

## **History of the false exemption of the Growth Management Open Space Standard provided Ponto developers in Local Facility Management Plan Zone 9 (LFMP-9):**

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The history of how required Growth Management Open Space (i.e. unconstrained/developable land) that should have been dedicated Open Space was, and is now being proposed to be, inappropriately converted to Residential land use by a Perpetuating a False Exemption of the Open Space Standard provided Ponto Developers. This False Exemption needs correction and restitution. Ponto's False Exemption of the Open Space Standard and the 'amendment shell-game' GM Open Space history is a critical warning sign to the **Carlsbad Tomorrow** Growth Management Committee, Planning Commission and City Council. Ponto is a critical warning that a strong, accountable and accurate Open Space Standard needs to be established for **Carlsbad Tomorrow**, AND a Growth Management Open Space restitution plan needs to be established and funded that corrects the False Exemption for Ponto Developers. If Ponto Developers were required like other similar developers at the time (Aviara and Poinsettia Shores, "urbanizing La Costa Zones 11 & 12, etc.) to provide the required Growth Management Open Space some of the critical Coastal Recreation and Coastal Park issues and extensive Carlsbad Citizen needs/demands/desires at Ponto could likely have already been addressed.

### How citizens found out about the False Exemption provided Ponto Developers:

In 2017 for the 1<sup>st</sup> time the city provided the GIS maps/data base accounting of Open Space in the City. The City did this a part of settlement to a North County Advocates citizens' lawsuit. The City Open Space maps/data base allowed Carlsbad Citizens for the 1<sup>st</sup> time the ability to see and confirm what Open Space was produced by Growth Management (GM). The City's Open Space map/data based for Ponto (LFMP-9) documented that about 30-acres of GM Open Space was missing (see; Carlsbad Official Public Records Request - PRR 2017-164). As required by GM, and as Staff has said, to count as GM Open Space it must be dedicated and 'unconstrained/developable land' to meet the GM Open Space Standard. Being able to see for the 1<sup>st</sup> time the missing GM Open Space was one of the key awakenings that started People for Ponto Carlsbad Citizens. Below is the City's Open Space Map for LFMP-9, with notes. We have the City's parcel-based Open Space data base that confirms all the numerical data in the notes.



### City GIS map of Ponto's (LFMP Zone 9) Open Space:

- Light green areas meet the City's 15% unconstrained Growth Management Program Open Space Standard
- Most Ponto Open Space (pink hatch & blue [water] on map) is "Constrained" and does not meet the Standard
- **Aviara - Zone 19, Ponto - Zone 9 and Hanover/Poinsettia Shores – Zone 22 all developed around the same time and had similar vacant lands.**
- **City required Aviara - Zone 19 east of Ponto to provide the 15% Standard Open Space. Why not Ponto? Aviara had the same lagoon waters.**
- **City required Hanover & Poinsettia Shores area Zone 22 just north of Ponto to provide the 15% Standard Open Space. Why not Ponto?**
- Why Ponto developers were never required to comply with the 15% Standard Open Space is subject to current litigation
- Below is City GIS data from this map

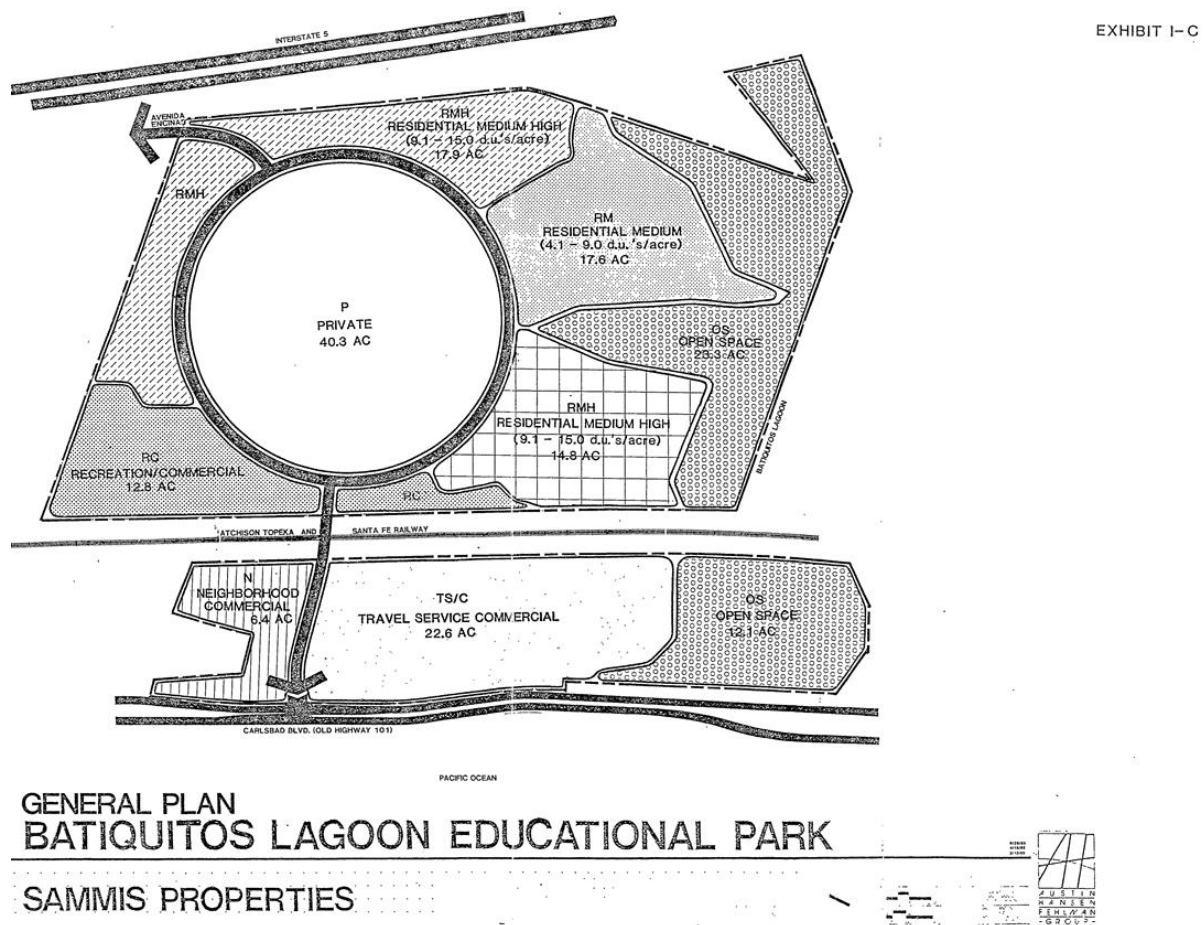
### City GIS map data summary of the 15% Growth Management Standard Open Space at Ponto

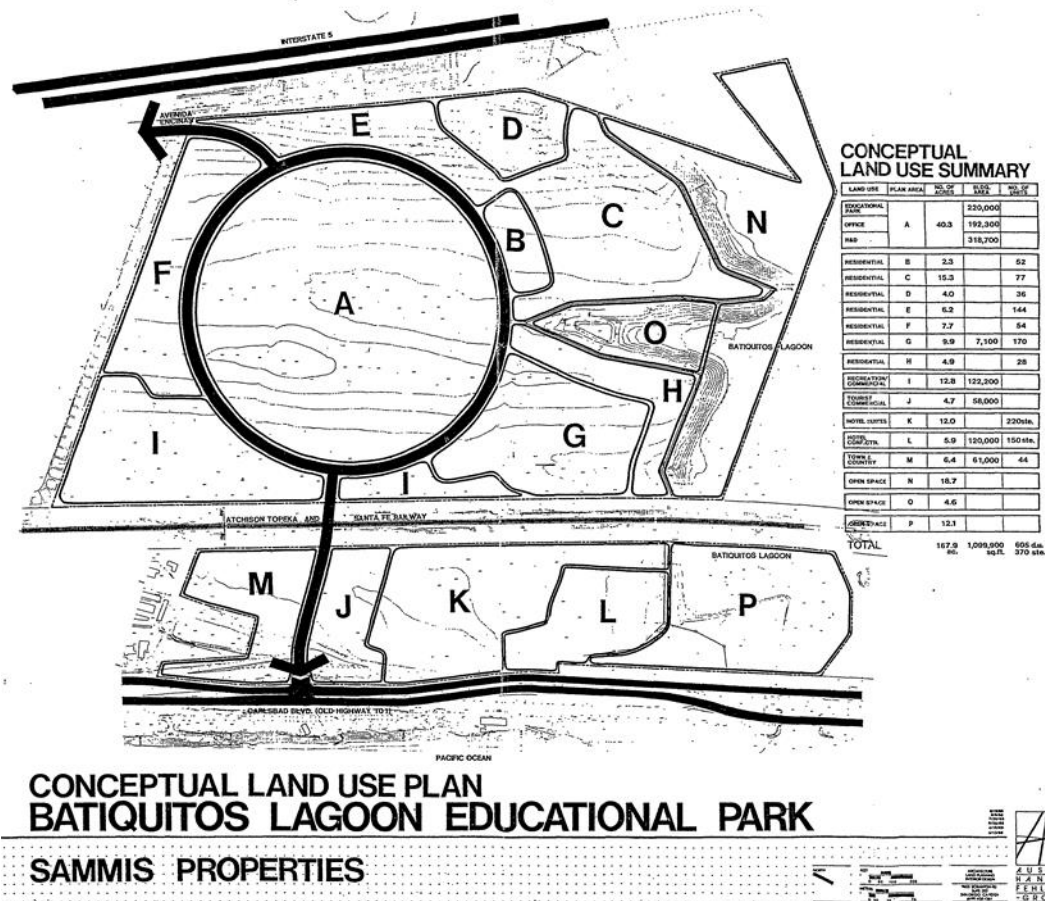
472 Acres	Total land in LFMP Zone 9 [Ponto]
<u>(197 Acres)</u>	Constrained land excluded from GMP Open Space
275 Acres	Unconstrained land in LFMP Zone 9 [Ponto]
<u>X 15%</u>	GMP Minimum Unconstrained Open Space requirement
41 Acres	GMP Minimum Unconstrained Open Space required
<u>(11 Acres)</u>	GMP Open Space provided & mapped per City GIS data
<b>30 Acres</b>	<b>Missing Unconstrained Open Space needed in LFMP Zone 9 [Ponto] to meet the City's minimum GMP Open Space Standard per City's GIS map &amp; data</b>
<b>73% of the City's minimum 15% required Open Space Standard is missing due to over development of LFMP Zone 9 [Ponto]</b>	

So were did the missing GM Open Space go?

In early 1985 prior to the Ponto's developer (SAMMIS) annexing Ponto into the City of Carlsbad, San Diego County's LAFCO (local agency formation commission) General Planned and pre-zoned, Ponto's Batiquitos Lagoon waters and the lagoon bluff slopes as Open Space. This Open Space was "Constrained Open Space" – State jurisdictional waters, and steep slopes with Coastal Sage Scrub (CSS) habitat. These already pre-zoned constrained/non-developable Open Spaces were accounted for as part of the City's 25% pre-Growth Management Plan Open Space, and per Growth Management can't be counted in meeting the 15% Growth Management Open Space Standard. The pre-zoned Open Space is shown in the City's Open Space map and properly marked as "Preservation of Natural Resources" Open Space land. This already pre-zoned Constrained (non-developable, aka 'Preservation of Natural Resources') Open Space land at Ponto was documented in the proposed SAMMIS Batiquitos Lagoon Educational Park (BLEP) Master Plan MP-175 as Areas N, O, and P in the Land Use Summary below.

On Oct, 1 1985 Carlsbad approved SAMIS's Master Plan and EIR to develop Ponto. SAMIS's BLEP Master Plan MP-175. Following are BLEP MP-175's General Plan & Land Use Summary maps:





The BLEP MP-175 did include a variety of GM compliant Open Space.

- 12.8 acre Recreation Commercial land use (Area I) that was playfields and Coastal Recreation site for MP-175 and South Carlsbad. This is a Critical GM Open Space that was never dedicated.
- A minimum 30' wide landscaped Open Space on both sides of Windrose Circle (along Areas A, B, C, E, F, I, G and H) that circled Area A. Windrose Circle was bordered on each side by 30' of landscaped Open Space.
- Additional minimum 30' wide landscaped setbacks between buildings in Area A
- 2.8 acres of private recreation open space for the maximum amount of residential units
- 45' to 50' landscaped setbacks from the Batiquitos Lagoon Bluff edge (this was later developed with Residential land use in some areas of Ponto).
- 75' landscaped separation between Areas C and D
- 70' landscaped separation between Areas D and E
- 25' landscaped setback along Avenida Encinas for Area E
- 30' to 80' landscape setback between Lakeshore Gardens and Area F
- 25' landscaped setback along Avenida Encinas for Area F
- 50' landscaped setback between Areas F and I
- 75' landscaped separation between Areas G and H

- 50' to 80' landscape setback for Area I between Lakeshore Gardens and between Area F

So, prior to Ponto being annexed into the City of Carlsbad in the mid-1980's and prior to Growth Management the Batiquitos Lagoon and lagoons bluff slopes (constrained and unusable due to habitat and slope constraints) were already pre-zoned Open Space and General Planned as Constrained Habitat Open Space. This constrained Open Space did not and cannot meet the 15% GM Open Space Standard.

In 1986 Citizens voted for the City's version of Growth Management that included a New Standard for Useable Open Space. The new standard was that 15% of all unconstrained useable/developable land within a Local Facility Management Zone was to be dedicated as Open Space. Once the vote was in the City adopted the Growth Management Ordinance 21.90 of Carlsbad's Municipal Code (City Council Ordinance No. 9791. (Ord. 9829 § 1, 1987; Ord. 9808 § 1, 1986)).

In adopting the Growth Management Ordinance 21.90.010 the Council Clearly stated:

(b) The city council of the city has determined **despite previous city council actions**, including but not limited to, amendments to the land use, housing, and parks and recreation elements of the general plan, amendments to city council Policy No. 17, adoption of traffic impact fees, and modification of park dedication and improvement requirements, that the demand for facilities and improvements has outpaced the supply resulting in shortages in public facilities and improvements, including, but not limited to, streets, **parks, open space**, schools, libraries, drainage facilities and general governmental facilities. **The city council has further determined that these shortages are detrimental to the public health, safety and welfare of the citizens of Carlsbad.**

(c) This chapter is adopted to ensure the implementation of the policies stated in subsection (a), to eliminate the shortages identified in subsection (b), **to ensure that no development occurs without providing for adequate facilities and improvements, ..."**

The Citizens and Council recognized that prior City plans were not adequate to address the current (and future) needs for facilities. Upon adoption of the New Growth Management Standards certain facilities were already below-Standard simply based on the existing development and population. Growth Management required additional facilities simply to bring the then current development/population up to the New Minimum Standards. I am personally familiar with 3 GM Standards in LFMP-6 (old La Costa) that I worked on – Library, Fire, and Park where already below-Standard i.e. existing development/population in Old La Costa required more facilities to meet the new Growth Management Standards. We worked to provide these new facilities for the existing development/population (i.e. fix the Standard deficits) and then to also plan even more additional facilities at a ratio that met the New Standards for the additional future development in Old La Costa. I can provide you some interesting stories on that.

I also recall working on the surrounding La Costa LRMP Zones 11 & 12 that Like Ponto/FMP-9 were considered “Cat II: Urbanizing” yet Unlike Ponto/LFMP-9 LFMP Zone 11 & 12 were not falsely exempted for the GMP Open Space Standard and had to provide the GM Open Space Standard of 15% of the unconstrained/developable lands as dedicated Useable Open Space.

The Citizens vote on Proposition E and the subsequent Growth Management Ordinance 21.90 are the rules on which the Growth Management Plans (both Citywide and 25 Local Facility Plans) are required to follow.

To create the Citywide and the Local plans (Zones 1-6) for the largely developed areas the City needed to temporarily pause development activity to allow time for city staff to Draft the Growth Management Plan (my work as a city planner at the time was re-directed to draft growth management plans). So the Growth Management Ordinance 21.90.030, established a Temporary Development Moratorium to pause development processing activity while the Growth Management Plan was being Drafted. Following is that language of 21.90.030. Notes are shown as italicized text within *[example]*:

“21.90.030 General prohibition—Exceptions.

(a) Unless exempted by the provisions of this chapter, **no application for any building permit or development permit shall be accepted, processed or approved until a city-wide facilities and improvements plan has been adopted and a local facilities management plan for the applicable local facilities management zone has been submitted and approved according to this chapter.** *[Clearly indicates the exemptions in 21.90.030 are only from the temporary development moratorium created by 21.90.]*

(b) No zone change, general plan amendment, master plan amendment or specific plan amendment which would increase the residential density or development intensity established by the general plan in effect on the effective date of this chapter shall be approved unless an amendment to the citywide facilities management plan and the applicable local facilities management plan has first been approved. *[FYI, this provision of 21.90.030 has direct implications with respect of currently City/developer proposed General Plan/Zoning code/Local Coastal Program Amendments now being pursued by the City at Ponto Planning Area F and Ponto Site 18. The City did not and has not yet amended the CFMP and LFMP-9 to increase the City/developer proposed residential density or development intensity at Ponto]*

(c) The classes of projects or permits listed in this subsection shall be exempt from the provisions of subsection (a). Development permits and building permits for these projects shall be subject to any fees established pursuant to the city-wide facilities and improvement plan and any applicable local facilities management plan. *[Then lists various exemptions from the temporary development processing/building permit moratorium in 21.90. The BLEP MP's exemption from the temporary moratorium is (g)]*

(g) The city council may authorize the processing of and decision making on building permits and development permits for a project with a master plan approved before July 20,

**1986, subject to the following restrictions *[this only applies to the “approved before July 20, 1986” BLEP MP, and NOT to any subsequent Master Plan Amendment]*:**

(1) The city council finds that the facilities and improvements required by the master plan are sufficient to meet the needs created by the project and that the master plan developer has agreed to install those facilities and improvements to the satisfaction of the city council. *[The Ponto developer needed to provide the 12.8 acre Recreation Commercial land use and install the GM compliant Open Space required in the 1986 MP175 but did not]*

(2) The master plan developer shall agree in writing that all facilities and improvement requirements, including, but not limited to, the payment of fees established by the city-wide facilities and management plan and the applicable local facilities management plan shall be applicable to development within the master plan area and that the master plan developer shall comply with those plans. *[this required the LFMP-9/BLEP MP to have 1) already been fully developed or 2) have already have dedicated 15% of the LFMP-9 as Growth Management compliant Open Space (i.e. Unconstrained and developable) to qualify for the Open Space exemption later falsely noted in the city-wide facilities and management plan. As clearly documented the BLEP MP did not meet the requirements to qualify for Open Space Standard Exemption in the city-wide facilities and management plan. The section also requires “all facilities” (including Open Space) requirements in the Citywide Growth Management Standard to apply to BLEP MP, not provide a means for a false exemption of the Open Space Standard]*

(3) The master plan establishes an educational park and all uses within the park comprise an integral part of the educational facility. *[“all uses” including the 12.8 acre Recreation Commercial land use and all the other GM compliant Open Spaces are an integral part. However the 12.8 acre open space land use was never built and the BLEP MP GM compliant Open Space never dedicated.]*

(4) Building permits for the one hundred twenty-nine [129] unit residential portion of Phase I of the project may be approved provided the applicant has provided written evidence that an educational entity will occupy Phase I of the project which the city council finds is satisfactory and consistent with the goals and intent of the approved master plan. *[Clearly indicates the 21.90.030 exemption is only for building permits for Phase I of the BLEP MP. Of the 129 units only the 75 unit Rosalena development applied for and received building permits under this exemption. There are some very interesting issues related to this Rosalena Phase I development relative to GM complaint Open Space along the bluff edge that can be expanded on later if the CTGMC has questions.]*

(5) Prior to the approval of the final map for Phase I the master plan developer shall have agreed to participate in the restoration of a significant lagoon and wetland resource area and made any dedications of property necessary to accomplish the restoration. *[Again clearly notes the exemption only allows a final map for Phase I to be processed. The “lagoon and wetland*

***resource area” are part of the same constrained/undevelopable lands already pre-zoned prior to the BLEP MP being incorporated into the City of Carlsbad]”***

The Aviara Master Plan (directly adjacent and east of Ponto) and was also being developed at the same time as Ponto/BLEP MP. 21.90.030 also provided the Aviara Master Plan a similar exemption (h) and similar lagoon related quid-pro-quo for that exemption. But Aviara did not receive a GM Open Space Standard Exemption. :

“(iv) Prior to any processing on the [Aviara] master plan the applicant shall grant an easement over the property necessary for the lagoon restoration and the right-of-way necessary for the widening of La Costa Avenue and its intersection with El Camino Real. (Ord. NS-63 § 1, 1989; Ord. 9837 § 1, 1987; Ord. 9808 § 1, 1986)”

Some City staff have incorrectly stated to the City Council that they believe 21.90.030 exempts Ponto/LFMP-9 from the Growth Management Ordinance/Program or Growth Management Open Space Standard. RESOLUTION NO. 8666- A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA APPROVING TWO AGREEMENTS FOR BATIQUITOS LAGOON EDUCATIONAL PARK also shows the 21.90.030 exemption was only for development permits during the temporary building moratorium.

In 1986 the City falsely exempted in the Citywide Facilities Plan all Ponto developers from providing 15% of their useable/developable land as GM required Open Space. The City’s documented/adopted rationale in the Citywide Plan was that Ponto/LFMP-9 was 1) in 1986 already developed, or 2) in 1986 the developer had already met the GM Open Space Standard by having already dedicated 15% of the useable land as Open Space. Both situations were/are false. Any air photo map or even the 1986 LFMP-9 clearly states Ponto was NOT developed in 1986, as only the Lakeshore Gardens existed and the Ralphs Center was just starting construction. Also the City’s GIS Open Space mapping (see above) shows that SAMMIS the Ponto developer (BLEP Master Plan MP-175) in 1986 had Not dedicated as Open Space 15% of the useable land as Growth Management compliant Open Space as shown/described in the BLEP MP (i.e. the 12.8 Acre Recreation Commercial site and all the landscaped open space setbacks required in the BLEP MP-175. If that 15% was dedicated in 1986 it would show-up on the City’s inventory of Dedicated Open Space now. So how did this occur?

#### How Ponto’s planned GM Open Space was eliminated and replaced with Residential land use:

In late 1980’s SAMMIS the BLEP MP-175 developer started building the 75-home Rosalena Development as the first part of Phase I of the BLEP MP. The City (based on my recollection was very desirous to develop the BLEP MP) and required special time limits on the BLEP MP to actually advance building the ‘Educational Park’ with all the “integrated” land uses (including GM compliant Open Space) within a certain period of time. SAMIS was having financial issues and difficulty delivering the BLEP MP land uses. Amendments (A, B, and C) to BLEP MP reflected on these difficulties:



- MP 175(A) to allow minor accessory structures within the rear yards of all Phase I single family lots located in Planning Area “C”. *[This is the Rosalena development that was part of Phase I for BLEP MP. This amendment has implications on the landscaped Open Space setback along the Batiquitos Lagoon bluff top, and the required Coastal access trail required by the Coastal Development Permit for Rosalena. This is an interesting history that can be explained later if the CTGMC would like.]*
- MP 175(B) to realign Carlsbad Blvd., between North Batiquitos Lagoon and west of I-5 to accommodate the Sammis Development was WITHDRAWN January 12, 1990, and
- MP 175(C) a request for 5-year extension of time for Master Plan approval related to educational uses on this project was Approved Planning Commission Resolution No. 2841, April 19, 1989 and approved City Council Ordinance No. NS-83, September 5, 1990.

SAMMIS went bankrupt around 1990 and Kaiza Development purchased the BLEP MP. Kaiza completed the Rosalena development started by SAMMIS. Kaiza then sought to completely change the planned land uses on all the remaining unconstrained/developable land in the BLEP MP.

General Plan and Master Plan Amendments eliminated/reduced BLEP’s Growth Management compliant Open Space and replace with Residential uses in the “amended” Poinsettia Shores Master Plan:

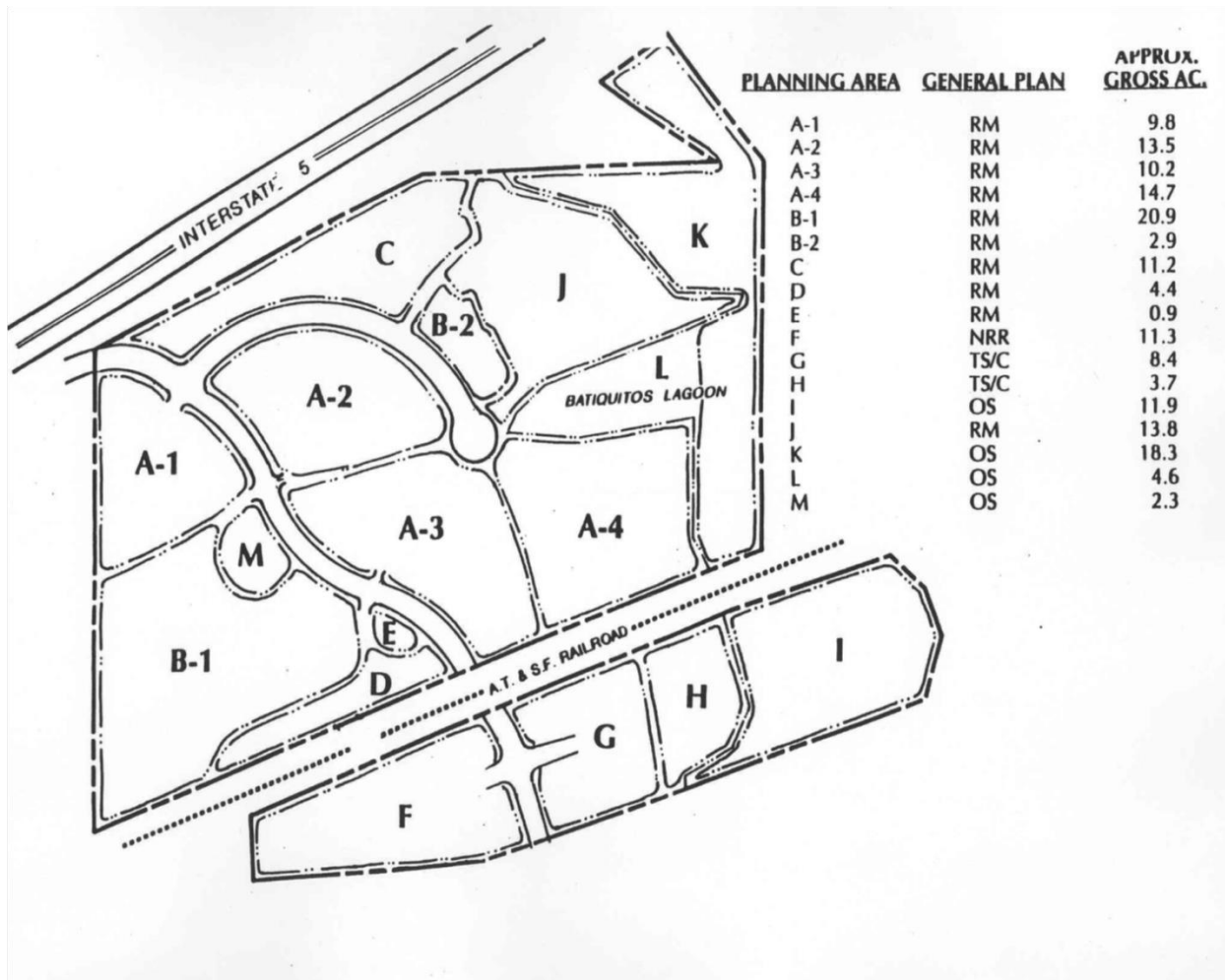
When Kaiza acquired the BLEP MP-175 and its vacant land only the State Campground, Lakeshore Gardens, Ralphs Center, and now Rosalena were approved/existing developments at Ponto. Kaiza proposed a Master Plan Amendment to delete the BLEP MP-175 and all its developable land uses, except for the only portion of Phase I developed – the 75 unit Rosalena subdivision. The pre-BLEP MP pre-zoned (and General Planned) constrained/undevelopable Lagoon waters and lagoon bluff Open Spaces and the CA Coastal Act (LCP) required bluff top setbacks were the only Open Spaces retained in Kaiza’s proposed General Plan land use and Master Plan Amendments.

Most all of the BLEP MP-175 (and Ponto/LFMP-9) land area was still undeveloped at the time Kaiza proposed changing all the General Plan land uses at Ponto and eliminating the usable Open Space in BLEP MP.

Kaiza’s General Plan land use and Master Plan ‘Amendments’ made radical land use changes that converted some critical Useable GM Open Space to residential land use and also reduced some GM Open Space provided in BLEP MP. Following is Kaiza’s Amended General Plan land use map and bullet summary of the major Open Space changes without getting into a very detailed forensic analysis:

- Eliminated the 12.8 acre Recreation Commercial land use.
- Eliminated the minimum 30’ wide landscaped Open Space on both sides of Windrose Circle for the large unbuilt portions of Windrose Circle
- Reduced by 10’ the landscaped Open Space on the smaller built portion of Windrose Circle
- Eliminated on 40.3 acres the additional minimum 30’ wide landscaped setbacks between buildings

- Reduced BLEP's 2.8 acres of private recreation open space to 2.3 acres
- Except for the Rosalena (BLEP Area C) and (PSMP Area J), maintained the 45' to 50' landscaped setbacks from the Batiquitos Lagoon Bluff edge
- Eliminated the 75' landscaped separation between BLEP MP Areas C and D
- Eliminated the 70' landscaped separation between BLEP MP Areas D and E
- Maintained the 25' landscaped setback along Avenida Encinas. [However new Master Plan Amendments MP-175L propose reducing the setback to 10' on the undeveloped frontage of Avenida between PCH and the railroad tracks]
- Placed a road in most of the 80' landscape setback between Lakeshore Gardens
- Eliminated the 50' landscaped setback between BLEP MP Areas F and I
- Eliminated the 75' landscaped separation between BLEP MP Areas G and H
- Added a 20' wide by 1,000' long landscaped strip for an HOA trail



Kaiza's Master Plan Amendment MP 175 (D) eliminated the 12.8 acre Open Space land use (with an associated General Plan Amendment to add more residential land use) and reduced the other useable Open Spaces required in the BLEP MP. When the 1994 Kaiza MP 175 (D) General Plan Amendments were proposed, it seemed they voided the '1986 GM Open Space exemption' that was clearly specific

only to the 1986 BLEP MP land uses and regulation. Although this was a false exemption, the exemption only applied to the complete/integrated land use and open space provided in the 1986 BLEP MP. The 1986 exemption specific to BLEP MP could not apply to a different and later 1994 General Plan land use plan that eliminated the 12.8 acre Recreation Commercial (Open Space) site to add residential land use and that also reduced the GM compliant Open Space provided in the 1986 BLEP MP. 21.90.030(b) notes that:

**“(b) No zone change, general plan amendment, master plan amendment or specific plan amendment which would increase the residential density or development intensity established by the general plan in effect on the effective date of this chapter shall be approved unless an amendment to the citywide facilities management plan and the applicable local facilities management plan has first been approved.”**

The 1994 Kaiza General Plan land use and Master Plan (MP 175(D)) Amendments removed 12.8 acres of Recreation Commercial (GM compliant Open Space) to add residential land use. This violated 21.90.030(b) by doing so without a first providing a Citywide Facilities Plan Amendment that analyzed the actual amount of GM compliant Open Space being proposed in the 1994 Kaiza MP 175(D) relative to the 1986 BLEP MP on which the 1986 GM Open Space exemption for LFMP-9 was based. MP 175(D) is noted in the MP as follows:

- “MP 175 (D) Kaiza Poinsettia Master Plan To **replace educational uses with residential land uses** And rename to Poinsettia Shores Master Plan (was) Approved Planning Commission Resolution No. 3552, November 3, 1993, Approved City Council Ordinance No. NS-266, January 18, 1994.”

Kaiza’s MP 175(D) inaccurately and bizarrely claimed BLEP MP’s prior false exemption from the GM Open Space Standard as the justification that Kaiza’s new 1994 Open Space land use changes that seem to reduce the amount of GM complaint Open Space in the 1986 BLEP MP are also exempt from the GM Open Space Standard. **Kaiza’s MP 175(D) claims the pre-Growth Management and pre-BLEP MP Constrained/Undevelopable lagoon waters and bluff habitat that per the 15% Growth Management Open Space Standard CAN NOT be counted as meeting the 15% GM Open Space Standard can be magically counted as meeting the 15% GM Open Space Standard. The GM Open Space Standard specifically states that only Unconstrained/Developable lands CAN BE counted as meeting the GM Open Space Standard.** The stated principles of Growth Management, the Growth Management Ordinance 21.90 and the Growth Management Open Space Standard DO NOT allow a developer or the City to count already documented Constrained and unbuildable habitat (and water) as Unconstrained and developable land. You can’t just turn ‘an apple into a banana by saying it’, or turn ‘Constrained/Undevelopable land into Unconstrained/Developable land by just saying it.

Compliance with the law in this Open Space issue is a part of a current lawsuit by North County Advocates a group of Citizens watchdogs. The City has unsuccessfully tried to diminish this lawsuit. A judge/jury will determine the outcome.

Additional MP 175 Amendments have been proposed by and approved to further modify land use and regulatory limitations at Ponto. These include:

- MP 175(E) Poinsettia Shores Master Plan, Redefinition of minor amendment to provide a flexible regulatory procedure to encourage creative and imaginative planning of coordinated communities, WITHDRAWN November 1, 1994
- MP 175(F) Poinsettia Shores Master Plan minor amendment to actualize off-site option for provision of 90 affordable housing dwelling units, Approved Planning Commission Resolution No. 3774, April 19, 1995
- MP 175(G) Poinsettia Shores Master Plan minor amendment to adopt Coastal Commission Suggested modifications, Approved Planning Commission Resolution No. 3922, June 5, 1996 Approved City Council July 16, 1996, NS-367
- MP 175(H) Poinsettia Shores Master Plan - major amendment FOR HOTEL AND TIMESHARE USES, WITHDRAWN January 16, 2003
- MP 175(I) Poinsettia Shores Master Plan – Rosalena Trail Amendment, WITHDRAWN January 8, 2002
- MP 175(J) Poinsettia Shores Master Plan – major amendment for Carlsbad Coast Residential project to allow RM land use on Poinsettia Shores, WITHDRAWN January 8, 2002
- MP 175 (K) Poinsettia Shores Master Plan – Ponto Area Specific Plan Mixed use consisting of residential, commercial and retail uses, WITHDRAWN August 19, 2004
- MP 175(L) Poinsettia Shores Master Plan – Major amendment for commercial and residential development on Planning Area F, Still being proposed by developers and being processed by the City.

**The false exemption for the BLEP MP based LFMP-9 should never have occurred. However, completely eliminating BLEP MP's OpenSpace land use (12.8 acre Recreation Commercial) and reducing BLEP MP's required Open Space while at the same time claiming the false BLEP MP Open Space Exemption is a violation of common sense, 21.90, and the very founding principles Growth Management.**

The CA Coastal Commission in MP 175 (G) in part recognized the elimination of the 12.8 acre Recreation Commercial land use and maybe some of the Open Space land use changes and added the following land use regulations for 11.1 acre Planning Area F in the Carlsbad's Local Coastal Program LCP). The LCP as per State Law and referenced in Carlsbad's General Plan is the controlling land use regulation over the General Plan, Poinsettia Shores Master Plan and in the Coastal Zone:

"PLANNING AREA F: Planning Area F is located at the far northwest corner of the Master Plan area west of the AT&SF Railway 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 nonresidential, 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 this site would likely be redesignated as "unplanned." Future uses could include, but are not limited to: commercial, residential, office, and other uses, subject to future review and approval.

**As part of any future planning effort, the City and Developer 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."**

In 2010 the CA Coastal Commission in 2010 rejected the Ponto Beachfront Village Vision Plan on which MP 175(K) was based. MP 175(K) was withdrawn.

On July 3, 2017 the CA Coastal Commission provided direction to the City of Carlsbad regarding MP 175(G), Carlsbad's 2015 General Plan Update, Carlsbad proposed Local Coastal Program Amendment Land Use Plan (LUP) . CA Coastal Commission wrote to the City the following. Notes on the context of communication are in bracketed italics *[example]*:

"The existing LUP includes policies that require certain visitor-serving developments and/or studies relevant to the Ponto ... area. For example, **Planning Area F requires the city and developer to "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. ...** this study should be undertaken as a part of the visitor serving use inventory analysis described above. *[the discussion of the need for the City to conduct a citywide analysis of the location and amount of these uses in the Coastal Zone to assure the City General Plan within the Coastal Zone is providing the adequate amounts and locations of these land uses to fulfill the long-term population/visitor needs for these uses according to the CA Coastal Act]* **If this analysis determines that there is a deficit of low cost visitor accommodations or recreation facilities in this area, then Planning Area F should be considered as a site where these types of uses could be developed."**

In 2017 the City conducted the first Sea Level Rise (SLR) Vulnerability Assessment <https://www.carlsbadca.gov/civicax/filebank/blobdload.aspx?BlobID=33958> . That first initial analysis, shows significant SLR impacts that will reduce existing Ponto Open Space - the State beach and Campground and along the Batiquitos Lagoon. The City identified SLR impacts on Ponto Open Space are summarized in the next section of this history.

In 2023 the CA Coastal Commission will consider the data and public input and decide the appropriate land use for 11.1 acre Planning Area F based the CA Coastal Act and Coastal Act land use policies.

You can determine the Open Space and Park Quality of Life Standards that will be applied to this and other future land uses.

### City assessment of Sea Level Rise impacts on reducing Ponto Open Space

The City's 2017 SLR assessment shows SLR will significantly reduce or eliminate only existing Open Space land at Ponto. The City's assessment quantifies the speratic/episodic loss of Ponto/Coastal South Carlsbad Open Space land and land uses being at the State Campground, Beaches, and Batiquitos Lagoon shoreline – about 32 acres by the year 2100, this would be an average loss of 17,000 square feet of Open Space per year. Following (within quotation marks) is a description, quantification and images of the City's projected loss of Ponto/Coastal South Carlsbad Open Space land and land use due to SLR. *[Italicized text within brackets]* is added data based on review of aerial photo maps in the Assessment.

“Planning Zone 3 consists of the Southern Shoreline Planning Area and the Batiquitos Lagoon. Assets within this zone are vulnerable to inundation, coastal flooding and bluff erosion in both planning horizons (2050 and 2100). A summary of the vulnerability assessment rating is provided in Table 5. A discussion of the vulnerability and risk assessment is also provided for each asset category.

#### 5.3.1. Beaches

Approximately 14 acres of beach area is projected to be impacted by inundation/erosion in 2050. ... Beaches in this planning area are backed by unarmored coastal bluffs. Sand derived from the natural erosion of the bluff as sea levels rise may be adequate to sustain beach widths, thus, beaches in this reach were assumed to have a moderate adaptive capacity. The overall vulnerability rating for beaches is moderate for 2050.

Vulnerability is rated moderate for the 2100 horizon due to the significant amount of erosion expected as the beaches are squeezed between rising sea levels and bluffs. Assuming the bluffs are unarmored in the future, sand derived from bluff erosion may sustain some level of beaches in this planning area. A complete loss of beaches poses a high risk to the city as the natural barrier from storm waves is lost as well as a reduction in beach access, recreation and the economic benefits the beaches provide.

#### 5.3.3. State Parks

A majority of the South Carlsbad State Beach day-use facilities and campgrounds (separated into four parcels) were determined to be exposed to bluff erosion by the 2050 sea level rise scenario (moderate exposure). This resource is considered to have a high sensitivity since bluff erosion could significantly impair usage of the facilities. Though economic impacts to the physical structures within South Carlsbad State Beach would be relatively low, the loss of this park would be significant since adequate space for the park to move inland is not available (low adaptive capacity). State parks was assigned a high vulnerability in the 2050 planning horizon. State park facilities are recognized as important assets to the city in terms of economic and recreation value as well as providing low-cost visitor serving amenities. This vulnerability poses a high risk to coastal access, recreation, and tourism opportunities in this planning area.

In 2100, bluff erosion of South Carlsbad State Beach day-use facilities and campgrounds become more severe and the South Ponto State Beach day-use area becomes exposed to coastal flooding during extreme events. The sensitivity of the South Ponto day-use area is low because impacts to usage will be temporary and no major damage to facilities would be anticipated. Vulnerability and risk to State Parks remains high by 2100 due to the impacts to South Carlsbad State Beach in combination with flooding impacts to South Ponto.

Table 5: Planning Zone 3 Vulnerability Assessment Summary [condensed & notated]:

Asset	Horizon			Vulnerability
<u>Category</u>	<u>[time]</u>	<u>Hazard Type</u>	<u>Impacted Assets</u>	<u>Rating</u>
Beaches	2050	Inundation/Erosion, Flooding	<b>14 acres</b> (erosion)	Moderate
	2100	Inundation/Erosion, Flooding	<b>54 acres</b> (erosion)	Moderate
Public Access	2050	Inundation, Flooding	6 access points <b>4,791 feet of trails</b>	Moderate
	2100	Inundation, Flooding	10 access points <b>14,049 feet of trails</b>	Moderate
State Parks	2050	Flooding, Bluff Erosion	4 parcels [ <b>&lt;18 Acres</b> ]	High
[Campground - Low-cost Visitor Accommodations]	2100	Flooding, Bluff Erosion	4 parcels [ <b>&gt;18 Acres</b> ] [loss of <b>over 50% of the campground &amp; its Low-cost Visitor Accommodations,</b>	High
See Figure 5.]				
Transportation	2050	Bluff Erosion	<b>1,383 linear feet</b>	Moderate

(Road, Bike, Pedestrian)	2100	Flooding, Bluff Erosion	11,280 linear feet	High
Environmentally Sensitive Lands	2050	Inundation, Flooding	572 acres	Moderate
	2100	Inundation, Flooding	606 acres	High

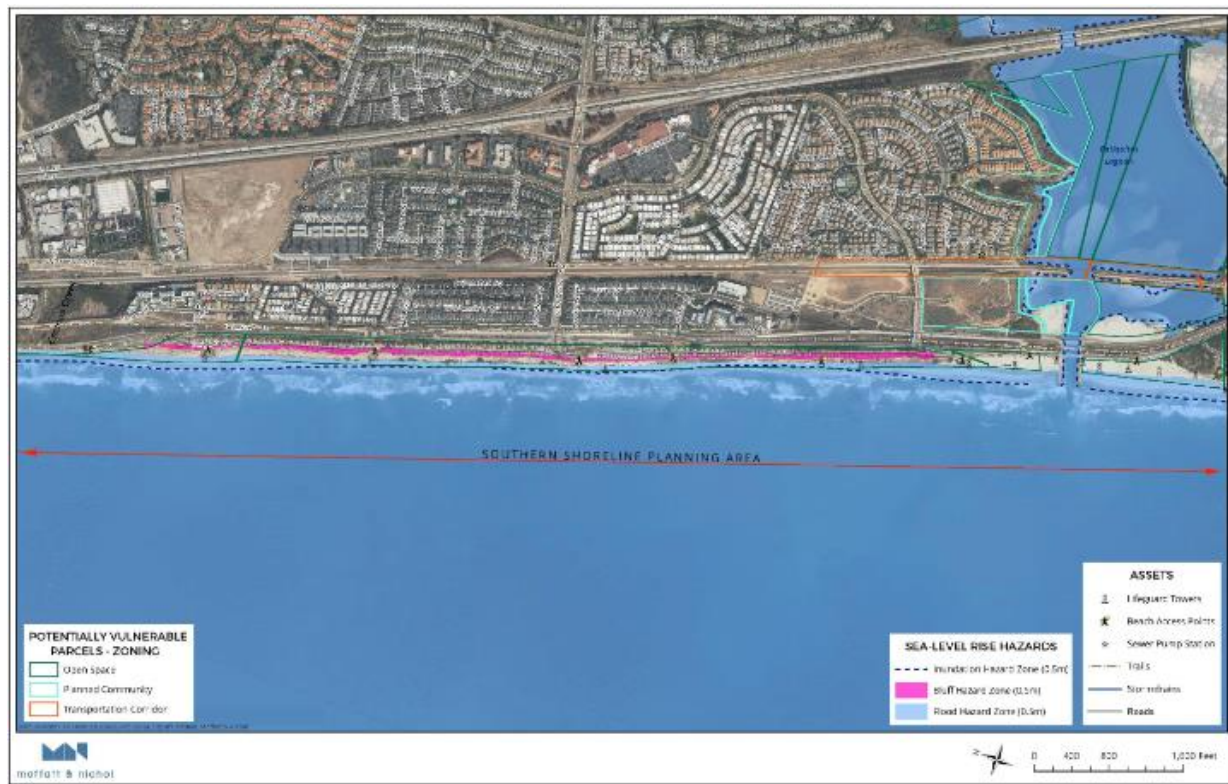


Figure 7: Southern Shoreline Planning Area – Year 2050



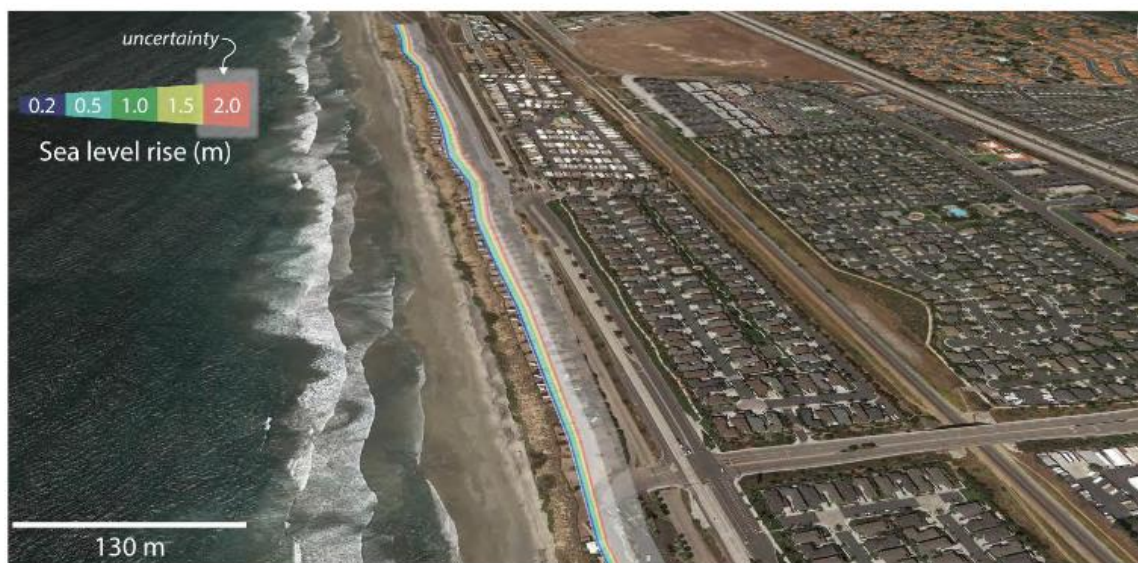
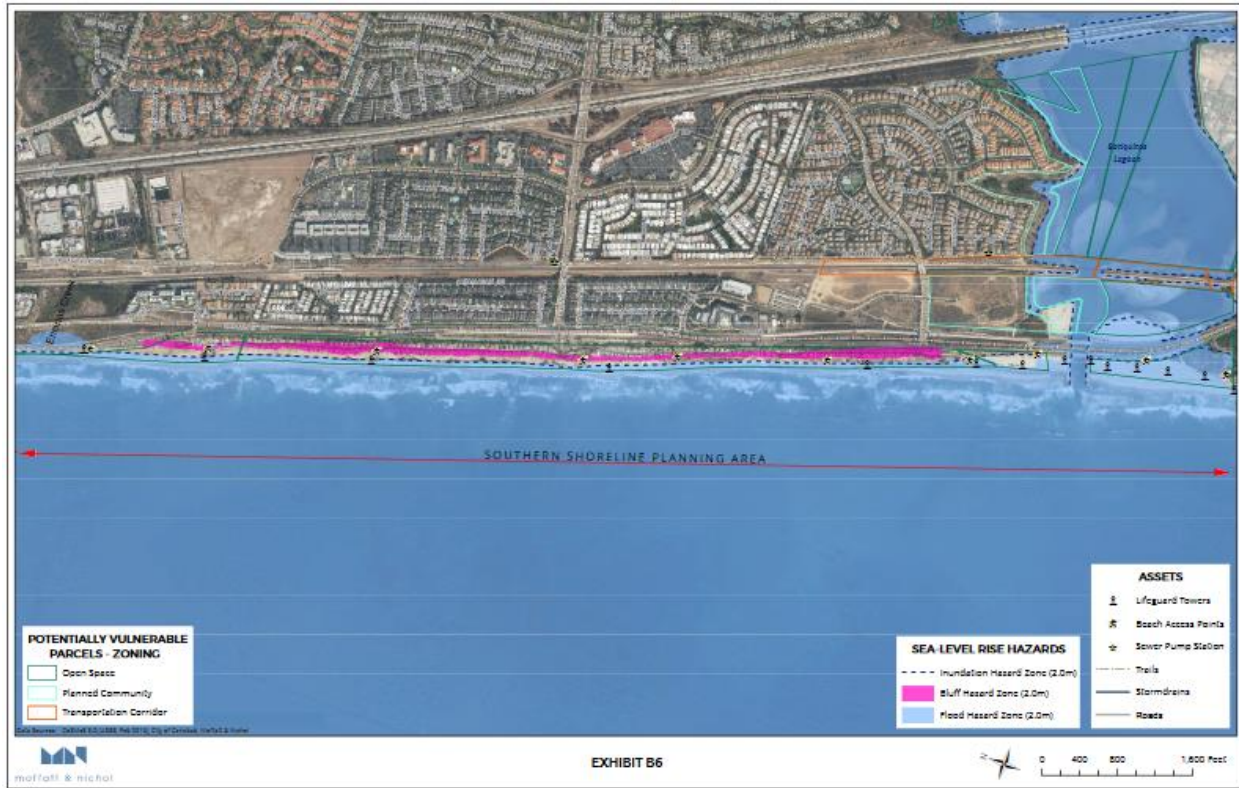


Figure 5: CoSMoS Bluff Erosion Projections by 2100  
(CoSMoS-COAST 2015)

[Figure 5 show the loss of over 50% of the campground and campground sites with a minimal .2 meter Sea Level Rise (SLR), and potentially the entire campground (due to loss of access road) in 2 meter SLF.]”

This 2017 SLR data and quantified losses of Ponto/Coastal South Carlsbad Open Space land and land uses was not considered in the City’s rejected (by CCC) Ponto Beachfront Village Vision Plan. The Ponto Vision Plan is the basis for the City’s 2015 General Plan Update that is now being proposed in the City’s Local Coastal Program Amendment now before the CA Coastal Commission.

#### Summary:

LFPM-9 was clearly not developed in 1986, and did not then or now dedicate 15% of the unconstrained/developable land as Open Space as required by the Growth Management Open Space Standard. These two reasons for the City to “exempt” LFMP-9 from Open Space Standard were/are False. Saying Constrained/undevelopable land can be counted as Unconstrained/developable land is also false and clearly not allowed according to the Growth Management Ordinance, Standards, principles, and common-sense honesty to Carlsbad Citizens. LFMP-9, as the City’s own maps/data base show is clearly missing 30-acres of GM Open Space. In addition in 2017 we learned that Ponto/Coastal South Carlsbad will lose about 32 acres of existing Open Space due to SLF.

#### Closing thoughts:

Growth Management is based on the type/amount/location of General Plan land use designations, the development potential of those land use designations in creating the demand for the type/amount/location of facilities, and supply of the type/amount/distribution of facilities – like Open Space and Parks. If the type/amount/location of supply of facilities does not meet the demand for those facilities then growth management fails and Quality of Life is reduced.

Quality of Life Standards are used to assure supply and demand for facilities is properly balanced with respect to type/amount/location.

Ponto is clearly unbalanced. The Ponto Census Tract is at a 40% higher population density than the rest of Carlsbad, yet is Ponto is NOT meeting the Open Space Standard and has NO Park (see City Open Space maps and Park Master Plan). Ponto and all South Carlsbad have higher population demand for Parks and Open Space facilities yet Ponto (that is the only place to provide Coastal Park and Open Space needs for South Carlsbad) has lower or none of those two most critical GM Facilities needed to balance and mitigate the 40% higher population density at Ponto and also the higher residential density in South Carlsbad.

Ponto and Coastal South Carlsbad also have additional State and regional responsibilities to provide Coastal Recreation and Open Space for populations of people and visitors from outside of Ponto and Carlsbad.

This failure to honestly and adequately balance the type/amount/location higher population density by providing higher levels of Parks and Open Space in those areas will lead to a slow and but eventual reduction of the Quality of Life for those areas.

Common sense and the Carlsbad's Growth Management law say if you change the land use (like what was done and is still being proposed at Ponto) you change the type/amount/location of potential development and population and the Growth Management impacts. Land use changes require and honest/accurate/balanced update to Citywide and Local Growth Management Plans to accurately reflect those changes and provide an updated plan to provide facilities that meet the Standards for those land use changes. This is the fundamental heart of any Growth Management.

The Carlsbad Tomorrow Growth Management Committee, and City Commissions and Council are all now facing the same issues and responsibility that we faced in the 1980's at the beginning of Growth Management. We established New Quality of Life Standards – for Open Space and Parks – that required New investments in Parks and Open Space by both the City and developers.

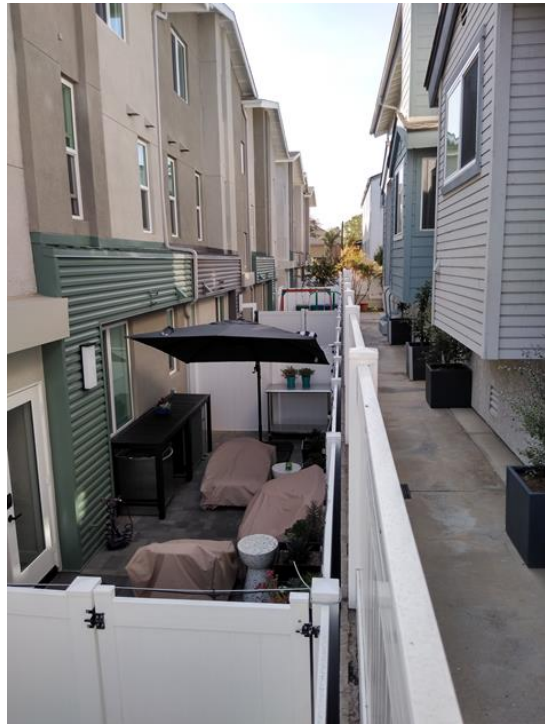
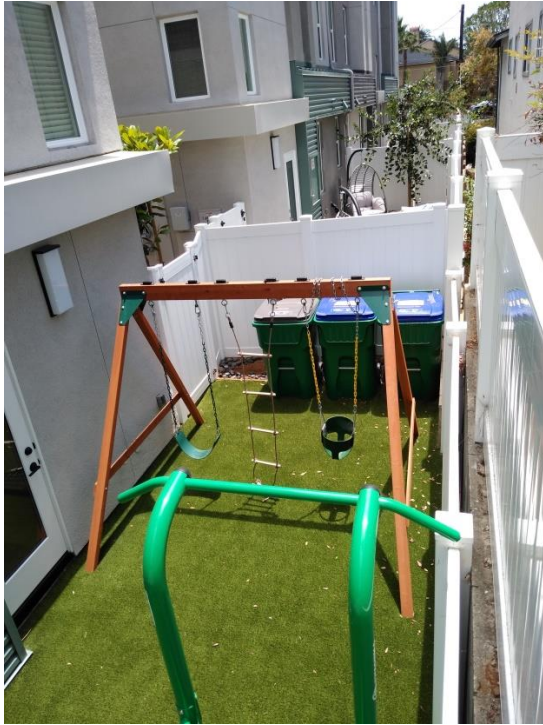
Open Space and Parks have always been identified as most critical for Carlsbad's quality of life. The Carlsbad Tomorrow Growth Management Committee, and City Commissions and Council, and Carlsbad Citizens are all at a critical crossroad.

- Do we, or don't we, enforce and set new standards that achieve the quality of life we desire?
- Do we or don't we, fix existing past errors and below desired standard situations?
- Do we or don't we, roll-up our sleeves a work together to a better Quality of Life?

As a long-time Carlsbad Citizen I am extremely disappointed by some who say we can't fulfill our Community Vision, we can't fix things, can't make things better, and can't add more Parks and Useable Open Space. This can't attitude is not out Community Vision. We can and we did before, and we can do it again and better.

Great cities for hundreds of years have Upgraded their Quality of Life Facility Standards, made and implemented/funded facilities to fix things up to those Standards. A City is just like a business or person - If you don't improve you decline. Examples of Upgrading and funding to New Parks and Open Space are many but include – Carlsbad's Buena Vista Reservoir Park, additions to Pine Park, Village H Park, and Aura Circle Open Space acquisition; and SDSU's major new Park at the redeveloped Qualcomm Stadium site.

Now like at the beginning of Carlsbad Growth Management the City can “despite previous city council actions” make improvements to its Growth Management and Quality of Life Standards to address past and future needs. Following illustrates existing R-23 (up to 23 dwellings per acre) development in Carlsbad – most of our future residential development will be required to be like this or more dense.



High-density housing can be great, but it requires MORE Parks and MORE useable Open Space within walking distance to balance the density and provide large places for families and kids to really play. In Carlsbad's high-density residential future with no backyards and stacked flat multi-family homes the need for both more Parks and Useable Open Space is much greater than in 1980's.

The time to fix the Parks and Useable Open Space problems at Ponto (LFMP-9) is now. Already Ponto is developed at a density that is 40% great than the rest of Carlsbad. New proposed and even higher-density developments (developer driven Amendments) propose to make Ponto even more dense, yet there are not Parks at Ponto and Ponto is missing 30-acres of Useable Open Space past developers should have provided.

A doable, time-tested, accountable, tax-payer saving, strongly citizen desired, accountable, and honest way to fix this was presented to you in 8/8/22 and 12/27/22 emails with attached "CTGMP Key Issues and Suggestions – 2022-12-6". Over 5,000 petitions expressing the need to fix the Park and Open Space problems at Ponto have been sent to the City and the City should have provided these to you in considering Park and Open Space issues.

Ponto Park and Open Space needs your help fixing NOW. If not Carlsbad Tomorrow will be less than it is today, and tragically will have failed our Community Vision.