERAL PLAN

The City of Carlsbad General Plan identifies Ponto as an area with special considerations and directs its development to be consistent with the goals, objectives and guidelines set forth within the Ponto Vision and Land Use Strategy Plan (the Plan). Submittal of a Site Development Plan and other applicable discretionary permit applications are required, which will include review for consistency with the intent of this Ponto Beachfront Village Vision Plan and its Design Guidelines. The Plan's Design Guidelines supplement and are subject to existing regulatory controls, including the zoning standards adopted by the City of Carlsbad. The site plans are all illustrative and set forth guidelines and a vision. If the actual site plan for a specific development achieves the goals, objectives, guidelines and intent of the Vision Plan, it shall be consistent with this Plan.

REDEVELOPMENT AREA PLAN

As seen in Figure 1.2, a portion of the Ponto study area is within the South Carlsbad Coastal Redevelopment Area (SCCRA), which was established in July 2000. The SCCRA Redevelopment Plan gives the Carlsbad Housing and Redevelopment Commission the legal authority to use various powers to achieve the Redevelopment Plan's goals and objectives.

A complete list of the original twelve goals for the Redevelopment Plan is found in Appendix 1-A of this document; however, the overall intent can be summarized as follows:

- Strengthen and stimulate the economic base
- Enhance commercial and recreation functions
- Increase amenities to benefit the public

- Increase and improve the affordable housing supply
- Assure quality design in the area's development

Development of the Ponto Beachfront Village Vision Plan is the first step toward achieving the Redevelopment Area's overall intent.

PLAN ORGANIZATION

This Ponto Beachfront Vision Plan is organized into the following chapters:

Chapter 1: Introduction

This Chapter provides an overview of the Plan, including intent and purpose, Plan goals and objectives, background information on study area conditions, the planning process and public outreach activities, and how this Plan fits within the City of Carlsbad's regulatory environment.

Chapter 2: Ponto Vision

This Chapter defines the Vision for the Ponto area and presents the subarea land use themes, circulation patterns for vehicles, pedestrians, and bicycles, parking, streetscape and gateways, and desired Plan amenities. The site plans, including the specific land uses and development design, set forth within the Plan are illustrative and are provided as an example as to how the Vision for the area may be achieved. Alternate site plans may be consistent with the Plan if the goals and objectives and general intent of the Vision for the area are achieved.

Chapter 3: Design Guidelines

Design guidelines are provided for the subarea types: resort/hotel; mixed use/commercial; townhouse neighborhood and live/work areas. The guidelines address site planning factors, parking and circulation, architecture, landscaping, signage and public spaces/amenities.

Chapter 4: Implementation Program

This Chapter details the permit and entitlement process to develop individual properties within the Plan area and describes the general process phasing to implement various components of the Plan. "

- 3 The Housing and Redevelopment Director and/or Planning Director are hereby directed to make the amendments to the appropriate documents as set forth above.

1
2 4 The Planning Director is directed to file the Notice of Determination for
said project, without undue delay.

3 5 This action shall not become final until the Local Coastal Program
4 Amendment (LCPA 05-01) is approved by the California Coastal
5 Commission and the California Coastal Commission's approval
6 becomes effective. The Provisions of Chapter 1.16 of the Carlsbad
Municipal Code, "Time Limits for Judicial Review" shall apply:

7 "NOTICE TO APPLICANT"

8 The time within which judicial review of this decision must be
9 sought is governed by Code of Civil Procedure, Section 1094.6,
10 which has been made applicable in the City of Carlsbad by
11 Carlsbad Municipal Code Chapter 1.16. Any petition or other paper
12 seeking review must be filed in the appropriate court not later than
13 the nineteenth day following the date on which this decision
14 becomes final; however, if within ten days after the decision
15 becomes final a request for the record of the deposit in an amount
16 sufficient to cover the estimated cost or preparation of such record,
the time within which such petition may be filed in court is extended
to not later than the thirtieth day following the date on which the
record is either personally delivered or mailed to the party, or his
attorney of record, if he has one. A written request for the
preparation of the record of the proceedings shall be filed with the
City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad,
CA. 92008."

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1
2 PASSED AND ADOPTED at a regular meeting of the City Council of the
3 City of Carlsbad on the 4th day of December, 2007, by the
4 following vote, to wit:

5 AYES: Council Members Lewis, Kulchin, Hall, Packard and Nygaard.

6 NOES: None.

7 ABSENT: None.
8

9
10 *Signature on file*

11 *Claude A. Lewis*
12 CLAUDE A. LEWIS, Mayor

13 ATTEST:

14 *Signature on file*

15 *Lorraine M. Wood*
16 LORRAINE M. WOOD, City Clerk

17 (SEAL)



Suggested Modifications as Recommended by Commission Staff at the July, 2009 Hearing

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Land Use Plan Amendments be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Modify Page 6 of Chapter 1 - Wetland Delineation and Biology - as follows:

Jurisdictional Waters as defined by U.S. Army Corps of Engineers and California Department of Fish and Game

A wetland delineation and study was conducted in the survey area to identify the location of all "jurisdictional waters," where the U.S. Army Corps of Engineers and the California Department of Fish and Game (CDFG) have some regulation authority.

Any impacts to jurisdictional waters are considered significant and should be avoided. In addition, regulatory agencies often require that a buffer be maintained between jurisdictional wetlands and waters and any development. The buffer can vary, but is typically 100 feet.

[...]

For additional detail, refer to Appendix II-B, "Wetland Delineation report for the Ponto Land Use Strategy and Vision Project" (December 2003) prepared by RECON, which is found in the document, Technical Studies Appendix to Ponto Beach Vision Plan.


Wetlands as Defined by the California Coastal Act

There are two known regions of the Ponto Beachfront Village Vision Plan that contain potential wetland habitat. The first (Figure 1.4) is a 572-foot long drainage averaging three feet wide and originating east of Carlsbad Boulevard at Ponto Drive. The second is a much larger area at the southern portion of the Ponto Beachfront area, separating the Ponto area from the Batiquitos Lagoon. The City's certified LCP Policy 3-1.7 defines wetlands in accordance with the Coastal Act and states:

Pursuant to California Public Resources Code Section 30121 and Title 14, California Code of Regulations Section 13577 (b), 'wetland' means lands within the coastal zone, which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetland s/ water table is at, near, or above the land surface long en

EXHIBIT #3

Suggested Modifications

LCPA #3-07B Ponto Beachfront Vision Plan
 California Coastal Commission

formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. A preponderance of hydric soils or a preponderance of wetland indicator species shall be considered presumptive evidence of wetland conditions.

Wetlands shall be delineated following the definitions and boundary descriptions in Section 13577 of the California Code of Regulations.

Wetland delineations shall be prepared and submitted as part of the application for any development at these locations in compliance with certified LCP Policies and the definitions and boundary descriptions in Section 13577 of the California Code of Regulations to determine the presence of wetland habitat. No impacts to wetland can occur, and adequate buffers will be required, consistent with the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program policies. Wetland buffers shall be consistent with the certified Mello II and West Batiquitos/Sammis Properties Local Coastal Program Land Use Plans.

2. Modify Page 7 of Chapter 1 - Vegetation - as follows:

The area envisioned for future development in this Ponto Beachfront Vision Plan does not currently contain sensitive vegetation communities, except an area between the Carlsbad Boulevard traffic lanes and the narrow drainage channel discussed in the Wetland Delineation section above. Environmentally Sensitive Habitat Areas (ESHA) determinations must be made on a case-by-case basis when a development is proposed. The area of sensitive habitat that would currently be considered significant and need mitigation if impacted by realignment of Carlsbad Boulevard and pedestrian circulation paths includes a narrow strip of "Disturbed Coastal Sage Scrub" located in the median of Carlsbad Boulevard. Impacts to the disturbed coastal sage scrub shall be minimized to the maximum extent practicable. In the Coastal Zone, the mitigation ratio for Coastal sage scrub is 2:1. Mitigation shall be completed consistent with the City's certified Local Coastal Program.

3. Modify Page 6 of Chapter 2 of the Vision Plan as follows:

Add a new note to the Beachfront Resort illustration that reads as follows: "A structural setback of 75 feet from the southerly coastal bluff edge shall be provided and any proposed encroachment into the 75' setback shall be supported by a geotechnical report and shall not result in impacts to the integrity of the coastal bluff, public views, public access, or public recreational opportunities. Development permitted beyond the determined structural setback shall be limited to a 10 – 12 foot public trail and other ancillary, low-impact development such as signage and benches."

4. Modify Page 15 of Chapter 1 - Carlsbad Boulevard Re-Alignment Study - as follows:

The preferred alignment and the resulting community amenities are discussed further and shown in Chapter 2. Discussion of alternatives, and benefits shall be further evaluated when the realignment of Carlsbad Boulevard is reviewed for a coastal development permit. The graphic depictions and discussion of alternative alignments for Carlsbad Boulevard being considered at this time are found in Appendix I-B of this document.

5. Modify Page 15 of Chapter 1 - Local Coastal Program - as follows:

- Visitor-serving uses (hotel/motel and restaurant) should be established. A mix of low-, moderate-, and higher cost accommodations shall be provided. Lower cost overnight accommodations, such as a youth hostel, shall be encouraged and provided where feasible.

- In the "Unplanned Area" of Ponto, which roughly corresponds to the vacant land area north of Avenida Encinas, specific planning efforts are required. Any modifications to the Land Use and Zoning designations in the "Unplanned Area" to facilitate development are subject to the review and approval of the Coastal Commission as a future local coastal program amendment. Further, as part of this Local Coastal Program amendment for the Unplanned Area, the City and developers must consider and document the need for the provision of lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

6. Add the following language as a note to the visual rendering on Page 3 of Chapter 2 - Mixed Use Center - as follows:

Note: A General Plan amendment and Local Coastal Program amendment for the parcels designated as Unplanned Area will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

7. Add the following language as a note to the visual rendering on Page 7 of Chapter 2 - Townhouse Neighborhood - as follows:

Note: A General Plan amendment and Local Coastal Program amendment for the parcels designated as Unplanned Area will be required before any new development may be approved at this site. Consistency of the proposed Land Use with the City's Local Coastal Program and the Poinsettia Shores Master Plan will be reviewed at that time.

8. Modify Page 12 of Chapter 2 Section 2.2 - Land Use - Mixed Use Center - as follows:

The Mixed Use Center is intended to be the core of the Ponto Beachfront Village and should ~~will~~ contain both commercial and multi-family residential uses.

To maximize economic viability for businesses in the Mixed Use Center, both visitor-serving and neighborhood-serving uses and services are intended. The area is central to residents of the Townhome Neighborhood, Live/Work and Mixed Use developments, visitors staying at the three hotels and the surrounding off-site residential neighborhoods. The current General Plan land use designation for the area of Mixed Use Center located within Area F of the Poinsettia Shores Master Plan is UA Unplanned Area. As such, a General Plan amendment, as well as, a Local Coastal Program amendment will be required for this Unplanned Area before any new development may be approved in this area, and any proposed development will have to be consistent with the certified Poinsettia Shores Master Plan.

Because the area includes parcels that are designated as Unplanned Area, no permitted uses have been established. However, the most desirable uses for the area, as recommended by this Vision Plan, are listed below. ~~Permitted uses for the Mixed Use Center are listed below.~~ Ground floor uses should ~~are required to be~~ retail or service type uses that generate pedestrian traffic, while office or multi-family residential uses may be located on upper floors. ~~The only non-retail or non-service use that may occupy the ground floor in the Mixed Use Center is the.~~ A community amenity feature or lower cost public recreational feature, such as an arts/nature/activities center, should be included, and may occupy the ground floor in the Mixed Use Center.

Recommended Uses ~~Permitted Uses~~

~~Only~~ ~~The~~ the following specific uses ~~shall be~~ are the most desirable permitted uses for the ground floor development in the Mixed Use Center:

- Bakeries, limited to baking goods for on-site sales only

[...]

The following specific uses are the most desirable permitted uses for the upper floor development in the Mixed Use Center:

- Any uses included permitted on the ground floor in ~~by~~ this Vision Plan

[...]

~~Incidental outdoor dining area are encouraged. Incidental outdoor dining areas are permitted by administrative permit, pursuant to the requirements of the Carlsbad Municipal Code, Section 21.26.013.~~

~~Every use permitted shall be subject to Carlsbad Municipal Code, Section 21.26.020, which includes the requirement that products made incidental to a permitted use shall be sold only at retail on the premises, and not more than five persons may be employed in the manufacturing, processing and treatment of products permitted herein.~~

Conditional Uses

Subject to the Carlsbad Municipal Code, Section 21.26.015, the following uses are conditionally permitted in the Mixed Use Center:

- ~~• Restaurants with dancing or entertainment (excluding adult entertainment)~~
- ~~• Package liquor stores (off-sale)~~

9. Modify Page 17 of Chapter 2 - Section 2.2 - Townhouse Neighborhood - as follows:

The Townhouse Neighborhood is intended for multi-family homes in condominium ownership with a minimum density of 15 dwelling units per acre and a maximum density of 23 dwelling units per acre, with a Growth Management Control Point of 19 dwelling units per acre. However, the current General Plan land use designation for this area is UA - Unplanned Area; and, as such, a General Plan amendment, as well as a Local Coastal Program amendment, will be required before any new development may be approved in this area. The Townhome Neighborhood is located in Area "F" of the Poinsettia Shores Master Plan Area; and, as such, any proposed development will have to be consistent with the standards certified in the Poinsettia Shores Master Plan and the West Batiquitos/Sammis Properties LCP.

Because the area is an Unplanned Area, no permitted uses have been established. However the recommended uses for the area, as determined by this Vision Plan are listed below:

Recommended Uses-Permitted Uses

- Multiple dwellings -
- Accessory buildings, but not to include guest houses or accessory living quarters.

10. Modify Page 26 of Chapter 2, Section 2.3.3 - Boardwalk Trail - as follows:

A boardwalk trail provides a link between the mixed use developments on either side of the wetland and offers nature interpretation and education opportunities for its users (described in more detail in Section 2.5). The boardwalk trail also serves as the connection to and from the pedestrian path under Carlsbad Boulevard. Access to the

boardwalk is provided from the surrounding pedestrian plazas and the Ponto Drive sidewalks, as well as directly from the Carlsbad Boulevard underpass. Because the boardwalk trail is located in or near a sensitive habitat area, measures need to be taken to ensure that no impacts to wetlands will result from the development of this portion of the trail. Impacts to any other sensitive vegetation shall be minimized to the maximum extent practicable.

11. Add the following language on Page 27 of Chapter 2, as a new Section - Section 2.3.3 Connection with Mass Transit - as follows:

2.3.3 Connection with Mass Transit

Given the proximity of the Ponto Beachfront area to the coast and to three major access routes (Coast Highway, Interstate 5, and the Railway), access and measures to support alternate transit shall be provided. Information regarding the location of bus stops, bus schedules, connections to the Poinsettia Train Station through shuttles, etc. shall be identified and provided with any development proposal.

12. Modify Page 33 of Chapter 2, Section 2.5 - Landscaping - as follows:

Landscaping, including street trees, add important visual elements to the street environment and are used to enhance the overall image and pedestrian comfort in the Ponto Beachfront Village. The use of native, drought-tolerant plant materials shall be highly encouraged. No plants listed as invasive by the California Native Plant Society or the California Invasive Plant Council shall be used.

13. Update Pages 33-35 of Chapter 2, Section 2.5 - Landscaping - to remove any recommended trees, plants, shrubs, or flowers that are considered invasive by the California Native Plant Society and the California Invasive Plant Council from the recommendations.

14. Add the following language to the end of the second paragraph of Page 1 of Chapter 3, Section 3.1 - Administration - as follows:

During the design review process, the review authority may interpret these design guidelines with some flexibility in their application to specific projects, as not all design criteria may be workable or appropriate for each project. In some circumstances, one guideline may be relaxed to facilitate compliance with another guideline determined by the review authority to be more important in that particular case. The overall objective is to ensure that the intent and spirit of the design guidelines are followed. However, all proposed development must maintain its consistency with the City's certified Local Coastal Program.

For areas designated as Unplanned, the permitted uses will be determined with a General Plan and Local Coastal Program amendment to modify the Land Use designation to facilitate development. In these circumstances, consistency with the

certified Land Use Plans (Mello II and West Batiquitos Lagoon/Sammis Properties Segments) and previously certified Master Plan (Poinsettia Shores Master Plan) shall be the standards of review where applicable. As a part of any future planning effort for the areas designated as "Unplanned Area," the City and developers must consider and document the need for the provision of lower cost visitor accommodations or recreational facilities (i.e. public park) on the west side of the railroad.

15. Modify Page 11 of Chapter 3, Section 3.7 - Landscaping - as follows:

[...]

- Trees and Plants native to the Southern California coast which are drought tolerant or those which flourish in the region should be selected whenever possible. Plant materials should be selected for their low maintenance qualities. No plants listed as invasive by the California Native Plant Society or the California Invasive Plant Council shall be used. Plants shall be grouped into combinations to support desired design themes and should be grouped based on common environmental conditions, such as soil type, water, sun, temperature limitation, etc.

16. Modify Page 1 of Chapter 4 -Implementation Plan, Section 4.2 - Existing Regulatory Status - Local Coastal Program - as follows:

The Ponto Beachfront Village Vision Plan area falls within the Coastal Zone. City of Carlsbad's Local Coastal Program (1996) is comprised of five segments, which provide policies and development guidelines for compliance with the Coastal Act. The Ponto Beachfront Village Vision Plan area includes acreage located within the Mello II and the West Batiquitos Lagoon/Sammis Properties Segments Land Use Plans. While the Ponto Beachfront Village Vision Plan is a guidance document for future development in this area, the previously certified Mello II and West Batiquitos Lagoon/Sammis Properties Local Coastal Program Land Use Plans and the approved Poinsettia Shores Master Plan and Poinsettia Properties Specific Plan are not superseded or replaced and remain in effect. Local Coastal Program Segments are required to maintain consistency with the City of Carlsbad's General Plan. A Coastal Development Permit must be obtained prior to development.

17. Modify Page 4 of Chapter 4, Section 4.2 - Regulatory Status - Existing Specific Plans/ Master Plans - as follows:

Existing Specific Plans / Master Plans (reference Appendix 1-C)

18. Modify Page 5 of Chapter 4, Section 4.4 - Project Implementation - as follows:

- ❖ Areas of private development that are under jurisdiction of the U.S. Army Corps of Engineers, Coastal Commission, and California Department of Fish and Game

will need to obtain permits from those agencies for identified jurisdictional impacts, including:

- 401 Water Quality Certification
- 404 Clean Water Act Permit
- 1602 Streambed Alteration Agreement (combines previous 1601 and 1603)
- Coastal Development Permit

19. Modify Page 7 of Chapter 4, Section 4.4 - Project Implementation - Townhouse Neighborhood - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Amendment to Poinsettia Shores Master Plan
- ❖ Coastal Development Permit
- ❖ Improvements Agreement with City
- ❖ Environmental Review
- ❖ Local Coastal Program - Land Use Plan Amendment
- ❖ General Plan Amendment

20. Modify Page 7 of Chapter 4, Section 4.4 - Project Implementation - Mixed Use Center - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

- ❖ Redevelopment Permit
- ❖ Coastal development Permit
- ❖ Rezone
- ❖ Environmental Review
- ❖ Improvements Agreement with City
- ❖ Resource agency permits
- ❖ Local Coastal Program - Land Use Plan Amendment
- ❖ General Plan Amendment

21. Modify Page 8 of Chapter 4, Section 4.4 - Project Implementation - Beachfront Resort - as follows:

DEVELOPER ACTIONS TO IMPLEMENT PONTO BEACHFRONT VILLAGE VISION PLAN

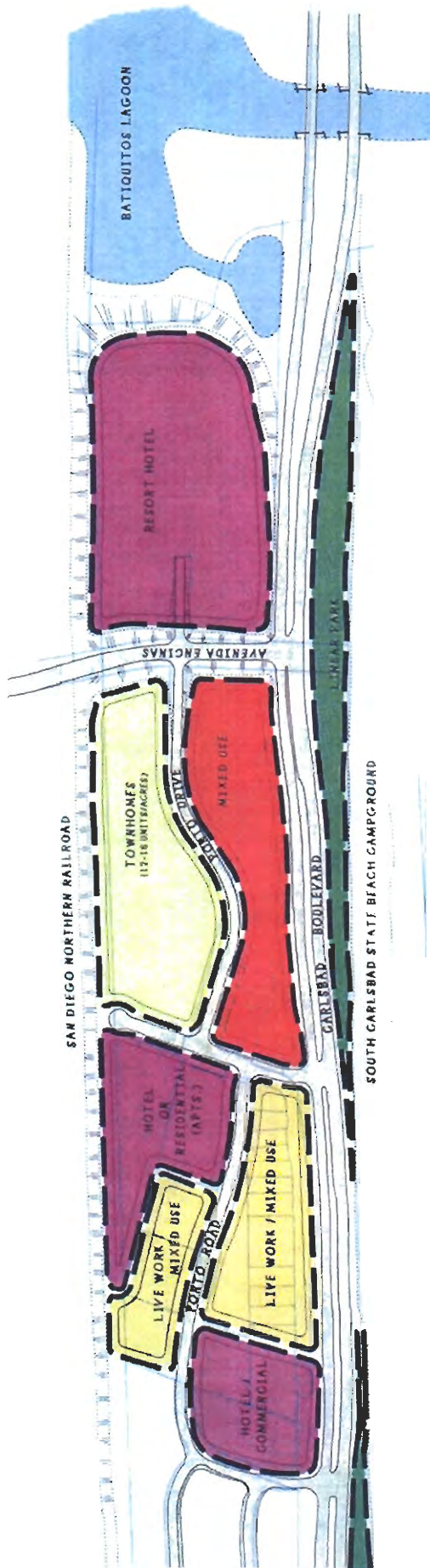
- ❖ Coastal development Permit (Appealable to the Coastal Commission)
- ❖ Improvements Agreement with City
- ❖ Environmental Review

22. Modify Page 9 of Chapter 4, Section 4.5 - Infrastructure - Utility Relocation - as follows:

[...]

It is very important that the relocation of utility lines be done in a comprehensive manner that considers long term development of all properties and does not simply benefit one or two property owners in the short term. The comprehensive plan for utility relocation should include minimizing potential impacts to coastal resources consistent with the certified Local Coastal Program.

23. Compile the previously certified policies for Planning Area 1 of the Poinsettia Properties Specific Plan, and Areas F, G, and H of the Poinsettia Shores Master Plan and incorporate them as Appendix 1-C to the Ponto Beachfront Village Vision Plan.



E 2.2 PONTO BEACHFRONT VILLAGE LAND USE THEMES

EXHIBIT #4

Proposed Land Use Themes

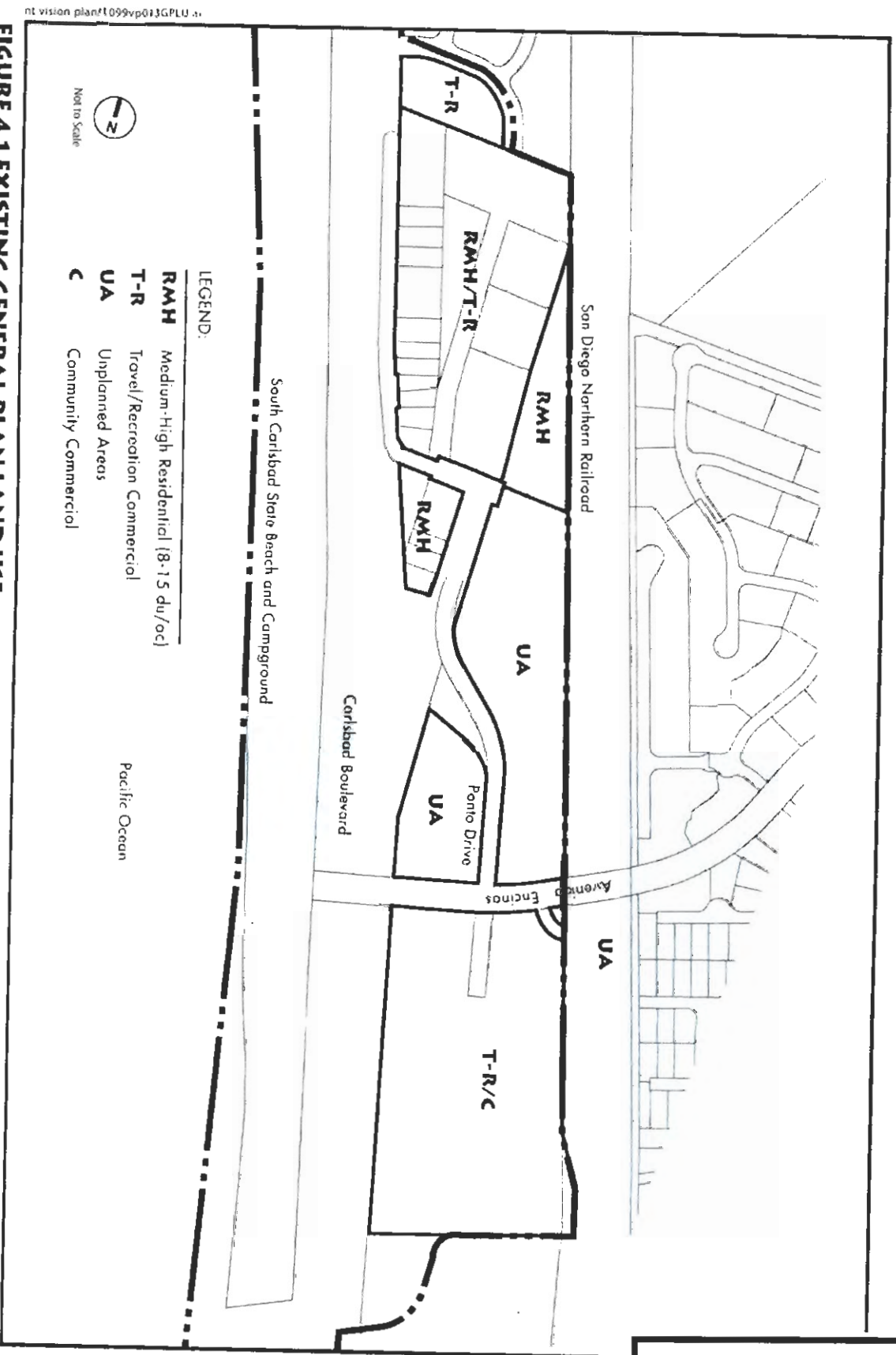


FIGURE 4.1 EXISTING GENERAL PLAN LAND USE

EXHIBIT #5

Underlying Land Use Designations

LCPA 3-07B Ponto Beachfront Village Vision Plan

California Coastal Commission



Poinsettia Properties
AREA 1 (one)

Poinsettia Stores
Area F

Poinsettia
Stores
Area H



EXHIBIT 2.1 PONTO BEACHFRONT VILLAGE CHARACTER AREAS

HILTON CARLSBAD
(DASHED ORANGE)

Poinsettia Stores
Area G

EXHIBIT #7

Overlay of Vision Plan and
existing Master Plan areas

LCPA #3-07B Ponto Beachfront Village
Vision Plan



California Coastal Commission