

ORDINANCE NUMBER O- 17253 (NEW SERIES)

ADOPTED ON FEB 27 1989

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 101.0462 RELATING TO DEVELOPMENT IN THE ENVIRONMENTALLY SENSITIVE AREAS OF THE CITY.

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

Section 1. That Chapter X, Article 1, Division 4, of the San Diego Municipal Code be and the same is hereby amended by amending Section 101.0462 to read as follows:

SEC. 101.0462 RESOURCE PROTECTION ORDINANCE

A. RESOURCE PROTECTION PERMIT REQUIRED

Within the areas regulated by the provisions of the Resource Protection Ordinance no building, improvements or portion thereof shall be erected, constructed, converted, established, altered, enlarged, used, or demolished, nor shall any lot or premises be excavated or graded nor shall any vegetation be cleared and grubbed until a separate Resource Protection Permit is obtained in accordance with the procedures set forth in this ordinance. A Resource Protection Permit shall not be required for installation of landscaping on preexisting single-family lots when clearing and grubbing, grading or other development does not occur. Any person violating this ordinance shall be guilty of a

misdemeanor and shall be punishable pursuant to the provisions of SEC. 11.12 of the San Diego Municipal Code.

B. APPLICATION OF A RESOURCE PROTECTION OVERLAY ZONE

A Resource Protection Overlay Zone shall be applied to all property located within the boundaries of the following referenced areas:

1. All floodways and one hundred (100) year floodplain fringe areas as identified in the Federal Emergency Management Agency (FEMA) maps on file in the office of the City Clerk as Document No. 00-16939-1, all areas within the City's existing Floodway (FW) or Floodplain Fringe (FPF) zones, and all floodways and one hundred (100) year floodplain fringe areas as identified in the County of San Diego FEMA map panel Nos. 1350, 1363, 1636, as modified, and No. 1650 on file in the office of the City Clerk as Document No. 00-17087.

2. All hillside areas of twenty-five percent (25%) slope or greater as identified by the City's existing Hillside Review Overlay Zone (HR).

3. All wetland and wetland buffer areas indicated in Map Drawings C-713 and C-740 on file in the office of the City Clerk as Document Nos. 00-16939-2 and 00-16939-3.

C. PROTECTION OF ADDITIONAL RESOURCES

Within the City of San Diego, the provisions of the Resource Protection Ordinance shall also be applicable to the following enumerated resources:

1. Unmapped wetlands and wetland buffer areas which meet the definition contained herein.
2. All biologically sensitive lands which meet the definition contained herein.
3. All significant prehistoric and historic sites and resources which meet the definition contained herein.

D. GENERAL PROVISIONS

1. Where any portion of a parcel contains resources regulated by this ordinance, the provisions of the Resource Protection Ordinance shall be applicable to the entire parcel.
2. Any person or persons may propose revisions to the RPOZ boundaries. These revisions may include deletion of areas of poor quality, or addition of areas of significant environmental value. The Planning Commission and Council shall consider any revisions, following review by the community planning group, in accordance with the provisions of Section 101.0205 et seq. of this Code.

3. In the case of significant prehistoric and historic resources, biologically sensitive lands, or unmapped wetlands, a map shall be prepared by the Planning Department and considered by the City Council for adoption, and shall be used to identify properties that will not require a prehistoric, historic, or biological survey for purposes of obtaining a Resource Protection Permit.

However, if it is demonstrated to the Planning Director that prehistoric, historic or biological resources, or unmapped wetlands do in fact exist upon these properties, the appropriate survey shall be required by the Planning Director.

E. EXCLUSIONS

1. Coastal Zone. The Resource Protection Ordinance shall not be applicable to any area within the Coastal Zone, as defined in Section 30103 of the Public Resources Code, where the City Council has accepted Coastal Commission certification of the City's Local Coastal Program and has authorized the Planning Director to begin processing Coastal Development Permits. However, the significant prehistoric and historic sites and resources and sensitive biological lands provisions of this ordinance shall be applicable in the Coastal Zone effective thirty (30) days following certification by the Coastal Commission. The

Coastal Development Permit Ordinance, Chapter 10, Article 5, Division 2 of this Code shall be amended to include findings requiring the protection of significant prehistoric and historic sites and resources and biologically sensitive lands in accordance with the regulations and restrictions set forth herein.

2. Mission Valley. The Resource Protection Ordinance shall not be applicable to any area within the floor of Mission Valley, defined as that area located within the existing FW and FPF Zones, nor to any lawfully operating sand and gravel extraction facility located within the boundaries of the Mission Valley Community Plan.

3. Aquaculture or Water Reclamation Plants. The Resource Protection Ordinance shall not be applicable to any aquaculture or water reclamation plant which has been the subject of a public hearing at the City Council and has been released by the City Council upon making findings that the plan or project under consideration contains specific development requirements and/or environmentally sensitive area mitigation measures sufficient to achieve the general purpose and intent of this ordinance.

4. Black Mountain Road and Calle Cristobal Assessment District. The construction of Black

Mountain Road and the Calle Cristobal Assessment District area in its entirety and the development necessary to fund and support the necessary improvements of these streets shall be exempt from the provisions of the Resource Protection Ordinance.

5. Miramar Ranch North. The Resource Protection Ordinance shall not be applicable to any area within the Miramar Ranch North Community Plan and the seventy (70) acre high school project in Scripps Ranch.

6. County Island Annexation. The Resource Protection Ordinance shall not be applicable to any area within the County Island Annexation portion of the Scripps Miramar Ranch Community Plan.

7. Sorrento Hills. The Resource Protection Ordinance shall not be applicable to development of the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986.

8. Land Exchange Agreements. The provisions of this ordinance shall not be applicable to any property which the City is contractually obligated to zone for its highest and best use pursuant to the Land Exchange Agreement between the United

States of America and the City of San Diego, filed with the City Clerk on December 8, 1986, as Document No. RR-267203-1.

F. DEFINITIONS

The following definitions shall apply only for the purposes of this ordinance.

1. Aquaculture. A form of agriculture devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water.

2. Biologically Sensitive Lands. Land which supports unique native vegetation communities and/or the habitats of rare, endangered, or threatened species or subspecies of animals or plants as defined by the California Endangered Species Act, or the Federal Endangered Species Act, or as defined below. Biologically sensitive land includes the area of native vegetation necessary to support a viable population of the rare, endangered or threatened species, and which is critical to maintaining a balanced natural ecosystem or wildlife corridor.

A species shall be presumed to be rare, endangered or threatened if it is listed in SEC. 670.2 or 670.5, Title 14, California Code of Regulations, or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, SEC. 17.11

or 17.12. A species not included in any legislative listing may nevertheless be considered to be rare, endangered or threatened if the species can be shown to meet the criteria for inclusion in state or federal lists.

Unique native vegetation community refers to associations of plant species which are substantially depleted due to development. These associations should be outstanding examples of the community type as identified by the California Department of Fish and Game listing of community associations. In most cases, unique vegetation communities contain rare, endangered or threatened species. Additionally, these communities may contain species which are considered unusual or limited in that the species are: 1) only found in the San Diego region, or 2) a local representative of a species or association of species not otherwise found in the region.

3. Clearing and Grubbing. Clearing and grubbing shall mean the removal of any and all types of vegetation from the land, including the clearing and breaking up of the surface of the land through the use of motorized equipment.

4. Environmentally Sensitive Habitat. Any area in which plant or animal life or their habitats are either rare or particularly valuable

because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activities and development.

5. Fill. Any material or substance which is deposited, placed, pushed, dumped, pulled or transported, or moved to a new location and the conditions resulting therefrom. Fill also includes pilings placed for the purpose of erecting structures thereon when located in a submerged area. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, riprap, and concrete.

6. Floodplain. The relatively flat areas of low lands adjoining, and including, the channel of a river, stream, water course, bay or other body of water which is subject to inundation by the flood waters of the one hundred (100) year frequency flood.

7. Floodway. The river channel and the adjacent land areas, within the floodplain, needed to carry the one hundred (100) year frequency flood without increasing the water surface elevation more than one (1) foot at any point. The natural flood water profile is the water surface elevation of a nonconfined one hundred (100) year frequency flood in the natural undeveloped floodplain.

8. Floodplain Fringe. All that land in a floodplain not lying within a delineated floodway. Land within a floodplain fringe is subject to inundation by relatively low velocity flows and shallow water depths.

9. Hillsides. All lands having a slope with a natural gradient of twenty-five percent (25%) or greater, twenty-five (25) feet of vertical distance for each one hundred (100) feet of horizontal distance as mapped by the Hillside Review Overlay Zone.

10. Riparian Habitat. An environment associated with freshwater watercourses, including perennial and intermittent streams, lakes, and other bodies of fresh water, and characterized by plants and animals which are dependent upon the availability of water in the resource.

11. Significant Prehistoric and Historic Sites and Resources. Locations of known prehistoric or historic resources that possess unique scientific, religious or ethnic value of local, regional, state or federal importance. The above shall be limited to prehistoric or historic districts, sites, buildings, structures, or objects included in the State Landmark Register, or the City of San Diego Historical Sites Board List, or included in or eligible for inclusion in the National Register of

Historic Places; known areas of past human occupation where important prehistoric or historic activities or events occurred (such as villages or permanent camps); and known locations of past or current traditional religious or ceremonial observances as defined by Public Resources Code SEC. 5097.9 et seq., and protected under Public Law 95-341, the American Indian Religious Freedom Act (such as burials(s), pictographs, petroglyphs, solstice observation sites, and sacred shrines).

12. Wetlands. Land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or where the land is covered by shallow water.

In addition, all wetlands must have one or more of the following characteristics:

- a. At least periodically, the land supports predominantly hydrophytes.
- b. The substrate is predominantly undrained hydric soil.
- c. The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Areas classifiable as wetlands include lagoons, marshes, estuaries, vernal pools, streams and rivers and associated riparian habitat areas.

13. Wetland Buffers. Lands which provide a buffer area of an appropriate size to protect the environmental and functional habitat values of the wetland.

G. PERMITTED USES

1. Wetlands. Permitted uses allowed in wetlands shall be limited to the following:

- a. Aquaculture or water reclamation.
- b. Nature study projects or similar resource dependent uses.
- c. Wetland restoration projects.
- d. Essential public service projects where there is no feasible less environmentally damaging alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

2. Wetland Buffer Areas. Permitted uses in the wetland buffer areas shall be limited to the following, provided that such uses are compatible with protecting wetlands, and do not harm the natural ecosystem:

- a. All uses permitted in wetlands.
- b. Passive recreational uses, access paths, and public viewpoints, provided that all necessary mitigation measures are incorporated to protect the adjacent wetlands.

c. Improvements necessary to protect adjacent wetlands.

3. Floodways. Permitted uses in the floodway areas, as designated on the Federal Emergency Management Agency (FEMA) Maps on file in the office of the City Clerk or alternatively any area zoned FW, shall be those uses permitted by the zone, subject to the regulations and restrictions of the zone and this ordinance.

4. Floodplain Fringe. Permitted uses in the Floodplain Fringe (property located between the floodway and the limits of the one hundred (100) year floodplain) as designated on the Federal Emergency Management Agency (FEMA) maps on file in the office of the City Clerk or alternatively any area zoned FPF, shall be those uses permitted by the underlying zone subject to the regulations and restrictions of the underlying zone, the Floodplain Fringe Overlay Zone (SEC. 101.0403.1), where applicable, and this ordinance.

5. Hillside. Permitted uses in the hillside areas shall be those uses permitted by the underlying zone subject to the regulations and restrictions of the underlying zone, the Hillside Review Overlay Zone, (SEC. 101.0454) and this ordinance.

6. Biologically Sensitive Lands. Permitted uses in biologically sensitive lands shall be those uses permitted by the underlying zone subject to the regulations and restrictions of the underlying zone and this ordinance.

7. Significant

Prehistoric and Historic Sites and Resources.

Permitted uses in lands containing significant prehistoric and historic sites and resources shall be those uses permitted by the underlying zone subject to the regulations and restrictions of the underlying zone and this ordinance.

H. DEVELOPMENT REGULATIONS

1. Wetland and Wetland Buffers.

a. A 100-foot-wide wetland buffer as mapped on Map Drawings C-713 and C-740 shall be maintained unless the applicant demonstrates that a buffer of lesser width will protect the resources of the wetland, based on site-specific information. Such information shall include, but is not limited to, the type and size of the development and/or proposed mitigations (such as planting of vegetation or construction of fencing) which will also achieve the purposes of the buffer.

Wetland buffers for unmapped wetlands shall satisfy the wetland buffer requirements

contained herein. The buffer shall be measured landward from the wetland. Maps and supplemental information submitted as part of the application shall be used to determine the specific boundaries of the wetland and buffer. The California Department of Fish and Game and the United States Fish and Wildlife Service shall be consulted in such determinations.

b. All buildings or other improvements proposed to be placed or erected, and all grading activities proposed to be undertaken adjacent to a wetland shall be located so as not to contribute to increased sediment loading of the wetland, cause disturbance to its habitat values, or otherwise impair the functional capacity of the wetland.

2. Floodways.

a. New roadways and roadway expansions, except local access roadways, shall be allowed only where indicated in an adopted community plan.

b. Floodway encroachments for utility and transportation crossings shall be offset by improvements or modifications to enable the passage of the one hundred (100) year frequency flood.

c. Channelization or other substantial alteration of rivers or streams shall be limited to:

1) Necessary water supply projects.

2) Flood control projects where no other feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development.

3) Developments where the primary function is the improvement of fish and wildlife habitat.

d. Any development permitted by paragraphs C.1), C.2), and C.3) above which involves the channelization or other substantial alteration of rivers or streams shall do all of the following:

1) Incorporate into the project design and mitigation measures all relevant findings of hydrological studies for the watershed of the affected stream. Such findings shall include but shall not be limited to, erosional characteristics, flow velocities, and sediment transport.

2) Incorporate mitigation measures designed to assure that there will be no

increase in the peak runoff rate from the developed site as compared to the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during a six (6) hour period once every ten (10) years.

3) Minimize stream scour, avoid increases in and reduce, where feasible, the transport of stream sediment to downstream wetlands and other environmentally sensitive habitat areas. Acceptable techniques to control stream sediment include, but are not limited to, the planting of riparian vegetation in and near the stream.

4) If channelization is determined to be necessary, the floodway of the stream shall accommodate a one hundred (100) year flood. To the extent feasible, all artificial channels shall consist of natural bottoms and sides and be designed and sized to accommodate existing riparian vegetation. Such vegetation shall be maintained at specified levels compatible with the design capacity of the channel.

e. Except in wetlands and wetland buffer areas, sand and gravel extraction may be permitted, subject to an approved conditional use permit and reclamation plan. Use of the floodway area after reclamation shall be subject to all of the requirements of this ordinance.

3. Floodplain Fringe.

a. New roadways and roadway expansions, except local access roadways, shall be allowed only where indicated in an adopted community plan.

b. Low-intensity recreational uses may be permitted.

c. Except in wetlands and wetland buffer areas, sand and gravel extraction may be permitted, subject to an approved conditional use permit and reclamation plan. Use of the floodplain fringe area after reclamation shall be subject to all of the requirements of this ordinance.

d. Within the one hundred (100) year floodplain fringe, sand and gravel extraction, permanent structures and/or fill for permanent structures, roads and other public improvements will be allowed only if the applicant can demonstrate that:

1) The development is capable of withstanding periodic flooding, and does not require the construction of off-site flood protective works, including but not limited to, artificial flood channels, revetments and levees. Flood protection works may be permitted to protect new or existing roads which are identified in the Circulation Element of the City of San Diego's Progress Guide and General Plan, and applicable community plans.

2) Existing environmentally sensitive habitat areas, including wetlands and wetland buffers, will not be disturbed.

3) Grading and filling are minimized, and harm to the environmental values of the floodplain fringe is minimized.

4) The design of the development incorporates the findings and recommendations of both a site-specific and watershed hydrologic study in order that the development (a) assures that there will be no increase in the peak runoff rate from the fully developed site as compared to the discharge that would be expected from the existing undeveloped site as a result of the most intense rainfall expected once

every ten (10) years during a six (6) hour period; and (b) neither significantly increases nor contributes to downstream bank erosion and sedimentation of wetlands, lagoons, or other environmentally sensitive habitat areas.

5) There will be no significant adverse water quality impacts to downstream wetlands, lagoons and other environmentally sensitive habitat areas.

e. All development proposed in the floodplain fringe on property which borders the floodway, or is otherwise linked physically or visually with the floodway shall:

1) Provide not less than a twenty-five (25) foot-wide open space strip bordering the floodway.

2) Provide for landscaping of all buildings and parking facilities.

3) Retain and protect mature trees and other significant existing vegetation. Trees introduced to the site shall be adequately protected from drowning during heavy rains. Any drainage or runoff system installed for this purpose shall be serviced regularly during the November 15 to March 31 rainy season so as to avoid the

accumulation of standing water around the base of such trees.

f. All landscaping shall be in substantial conformance with the standards and specifications set forth in Chapter X, Division 7, of the San Diego Municipal Code (City-wide Landscaping Regulations and Technical Supplement).

4. Hillsides. Where a development is proposed on slopes of twenty-five percent (25%) grade and over, within the jurisdiction of the Resource Protection Overlay Zone as defined in Paragraph F. above, the following regulations shall apply:

a. Hillsides shall be preserved in their natural state, provided a minimal encroachment into such slopes (areas disturbed by grading or development) may be permitted as set forth in the following table:

TWENTY-FIVE PERCENT (25%) SLOPE ENCROACHMENT ALLOWANCE

Percentage of Parcel in Slopes of Twenty-five Percent (25%) Grade and Over	Maximum Encroachment Allowance as Percentage of Area in Slopes of Twenty-five Percent (25%) Grade and Over
75% or less	10%
80%	12%
85%	14%
90%	16%
95%	18%
100%	20%

The following exemptions from the encroachment allowance are permitted:

1) Major public roads and collector streets identified in the Circulation Element of an adopted community plan of the City of San Diego's Progress Guide and General Plan.

2) Local public streets or private roads and driveways which are necessary for access to the more developable portions of a site on slopes of less than twenty-five percent (25%) grade, provided no less environmentally damaging alternative exists. The determination of whether or not a proposed road or driveway qualifies for an exemption, in whole or in part, shall be made by the Planning Director based upon an analysis of the project site.

3) Public utility systems.

4) Areas with native vegetation, which are cleared or trimmed to protect existing or proposed structures in potential danger from fire provided the area of such clearance is the minimum necessary to comply with existing City fire codes and that such slopes retain their native root stock or are replanted with native or

naturalized non-native fire retardant vegetation, and further that no reconfiguration of the natural landform is required.

5) Natural slopes or previously graded slopes located directly underneath pole-supported or cantilevered buildings, provided such areas are open to light and air and allow a minimum clearance of four (4) feet between the building subfloor and the ground.

6) Sand, gravel and rock extraction, provided that mitigation measures are required that maximize the use of native vegetation to revegetate and landscape cut or fill areas in order to substantially restore the original habitat value; and produce final graded slopes with contours and soils which reflect the original landform conditions. Use of the steep slope lands after reclamation shall be subject to all requirements of this ordinance.

b. On existing legal parcels, a deviation in the encroachment allowance percentage may be granted by the Planning Director, if necessary to maintain a minimum development right (total

disturbed area) equal to twenty percent (20%) of the entire parcel.

c. All encroachment allowances, including permissible deviations, shall be subject to a determination by the Planning Director that such encroachment supports the findings of fact set forth in Paragraph O. of this ordinance.

d. All hillsides which remain undisturbed or which are restored or enhanced as a result of a development approval shall be conserved as a condition of permit approval through a deed restriction, open space easement or other suitable device that will preclude any future development or grading of such slopes.

5. Biologically Sensitive Lands. Development shall not be permitted in biologically sensitive lands, unless all feasible mitigation to protect and preserve the biologically sensitive lands is required as a condition of development approval. This paragraph is intended to supplement protection provided to biologically sensitive lands by existing state and federal law.

6. Significant Prehistoric and Historic Sites and Resources. Development shall not be permitted in significant prehistoric or historic sites or resources unless all feasible measures to protect and preserve the significant prehistoric or

historic site or resource are required as a condition of development approval. This paragraph is intended to supplement protection provided to significant prehistoric and historic sites and resources by existing local, state and federal law. The City shall establish procedures for designating historic sites, with time frames for determining whether eligible sites shall be so designated, and procedures for protecting such eligible sites during the designation process.

I. APPLICATION SUBMITTAL REQUIREMENTS

Every application for a Resource Protection Permit shall be accompanied by the following information where applicable:

1. A site plan showing the location of proposed buildings, accessory structures, recreational areas, access roads and driveways, parking areas, storage areas, and any other uses of the site.
2. A landscaping plan showing the location of all plant materials including trees, shrubs, and ground covers.
3. A grading plan for any development which requires the alteration of the existing land configuration.
4. A preliminary elevation plan (including sections) showing basic foundation and roof configurations.

5. A drainage plan showing proposed runoff control measures.

6. An analysis and map showing the precise boundary of wetlands and wetland buffers.

7. In floodway and floodplain fringe areas:

a. A hydrological study of the site and affected watershed showing existing river channels, streambeds and proposed channelization alignments.

b. A biological resource inventory and mitigation plan.

8. In hillsides:

a. A slope analysis based upon a topographic map with contour intervals not exceeding five (5) feet. The slope analysis shall show the following slope categories for the entire property in acres:

1) Less than twenty-five percent (25%) slope.

2) Twenty-five percent (25%) and greater slopes.

b. A geological reconnaissance report where development is proposed to be located in a "moderate" (C), "high" (D), or "variable" (BC or AC) Risk Zone as identified on the geo-technical land use capability maps referenced by the Seismic Safety Element of the

City of San Diego's Progress Guide and General Plan, and on file in the office of the City Engineer. The geological reconnaissance report shall be prepared in accordance with the City's Engineering and Development Department's Guidelines for Geo-technical Reports, and shall address potential geological hazards. The report shall be considered and made available for public review as part of the standard environmental review process.

Where unstable conditions are indicated but, in the opinion of the City Engineer, are not sufficiently defined in the geological reconnaissance report, a preliminary engineering geology report shall also be required. The preliminary engineering geology report shall include the results of subsurface investigations sufficient to identify the nature and magnitude of such unstable conditions, and shall identify alternative mitigation measures that may be needed.

9. A biological resources survey.

10. A prehistoric and historic resources survey.

J. PUBLIC HEARING

The Planning Director shall conduct a noticed public hearing for all project applications in

accordance with SEC. 101.0220, of this Code. The Planning Director shall have the authority to consolidate any public hearing on a Resource Protection Permit Application with any other public hearing required in connection with another permit application relating to the same development. Applications for a Resource Protection Permit requested or required in conjunction with other permits or variances requiring discretionary action by more than one decisionmaking authority or body, shall be heard by the senior granting authority or body in accordance with Section 101.0225 of this Code.

K. PERMIT EXEMPTIONS

A Resource Protection Permit shall not be required for the following development, however, this development must comply with all other adopted City plans, ordinances and regulations.

1. Agricultural grading on land which has been cultivated within the previous five (5) year period or pursuant to an agricultural permit (SEC. 62.0405(h)). This exemption shall not apply when a significant historic or prehistoric resource exists on the site.

2. Any development for which a Building Permit, Grading Permit, Hillside Review Permit, Planned Development Permit, Conditional Use Permit, Development Agreement or Planned District Permit

has been requested (application on file) prior to June 22, 1987.

3. Any development which has obtained Coastal Commission approval on or before July 10, 1987.

4. Those phases or elements of a development which have obtained a vested right prior to the effective date of this ordinance.

5. Developments for which all final discretionary approvals have been granted prior to July 15, 1988.

6. The modification of a single-family house on one lot or the replacement of single-family house with another single-family house on one lot, brush management for fire protection purposes, and any other improvements, alterations and landscaping on such lot.

7. The construction of a single-family house on an individually-owned single-family lot as defined in Sec. 101.0101.34 of the Municipal Code, which is not joined in ownership to any contiguous lot or parcel on the effective date of this ordinance, brush management for fire protection purposes, and any other improvements, alterations, and landscaping on such lot.

8. Building improvements, including paved areas, on other than single-family lots, which do not alter the ground coverage of an existing

building or paved area by more than 10 percent and which do not increase the height of the building by more than 12 feet, or the height permitted in the underlying zone, whichever is less.

9. The reconstruction of a structure which has been destroyed by fire, acts of God, acts of public enemies or explosion, even if the use or structure is nonconforming and 100 percent of the use or structure has been destroyed.

10. Sand, gravel and rock and related asphalt operations, and salt manufacturing operations, which have received valid approvals to conduct such operations prior to the effective date of this ordinance and which continue to operate in compliance with the terms and conditions of those approvals, and redevelopment or reclamation of the area upon which the operations have occurred.

11. Development following termination of those sand, gravel, rock and asphalt operations for which the City Council has, prior to the effective date of this ordinance, adopted a specific plan or amended an adopted community plan to require preparation of specific plans for the affected properties upon which the sand, gravel, rock and asphalt operations are currently occurring or have occurred.

12. Development on property formerly designated in an adopted community plan as a Resource Extraction Area, where the property is contiguous to property upon which permitted sand and gravel extraction operations are occurring, and where the adopted community plan designates a major or collector street traversing the property and the contiguous sand and gravel properties.

13. Activities to detect and remove ordnance from areas where such explosive devices may exist.

14. Any park development plan, including but not limited to public recreational facilities, public-owned playing fields, and public-owned golf courses, or major public facility project which has been the subject of a public hearing at the City Council and has been released by the City Council upon making findings that the plan or project under consideration contains specific development requirements and/or environmentally sensitive area mitigation measures sufficient to achieve the general purpose and intent of this ordinance.

L. EXPEDITED PERMIT

Whenever development is required by order of the City Manager or the Planning Director to protect the public health or safety, the Planning Director may issue an emergency Resource Protection Permit for the minimum amount of work necessary to protect the public health or

safety. The emergency permit shall not relieve the permittee from compliance with all provisions of this ordinance.

M. ADMINISTRATION OF PERMIT

The Planning Director or a designated representative shall administer the Resource Protection Permit. A Resource Protection Permit shall not be issued unless the available information supports the findings of fact set forth in Paragraph O. of this ordinance. In issuing a Resource Protection Permit the Planning Director or Planning Commission may impose such conditions, including modification of the property, development, parking, and other regulations of the underlying land use zone, as determined necessary and desirable to protect the public health, safety, and general welfare.

N. DEVIATIONS

The Planning Commission and the City Council shall have the ultimate authority to allow a deviation from any of the development regulations of this ordinance provided that such deviation is required because strict application of this ordinance would result in unnecessary hardship or reach results in conflict with City Council policy. Findings of overriding social or economic considerations and other factors as set forth in Paragraph O. below must be made by the Planning Commission and City Council in order to approve any such deviation.

Deviations shall not be approved unless mitigation measures are adopted. These measures may include purchase by the applicant of like-kind real property of similar or greater quality and equivalent quantity from the City's open space acquisition list for use by the City as open space, or purchase of other like-kind real property of similar or greater quality and equivalent quantity identified in a sensitive resources management plan prepared by the Planning Department for use by the City as open space. Like-kind real property shall mean real property containing the same resources as those on the impacted property. Provision of properties in a greater ratio than one to one (1:1) may be required based upon the quality of the resource impacted.

The foregoing authority is hereby delegated to the Planning Director. The decision of the Planning Director with respect to a request for a deviation may be appealed to the Planning Commission and City Council in accordance with Paragraph P. of this ordinance.

O. REQUIRED FINDINGS OF FACT

Based on the information derived from the plans, documents and studies submitted, from testimony received at the public hearing, and from any field investigations made, the Planning Director (or the Planning Commission or City Council on appeal) shall decide whether to issue the Resource Protection Permit as requested. A permit shall be issued provided that all of the findings of

fact set forth below can be supported by the information available at the time of the hearing and by the conditions imposed:

1. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas.

2. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources.

3. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.

4. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.

5. The proposed development will conform with the City of San Diego's Progress Guide and General Plan, the Community Plan, the Local Coastal Program, or any other applicable adopted plans and programs.

P. APPEALS

1. Appeals to the Planning Commission. The decision of the Planning Director may be appealed to the Planning Commission in accordance with SEC. 101.0230 of this Code.

2. Appeals to the City Council. The decision of the Planning Commission may be appealed to the City Council in accordance with SEC. 101.0240 of this Code.

Q. CONDITIONAL USE PERMITS

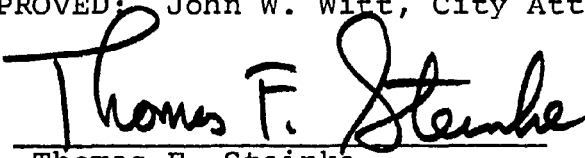
Conditional Use Permits which would allow development in areas regulated by the provisions of the Resource Protection Ordinance shall be consistent with the use and development restrictions specified in the Resource Protection Ordinance and shall be subject to all other applicable regulations and restrictions. All Conditional Use Permits within the Resource Protection Ordinance shall be subject to approval by the City Council as set forth in SEC. 101.0510 of this Code.

R. VIOLATIONS

Any person not complying with the provisions of this ordinance shall be required to restore the land affected to a condition comparable to that existing prior to the violation. Until such restoration is completed and approved by the City, the violating person shall be prohibited from doing any development on the land affected.

Section 2. This ordinance shall take effect and be in force on the thirtieth (30) day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefor was made prior to the date of introduction of this ordinance.

APPROVED: John W. Witt, City Attorney

By 
Thomas F. Steinke
Deputy City Attorney

TFS:lc:fs:df
01/20/89
02/10/89 REV. 1
02/22/89 REV. 2
Or.Dept:Plan.
O-89-161
Form=o.none

Passed and adopted by the Council of The City of San Diego on FEB 27 1989,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By June G. Blackwell, Deputy.

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

FEB 14 1989, and on FEB 27 1989

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

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

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By June G. Blackwell, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17253 Adopted FEB 27 1989

RECEIVED
CERTIFICATE OF PUBLICATIONS OFFICE

89 MAR 21 AM 10:15
SAN DIEGO, CALIF.

OFFICE OF THE CITY CLERK
SECOND FLOOR
CITY ADMINISTRATION BLDG.
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4,
OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION
101.0462 RELATING TO DEVELOPMENT IN THE ENVIRONMENTALLY
SENSITIVE AREAS OF THE CITY.

ORDINANCE NUMBER 0-17253 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 101.0462 RELATING TO DEVELOPMENT IN THE ENVIRONMENTALLY SENSITIVE AREAS OF THE CITY.

This ordinance amends Section 101.0462 by adding provisions which protect historic and prehistoric sites and resources, biologically sensitive lands, and wetlands that were unmapped and therefore not protected by the Resource Protection Overlay Zone ordinance.

This ordinance provides several additional permit exemptions for projects as defined therein and also provides for deviations from its provisions when mitigation measures are provided by the applicant.

Development which is proposed to encroach into hillsides, as defined in the ordinance, is also limited based upon a percentage of the parcel that contains hillsides.

A complete copy of the ordinance is available for inspection in the Office of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on FEB 14 1989
Passed and adopted by the Council of The City of San Diego on FEB 27 1989

AUTHENTICATED BY: MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(SEAL)
By JUNE A. BLACKNELL, Deputy.
Pub. March 13 1989

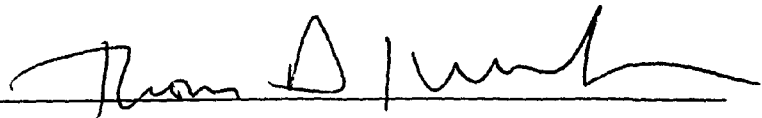
I, THOMAS D. KELLEHER, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-17253 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:
MARCH 13

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 13 day of MARCH, 1989.


(Signature)

2 3/4" x 2 x 31.16 = #